



Board of County Commissioners Agenda Request

4A
Agenda Item #

Requested Meeting Date: November 25, 2014

Title of Item: Continuation - Public Hearing for Partial Ditch Abandonment

<input checked="" type="checkbox"/> REGULAR AGENDA <input type="checkbox"/> CONSENT AGENDA <input type="checkbox"/> INFORMATION ONLY	Action Requested: <input type="checkbox"/> Approve/Deny Motion <input type="checkbox"/> Adopt Resolution (attach draft) <i>*provide copy of hearing notice that was published</i>	<input type="checkbox"/> Direction Requested <input type="checkbox"/> Discussion Item <input checked="" type="checkbox"/> Hold Public Hearing*
Submitted by: Kirk Peysar		Department: Auditor
Presenter (Name and Title): Kirk Peysar, County Auditor		Estimated Time Needed:
Summary of Issue: <p>This is the second continuation of the September 9, 2014 Public Hearing for Petition for Partial Abandonment of a Drainage System (County Ditch 24) located in Sections 7, 8, and 18 of Spencer Township (T47N, R26W) and Sections 12 and 13 of Aitkin Township (T47N, R27W) Aitkin County, MN. EverStar, LLC submitted this petition for ditch abandonment pursuant to Minnesota Statute 103E.806.</p> <p>At the October 28th Board meeting, the Board asked John Welle, County Engineer to put the concerns he has in writing, and agreed to continue the Public Hearing on November 25, 2014. Written public comments will be accepted until November 24, 2014 at 4:30 p.m.</p>		
Alternatives, Options, Effects on Others/Comments:		
Recommended Action/Motion:		
Financial Impact: <i>Is there a cost associated with this request?</i> <input type="checkbox"/> Yes <input type="checkbox"/> No <i>What is the total cost, with tax and shipping? \$</i> <i>Is this budgeted?</i> <input type="checkbox"/> Yes <input type="checkbox"/> No <i>Please Explain:</i>		



Aitkin County Highway Department
1211 Air Park Drive
Aitkin, MN 56431

Phone: 218/927-3741 FAX: 218/927-2356

November 3, 2014

Mr. Kirk Peysar
Aitkin County Auditor
209 2nd Street Northwest, Room 202
Aitkin, MN 56431

Re: Partial Ditch Abandonment
County Ditch 24

Dear Mr. Peysar:

In response to the petition from Everstar, LLC to abandon a portion of Aitkin County Ditch No. 24 in Sections 7/18, Township 47 North, Range 26 West, Aitkin County Highway Department staff consisting of John Welle, Aitkin County Engineer, Mike Quale, Assistant County Engineer, and Brian Zimpel, Maintenance Superintendent, met with Everstar representatives at their request on September 8, 2014 and again on October 7, 2014 to discuss concerns with the proposed ditch abandonment.

As discussed at the meetings, the proposed ditch abandonment will negatively affect County Road (CR) 54 as the road ditches on approximately 1 mile of CR 54 currently use this ditch as it's primary outlet. There are several private properties to the east of CR 54 that also drain to the county road ditches and ultimately through the portion of County Ditch 24 proposed for abandonment. County Road 54 and the surrounding properties are currently benefitted by the drainage provided by this ditch. Maintenance of the ditch is allowable as part of a public drainage system to ensure that this ditch will continue to provide drainage benefits for CR 54 and adjacent properties in the future.

If the proposed ditch abandonment is granted, increases in stage and duration of water at the county ditch outlet are likely to occur during future runoff and flooding events, causing water to be backed up onto County Road 54 and adjacent properties at a higher elevation and for greater periods of time than under current drainage conditions. These impacts would likely result in additional CR 54 improvements being needed in this area to provide the same level of service as is currently provided to the public and to the adjacent properties.

The Aitkin County Highway Department is therefore opposed to this partial abandonment request.

Sincerely,

John Welle, P.E.
Aitkin County Engineer

CITY OF AITKIN, MINNESOTA

AIRPORT COMMISSION

RESOLUTION NO. 11-06-14 A

**RESOLUTION REQUESTING AITKIN COUNTY DENY THE PARTIAL DITCH ABANDONMENT OF A
DRAINAGE SYSTEM INVOLVING COUNTY DITCH 24**

BE IT RESOLVED BY THE CITY OF AITKIN AIRPORT COMMISSION OF THE CITY OF AITKIN (the "City") AS FOLLOWS:

A. **WHEREAS**, the City has heretofore been given notice of a public hearing issued by the Aitkin County Board of Commissioners to be held on Tuesday November 25, 2014 at 10:00 a.m. at the Aitkin County Courthouse for the purpose of considering partial abandonment of drainage systems involving county ditch 24 by petition from EverStar, LLC properties in Spencer Township; and

B. **WHEREAS**, the Airport Commission has met on November 6, 2014 at 5:30 p.m. and upon a unanimous consensus of the commission, declared the need for a resolution from the Airport Commission to be sent to the Aitkin County Commission in regards to the impact of the creation of wetlands adjacent to the airport properties. The Airport property will be impacted due to the lack of drainage and difficulty to maintain the excessive wetland. Therefor, reference is made to the following state statues which will increase and endanger pilots entering and exiting the airport; and

360.062 AIRPORT HAZARD PREVENTION; PROTECTING EXISTING NEIGHBORHOOD.

(a) It is hereby found that an airport hazard endangers the lives and property of users of the airport and of occupants of land in its vicinity, and may reduce the size of the area available for the landing, takeoff, and maneuvering of aircraft, thereby impairing the utility of the airport and the public investment therein. It is also found that the social and financial costs of disrupting existing land uses around airports in built up urban areas, particularly established residential neighborhoods, often outweigh the benefits of a reduction in airport hazards that might result from the elimination or removal of those uses.

(b) Accordingly, it is hereby declared: (1) that the creation or establishment of an airport hazard is a public nuisance and an injury to the community served by the airport in question; (2) that it is therefor necessary in the interest of the public health, public safety, and general welfare that the creation or establishment of airport hazards be prevented and that this should be accomplished to the extent legally possible, by exercise of the police power, without compensation; and (3) that the elimination or removal of existing land uses, particularly established residential neighborhoods in built-up urban areas, or their designation as nonconforming uses is not in the public interest and should be avoided whenever possible consistent with reasonable standards of safety.

(c) It is further declared that the prevention of the creation or establishment of airport hazards and the elimination, removal, alteration, mitigation, or marking and lighting of existing airport hazards are public purposes for which political subdivisions may raise and expend public funds and acquire land or property interests therein.

**HAZARDOUS WILDLIFE ATTRACTANTS ON OR NEAR AIRPORTS
FAA ADVISORY CIRCULAR (AC) 150/5200-33A (2004)**

This document provides guidance regarding the types of land uses that are considered to be incompatible near airports because they attract wildlife. These uses include but are not limited to the following; wastewater treatment facilities, **wetlands**, dredge spoil containment areas, solid waste landfills, certain agricultural activities, and golf courses. Typically, these uses should be located at least 5,000 feet away from an airport runway end if the airport serves piston-type aircraft, and at least 10,000 feet away from an airport runway end if the airport serves turbojet aircraft.

C. **NOW, THEREFORE, BE IT RESOLVED**, the City Airport Commission hereby determines and declares that it is necessary to request the Aitkin County Commissioners **deny** the EverStar petition and to act in the best interest of the public welfare and public safety of the citizens of Aitkin County.

DATED: November 6, 2014

BY ORDER OF THE CITY OF AITKIN AIRPORT COMMISSION

ATTEST:



Chair – Gary Tibbitts



City Clerk- Tammy Lou Pfaff



7699 Anagram Drive
Eden Prairie, MN 55344

PHONE 952-937-5150
FAX 952-937-5822
TOLL FREE 888-937-5150

www.westwoodps.com

MEMORANDUM

Date: November 6, 2014

Re: **Everstar Wetland Bank – Aitkin County – Supplemental Stormwater Modeling**
File 20047566

To: File

From: Tom Miller, Water Resources Manager

This memo serves to summarize supplemental computer modeling completed for the Everstar Wetland Bank. This modeling was conducted for verification purposes to provide another check of the original modeling summarized in the September 25, 2013 memo by Wenck Associates. Particularly, this supplemental modeling was conducted to corroborate the conclusion reached in that memo that “offsite drainage will not be affected by the proposed wetland bank”.

To more fully capture the complex hydraulics of the system under both existing and proposed conditions, XP-SWMM modeling software was used for this modeling effort. XP-SWMM is a fully dynamic hydrologic and hydraulic (H&H) model, capable of modeling ditches, culverts, ponds, wetlands and all types of hydraulic features. Additionally, it has the ability to model backwater flows, reverse flows, road overtopping and multiple flow paths.

In conducting this supplemental modeling, we purposely used conservative input parameters from standard literature sources to alleviate any concerns that input parameters were not sufficiently “worst case”. Particularly, under the post-restoration condition, the Manning’s Coefficient (effects the ability of a channel to convey flow) was set at 0.14, a condition of extreme obstruction caused by floodplain vegetation (Aldridge and Garrett, 1973). Additionally, the post-restoration wetlands were modeled as already being fully saturated to add another impediment to available conveyance.

*May
Obstruction*

XP-SWMM stormwater modeling software calculated high water levels for both existing and post-restoration conditions on this site and indicated that there will be no rise in the stage or duration of inundation in the county road ditch upstream of the EverStar property due to the Everstar Wetland Bank project. (Table 1 and Figures 1 and 2) This supplemental modeling corroborates Wenck’s findings in the previously submitted modeling.



