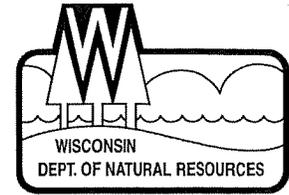


# **Appendix C**

## Wetlands

State of Wisconsin  
DEPARTMENT OF NATURAL RESOURCES  
1300 W Clairemont Ave.  
Eau Claire, WI, 54702

Tony Evers, Governor  
Preston D. Cole, Secretary  
Telephone 608-266-2621  
Toll Free 1-888-936-7463  
TTY Access via relay - 711



06/01/2022

WIC-NO-2021-7-04330

Cumberland LLC  
Attention: Jeff Sauer  
N13126 Bruce Mound Avenue  
Thorp, WI 54771  
[sent electronically]

RE: Wetland Delineation Confirmation for Melin Project Area Site, located in SE 1/4, NW 1/4, Section 7, Township 37N, Range 18W, in the Town of Trade Lake, Burnett County

Dear Mr. Sauer:

We have reviewed the wetland delineation report from Tetra Tech prepared for the above-mentioned site. This letter will serve as confirmation that the wetland boundaries shown on the enclosed revised wetland delineation figure are acceptable. This finding is based upon a field visit on May 5, 2022. Any filling or grading within these areas may require DNR approvals. Our wetland confirmation is valid for five years. Be sure to send a copy of the report, as well as any approved revisions, to the U.S. Army Corps of Engineers.

In order to comply with Chapter 23.321, State Statutes, please supply the department with a polygon shapefile of the wetland boundaries delineated within the project area. Please do not include data such as parcel boundaries, project limits, wetland graphic representation symbols, etc. If internal upland polygons are found within a wetland polygon, then please label as UPLAND. The shapefile should utilize a State Plane Projection and be overlain onto recent aerial photography. If a different projection system is used, please indicate in which system the data are projected. In the correspondence sent with the shapefile, please supply a brief description of each wetland's plant community (eg: wet meadow, floodplain forest, etc.). Please send these data to Calvin Lawrence (608-266-0756 or email at [calvin.lawrence@wisconsin.gov](mailto:calvin.lawrence@wisconsin.gov)).

If you are planning development on the property, you are required to avoid take of endangered and threatened species, or obtain an incidental take authorization, to comply with the state's Endangered Species Law. To ensure compliance with the law, you should submit an endangered resources review form (Form 1700-047), available at <https://dnr.wi.gov/topic/ERReview/Review.html>. The Endangered Resources Program will provide a review response letter identifying any endangered and threatened species and any conditions that must be followed to address potential incidental take.

In addition to contacting WDNR, be sure to contact your local zoning office and U.S. Army Corps of Engineers to determine if any local or federal permits may be required for your project.

If you have any questions, please call me at (715) 415-4916 or you can reach me by email at Travis.Holte@wisconsin.gov.

Sincerely,



Travis Holte  
Wetland Identification Specialist

Enclosures:

Project Location Figure  
Revised Wetland Delineation Figure

CC (via email):

