

**ENVIRONMENTAL & STATISTICAL CONSULTANTS**

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TECHNICAL MEMORANDUM

Date: May 23, 2025

To: Andrew Krieger and Chris Farmer, Badger Wind, LLC

From: Kristen Chodachek; Western EcoSystems Technology, Inc.

Subject: Spring 2025 Wetland and Waterbody Delineation Report – Badger Wind Project

INTRODUCTION

Badger Wind, LLC (Badger Wind), is developing the Badger Wind Project (Project), located approximately two miles west of Wishek, in Logan and McIntosh counties, North Dakota (Figure 1). To support the development of the proposed Project, Badger Wind contracted Western EcoSystems Technology, Inc. (WEST) to conduct a wetland and waterbody survey within the 2025 Spring Wetland Survey Area (Survey Area; Figure 1). The objectives of the 2025 spring fieldwork documented in this report include completing a desktop review, field delineations of wetlands (i.e., land with presence of hydric soils, hydrology, and hydrophytic vegetation) and waterbodies (i.e., any type of perennial, intermittent, or ephemeral waterway or catch basin where water flows, or could flow, or is held), and assigning an informal jurisdictional determination (determination) to delineated features. The Survey Area contains newly proposed Project infrastructure footprints and modifications of previously delineated infrastructure footprints, and their associated survey buffers.

The following technical memorandum describes the methods and results of the wetland and waterbody delineations conducted during the spring 2025 to address changes/updates to the Project since previous wetland and waterbody delineations and wetland mapping were completed for the Project in 2020, 2021, 2022 (Atwell 2022; Flaig 2022), 2023 (Chodachek and Welsch 2024), spring 2024 (Chodachek and Hammer 2024), and fall 2024 (Chodachek et al. 2025).

Waters of the US

Section 404 of the Clean Water Act (CWA) is the primary federal statute regulating impacts (dredge and fill) to Waters of the US (WOTUS). Wetlands and waterbodies that are subject to federal jurisdiction under the CWA are referred to as WOTUS (USEPA 2023). Under the CWA, it is unlawful to discharge any pollutant into a WOTUS without a permit.

Badger Wind Project Wetland and Waterbody Delineation Report

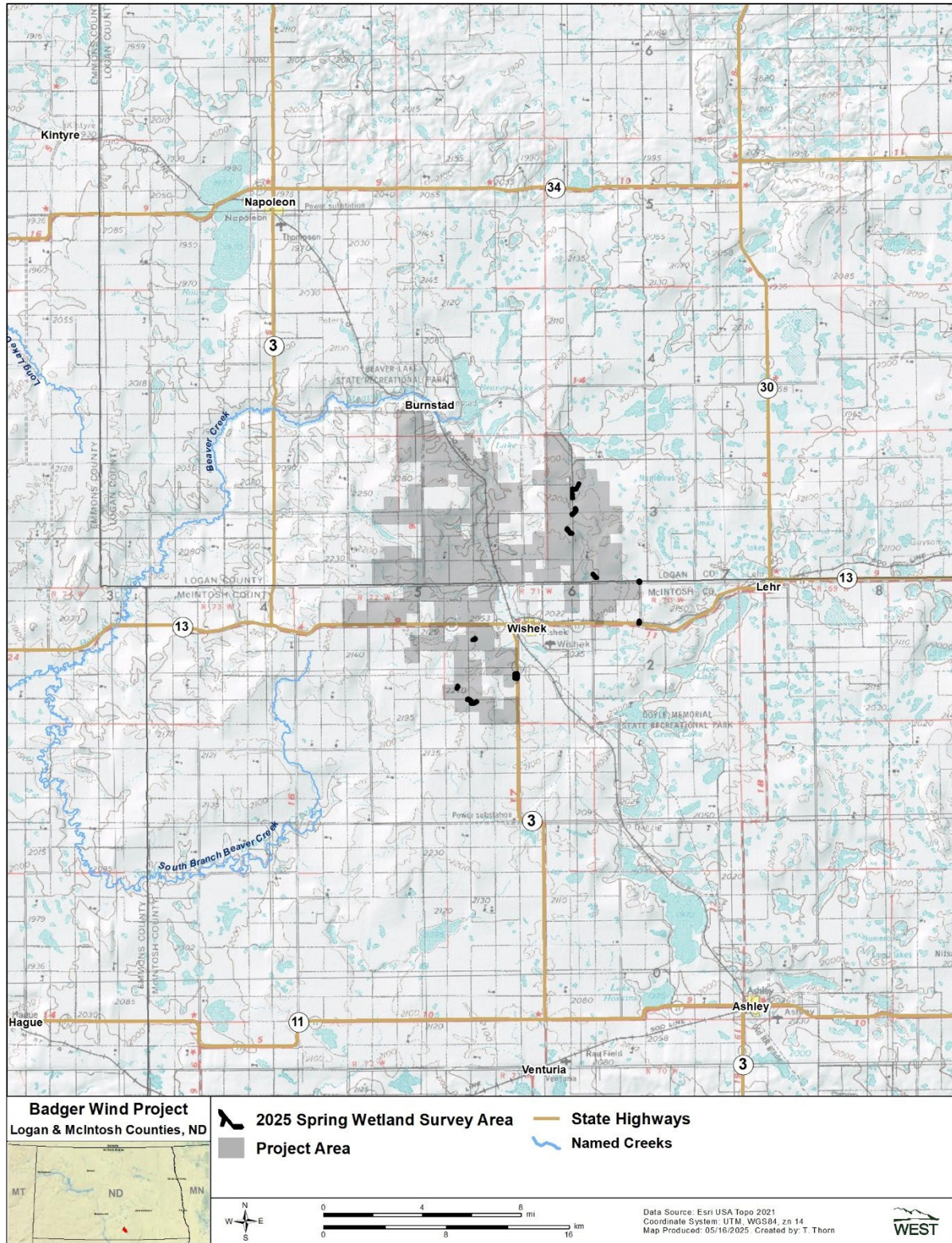


Figure 1. Location of the 2025 Spring Wetland Survey Area of the Badger Wind Project in Logan and McIntosh counties, North Dakota.

Waters that have consistently been considered jurisdictional WOTUS by the US Army Corps of Engineers (USACE) include traditional navigable waters (TNWs; Section 10 waters), interstate waters, territorial seas, and impoundments of these WOTUS. Jurisdictional status of tributaries to these categories of WOTUS and adjacent wetlands continue to be both challenged in courts and clarified by agencies. Due to ongoing litigation in North Dakota, the USEPA and USACE are interpreting the definition of WOTUS to be consistent with the pre-2015 regulatory regime and the May 2023 Supreme Court decision in *Sackett v. USEPA* (2023) until further notice. The Sackett decision established that adjacent wetlands require a 'continuous surface connection' to WOTUS to be considered jurisdictional (USEPA 2024). On March 12, 2025 the USEPA and USACE subsequently issued a joint memorandum to field staff regarding proper implementation of "continuous surface connection" under the definition of WOTUS (USEPA 2025). On March 24, 2025 the USEPA and USACE opened a comment period to request recommendations from stakeholders on implementation of the definition of WOTUS.