Table 1. Maximum water elevation in channel at downstream end of 18" CR 54 Culvert

	Rain depth [in]	Existing [ft]	Post- Restoration [ft]	Reduction in max water elevation
1-inch	1.00	1200.45	1200.25	0.20
1-year	2.35	1201.67	1201.52	0.16
2-year	2.73	1201.96	1201.75	0.21
10-year	3.97	1203.11	1202.56	0.55
100-year	6.33	1204.31	1203.58	0.73

Figure 1. Water elevations and duration at County Road 54 outlet culvert (existing)
Node - Node31

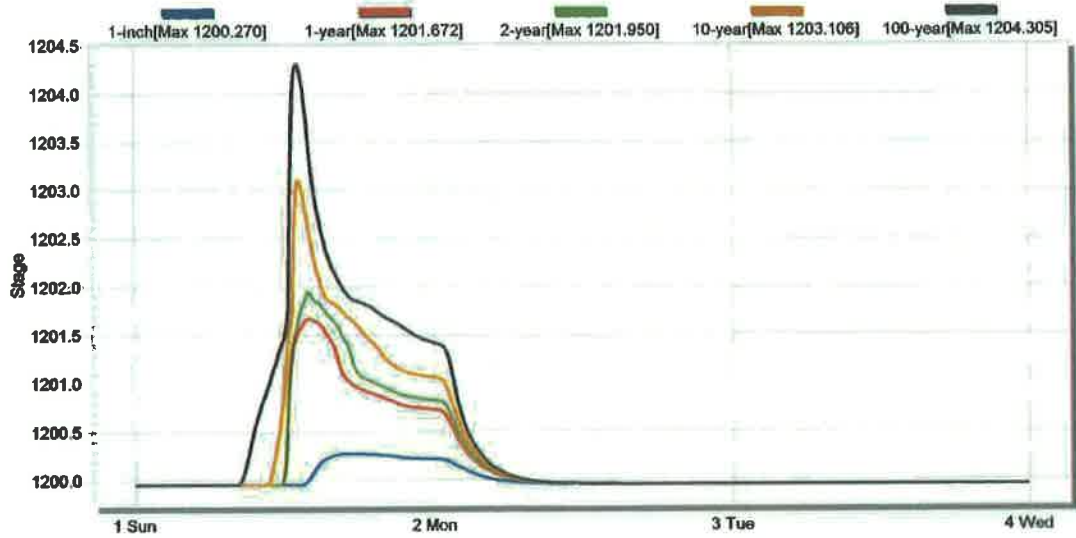
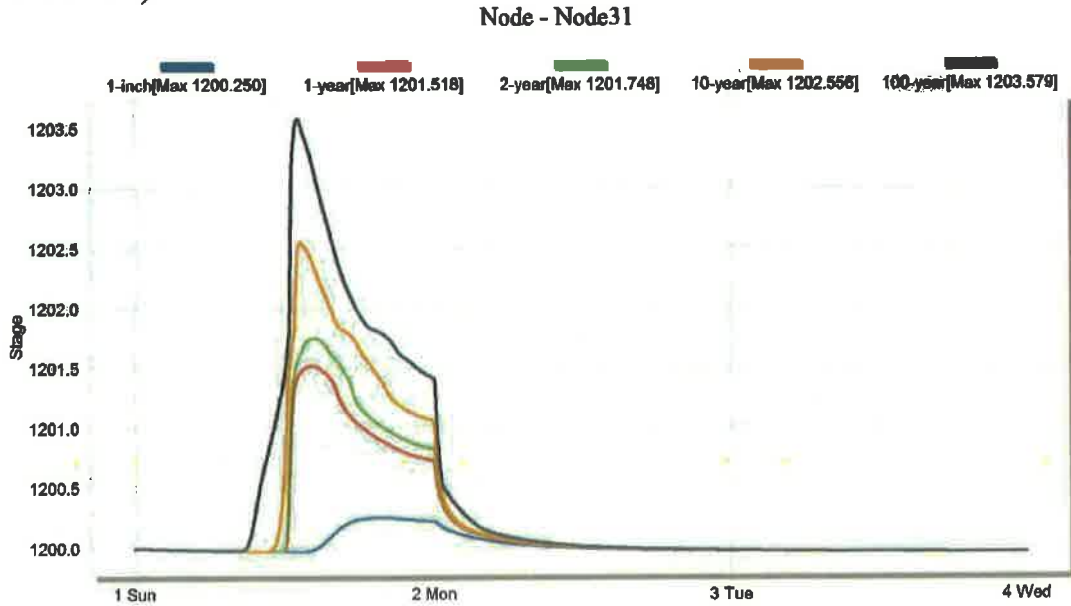


Figure 1. Water elevations and duration at County Road 54 outlet culvert (post-restoration)
Node - Node31



EXTRACT OF MINUTES OF A MEETING OF THE
CITY COUNCIL OF THE CITY OF AITKIN, MINNESOTA

HELD: September 8, 2014

5D
9-9-14 Handout

Pursuant to due call and notice thereof, a regular meeting of the City Council of the City of Aitkin, Minnesota was duly called and held at the City Hall in said City on the 8th day of September, 2014, at 7:00 o'clock P M.

The following members were present: Mayor Gary Tibbitts, Council Member; Julie Miller, Keith Nentl, Cori Welshons and Trevor Betley.

and the following were absent:

Member Julie Miller introduced the following resolution and moved its adoption: the motion of the adoption was duly seconded by council member Cori Welshons, and after a full discuss thereof and upon a vote being taken thereon the following voted in favor thereof:

And the following voted against the same:

CITY OF AITKIN, MINNESOTA
RESOLUTION NO. 09-08-14 B
RESOLUTION REQUESTING AITKIN COUNTY DENY THE PARTIAL DITCH
ABANDONMENT OF A DRAINAGE SYSTEM INVOLVING COUNTY DITCH 24

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AITKIN (the "City") AS FOLLOWS:

A. WHEREAS, the City has heretofore been given notice of a public hearing issued by the Aitkin County Board of Commissioners to be held on Tuesday September 9, 2014 at 10:00 a.m. at the Aitkin County Courthouse for the purpose of considering partial abandonment of drainage systems involving county ditch 24 by petition from EverStar properties in Spencer Township; and

B. WHEREAS, the Airport Commission has met on September 4, 2014 at 5:30 p.m. and upon a unanimous consensus of the commission, declared the abandonment for the drainage system would impact the airport properties by means of flooding and wildlife hazards which will increase and endanger pilots entering and exiting the airport; and


C. NOW, THEREFORE, BE IT RESOLVED, the City hereby determines and declares that it is necessary to request the County Commissioners deny the EverStar petition and to act in the best interest of the public welfare of the citizens of Aitkin County.

DATED: September 8, 2014

BY ORDER OF THE CITY COUNCIL

ATTEST:


Mayor - Gary Tibbitts


City Clerk - Tammy Lou Pfaff

51-27	\$200
52-27	\$2250
50-29	\$1500
48-28	\$3000
49-28	\$5500
50-30	\$300
51-27	\$1000
52-27	\$2700

At 10:00 a.m. Kirk Peysar, County Auditor held a Public Hearing for Petition for Partial Abandonment of a Drainage System (County Ditch 24) located in Sections 7, 8, and 18 of Spencer Township (T47N, R26W) and Sections 12 and 13 of Aitkin Township (T47N, R27W) Aitkin County, MN. EverStar, LLC submitted this petition for ditch abandonment pursuant to Minnesota Statute 103E.806. John Kolb, Rinke Noonan; along with Tom Miller and Eric Hansen, Westwood Professional Services presented plans and studies in support of EverStar's petition to the Board. John Welle, Aitkin County Engineer expressed his concerns. County Attorney Jim Ratz offered opinion and guidance. Public comment was heard from Tammy Lou Pfaff, representing City of Aitkin and Aitkin Airport Commission; Bob Harwarth, Spencer Township; Douglas Green, American Peat Technology; and Sid Berglund, Aitkin resident. Most voiced opposition or concern over the potential impact of the ditch abandonment. Jim Erickson, EverStar asked for Board support. The Board agreed to continue the Public Hearing on October 28, 2014 and to keep the public comment period open through that date.

The Board reported on the following: AMC Policy Meeting, NCLUCB, ATV Association of MN (ATVAM), AIS, Hill City National Night Out, MCIT Regional Risk Management Workshop, Park Board, Aitkin Airport Commission, and Historical Society.

Commissioner Anne Marcotte left at 12:10 p.m.

Motion by Commissioner Westerlund, seconded by Commissioner Niemi and carried (4-0 Marcotte absent), all members voting yes to adjourn the meeting at 12:21 p.m. until Tuesday, September 10, 2014 at 9:00 a.m. for Special Meeting - 2015 Budget Presentation.

 J. Mark Wedel, Chairperson
 Aitkin County Board of Commissioners

 Nathan Burkett, County Administrator

PUBLIC HEARING FOR PETITION FOR PARTIAL ABANDONMENT OF A DRAINAGE SYSTEM

BOARD DISCUSSION

MARCOTTE LEFT

ADJOURN

RESOLUTION OPPOSING AITKIN COUNTY BOARD PARTIAL
DITCH ABANDONMENT OF A DRAINAGE SYSTEM COUNTY DITCH 24
RESOLUTION 2014 - 10

WHEREAS, the Spencer Township has heretofore been given notice of a extended public hearing issued by the Aitkin County Board of Commissioners to be held on Tuesday, October 28, 2014 at the Aitkin County Courthouse for the purpose of considering partial abandonment of drainage systems involving county ditch 24 by petition from EverStar Properties in Spencer Township.