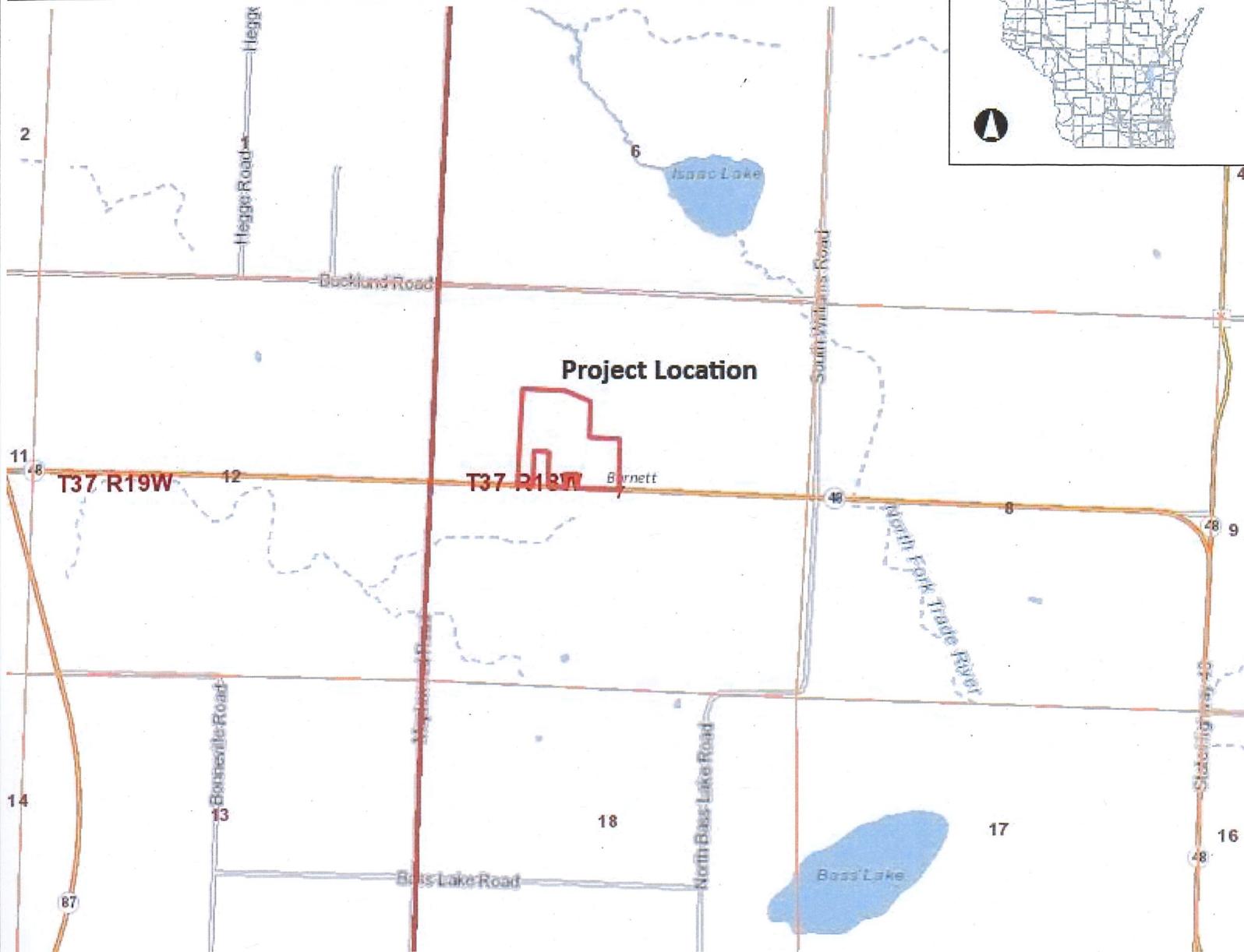
Jonathan Bakken, Project Manager, U.S. Army Corps of Engineers  
Jason Towne, Burnett County  
Steve LaValley, DNR Water Management Specialist-Wetland Team  
Tyler Dix, DNR Wastewater Specialist  
Dave Richardson, Tetra Tech  
Erik Lietz, Oakridge Engineering, Inc.



# Project Location Figure



- Legend**
- Township
  - Section
  - County Boundary
  - Cities, Towns & Villages
  - City
  - Village
  - Civil Town
  - Municipality
  - State Boundaries
  - County Boundaries
  - Major Roads
  - Interstate Highway
  - State Highway
  - US Highway
  - County and Local Roads
  - County HWY
  - Local Road
  - Railroads
  - Tribal Lands
  - Rivers and Streams
  - Intermittent Streams
  - Lakes and Open water



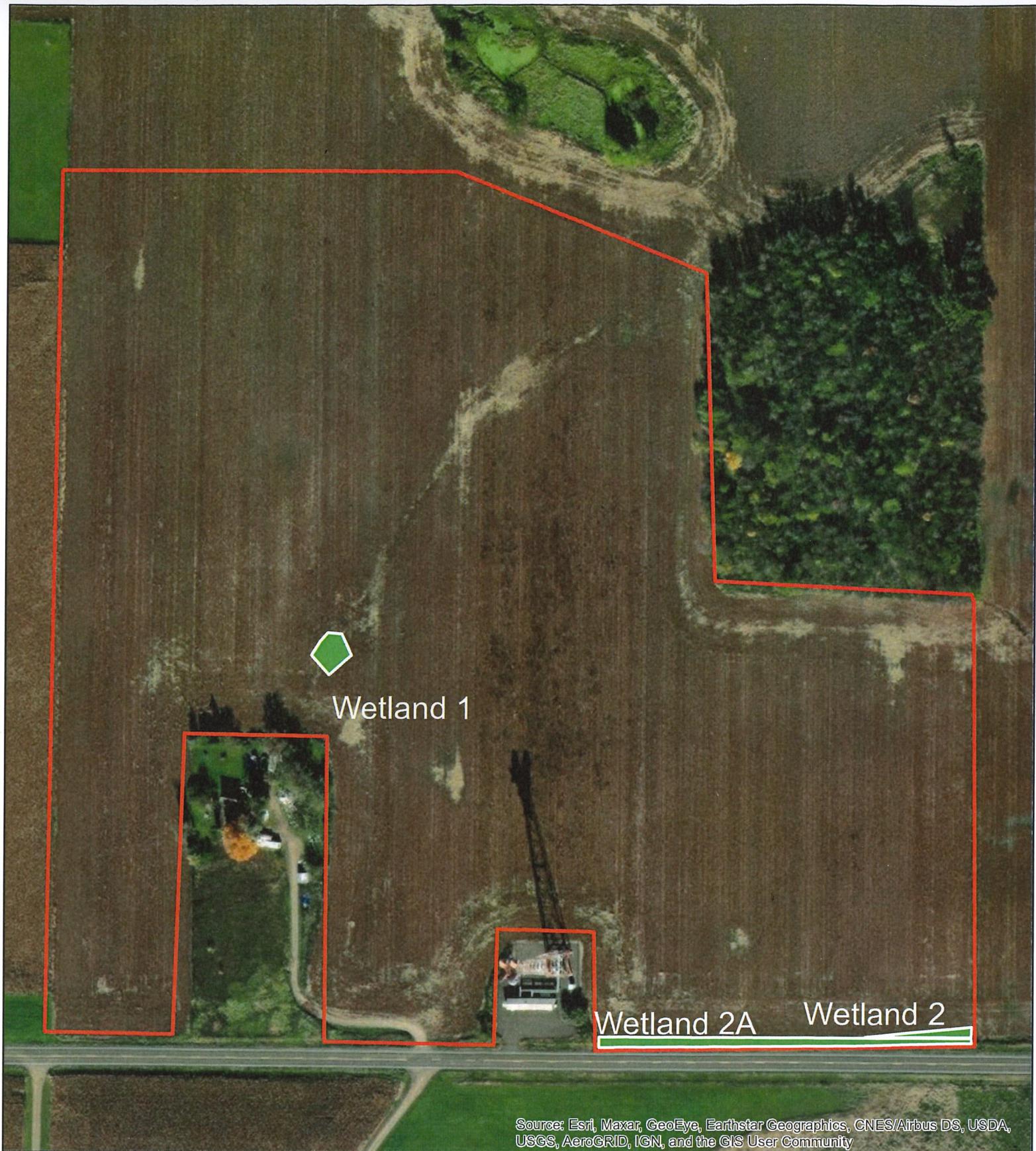
0.8                      0                      0.38                      0.8 Miles