If discharge of dredge or fill to WOTUS are anticipated, coordination with the USACE regarding jurisdictional status of wetlands and waterbodies documented in this report is recommended to evaluate Section 404 permit requirements for the Project.

PROJECT AND SURVEY AREAS

The Project area is located within the Northwestern Glaciated Plains Level III Ecoregion, an ecoregion mainly composed of mixed-grass prairie (US Environmental Protection Agency [USEPA] 2013). Topography within the Project area ranges from relatively flat to rolling hills and elevations range from 2,020–2,200 feet (ft). Overall, the Project area drains to the southwest, into South Branch Beaver Creek, and to the northwest, into Beaver Creek, both of which are tributaries to the Missouri River. The Project area contains numerous unnamed drainages, a few of which may be intermittent or perennial waterbodies or wetlands. Primary land uses in the Project area include agriculture and livestock grazing.

Proposed infrastructure survey corridors were provided by Badger Wind as a geospatial file in October 2024 and May 2025 and included:

- 250-ft radius centered around turbines
- 300-ft wide corridor for turbine access roads
- 100-ft wide corridor for underground collection lines
- 200-ft wide corridor for aircraft detection and lighting system tower, batch plant, crane walk paths, laydown yard, meteorological tower, operations and maintenance facility, marshaling yard, substation, transmission line, and turning radii locations.

The Survey Area encompassed 41.1 acres (ac) of the Project area.

METHODS

Desktop Assessment

A desktop assessment of publicly available wetlands and waterbodies data in the Survey Area was completed using the US Department of Agriculture's (USDA's) National Agriculture Imagery Program (USDA Farm Production and Conservation Business Center 2023), US Fish and Wildlife Service's (USFWS) National Wetlands Inventory (NWI) data (2025; Figure 2), and US Geological Survey's (USGS) National Hydrography Dataset (NHD 2022; Figure 3). Based on the desktop review, areas identified as potentially being wetlands or waterbodies within the Survey Area were targeted during the Spring 2025 delineation effort, while also evaluating the remainder of the Survey Area that did not have mapped features.

Using these public data sources, potential wetlands and waterbodies located within the Survey Area were identified and mapped in the desktop assessment using geographic information systems mapping software. Wetland and waterbody types (i.e., freshwater emergent wetland, freshwater pond, riverine, lake, freshwater forested/shrub wetlands, and rivers and streams) identified in Figure 2 are based on wetland nomenclature used by the USFWS NWI (2025; based on Cowardin et al. 1979).

Wetland and Waterbody Delineation Fieldwork

Using results of the desktop assessment to identify where wetlands and waterbodies were likely to be present within the Survey Area, a field delineation was completed. Wetlands and waterbodies within the Survey Area that were observed during fieldwork but not identified during the initial desktop assessment were also mapped. Wetlands and waterbodies were mapped using a tablet with Collector for ArcGIS software (Esri 2025) coupled with a Geode Global Positioning System (GPS) receiver with submeter accuracy.

Shapefiles depicting the infrastructure footprint and associated buffers were loaded onto the tablet and used in the field to verify that boundaries of the Survey Area were accurately identified and that field delineations were completed. NWI and NHD features were also loaded onto the tablet to complete field-verification at each of these feature types, where present, within the Survey Area.

Photographs (photos) were recorded for wetlands and waterbodies identified within the Survey Area. Delineated wetlands and waterbodies were assigned a unique identification (ID) consisting of an alphanumeric name in a series. The unique ID for wetlands started with "W" followed by the feature number (e.g., WET1), and the unique ID for waterbodies started with "S" followed by the feature number (e.g., ST1).

NWI polygons, NHD flowlines, and other desktop or field identified features that intersected the Survey Area, but clearly did not meet the definition of either a wetland or a waterbody, were photo documented and a non-WOTUS or non-wetland point was collected on the tablet. These points were identified with a sequential alphanumeric name (e.g., 101U, 102U).

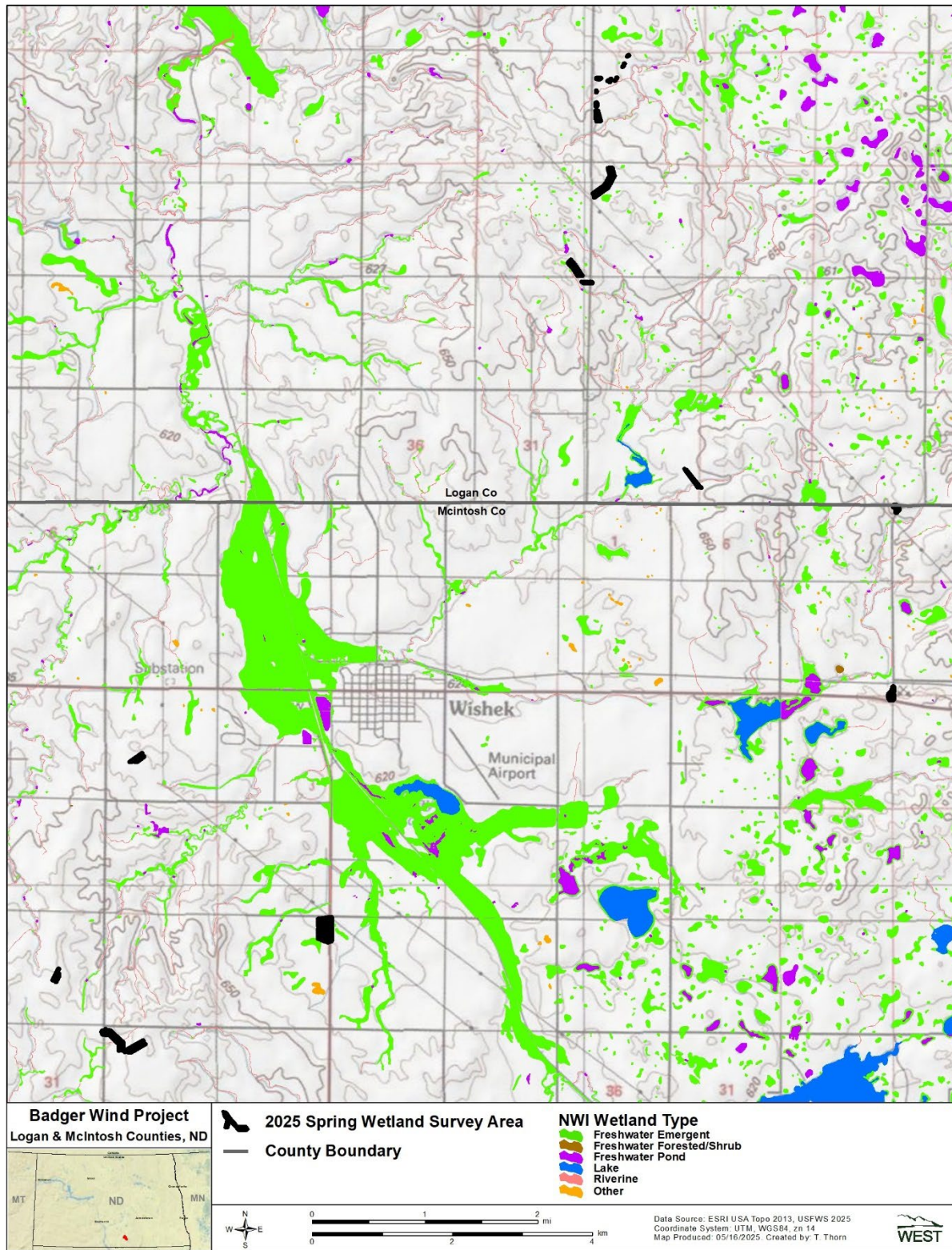


Figure 2. Mapped National Wetlands Inventory features within the 2025 Spring Wetland Survey Area at the Badger Wind Project in Logan and McIntosh counties, North Dakota.