WHEREAS, the Spencer Township Board has met on October 14, 2014 at 7:00 p.m. and upon a unanimous consensus of the Supervisors, declared the partial abandonment of the drainage system would negatively impact both private & public properties as well as public roadways by means of flooding and wildlife hazards.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors, upon a unanimous decision, hereby determines and declares that it is necessary to request the Aitkin County Commissioners deny EverStar's petition as an act in the best interest of the public welfare of the citizens of Aitkin County.

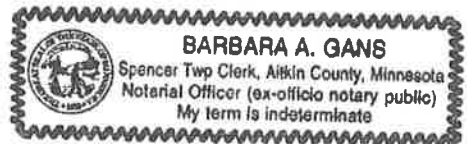
	<u>Yes</u>	<u>No</u>	<u>Other</u>
Supervisor <u><i>[Signature]</i></u>	✓	—	—
Supervisor <u><i>[Signature]</i></u>	✓	—	—
Supervisor <u><i>Robert A. Harwitz</i></u>	—	—	<i>ABSTAINED</i>

Adopted this 14th day of October, 2014.

BY THE BOARD

[Signature]
Kevin M. Stronberg, Town Chair
Town Chair

Attest: *[Signature]*
Township Clerk



Handout
5A

10-28-14

Minnesota Wetland Conservation Act Notice of Decision

Local Government Unit (LGU) Aitkin County Planning & Zoning	209 Second Street NW, Room 100 Aitkin, MN 56431
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1. PROJECT INFORMATION

Applicant Name Everstar LLC	Project Name Wetland bank application	Date of Application 06/09/14	Application Number 40340W
<input type="checkbox"/> Attach site locator map.			

Type of Decision:

<input type="checkbox"/> Wetland Boundary or Type	<input type="checkbox"/> No-Loss	<input type="checkbox"/> Exemption	<input type="checkbox"/> Sequencing
<input type="checkbox"/> Replacement Plan	<input checked="" type="checkbox"/> Banking Plan		

Technical Evaluation Panel Findings and Recommendation (if any):

<input type="checkbox"/> Approve	<input checked="" type="checkbox"/> Approve with conditions	<input type="checkbox"/> Deny
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Summary: The TEP recommended approval of the wetland bank application with the following conditions:

- 1) Crediting and corresponding tables must be adjusted to reflect the most current changes to the wetland delineation as of August 13, 2014. As it relates to the newly-designated wetland area "B", 50% credit will be allowed. No crediting will be allowed in road right-of-way and prescriptive easement right-of-way.
- 2) The ditch petition must be approved as proposed in the August 13, 2014 version.
- 3) The hydrologic monitoring proposed for post-restoration (detailed on Page 33 of Part 4 of the Concept Plan) must include documentation of river elevation levels from the Aitkin gauge. Hydrologic monitoring should correlate ground water levels with data from the Aitkin gauge. This will allow the TEP to review potential hydrologic restoration based on similar years of rainfall and river elevations of the 2010 and 2011 monitoring.
- 4) The Conditional Use Permit (CUP) must be approved for the earth moving in the floodplain and floodway. All other required permits must be obtained.

2. LOCAL GOVERNMENT UNIT DECISION

Date of Decision: 09/17/14		
<input type="checkbox"/> Approved	<input checked="" type="checkbox"/> Approved with conditions (include below)	<input type="checkbox"/> Denied

LGU Findings and Conclusions (attach additional sheets as necessary):

Support TEP recommendations. In addition, the following conditions must be met:

- 1) If the Drainage Authority denies the ditch petition as proposed on August 13, 2014, the wetland bank application will immediately be denied. If the Planning Commission denies the Conditional Use Permit, the wetland bank application will immediately be denied. The TEP recommendation and LGU decision is based on the information that was presented with the application. Any changes to the ditch petition request or CUP request will void the approval of the LGU.
- 2) Points North/Everstar has a wetland bank application under appeal. It is being held in abeyance by BWSR. The appeal must be rescinded within 30 days of the LGU approval of the current wetland banking plan or the beginning of construction, whichever occurs first.
- 3) No increase in the road elevation on Sheet F in the floodway area.
- 4) If there are any inconsistencies or discrepancies found in the wetland banking application, what was approved will be determined by the TEP.

For Replacement Plans using credits from the State Wetland Bank:

Bank Account #	Bank Service Area	County	Credits Approved for Withdrawal (sq. ft. or nearest .01 acre)

Replacement Plan Approval Conditions. In addition to any conditions specified by the LGU, the approval of a Wetland Replacement Plan is conditional upon the following:

- Financial Assurance:** For project-specific replacement that is not in-advance, a financial assurance specified by the LGU must be submitted to the LGU in accordance with MN Rule 8420.0522, Subp. 9 (List amount and type in LGU Findings).
- Deed Recording:** For project-specific replacement, evidence must be provided to the LGU that the BWSR "Declaration of Restrictions and Covenants" and "Consent to Replacement Wetland" forms have been filed with the county recorder's office in which the replacement wetland is located.
- Credit Withdrawal:** For replacement consisting of wetland bank credits, confirmation that BWSR has withdrawn the credits from the state wetland bank as specified in the approved replacement plan.

Wetlands may not be impacted until all applicable conditions have been met!

LGU Authorized Signature:

Signing and mailing of this completed form to the appropriate recipients in accordance with 8420.0255, Subp. 5 provides notice that a decision was made by the LGU under the Wetland Conservation Act as specified above. If additional details on the decision exist, they have been provided to the landowner and are available from the LGU upon request.

Name Terry Neff	Title Environmental Services Director	
Signature 	Date 9/17/14	Phone Number and E-mail 218-927-7342 tneff@co.aitkin.mn.us

THIS DECISION ONLY APPLIES TO THE MINNESOTA WETLAND CONSERVATION ACT.
Additional approvals or permits from local, state, and federal agencies may be required. Check with all appropriate authorities before commencing work in or near wetlands.

Applicants proceed at their own risk if work authorized by this decision is started before the time period for appeal (30 days) has expired. If this decision is reversed or revised under appeal, the applicant may be responsible for restoring or replacing all wetland impacts.

This decision is valid for three years from the date of decision unless a longer period is advised by the TEP and specified in this notice of decision.

3. APPEAL OF THIS DECISION

Pursuant to MN Rule 8420.0905, any appeal of this decision can only be commenced by mailing a petition for appeal, including applicable fee, within thirty (30) calendar days of the date of the mailing of this Notice to the following as indicated:

Check one:

<input checked="" type="checkbox"/> Appeal of an LGU staff decision. Charges for an appeal are \$50.00/hour plus any additional costs to Aitkin County. Send petition to: Aitkin County Planning & Zoning 209 Second Street NW, Room 100 Aitkin, MN 56431	<input type="checkbox"/> Appeal of LGU governing body decision. Send petition and \$500 filing fee to: Executive Director Minnesota Board of Water and Soil Resources 520 Lafayette Road North St. Paul, MN 55155
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4. LIST OF ADDRESSEES

- | |
|--|
| <input checked="" type="checkbox"/> SWCD TEP member: Steve Hughes, SWCD, 130 Southgate Drive, Aitkin, MN 56431 |
| <input checked="" type="checkbox"/> BWSR TEP member: Keith Grow, BWSR, 1601 Minnesota Drive, Brainerd, MN 56401 |
| <input checked="" type="checkbox"/> LGU TEP member: John Welle, Road & Bridge, 1211 Air Park Lane, Aitkin, MN 56431 |
| <input checked="" type="checkbox"/> DNR TEP member: Kevin Woizeschke, DNR, 1601 Minnesota Drive, Brainerd, MN 56401 |
| <input checked="" type="checkbox"/> DNR Regional Office: Rian Reed, DNR, 1201 East Highway 2, Grand Rapids, MN 55744 |
| <input checked="" type="checkbox"/> WD or WMO: Mississippi Headwaters Board, 322 Laurel Street, Brainerd, MN 56401 |
| <input checked="" type="checkbox"/> Applicant: EverStar, LLC, 9302 Interlachen Road, Lake Shore, MN 56468 |
| <input checked="" type="checkbox"/> Aitkin Airport Commission, 109 First Avenue NW, Aitkin, MN 56431 |
| <input checked="" type="checkbox"/> Bolton-Menk, Inc., 12224 Nicollet Avenue, Burnsville, MN 55337 |
| <input checked="" type="checkbox"/> Corps of Engineers: Nathan Campbell, ACOE, 180 Fifth Street, Suite 700, St. Paul, MN 55101 |
| <input checked="" type="checkbox"/> BWSR Wetland Bank Coordinator: Ken Powell, 520 Lafayette Road North, St. Paul, MN 55155 |

5. MAILING INFORMATION

For Wetland Bank Plan applications, also send a copy of the application to:
Minnesota Board of Water and Soil Resources
Wetland Bank Coordinator
520 Lafayette Road North
St. Paul, MN 55155

6. ATTACHMENTS

In addition to the site locator map, list any other attachments:

<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>

From: Becky Sovde [mailto:rsovde@co.aitkin.mn.us]
Sent: Wednesday, September 17, 2014 10:07 AM
To: Aitkin City Hall; 'Gayle Momchilovich'; 'Jim Erickson'; 'John Welle'; Keith Grow; 'Ken Powell'; Kevin Woizeschke; Nathan Campbell; Rian Reed; 'Ron Roetzel'; Steve Hughes; 'Kuboushek, Jason'; 'Terry Neff'
Subject: Notice of Decision

This will also be sent via USPS to non-agency addressees and to the MS Headwaters Board.