NAD\_1983\_HARN\_Wisconsin\_TM

1: 23,760

DISCLAIMER: The information shown on these maps has been obtained from various sources, and are of varying age, reliability and resolution. These maps are not intended to be used for navigation, nor are these maps an authoritative source of information about legal land ownership or public access. No warranty, expressed or implied, is made regarding accuracy, applicability for a particular use, completeness, or legality of the information depicted on this map. For more information, see the DNR Legal Notices web page: <http://dnr.wi.gov/legal/>

**Notes**



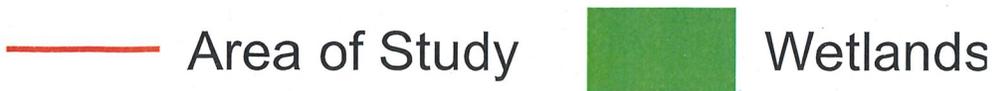
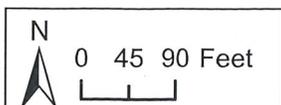
Source: Esri, Maxar, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community



**Tetra Tech, Inc.**  
 630 Riverfront Drive, Suite 100  
 Sheboygan, WI 54081  
 Tel: (920) 452-7962  
 Fax: (920) 457-2357

Wetland Delineation map: Melin Site, Grantsburg, WI 54840  
 1:2200

Drawn By: CJS  
 Date Created: 09/27/2021  
 Date Updated: 05/16/2022  
 Approved By: DBR





**DEPARTMENT OF THE ARMY**  
**ST. PAUL DISTRICT, CORPS OF ENGINEERS**  
180 FIFTH STREET EAST, SUITE 700  
ST. PAUL, MN 55101-1678

29 July 2022

Regulatory File No. 2022-00618-JMB

Jeff Sauer  
Cumberland LLC  
N13126 Bruce Mound Avenue  
Thorp, Wisconsin 54771

Dear Mr. Sauer:

This letter regards an approved jurisdictional determination for the Cumberland LLC - Melin Project Area Site. The project site is located in Section 7, Township 37 North, Range 18 West, Burnett County, Wisconsin. The review area for our jurisdictional determination is identified on the enclosed figures labeled MVP-2022-00618-JMB Page 1 of 2 through 2 of 2.

The review area contains no waters of the United States subject to Corps of Engineers (Corps) jurisdiction. Therefore, you are not required to obtain Department of the Army authorization to discharge dredged or fill material within this area. The rationale for this determination is provided in the enclosed Approved Jurisdictional Determination form. This determination is only valid for the review area described. You are also cautioned that the area of waters described on the enclosed Jurisdictional Determination form is approximate and is not based on a precise delineation of aquatic resources.

If you object to this approved jurisdictional determination, you may request an administrative appeal under Corps regulations at 33 CFR 331. Enclosed you will find a Notification of Appeal Process (NAP) fact sheet and Request for Appeal (RFA) form. If you request to appeal this determination, you must submit a completed RFA form to the Mississippi Valley Division Office at the address shown on the form.