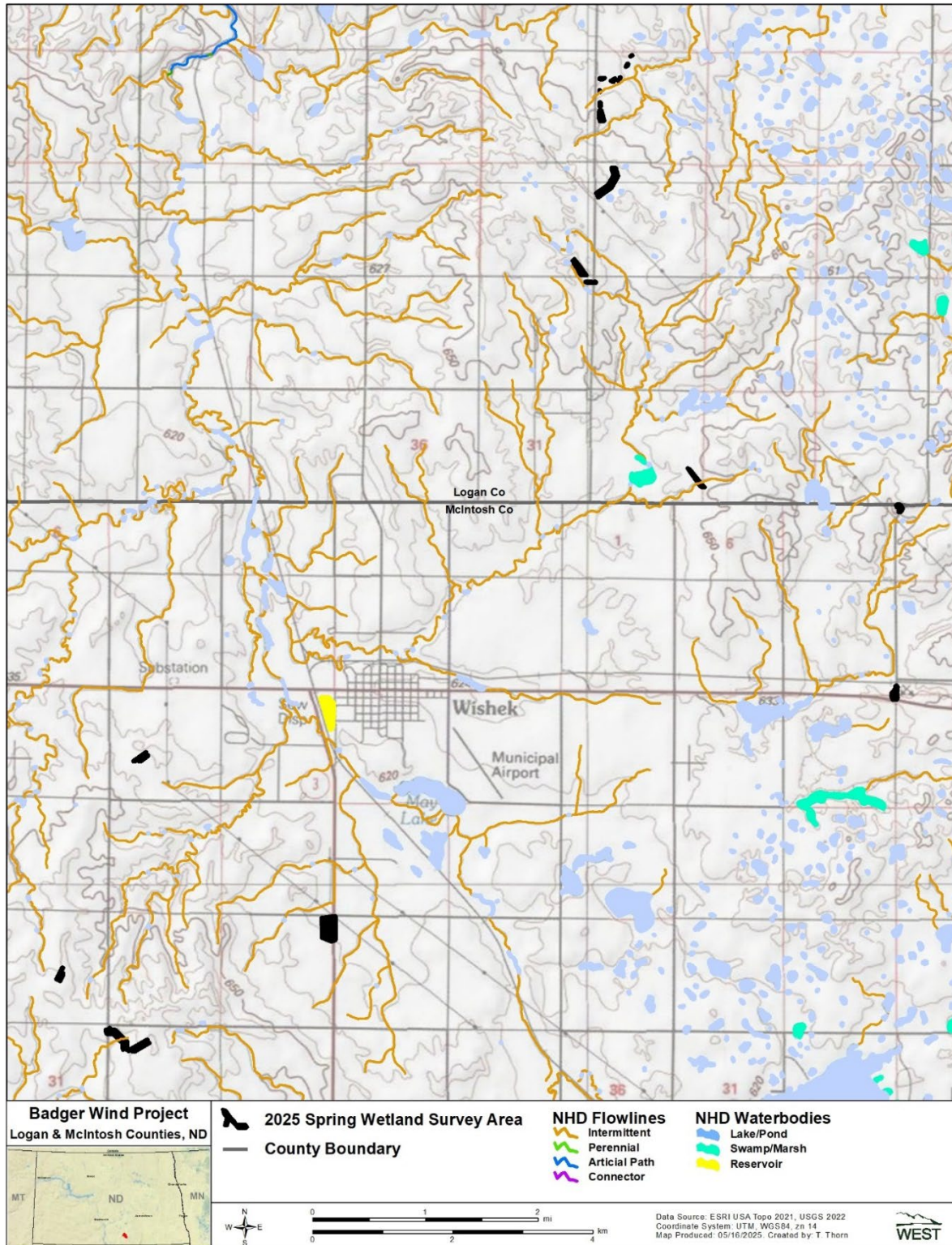


Figure 3. Mapped National Hydrography Dataset features within the 2025 Spring Wetland Survey Area at the Badger Wind Project in Logan and McIntosh counties, North Dakota.

Wetland Delineation

Wetland delineations were conducted May 14-15, 2025, in accordance with the 1987 *Corps of Engineers Wetlands Delineation Manual* (USACE 1987) and the *Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Great Plains* (Version 2.0; USACE 2010). The 1987 manual outlines a 3-parameter approach, which requires presence of hydrophytic plants (dominant vegetative cover), hydric soils, and wetland hydrology. Unless otherwise carefully documented based on professional judgement, all three parameters must be present and meet the wetland criteria of each parameter for an area to be considered a wetland.

The delineated wetlands were classified according to the classification system outlined in *Classification of Wetlands and Deepwater Habitats of the United States* (Cowardin et al. 1979). Wetland plant indicator status was determined using the most recent version of the National Wetland Plant List (USACE 2023). Paired sample plots (wetland and upland) were established and USACE regional datasheets were completed for each potential wetland within the Survey Area. Wetland sample plots were located in areas that were representative of the wetland community that was present, utilizing an upland sample plot to characterize the adjoining upland community. A wetland boundary was then established between these points and the boundary was recorded based on the observations made at the paired sample points. Wetlands were typically categorized as one of three common types of wetlands, including:

- Palustrine emergent (PEM) wetlands are defined as inland freshwater areas dominated by hydrophytic vascular plants, such as rushes, sedges, forbs, and other herbaceous or grass-like plants.
- Palustrine scrub-shrub wetlands are defined as inland freshwater areas dominated by woody vegetation less than 20 ft tall, such as buttonbush, alders, and many kinds of woody saplings.
- Palustrine forested wetlands are defined as inland freshwater areas dominated by woody vegetation equal to or over 20 ft tall.

Waterbody Delineation

Flowing waterbodies and drainage features (e.g., streams, creeks, ditches) and other waterbodies (e.g., stock ponds) within the Survey Area, including those waterbodies identified in the NWI and NHD datasets (Figures 2 and 3), were examined to determine if each met the definition of a waterbody. The field assessment, used to determine the presence of a waterbody, was focused on the presence of a definable bed and bank, ordinary high-water mark (OHWM), and evidence of flow. If present, the OHWM of each waterbody was recorded with a GPS. These features were mapped and documented in a similar manner as wetlands.