Becky Sovde
 Wetland Specialist/Compliance Officer
 Aitkin County Planning & Zoning
 218-927-7342



Everstar NOT of DEC.pdf

Minnesota Wetland Conservation Act Technical Evaluation Panel Findings Report

Date(s) of Site Visit/Meeting:	<u>AUGUST 13, 2014</u>	LGU:	<u>Aitkin County Planning & Zoning</u>
County:	<u>Aitkin</u>	LGU Contact:	<u>Becky Sovde</u>
Project Name:	<u>Everstar Wetland Bank</u>	Phone #:	<u>218-927-7342</u>
Location of Project: (attach map if possible)	<u>Sections 7, 8, 15, 47-25 Sections 12, 13, 47-27</u>	Email:	<u>becky.sovde@co.aitkin.mn.us</u>
		Address:	

TEP ATTENDEES:

LGU: John Welle

SWCD: Steve Hughes

BWSR: Keith Grow

DNR: Kevin Woizeschke

OTHER ATTENDEES:

Becky Sovde

OTHER ATTENDEES

PROJECT DESCRIPTION AND PURPOSE OF MEETING

Review wetland banking application for recommendation

TYPE OF MEETING: General meeting


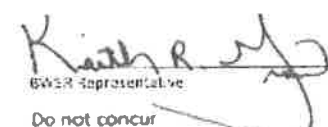

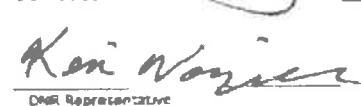
Office On Site Public Conference E-Mail Other _____

TEP FINDINGS AND RECOMMENDATIONS¹

TEP recommends approval of the wetland bank application with the following conditions:

- 1) Crediting and corresponding tables must be adjusted to reflect the most current changes to the wetland delineation as of August 13, 2014. As it relates to the newly-designated wetland area "B", 50% credit will be allowed. No crediting will be allowed in road right-of-way and prescriptive easement right-of-way.
- 2) The ditch petition must be approved as proposed in the August 13, 2014 version.
- 3) The hydrologic monitoring proposed for post-restoration (detailed on Page 33 of Part 4 of the Concept Plan) must include documentation of river elevation levels from the Atkin gauge. Hydrologic monitoring should correlate ground water levels with data from the Atkin gauge. This will allow the TEP to review potential hydrologic restoration based on similar years of rainfall and river elevations of the 2010 and 2011 monitoring.
- 4) The Conditional Use Permit (CUP) must be approved for the earth moving the floodplain and floodway. All other required permits must be obtained.

SIGNATURES

 _____ SWCD Representative	<u>9/16/14</u> Date	 _____ BWSR Representative	<u>9-9-14</u> Date
Do not concur <input type="checkbox"/>		Do not concur <input type="checkbox"/>	
 _____ GU Representative	<u>9-16-14</u> Date	 _____ DNR Representative	<u>9/9/14</u> Date
Do not concur <input type="checkbox"/>		Do not concur <input type="checkbox"/>	

¹ TEP Findings should be a meaningful concise summary detailing the project conditions, technical data, and what rules apply. The TEP recommendation should be clear, based on rule and best professional judgement.

CONDITIONAL USE PERMIT/VARIANCE/REZONING APPLICATION

APPLICATION DATE August 20, 2014 MEETING DATE September 15, 2014
 60-DAY EXPIRATION DATE October 20, 2014 10-18-14

(MEETING MUST OCCUR BEFORE THIS DATE, UNLESS WRITTEN EXTENSION OF THE 60-DAY TIME PERIOD IS MADE.
 WRITTEN EXTENSION MUST BE MADE PRIOR TO THE EXPIRATION OF THE FIRST 60-DAY TIME PERIOD)

FULL NAME EverStar, LLC TELE # 218-963-4515
 MAIL ADDRESS 9302 Interlachen Road
 CITY Lakeshore, MN STATE MN ZIP 56468
 911 ADDRESS OF PROPERTY 37791 390th Avenue
 CITY Not Applicable STATE MN ZIP 56431
 TOWNSHIP Spencer
 LEGAL DESCRIPTION See comments below.
 SECTION 7, 8 & 18 TOWNSHIP 47N RANGE 26W
 (circle) RESIDENTIAL COMMERCIAL ACCESSORY NEW BUILDING ALTERATION
 SIZE OF ALL BUILDINGS COVERED BY THIS APPLICATION: None.

OFFICE USE ONLY

DATE 10/20/14 (APPROVE) DENY
 PERMIT# 40619C
 PARCEL# 31-0-0116500
 RECEIPT# 1996019/375704
 CONFORMING SEPTIC
 YES P# NO NEW
No septic existing
Or proposed.

9-15-14 application tabled
10-20-14 application approved with 3 conditions.

COMMENTS: Physical construction work will occur within SE1/4 of Section 7, W1/2 of SW1/4 Section 8 and portions of N1/2 of Section 18, Township 47N, Range 26W. See accompanying narrative for parcel numbers encompassed by the overall project.

The undersigned hereby makes application for permit to construct as herein specified, agreeing to do all such work in strict accordance with the Ordinances of the County of Aitkin, Minnesota; Minnesota Individual Sewage Disposal Code Minimum Standards set forth by Minnesota Department of Health; and Shoreland Management Standards set forth by Minnesota Department of Natural Resources. Applicant agrees that plot plan, sketches and specifications submitted herewith and which are approved by the Zoning Official, shall become a part of the permit.

X *Patricia M. Kuntz*
 SIGNATURE APPLICANT/AGENT

DO NOT WRITE BELOW THIS LINE

<p>ZONING DISTRICT & FLOOD PLAIN</p> <p>ZONING DISTRICT <u>Shoreland</u> LAKE/STREAM RIVER NAME <u>Mississippi</u> LAKE/RIVER ID NUMBER _____ LAKE/RIVERSTREAM CLASSIF. <u>Mississippi</u> PARCEL LOCATED IN FLOOD PLAIN? Y <u>X</u> N _____ 10/100-YR. FLOOD ELEVATION _____ LOWEST FLOOR ELEVATION _____ ELEV. CERTIFICATE REQUIRED Y _____ N <u>X</u> BEFORE CONSTRUCTION Y <u>X</u> N _____ AFTER CONSTRUCTION Y <u>X</u> N _____</p>	<p>STRUCTURE SETBACK DISTANCE REQUIREMENTS (Measure from eaves or overhang) OHW TO LAKE/RIVER/STREAM _____ PROPERTY LINE SETBACK (10-ft. / 20-ft.) _____ SETBACK TO ROAD R-O-W (30-ft. Twp. / 50-ft. Co., State, Fed.) _____ SETBACK TO BLUFF (30-ft.) _____</p> <p>SEPTIC SYSTEM SETBACK DISTANCES SETBACK TO STRUCTURES - 10-FT. TANK / 20-FT. DRAIN FIELD _____ OHW TO LAKE/RIVER _____ PROPERTY LINE SETBACK 10-ft. _____ SETBACK TO ROAD R-O-W 10-ft. _____</p>
---	---

EXPIRES IN ONE YEAR • Aitkin County Zoning
 Courthouse - 209 2nd St. NW. Room 100 • Aitkin, Minnesota 56431 \$ 1646 7103 CK 7104
 Telephone 218/927-7342

RECEIVED BY K. Kuntz DATE 8-20-14

CONDITIONS FOR PERMIT #40619C

1. Must comply with all local, state and federal regulations that pertain to this type of operation.
2. Proposed partial abandonment of County Ditch 24 must be approved by the Aitkin County Board of Commissioners before any excavation (cut and fill) work is commenced.
3. Cut and Fill amounts shall not exceed those proposed in the Cut/Fill Report dated 2014-09-04 and Construction Plans signed by Eric Hansen dated 9/3/14, as submitted in the conditional use permit application.

c:\zoning\PC9-15-14

NOTICE OF DECISION for

STATE OF MINNESOTA
COUNTY OF AITKIN

AITKIN COUNTY PLANNING COMMISSION
CONDITIONAL USE PERMIT (C.U.P.)/REZONING PROCEEDINGS

IN THE MATTER OF PERMIT NUMBER: 40619C

(C.U.P.)/ REZONING Denied or Approved (Circle one)

APPLICANT OR AUTHORIZED REPRESENTATIVE:

Name Everstar, LLC.
Mailing Address 9302 Interlachen Road
City, State, Zip Lakeshore MN 56468

The above entitled matter came to be heard before the Planning Commission on the 20 day of October, 20 14, on a petition for a (C.U.P.)/REZONING pursuant to the Aitkin County Zoning Ordinance, for the following described parcel of land:

It is ordered that a (C.U.P.)/ Rezoning be granted upon the following conditions or reasons (if any):
3 conditions to be forthcoming

**FINDINGS OF FACTS or CONDITIONS (if any)
WILL BE FORTHCOMING ON THE RECORDING DOCUMENT**

DATED THIS 20 DAY OF October, 20 14.

[Signature]
Chairperson of the Planning Commission or
Authorized Representative

Applicant or Authorized Representative acknowledges receipt of this document.