In order for an RFA to be accepted by the Corps, the Corps must determine that it is complete, that it meets the criteria for appeal under 33 CFR 331.5, and that it has been received by the Division Office within 60 days of the date of the enclosed NAP. It is not necessary to submit an RFA form to the division office if you do not object to the determination in this letter.

This approved jurisdictional determination may be relied upon for five years from the date of this letter. However, the Corps reserves the right to review and revise the determination in response to changing site conditions, information that was not considered during our initial review, or off-site activities that could indirectly alter the extent of wetlands and other resources on-site. This determination may be renewed at the end of the five year period provided you submit a written request and our staff are able to verify that the limits established during the original determination are still accurate.

Regulatory Branch (File No. 2022-00618-JMB)

If you have any questions, please contact me in our Hayward office at (651) 290-5884 or jonathan.m.bakken@usace.army.mil. In any correspondence or inquiries, please refer to the Regulatory file number shown above.

Sincerely,

Jonathan M. Bakken  
Project Manager

Enclosures

cc: Travis Holte, WDNR (Travis.Holte@wisconsin.gov)  
Dave Richardson, Tetra Tech (dave.richardson@tetrattech.com)  
Erik Lietz, Oakridge Engineering (erik@oakridgeeng.com)

**APPROVED JURISDICTIONAL DETERMINATION FORM**  
**U.S. Army Corps of Engineers**

This form should be completed by following the instructions provided in Section IV of the JD Form Instructional Guidebook.

**SECTION I: BACKGROUND INFORMATION**

**A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): 07 July 2022**

**B. ST PAUL, MN DISTRICT OFFICE, FILE NAME, AND NUMBER:**

**C. PROJECT LOCATION AND BACKGROUND INFORMATION:**

State: **Wisconsin** County/parish/borough: **Burnett** City: **Grantsburg**

Center coordinates of site (lat/long in degree decimal format): Lat. **45.70978° N**, Long. **-92.64536° W**.

Universal Transverse Mercator: **15N**

Name of nearest waterbody: **Isaac Lake**

Name of watershed or Hydrologic Unit Code (HUC): **07030005 (Lower St. Croix)**

Check if map/diagram of review area and/or potential jurisdictional areas is/are available upon request.

Check if other sites (e.g., offsite mitigation sites, disposal sites, etc...) are associated with this action and are recorded on a different JD form.

**D. REVIEW PERFORMED FOR SITE EVALUATION (CHECK ALL THAT APPLY):**

Office (Desk) Determination. Date:

Field Determination. Date(s): **May 5, 2022**

**SECTION II: SUMMARY OF FINDINGS**

**A. RHA SECTION 10 DETERMINATION OF JURISDICTION.**

There are no “*navigable waters of the U.S.*” within Rivers and Harbors Act (RHA) jurisdiction (as defined by 33 CFR part 329) in the review area.

**B. CWA SECTION 404 DETERMINATION OF JURISDICTION.**

There are no “*waters of the U.S.*” within Clean Water Act (CWA) jurisdiction (as defined by 33 CFR part 328) in the review area.

**1. Waters of the U.S.: N/A**

**2. Non-regulated waters/wetlands (check if applicable):<sup>1</sup>**

- Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional. Explain: **Wetland Area 1 (2,110 square feet) within the review area is located in a closed depression surrounded by agricultural fields. The site has never been developed. The wetland is approximately 0.10 miles north of STH 48; Isaac Lake is located 0.6 miles to the northeast. The wetland does not have any unbroken surface or shallow subsurface connections to Isaac Lake. It is not mapped within the 100-year floodplain. This wetland is not adjacent (bordering, contiguous, or neighboring) to another WOUS and is not separated from other WOUS by man-made dikes or barriers, natural river berms, or beach dunes. Due to its distance from Isaac Lake, there is no science-based inference (ex. does not support life cycles of amphibians or anadromous and catadromous fish) that supports an ecological connection. Additionally, there is no link to interstate or foreign commerce and it is not used by interstate or foreign travelers for recreation or another purpose. This wetland does not produce fish or shellfish that could be taken and sold in interstate or foreign commerce, and is not known to be used for industrial purposes by industries in interstate commerce. Therefore, the Corps has determined that the wetland is hydrologically isolated and is not regulated by the Corps under Section 404 of the Clean Water Act**

**SECTION III: CWA ANALYSIS**

**A. TNWs AND WETLANDS ADJACENT TO TNWs: N/A**

**B. CHARACTERISTICS OF TRIBUTARY (THAT IS NOT A TNW) AND ITS ADJACENT WETLANDS (IF ANY): N/A**

**C. SIGNIFICANT NEXUS DETERMINATION: N/A**

**D. DETERMINATIONS OF JURISDICTIONAL FINDINGS. THE SUBJECT WATERS/WETLANDS ARE (CHECK ALL THAT APPLY): N/A**

<sup>1</sup> Supporting documentation is presented in Section III.F.