Informal Jurisdictional Determination

In addition to evaluating the Survey Area for features that met wetland and waterbody definitions, the professional judgment of the WEST delineator was used to make an informal jurisdictional determination (determination). The current definition of WOTUS was applied to assign a determination. The WOTUS definition further identifies features that are exempt from jurisdiction,

including prior converted croplands, waste treatment systems, certain ditches (including some roadside ditches), artificially irrigated areas, artificial lakes/ponds, artificial reflecting pools, waterfilled depressions, certain swales and erosional features. Certain features are jurisdictional and do not require further assessments (e.g., territorial seas, traditional navigable waters, interstate waters, and impoundments of these features). As previously noted in the Waters of the US section, there have recently been both regulatory guidance changes as well as court decisions that are influencing how the USACE determines jurisdiction of wetlands and waterbodies. WEST utilized the best available information from the agencies to evaluate the informal jurisdictional determinations.

The delineator assigned a likely, unlikely, or unknown jurisdictional status for delineated wetlands and waterbodies based on these criteria. All wetland and waterbody determinations were informal as only the USACE can make a formal jurisdictional determination.

RESULTS

Wetland Delineations

No wetlands or waterbodies were identified during the field visit within the Survey Area during the Spring 2025 fieldwork (Figure 4). Detailed maps of wetland locations delineated during previous field mobilizations are provided in Appendix A. A total of two non-WOTUS and one non-wetland points were recorded during the Spring 2025 fieldwork (Figure 4; Appendix B). Wetland determination datasheets for the non-wetland point from the Spring 2025 fieldwork is provided in Appendix C. Representative photographs of the non-WOTUS and non-wetland points are provided in Appendix D.

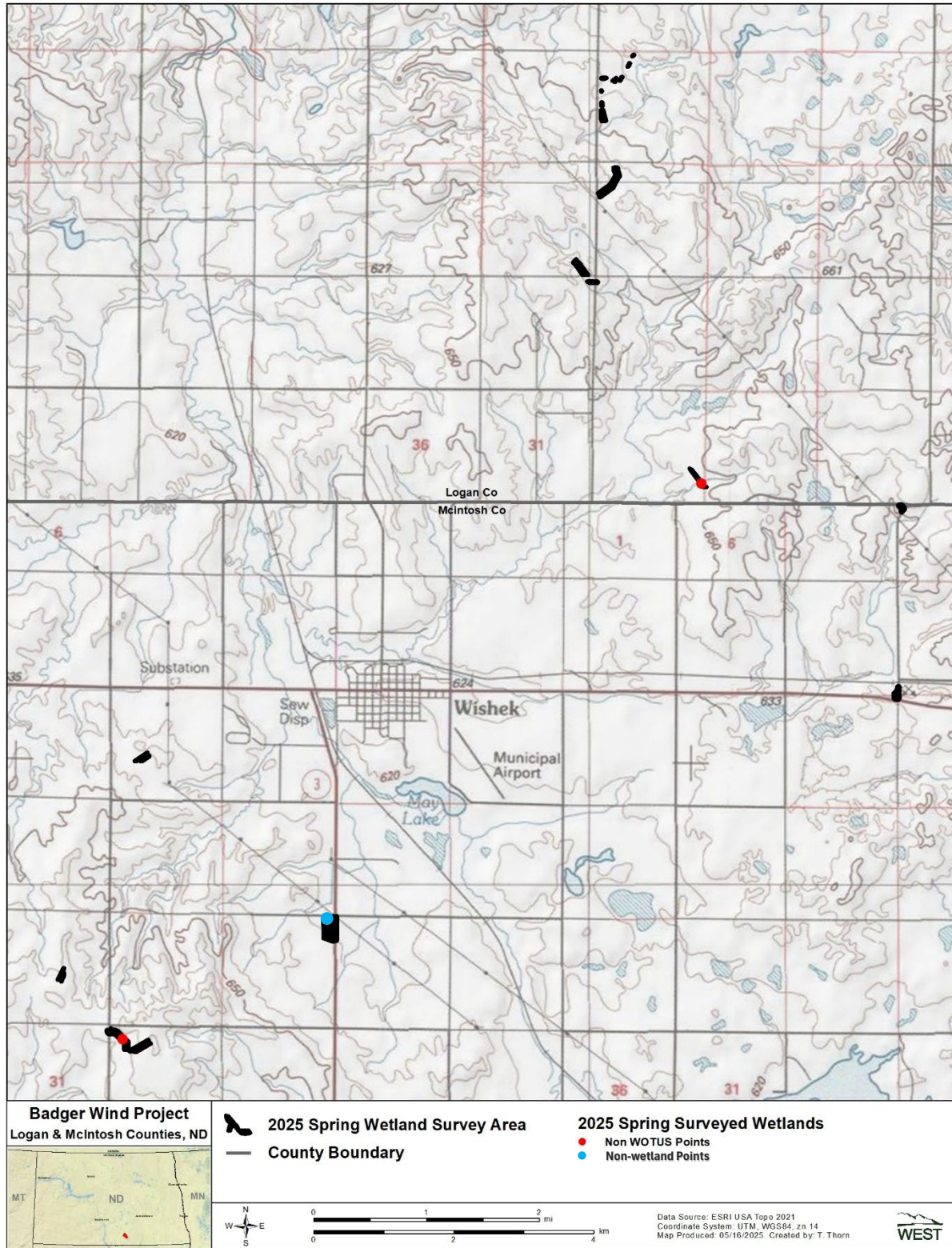


Figure 4. Non-waters of the US (WOTUS) and non-wetland points within the 2025 Spring Wetland Survey Area of the Badger Wind Project in Logan and McIntosh counties, North Dakota, May 14-15, 2025.