[Signature]
Signature of Applicant or Authorized Representative

THIS INSTRUMENT WAS DRAFTED BY:
AITKIN COUNTY ZONING ADMINISTRATOR
COURTHOUSE
AITKIN, MINNESOTA 56431

*Appeal of this decision shall be by
Writ of Certiorari to the Minnesota
Court of Appeals within 30 days of
the Planning Commission's decision.*

CONDITIONAL USE/INTERIM USE CRITERIA/FINDINGS OF FACT

APPLICANT Everstar LLC.

DATE 9-15-14

~~CUR/IUP~~ REQUEST _____

ADDITIONAL CONDITIONS: *Must adhere to all Local, State and Federal Rules when applicable, _____


1. The proposed use will not be injurious to the use and enjoyment of the environment or of other property in the immediate vicinity, nor impair property values within the surrounding neighborhood.
2. The proposed use will not increase local or state expenditures in relation to costs of servicing or maintaining neighboring properties.
3. The location and character of the proposed use are considered to be consistent with a desirable pattern of development for the locality in general.
4. The proposed use conforms to the comprehensive land use for the County.
5. Proper notice has been given to those people required under Minnesota Statutes, Chapter 394, of the proposed use and of the hearing before the Planning Commission.
6. That other applicable requirements of this ordinance, or other ordinances of the County have been met.
7. The proposed use is not injurious to the public health, safety and general welfare.

	Dave	Laurie	Robert	Jeremy	Dale
1.	Y	Y	Y	Y	Y
2.	Y	Y	Y	Y	Y
3.	Y	Y	Y	Y	N
4.	Y	Y	Y	Y	N
5.	Y	Y	Y	Y	Y
6.	Y	Y	Y	Y	Y
7.	Y	Y	Y	Y	Y

Special conditions found by the Planning Commission _____

If all answers are **"Yes"** by a majority of the Planning Commission, the criteria for granting the Conditional Use Permit have been met.

DATE 10/20/14

APPROVED  _____ DENIED _____

CHAIRMAN PLANNING COMMISSION



PROTECTING THE FIRST 400 MILES

Mississippi Headwaters Board

Crow Wing County Land Service Bldg. - 322 Laurel St – Ste 11 - Brainerd, MN 56401

Web Site: www.mississippiheadwaters.org

September 22, 2014

To: Aitkin County Environmental Services
Address: 209 2nd Street NW
Aitkn, MN 56431

RE: Comments provided to the Everstar Conditional Use Permit from the Mississippi Headwaters Board.

Dear Terry Neff:

On September 19, 2014, the Mississippi Headwaters Board (MHB) reviewed and provided comments on the Everstar LLC Conditional Use Permit. The board wishes to express that the applicant's activities toward a proposed wetland restoration and upland buffer areas support the goals of improving the Mississippi river water quality by filtering sediments and removing nutrients and agricultural runoff from the surface water that affect the jurisdictional area of the MHB. They request that the applicant follow Part III, Section K of the MHB Comprehensive Plan, which focuses on Shoreland alteration. Thank you for providing the opportunity for the MHB to provide comment on this Conditional Use Permit, and we look forward to working with you in the future.

Sincerely,

Tim Terrill
Executive Director

Clearwater * Hubbard * Beltrami * Cass



Itasca * Aitkin * Crow Wing * Morrison

- ii. Stormwater management Facilities must meet the standards of the local Soil and Water Conservation District or other acceptable standards.
- iii. Stormwater outfalls to the Mississippi River and the Headwaters Lakes must provide for filtering or settling of suspended solids and skimming of surface debris before discharge.
- iv. The Zoning Authority shall require a USP if the impact proposed or existing impact 1) exceeds 5% of impervious surface with the Shore Impact Zone; or 2) exceeds 15% of impervious surface from the Shore Impact Zone to the Building Setback line; or 3) overall impervious surface on the lot exceeds 25%.
- v. New development must consider source water protection, such as wellhead delineation or proximity to a public or private well.

Section K - Shoreland Alteration

K.1. Purpose

Alterations of vegetation and topography will be regulated to prevent erosion to public waters, fix nutrients, preserve shoreland aesthetics, preserve historic values, prevent bank slumping, preserve corridor for movement of wildlife, protect fish and wildlife habitat, conserve cultural resources and to preserve the scenic and aesthetic character of the shoreland. These Best Management Practices for shoreland alterations will protect the water quality of the River and will therefore sustain the economic values in the corridor.

The regulations for shoreland alterations set forth in this Plan, Minnesota Rules Chapter 6120, or any county shoreland regulations which are more restrictive shall apply

K.2. Vegetation Management Provisions

Vegetation alteration in the Corridor is allowed with the following provisions. Vegetation alteration shall be addressed in a USP if more than 15% of the existing vegetative cover is removed.

- a. **Exemptions.** Forestry uses, agricultural uses, and the construction of roads and rights-of-way regulated by county road building standards are exempt from the MHB vegetation alteration standards in b and c below.
- b. **Limited Vegetation Clearing.** In the Corridor and/or areas with bluff impact zones and/or areas of steep slopes, limited removal of trees and shrubs and cutting, pruning and trimming of trees is allowed to provide a view to the water from the principal dwelling site and to accommodate the placement of stairways and landings and access paths, provided that:

- i. Removal does not exceed 25% of the existing vegetation, and erosion and sedimentation are minimized.
 - ii. The vegetative screening of structures, vehicles or other facilities is maintained.
 - iii. The vegetative shading of water surfaces is maintained; and
 - iv. The above provisions are not applicable to the removal of trees, limbs, or branches that are dead, diseased, or pose safety hazards.
- c. **Intensive Vegetation Clearing.** Intensive vegetation clearing within the setback and bluff impact zones and/or areas of steep slopes is not allowed. Intensive vegetation removal outside the setback, and not involving a bluff impact zone or steep slopes, for forestland conversion to another use is allowed as a conditional use. This conditional use shall require a Unified Site Plan showing mitigation plans for the control of negative impacts.

K.3. Grading, Filling, Alterations in the Beds of Public Waters

- a. **Permit Required.** The Zoning Authority shall allow a one-time permit for 10 cubic yards of fill material. Any additional grading or filling work done within the Corridor shall require a conditional use permit and shall comply with the BMPs listed below:

Grading and filling of the natural topography that is accessory to a permitted or conditional use shall be performed in a manner which minimizes earth moving, erosion, storm water run-off, tree clearing and the destruction of natural amenities. A USP may address these practices and shall be approved by the Zoning Authority.

A grading or filling permit may be issued only if the following Standards and BMPs are met:

- b. **Standards.** Grading and filling of the natural topography shall also meet the following methods and practices:
- i. The smallest amount of bare ground is exposed for as short a time as feasible.
 - ii. Temporary ground cover, such as mulch, is used and permanent ground cover, such as sod, is planted.
 - iii. Methods to prevent erosion and to trap sediment are employed.
 - iv. Fill is stabilized to accepted, professionally recognized standards.
 - v. Fill or excavated material is not placed in a manner that creates an unstable slope.
- c. **Steep Slopes.** Plans to place fill or excavated material on steep slopes are reviewed by a qualified professional, such as the SWCD or a licensed engineer, for

continued slope stability and in no case may create finished slopes of 30 percent or greater.

- i. Fill or excavated materials are not placed in bluff impact zones.
- ii. Disturbed areas are restored in the same building season.

K.4. Altering Current or Cross Section of Public Waters

The excavation of material from, filling in, construction of any permanent structures or navigational obstructions, or any work that will change or diminish the course, current, or cross-section of the Mississippi River, Headwaters Lakes, or wetlands in the Corridor, is prohibited unless authorized by a permit from the Commissioner of the Department of Natural Resources pursuant to Minnesota Statutes, Section 103G.245, and/or a permit from the US Army Corps of Engineers.

K.5. Drainage or Filling of Wetlands

Drainage or filling in of wetlands within the Corridor must be in compliance with the Wetland Conservation Act. The replacement and/or mitigation activities for the filling of a wetland in the Corridor, should take place in the Corridor.

Section L - Agricultural Practices

L.1. Conservation Plan Consistency

General cultivation farming, grazing, nurseries, horticulture, truck farming, sod farming, and wild crop harvesting are permitted uses if steep slopes and bluff impact zones are maintained in permanent vegetation and operated under an approved conservation plan consistent with the field office technical guide of the County Soil and Water Conservation District. Recommendations of the publication "Agriculture and Water Quality," Minnesota Pollution Control Agency, 1989, are the minimum standard for agricultural practices in the River Corridor. The Zoning Authority or its designee will be responsible for the proper review of the Conservation Plans intended to minimize erosion and to protect water quality.