**E. ISOLATED [INTERSTATE OR INTRA-STATE] WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE, INCLUDING ANY SUCH WATERS (CHECK ALL THAT APPLY):** N/A

**F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS (CHECK ALL THAT APPLY):**

- If potential wetlands were assessed within the review area, these areas did not meet the criteria in the 1987 Corps of Engineers Wetland Delineation Manual and/or appropriate Regional Supplements.
- Review area included isolated waters with no substantial nexus to interstate (or foreign) commerce.
  - Prior to the Jan 2001 Supreme Court decision in "SWANCC," the review area would have been regulated based solely on the "Migratory Bird Rule" (MBR).
- Waters do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction. Explain:
- Other (explain, if not covered above):

Provide acreage estimates for non-jurisdictional waters in the review area, where the sole potential basis of jurisdiction is the MBR factors (i.e., presence of migratory birds, presence of endangered species, use of water for irrigated agriculture), using best professional judgment (check all that apply):

- Non-wetland waters (i.e., rivers, streams):      linear feet      width (ft).
- Lakes/ponds:      acres.
- Other non-wetland waters:      acres. List type of aquatic resource:      .
- Wetlands: **0.05** acres.

Provide acreage estimates for non-jurisdictional waters in the review area that do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction (check all that apply):

- Non-wetland waters (i.e., rivers, streams):      linear feet,      width (ft).
- Lakes/ponds:      acres.
- Other non-wetland waters:      acres. List type of aquatic resource:      .
- Wetlands:      acres.

**SECTION IV: DATA SOURCES.**

**A. SUPPORTING DATA. Data reviewed for JD (check all that apply - checked items shall be included in case file and, where checked and requested, appropriately reference sources below):**

- Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant: **Wetland Delineation Report dated September 2021**
- Data sheets prepared/submitted by or on behalf of the applicant/consultant.
  - Office concurs with data sheets/delineation report.
  - Office does not concur with data sheets/delineation report.
- Data sheets prepared by the Corps:
- Corps navigable waters' study:
- U.S. Geological Survey Hydrologic Atlas:
  - USGS NHD data.
  - USGS 8 and 12 digit HUC maps.
- U.S. Geological Survey map(s). Cite scale & quad name: **1:24K Grantsburg**
- USDA Natural Resources Conservation Service Soil Survey. Citation: **Web Soil Survey**
- National wetlands inventory map(s). Cite name:
- State/Local wetland inventory map(s): **Wisconsin Wetland Inventory**
- FEMA/FIRM maps:
- 100-year Floodplain Elevation is:      (National Geodectic Vertical Datum of 1929)
- Photographs:  Aerial (Name & Date):  
or  Other (Name & Date): **Site photos provided in Wetland Delineation Report**
- Previous determination(s). File no. and date of response letter:
- Applicable/supporting case law:
- Applicable/supporting scientific literature:
- Other information (please specify): **Burnett County - LiDAR contours**