SUMMARY

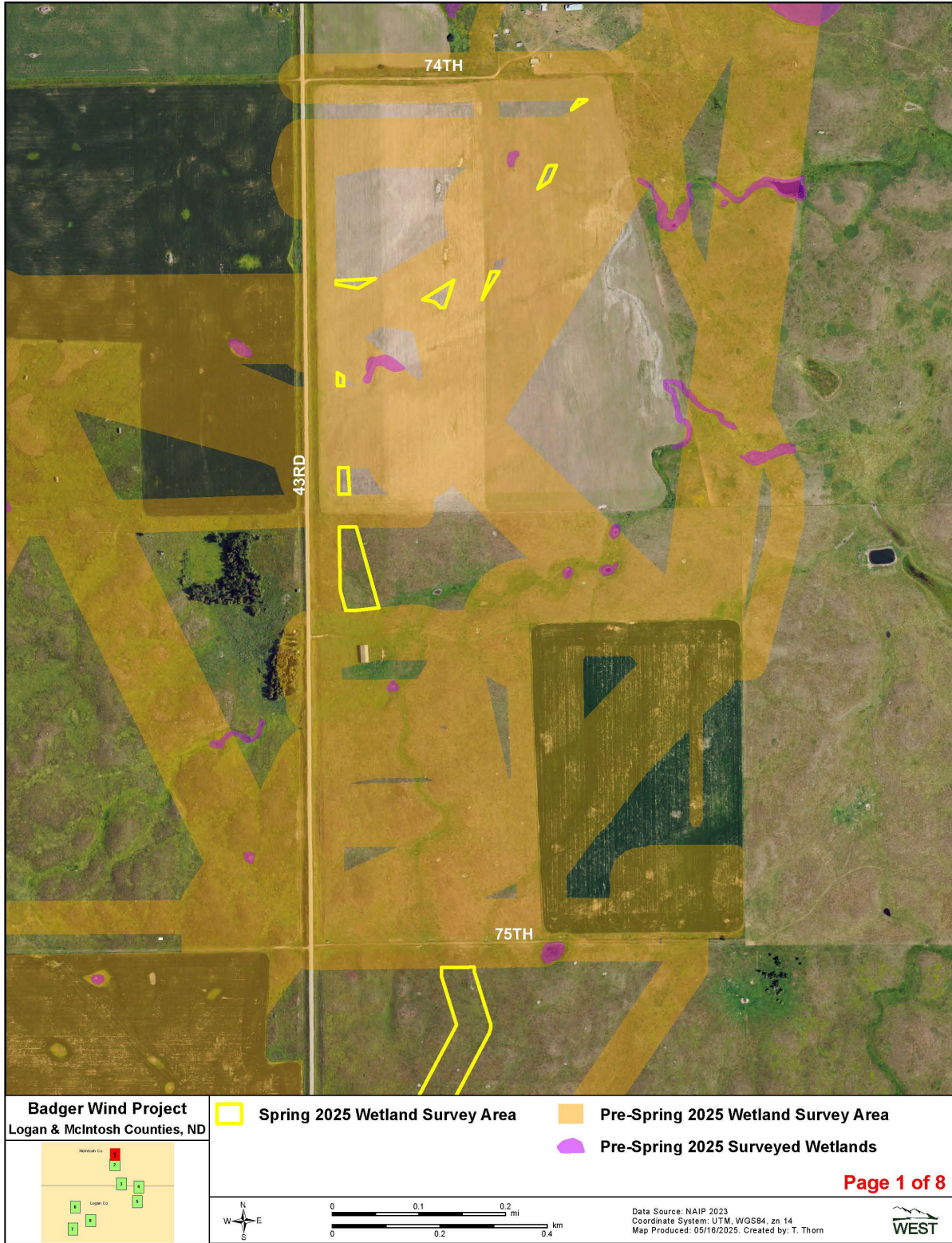
No wetlands or waterbodies were documented in the Survey Area during the Spring 2025 fieldwork. Previous wetland and waterbody delineations and wetland mapping were completed for the Project in the months of September 2020, October 2020, September 2021, May 2022, October 2023, November 2023, May 2024, October 2024, and November 2024 (Atwell 2022, 2023; Flaig 2022; Chodachek and Welsch 2024; Chodachek and Hammer 2024; Chodachek et al. 2025). Over these combined field efforts, 253 wetlands were identified through field delineation within the Project area, comprising 326.75 ac. Additionally, four waterbody features were delineated, comprising 0.96 ac, and seven watercourses were identified, comprising a cumulative of 6.44 acres.

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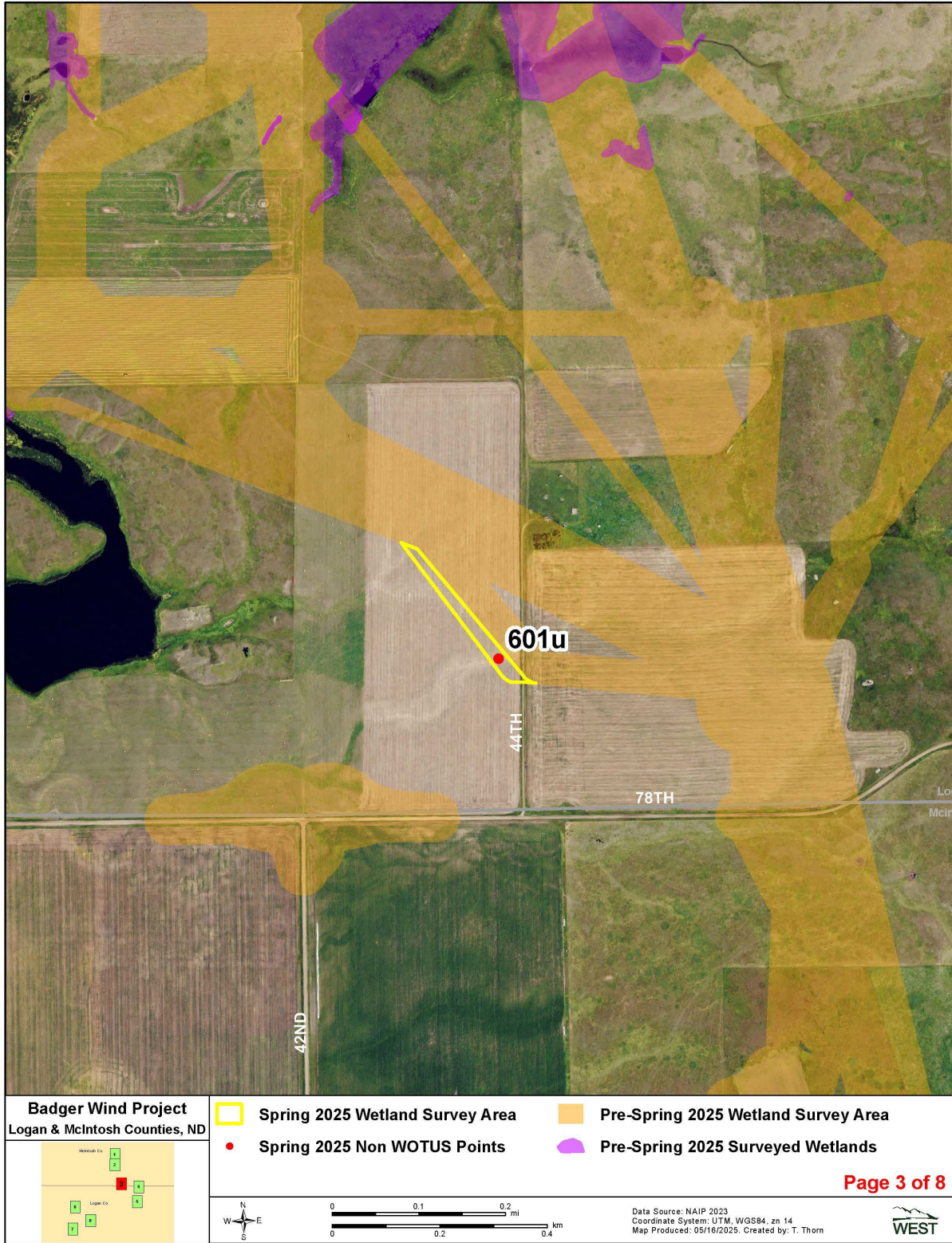
Appendix A. Non-WOTUS and non-wetland points from 2025 and previously Delineated Wetlands within the 2025 Spring Wetland Survey Area of the Badger Wind Project in Logan and McIntosh Counties, North Dakota.