L.2. New Animal Feedlots Prohibited

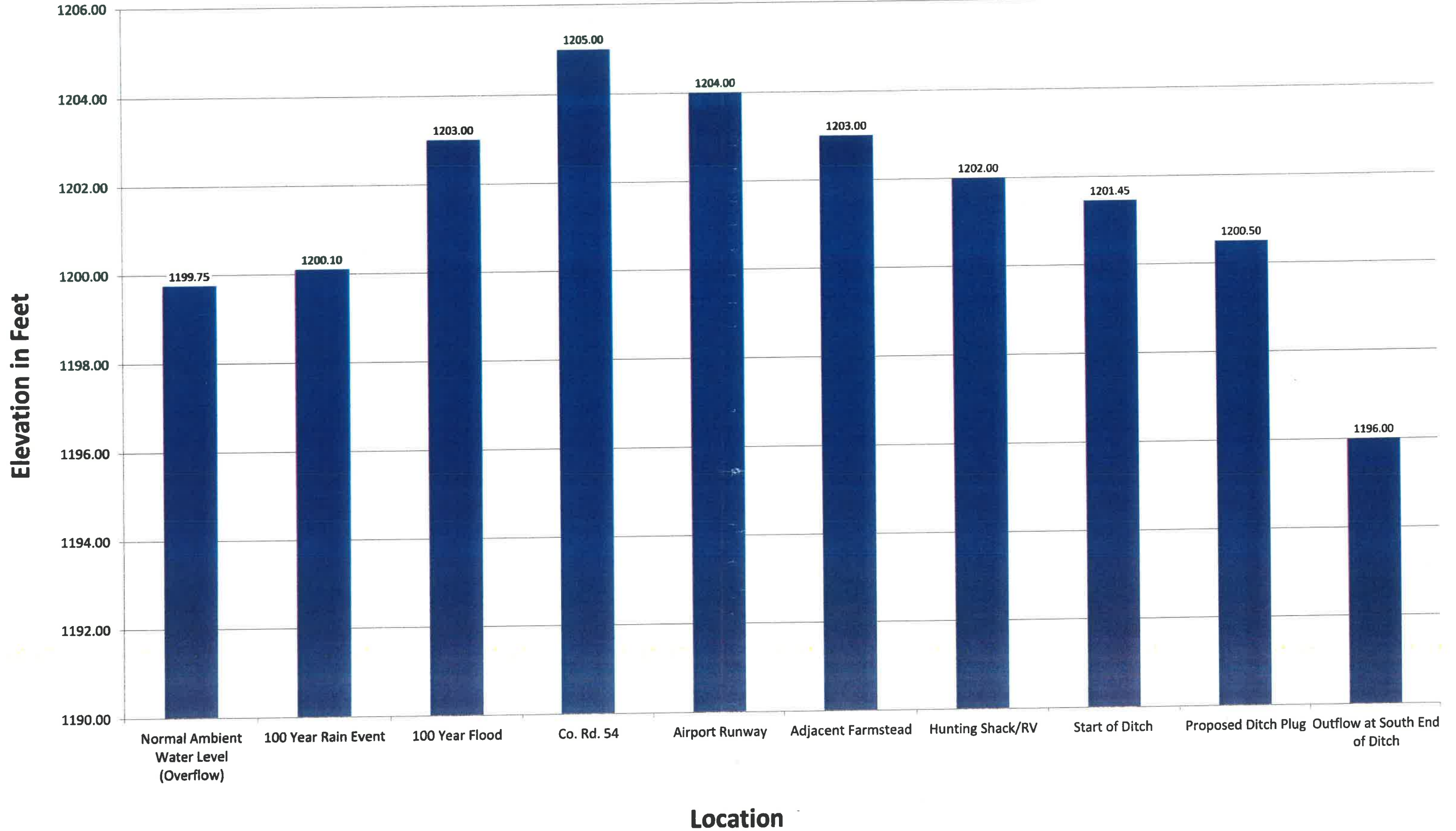
New animal feedlots, as defined by the Minnesota Rules Chapter 7020, are not permitted in the river corridor.

L.3. Existing Feed Lots

Animal feedlots, barnyards, or agricultural waste systems in existence prior to July 1, 1992, may continue provided neither the size of the area involved in the use or the number

Elevations of Key Locations

9-9-14 Handouts
SD





Far East End County Ditch 24 Looking West on 6/25/2012 During Flood Conditions



Looking Into Far East End County Ditch 24 6/25/2012 During Flood Conditions



Looking North Along County Road 54 6/29/2012 During Flood Conditions



Looking South Along County Road 54 at Start of County Ditch 24 6/29/2012 During Flood Conditions



Looking East, Just to the East of the Start of County Ditch 24 and North of County Road 54 10/31/2013 Under Normal Conditions



Looking North Along County Road 54 10/31/2013 Under Normal Conditions



Looking South Along County Road 54 at Start of County Ditch 24 10/31/2013 Under Normal Conditions



Looking West Along County Road 54, the Start of County Ditch 24 is Just Past the Truck in the Photo 10/31/2013 Under Normal Conditions



Photograph of a Typical Type 6 Wetland, This is the Wetland Type Proposed Onsite



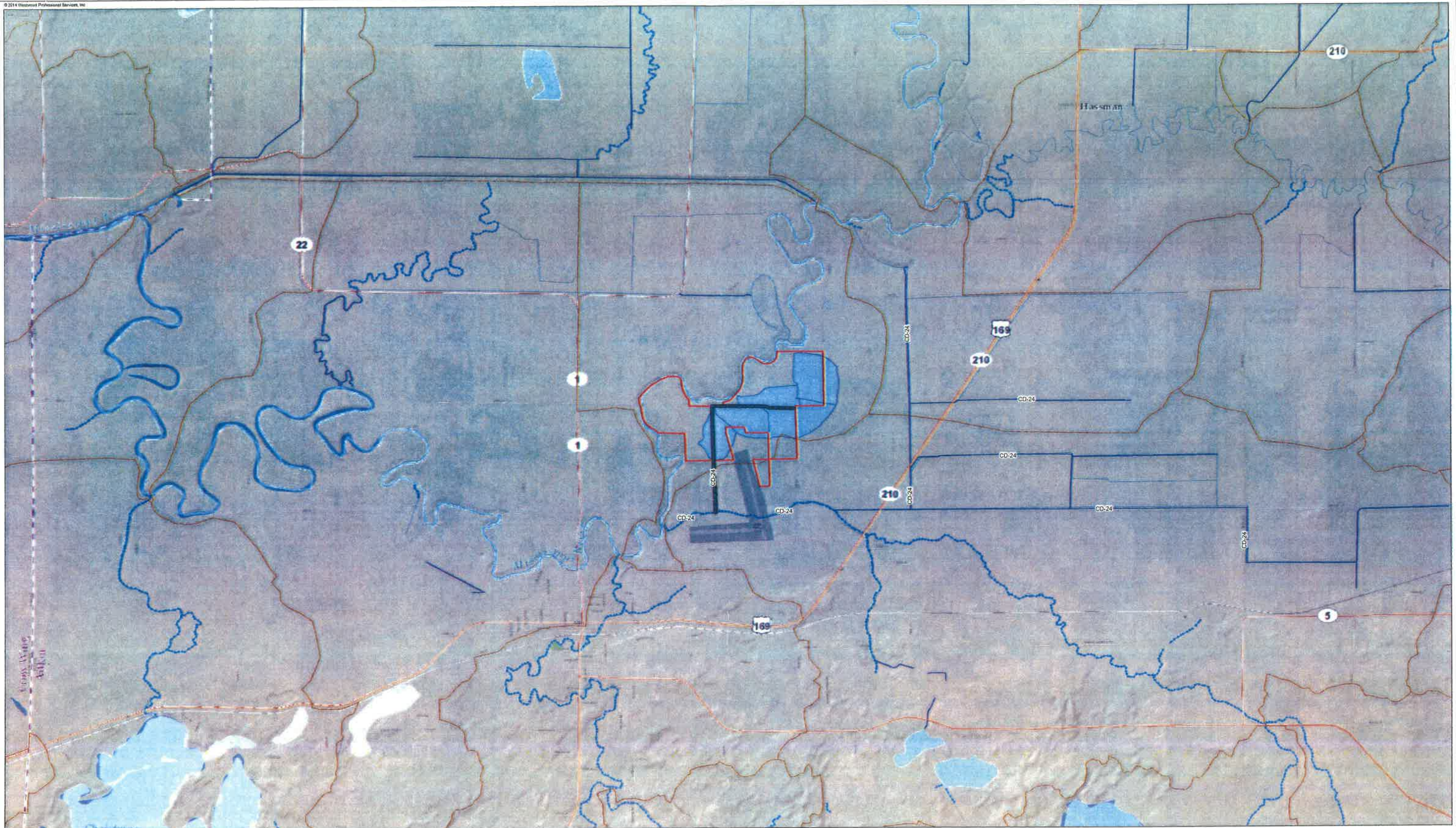
Photograph of a Typical Type 6 Wetland, during the 2012 Aitkin County Flood, This is the Wetland Type Proposed Onsite




Photograph of a Typical Type 6 Wetland, This is the Wetland Type Proposed Onsite during the 2012 flood (on left) and cropped field (on right). Highlights how the Type 6 wetland does not develop into open water during flood events





Photograph of a Typical Type 6 Wetland, This is the Wetland Type Proposed Onsite









Data Sources: Personal Streams Mapping (MNDNR 2009), Ditch Mapping (MNDNR 2009), Minor Watershed Mapping (MNDNR 2009), Winch Aitkin County Ditch 24 Subwatersheds (2013), National Geographic Background Map (ESRI WMS Site, accessed 2014)