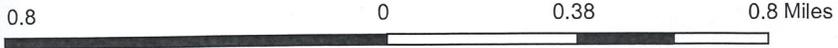
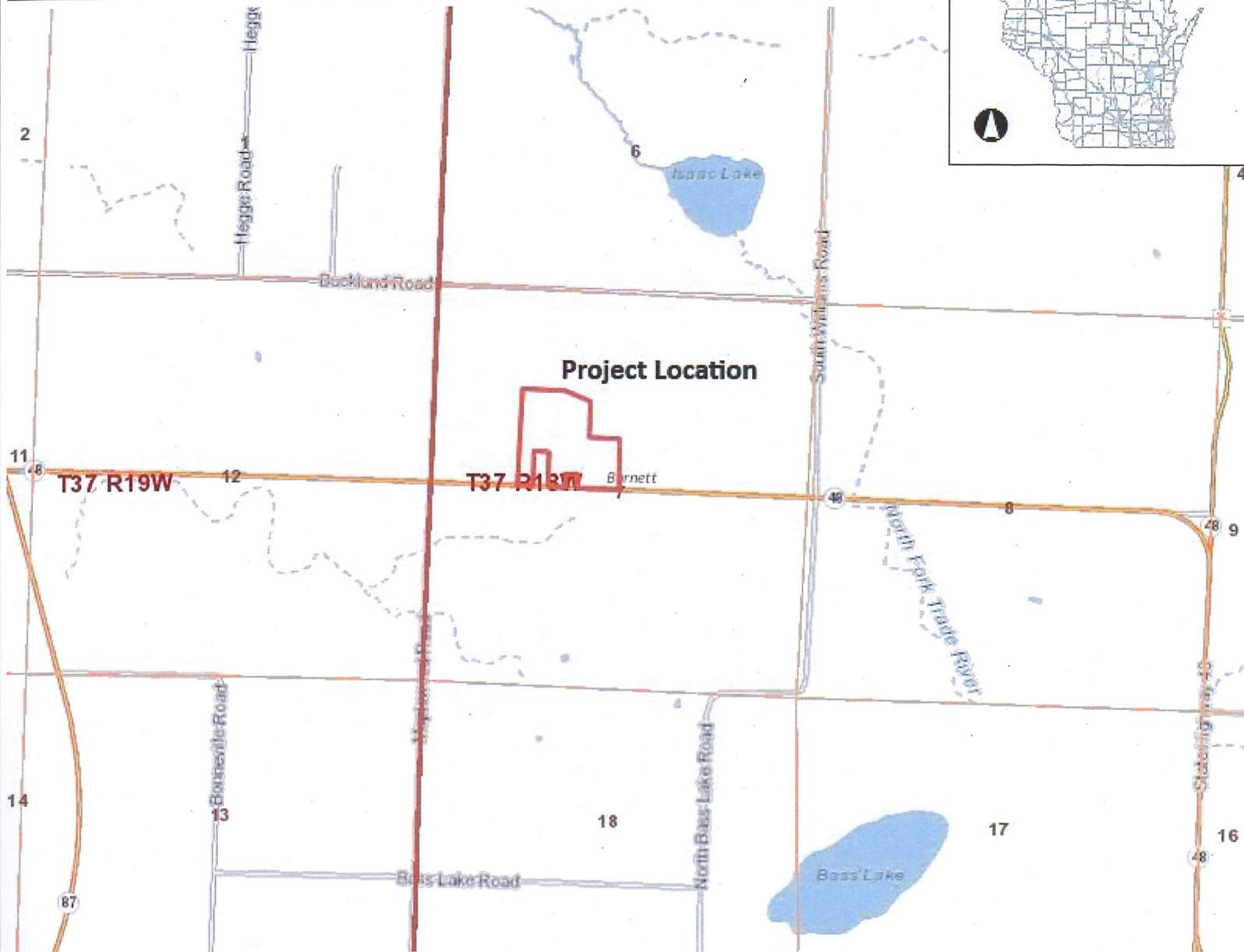
**B. ADDITIONAL COMMENTS TO SUPPORT JD:** A swale feature that is sometimes visible on aerial imagery northeast of Wetland 1, was investigated in the field during a site visit on 5/5/2022; the area did not meet wetland criteria for vegetation, hydrology, or soils. It ultimately terminates and is not visible on the landscape prior to reaching wetlands located offsite to the north. The Corps has determined that the wetland (Wetland 1) within the review area is hydrologically isolated, and is therefore not regulated by the Corps under Section 404 of the Clean Water Act.



# Project Location Figure



- Legend**
- Township
  - Section
  - County Boundary
  - Cities, Towns & Villages
  - City
  - Village
  - Civil Town
  - Municipality
  - State Boundaries
  - County Boundaries
  - Major Roads
  - Interstate Highway
  - State Highway
  - US Highway
  - County and Local Roads
  - County HWY
  - Local Road
  - Railroads
  - Tribal Lands
  - Rivers and Streams
  - Intermittent Streams
  - Lakes and Open water