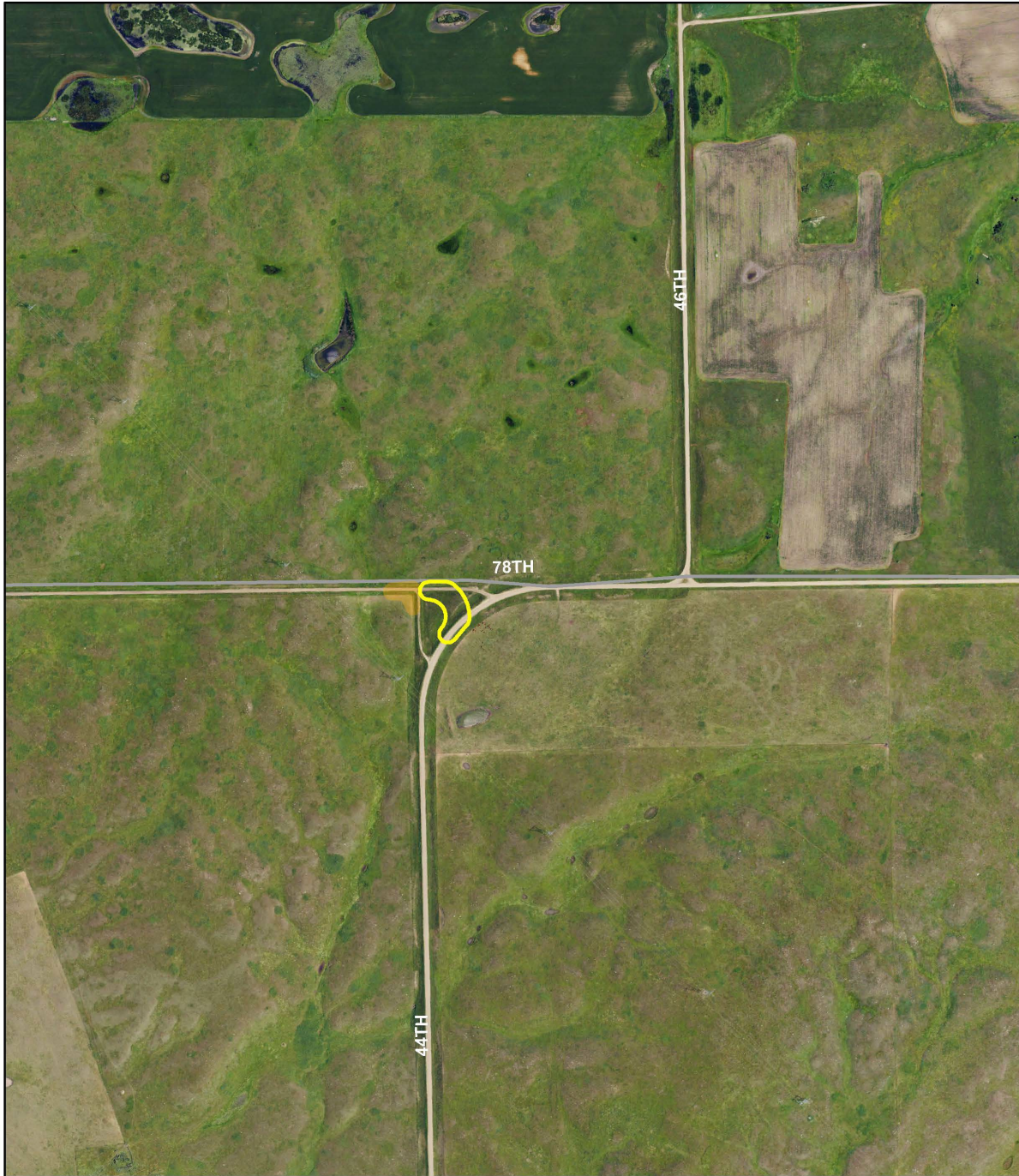
Appendix A1. Non-WOTUS and non-wetland points from 2025 and previously delineated wetlands within the 2025 Spring Wetland Survey Area of the Badger Wind Project in Logan and McIntosh Counties, North Dakota.




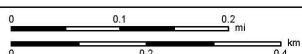



Appendix A2. Non-WOTUS and non-wetland points from 2025 and previously delineated wetlands within the 2025 Spring Wetland Survey Area of the Badger Wind Project in Logan and McIntosh Counties, North Dakota.