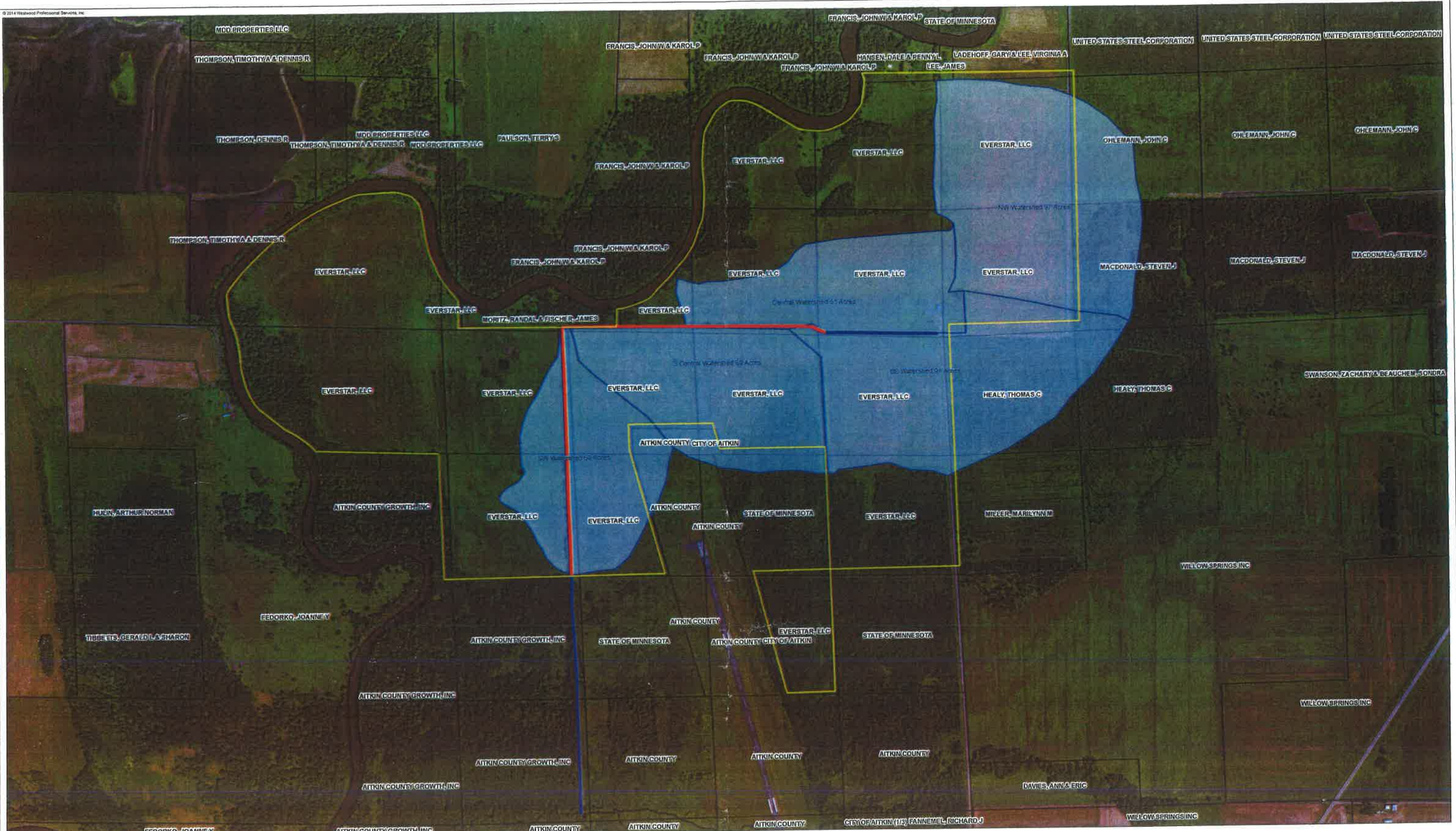




Westwood Professional Services, Inc.
 10000 Highway 101
 Suite 100
 Minneapolis, MN 55425
 Phone: 612.338.1100
 Fax: 612.338.1101
 www.westwood.com

- Legend**
-  Affected Portion of Aitkin County Ditch 24
 -  EverStar Property Boundary
 -  Minnesota DNR Minor Watershed Boundary
 -  Mapped Ditches
 -  Mapped Perennial Streams
 -  Winch Mapped Upstream Subwatersheds

EverStar Wetland Bank Project
 Aitkin County, Minnesota
 Aitkin County Ditch Petition Exhibits
 County Ditch 24 Overview Map
 EXHIBIT 1



Data Sources: Wmck Aitkin County Ditch 24 Subwatersheds (2013), Aitkin County Parcel Data (Aitkin County GIS Department, accessed 2014), BING Aerial (ESRI WMS Site, accessed 2014)











 Wetland Professional Services, Inc.
 400 West Main Street
 Eau Claire, WI 54601
 Phone: (715) 833-4500
 Fax: (715) 833-4502
 www.wetlandpro.com

Legend

	EverStar Property Boundary		Portion of Ditch to Remain
	Aitkin County GIS Parcel		Portion of Ditch to be Abandoned
	Wenck Mapped Subwatersheds		

EverStar Wetland Bank Project

Aitkin County, Minnesota

Aitkin County Ditch Petition Exhibits

Everstar Portion County Ditch 24 Detail Map





EXHIBIT 2



Data Sources: Wetland Survey, National Geographic Background Map (ESRI WMS Site, accessed 2014)



Legend

-  Affected Portion of Aitkin County Ditch 24
-  EverStar Property Boundary
-  Direction of Flow
-  Surface Flow Divide

EverStar Wetland Bank Project

Aitkin County, Minnesota

Aitkin County Ditch Petition Exhibits

Existing Drainage Flow Map

EXHIBIT 3



Data Source(s): Wetland Survey Data, Ditch Mapping (MNH DMR 2005), National Geographic Background Map (ESRI WMS Site, accessed 2/14/14)



Legend

-  EverStar Property Boundary
-  Portion of Ditch to Remain
-  Direction of Flow
-  Portion of Ditch to be Abandoned

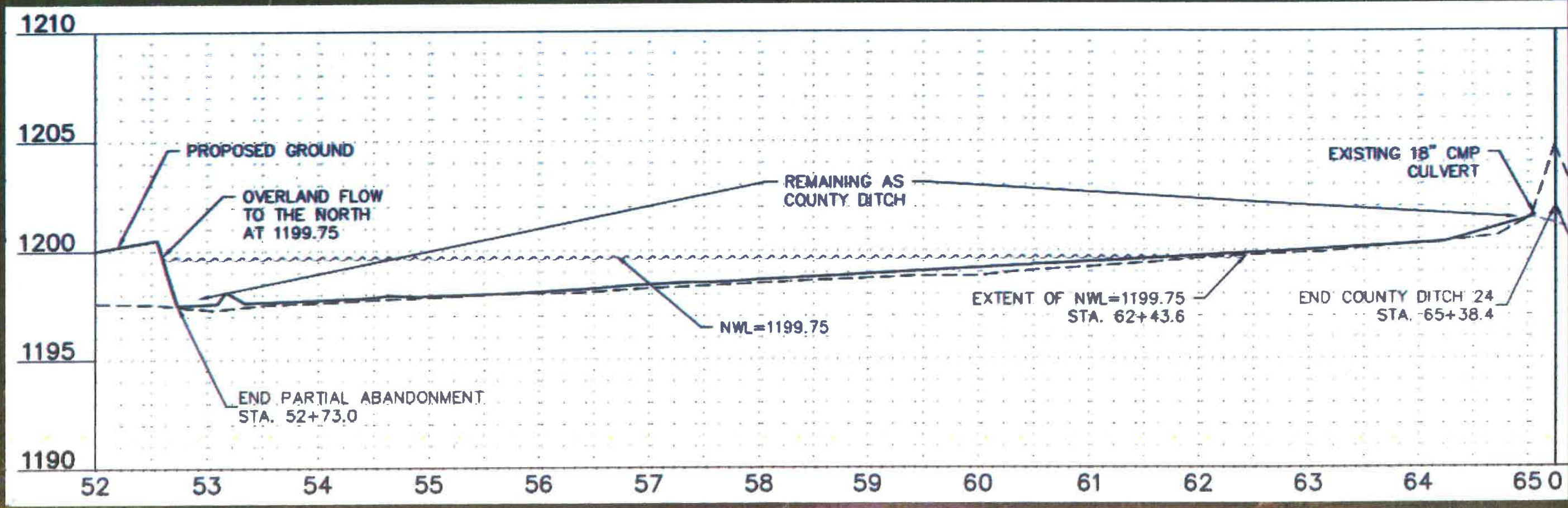
EverStar Wetland Bank Project

Aitkin County, Minnesota

Aitkin County Ditch Petition Exhibits

Proposed Drainage Flow Map

EXHIBIT 4



Data Source(s): Wetwood Survey Data, Ditch Mapping (MN DNR 2005), National Geographic Background Map (ESRI) (MS Srv, accessed 2014)



- Legend**
- EverStar Property Boundary
 - Elevations Dry Under Modeled Rain Events