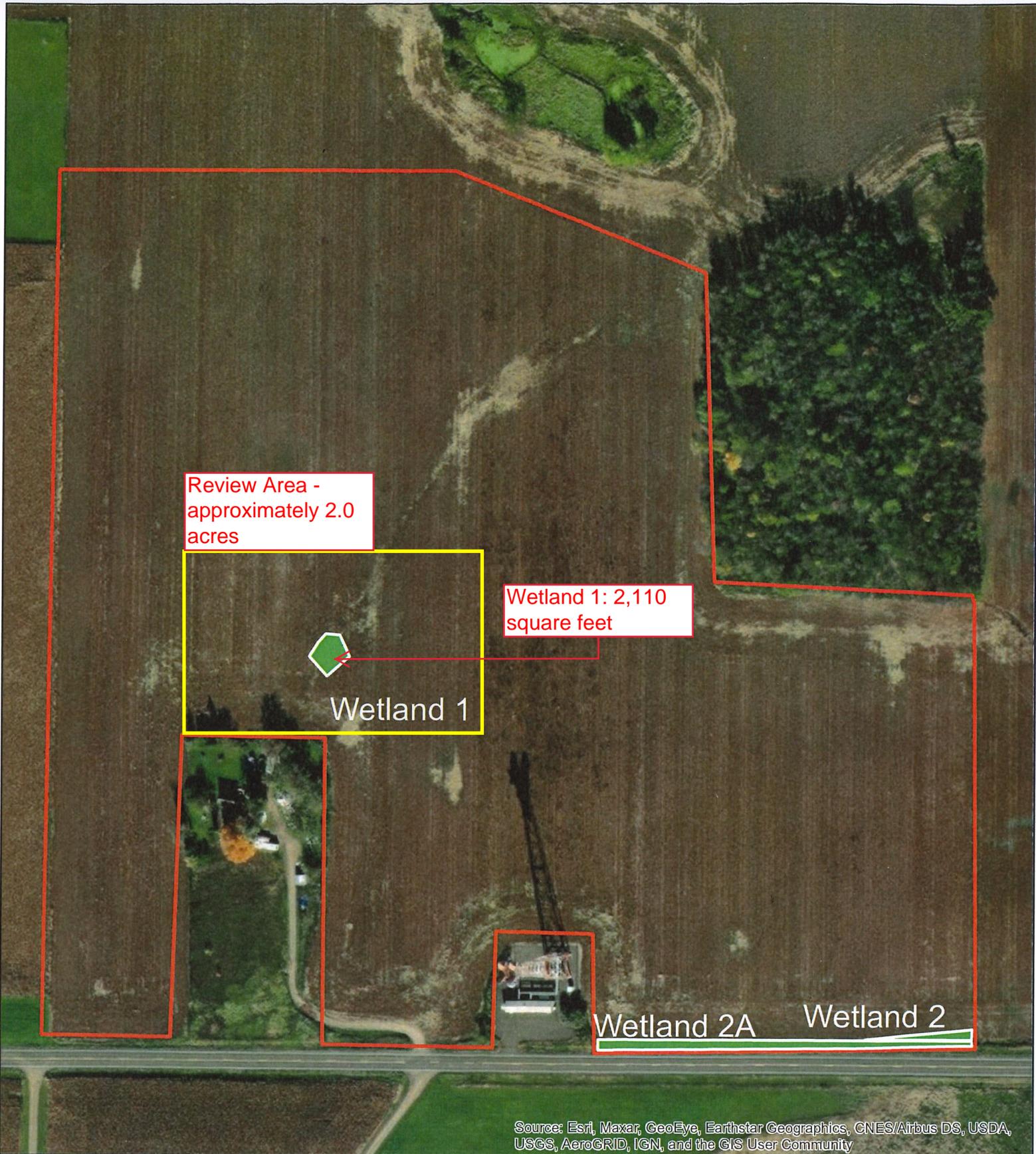


NAD\_1983\_HARN\_Wisconsin\_TM

1: 23,760

**DISCLAIMER:** The information shown on these maps has been obtained from various sources, and are of varying age, reliability and resolution. These maps are not intended to be used for navigation, nor are these maps an authoritative source of information about legal land ownership or public access. No warranty, expressed or implied, is made regarding accuracy, applicability for a particular use, completeness, or legality of the information depicted on this map. For more information, see the DNR Legal Notices web page: <http://dnr.wi.gov/legal/>

**Notes**



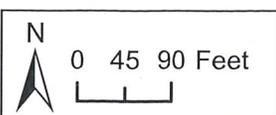
Source: Esri, Maxar, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community



**Tetra Tech, Inc.**  
 630 Riverfront Drive, Suite 100  
 Sheboygan, WI 54081  
 Tel: (920) 452-7962  
 Fax: (920) 457-2357

Wetland Delineation map: Melin Site, Grantsburg, WI 54840  
 1:2200

Drawn By: CJS  
 Date Created: 09/27/2021  
 Date Updated: 05/16/2022  
 Approved By: DBR



— Area of Study      ■ Wetlands

**NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND  
REQUEST FOR APPEAL**

<b>Applicant: Dave Richardson, Tetra Tech</b>	<b>File No.: MPV-2022-00618-JMB</b>	<b>Date: 29 July 2022</b>
Attached is:		See Section below
	INITIAL PROFFERED PERMIT (Standard Permit or Letter of permission)	A
	PROFFERED PERMIT (Standard Permit or Letter of permission)	B
	PERMIT DENIAL	C
X	APPROVED JURISDICTIONAL DETERMINATION	D
	PRELIMINARY JURISDICTIONAL DETERMINATION	E

**SECTION I -** The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found at <http://usace.army.mil/inet/functions/cw/cecwo/reg> or Corps regulations at 33 CFR Part 331.

- A: INITIAL PROFFERED PERMIT:** You may accept or object to the permit.
- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
  - **OBJECT:** If you object to the permit (Standard or LOP) because of certain terms and conditions therein, you may request that the permit be modified accordingly. You must complete Section II of this form and return the form to the district engineer. Your objections must be received by the district engineer within 60 days of the date of this notice, or you will forfeit your right to appeal the permit in the future. Upon receipt of your letter, the district engineer will evaluate your objections and may: (a) modify the permit to address all of your concerns, (b) modify the permit to address some of your objections, or (c) not modify the permit having determined that the permit should be issued as previously written. After evaluating your objections, the district engineer will send you a proffered permit for your reconsideration, as indicated in Section B below.
- B: PROFFERED PERMIT:** You may accept or appeal the permit
- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
  - **APPEAL:** If you choose to decline the proffered permit (Standard or LOP) because of certain terms and conditions therein, you may appeal the declined permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.
- C: PERMIT DENIAL:** You may appeal the denial of a permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.
- D: APPROVED JURISDICTIONAL DETERMINATION:** You may accept or appeal the approved JD or provide new information.
- **ACCEPT:** You do not need to notify the Corps to accept an approved JD. Failure to notify the Corps within 60 days of the date of this notice, means that you accept the approved JD in its entirety, and waive all rights to appeal the approved JD.
  - **APPEAL:** If you disagree with the approved JD, you may appeal the approved JD under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.
- E: PRELIMINARY JURISDICTIONAL DETERMINATION:** You do not need to respond to the Corps regarding the preliminary JD. The Preliminary JD is not appealable. If you wish, you may request an approved JD (which may be appealed), by contacting the Corps district for further instruction. Also you may provide new information for further consideration by the Corps to reevaluate the JD.