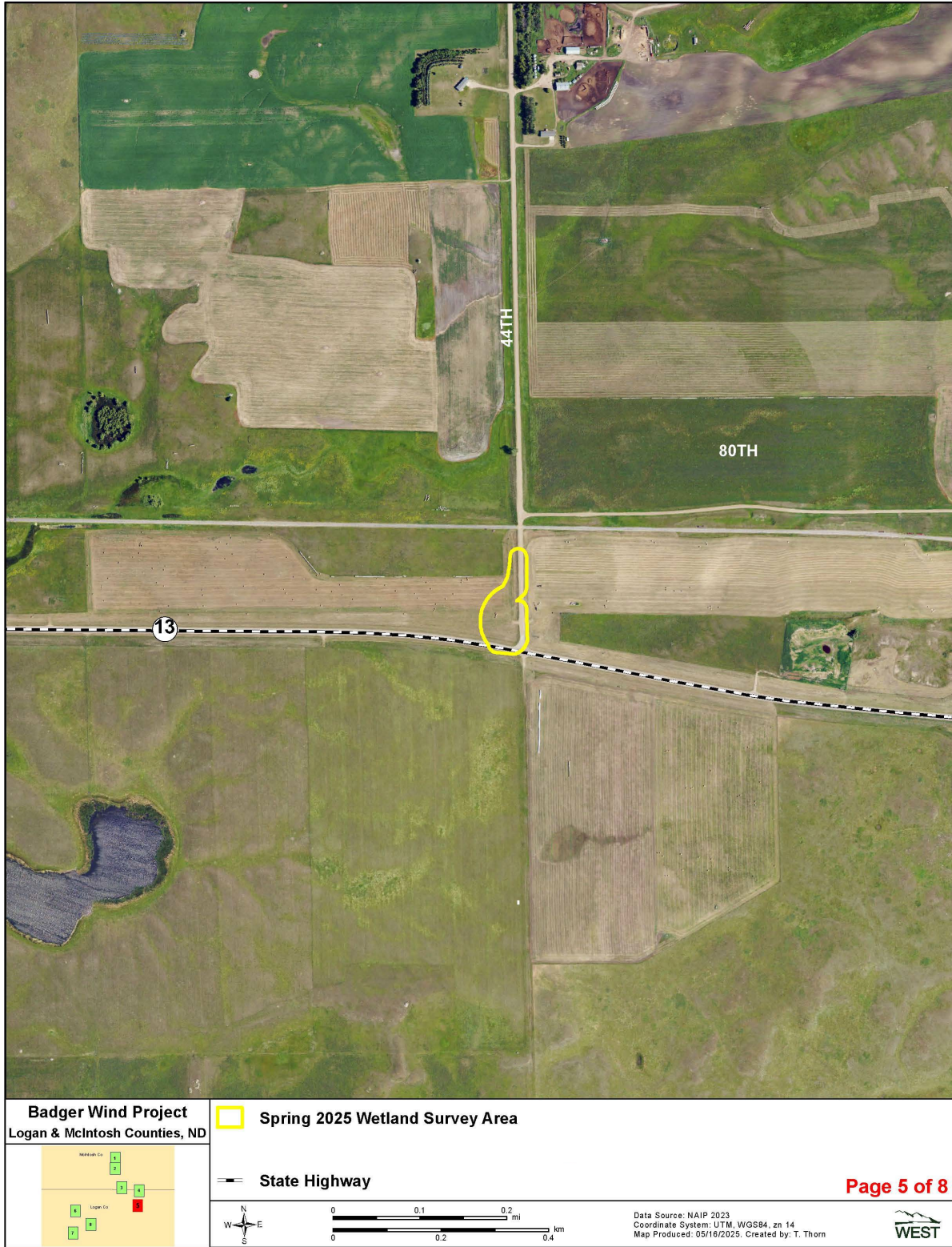


Appendix A3. Non-WOTUS and non-wetland points from 2025 and previously delineated wetlands within the 2025 Spring Wetland Survey Area of the Badger Wind Project in Logan and McIntosh Counties, North Dakota.

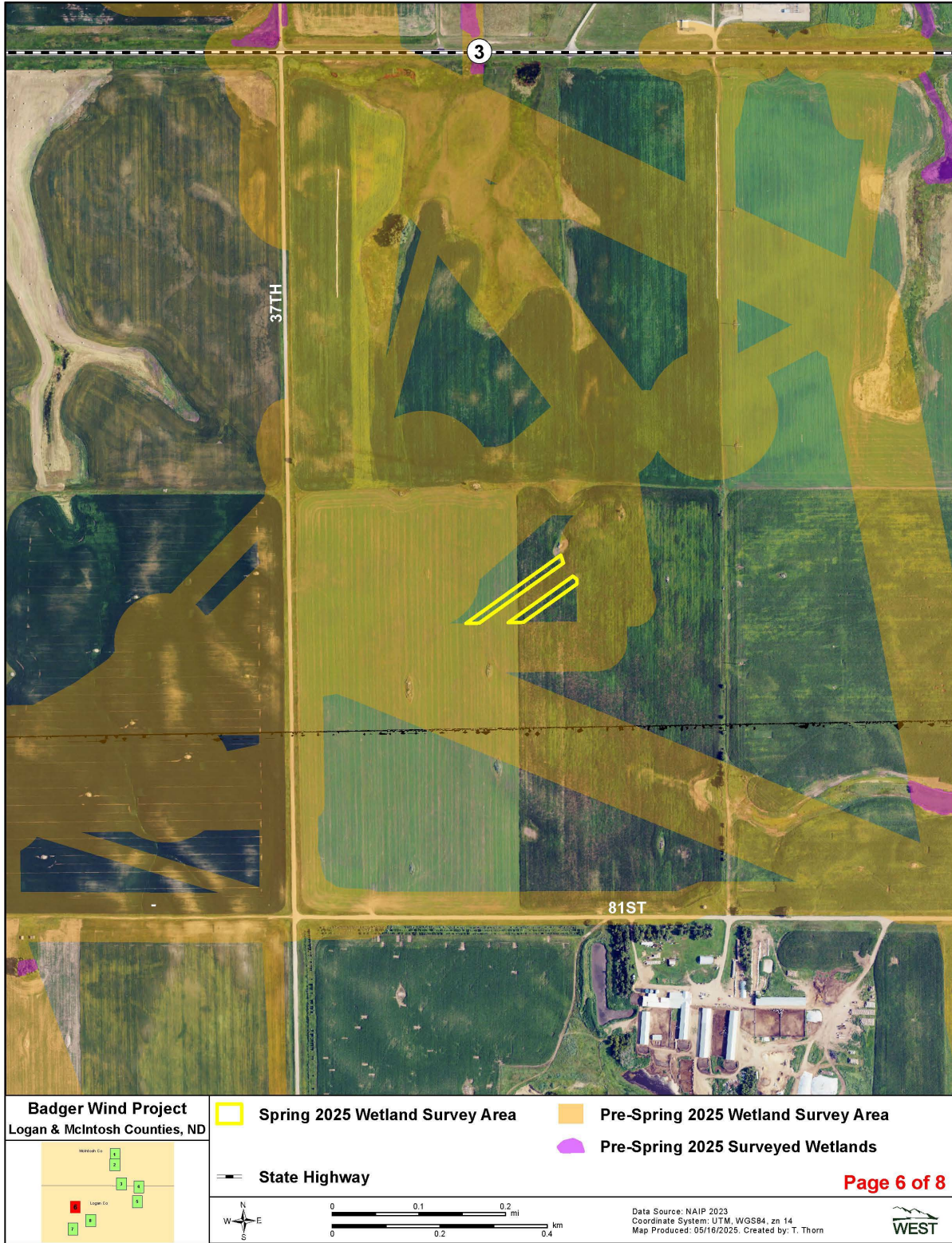


<p>Badger Wind Project Logan & McIntosh Counties, ND</p>	<p> Spring 2025 Wetland Survey Area</p>
	<p style="text-align: right;">Page 4 of 8</p> <div data-bbox="479 1701 544 1753"></div> <div data-bbox="617 1701 917 1753"></div> <div data-bbox="990 1711 1242 1753"><p><small>Data Source: NAIP 2023 Coordinate System: UTM, WGS84, zn 14 Map Produced: 05/16/2025. Created by: T. Thorn</small></p></div> <div data-bbox="1315 1711 1388 1753"></div>