EverStar Wetland Bank Project

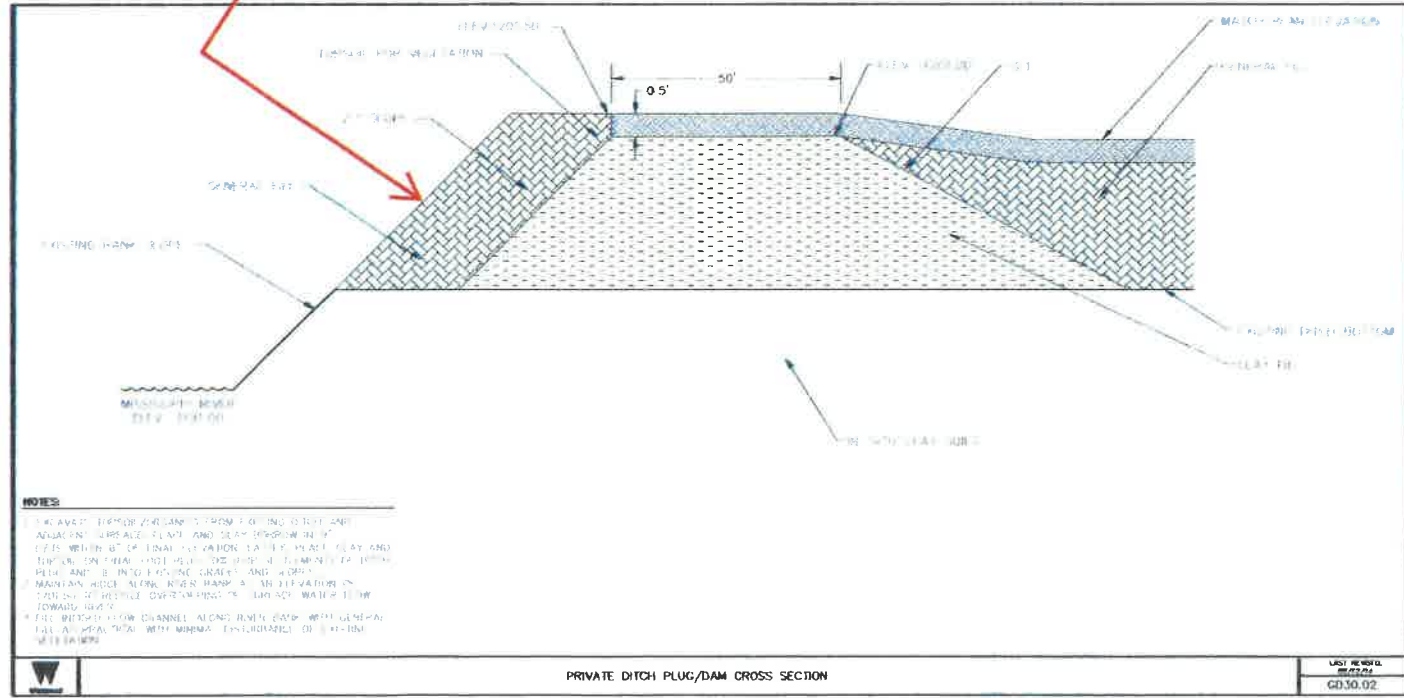
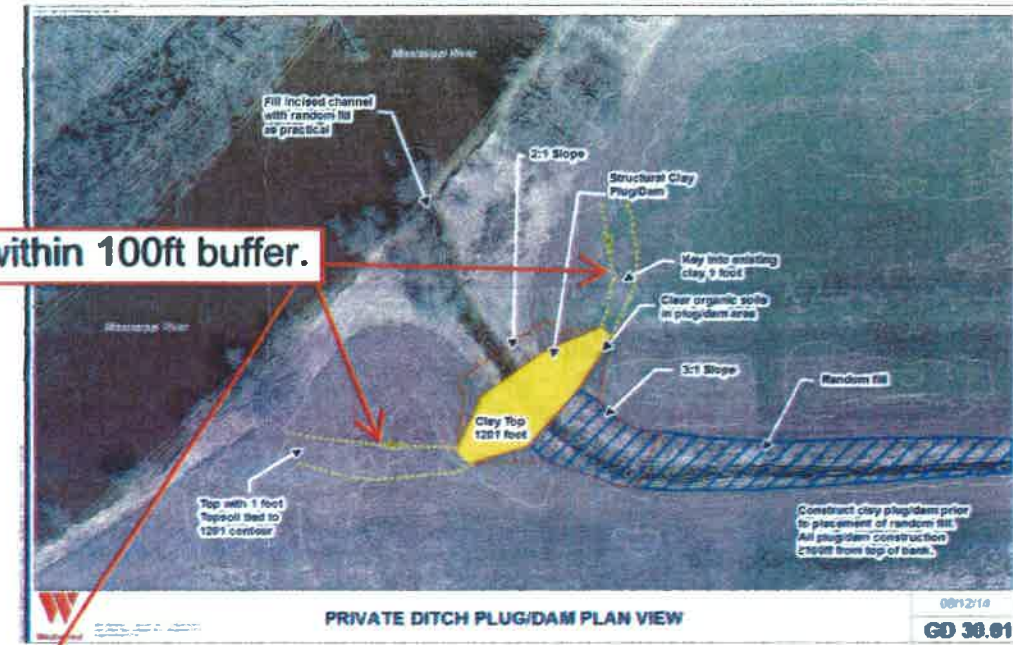
Aitkin County, Minnesota

Aitkin County Ditch Petition Exhibits

Water Elevations in Co. Ditch 24 Under Various Rain Conditions

Construction Detail Not To Scale

No grading within 100ft buffer.



Wetwood Professional Services, Inc.
 7899 Anckerly Drive
 Eden Prairie, MN 55344
 PHONE: 952-337-5160
 FAX: 952-951-9622
 TOLL FREE: 1-855-457-5150
 www.wetwood.com

I hereby certify that this plan was prepared by me or under my direct supervision and that I am a duly Licensed PROFESSIONAL ENGINEER under the laws of the State of Minnesota.
Eric S. Klaman
 Date: 8/23/12 License No. 22630

Submittal:
 8/23/12 NEW CONCRETE COUNTY CORNER
 8/19/14

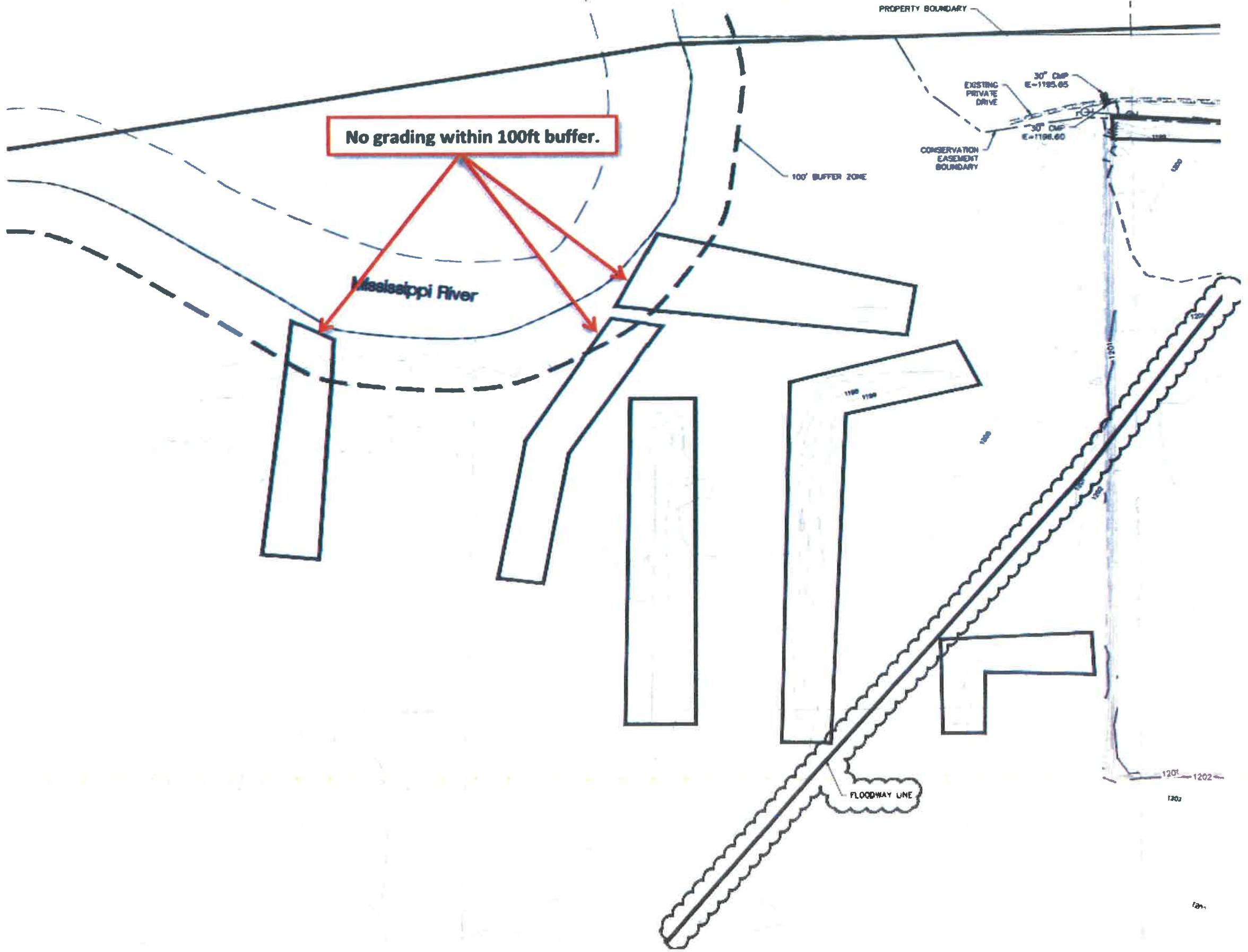
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 Checked by: [signature]
 Drawn by: [signature]
 Printed Drawing by: [signature]

EverStar, LLC
 9302 Interlachen Road
 Lake Shore, Minnesota 56468

EverStar Wetland Bank Project
 Aitkin County, Minnesota

Date: 03/23/12 Sheet: 3AA OF 12
Private Ditch Plug Cross Section

Clarification of Work Area



No grading within 100ft buffer.