**SECTION II - REQUEST FOR APPEAL or OBJECTIONS TO AN INITIAL PROFFERED PERMIT**

**REASONS FOR APPEAL OR OBJECTIONS:** (Describe your reasons for appealing the decision or your objections to an initial proffered permit in clear concise statements. You may attach additional information to this form to clarify where your reasons or objections are addressed in the administrative record.)

**ADDITIONAL INFORMATION:** The appeal is limited to a review of the administrative record, the Corps memorandum for the record of the appeal conference or meeting, and any supplemental information that the review officer has determined is needed to clarify the administrative record. Neither the appellant nor the Corps may add new information or analyses to the record. However, you may provide additional information to clarify the location of information that is already in the administrative record.

**POINT OF CONTACT FOR QUESTIONS OR INFORMATION:**

If you have questions regarding this decision and/or the appeal process you may contact:

Jonathan M. Bakken  
US Army Corps of Engineers  
10637 Hayward Court, Unit 2  
Hayward, WI 54843  
(651) 290-5884

If you only have questions regarding the appeal process you may also contact the Division Engineer through:

Administrative Appeals Review Officer  
Mississippi Valley Division  
P.O. Box 80 (1400 Walnut Street)  
Vicksburg, MS 39181-0080  
601-634-5820 FAX: 601-634-5816

**RIGHT OF ENTRY:** Your signature below grants the right of entry to Corps of Engineers personnel, and any government consultants, to conduct investigations of the project site during the course of the appeal process. You will be provided a 15 day notice of any site investigation, and will have the opportunity to participate in all site investigations.

\_\_\_\_\_  
Signature of appellant or agent.

Date:

Telephone number:

**State of Wisconsin**  
**DEPARTMENT OF NATURAL RESOURCES**  
1701 North Fourth Street  
Superior, WI, 54880

**Tony Evers, Governor**  
**Preston D. Cole, Secretary**  
Telephone 608-266-2621  
Toll Free 1-888-936-7463  
TTY Access via relay - 711



Erik Lietz  
877 Gaylord Ave.  
Mondovi, WI 54755

EXE-NO-2022-7-02927

RE: Nonfederal Wetland Exemption Determination for an area described as Wetland 1 (.048 areas farmed wetland) located in the Town of GRANTSBURG, Burnett County

Dear Mr. Lietz:

This letter is in response to your request for a nonfederal wetland exemption determination for the above-mentioned wetlands.

According to 281.36 (4n), State Stat., a nonfederal wetland is a wetland that is not federally jurisdictional. Projects impacting nonfederal wetlands in rural areas must be less than 3 acres of total impact, and the project must be related to a structure such as a building, driveway, or road with an agricultural purpose (s. 281.36(4n)(c)3, Wis. Stat.). In addition, DNR must also consider whether the nonfederal wetland is a rare and high quality wetland as defined in s 281.36(4n)(a)3, Wis. Stat.

The Department reviewed the following materials to aid in our exemption determination:

- The request narrative including project scope and purpose
- Site location map and photographs that show different angles and views of the wetland
- Botanical survey results
- Wetland delineation information

**Request Narrative**

According to the request narrative the total wetland impacts will be .048 acres. The purpose of this project is to construct a farm.

**Site Location and Photographs**

The site location confirms that the wetland is located in a rural area. Wetland photographs also show a reed canary grass dominated wetland surrounded by corn fields.

**Botanical Survey**

The botanical survey demonstrations that the wetland is not a rare and high-quality wetland.

**Wetland Delineation Information**

The wetland delineation, and the review show the wetland is 2110 square feet in size and dominated by reed canary grass.

Based upon the documentation provided above, the project meets the eligibility criteria pursuant to s. 281.36 (4n), State Stat.. You are able to proceed with this project. If you have any questions or would like to schedule a meeting to discuss this approval, please call me at (715) 392-0803 or email [Steven.LaValley@wisconsin.gov](mailto:Steven.LaValley@wisconsin.gov).

Sincerely,

A handwritten signature in black ink, appearing to read "Steven LaValley". The signature is fluid and cursive, with the first name "Steven" and last name "LaValley" clearly distinguishable.

Steven LaValley  
Water Management Specialist

Copy to:

Jonathan Bakken - USACE Project Manager  
Jason Town Burnette County Zoning Administrator  
Erik Lietz -Oakridge Engineering  
Dave Richardson – Tetra Tech