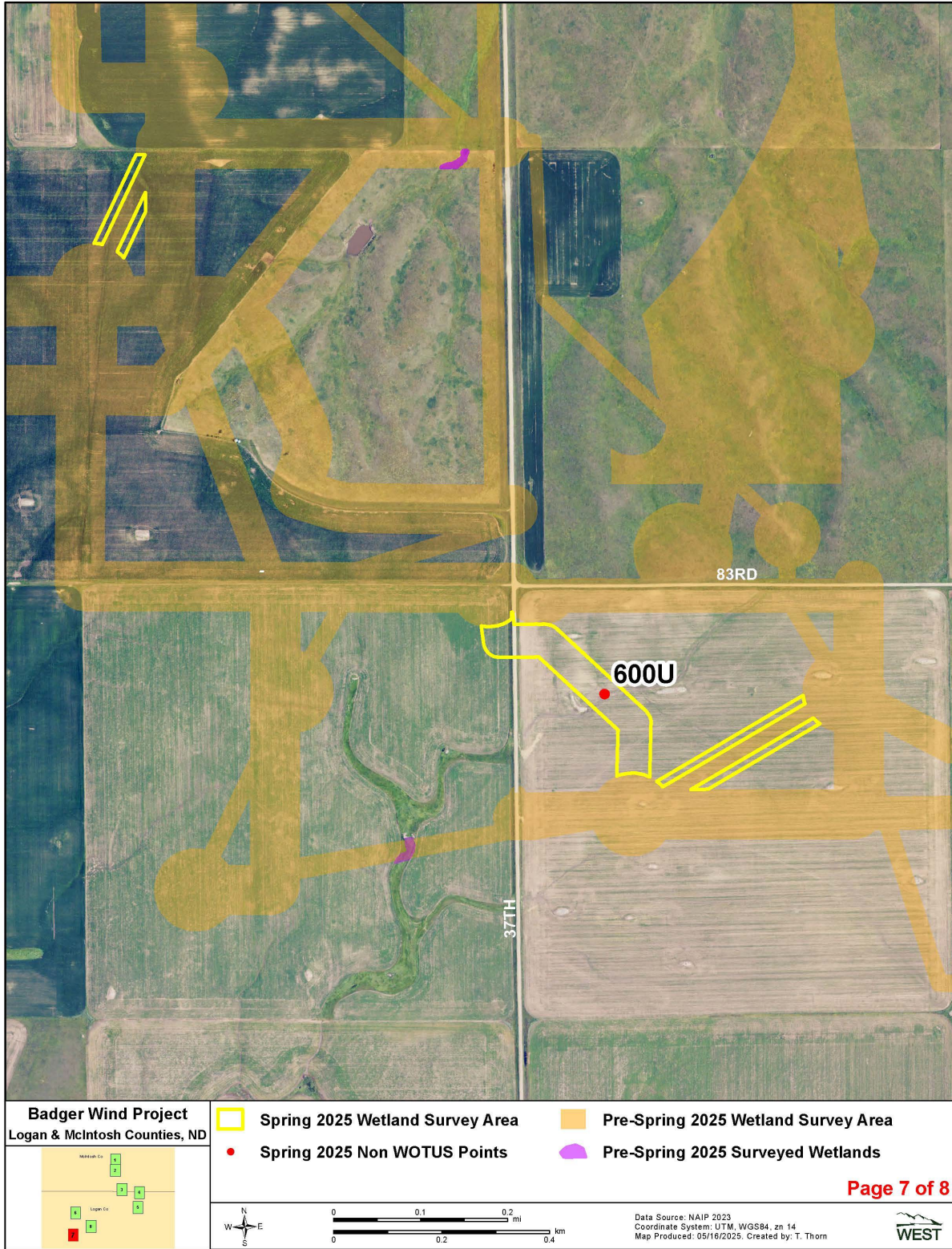
Appendix A4. Non-WOTUS and non-wetland points from 2025 and previously delineated wetlands within the 2025 Spring Wetland Survey Area of the Badger Wind Project in Logan and McIntosh Counties, North Dakota.



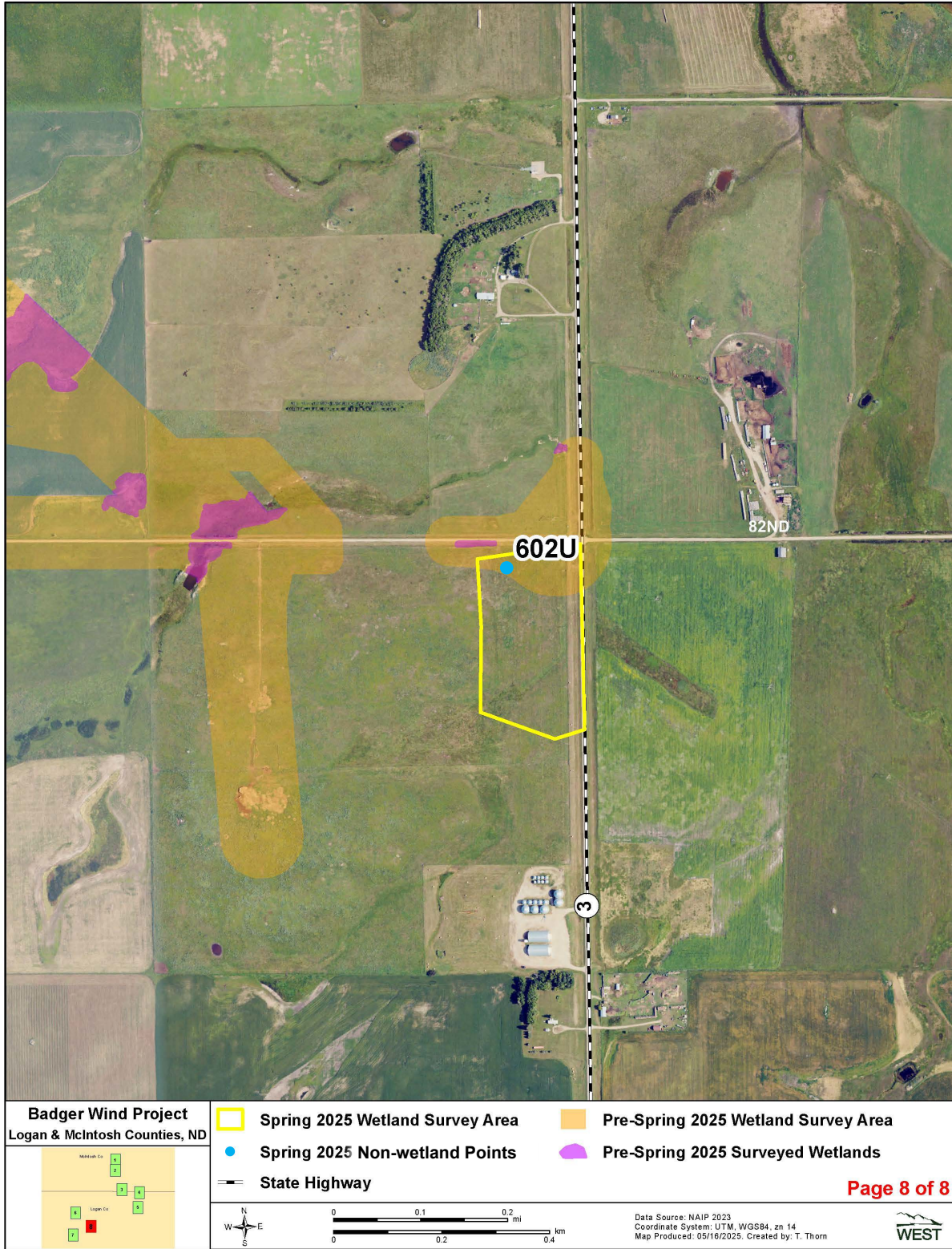
Appendix A5. Non-WOTUS and non-wetland points from 2025 and previously delineated wetlands within the 2025 Spring Wetland Survey Area of the Badger Wind Project in Logan and McIntosh Counties, North Dakota.



Appendix A6. Non-WOTUS and non-wetland points from 2025 and previously delineated wetlands within the 2025 Spring Wetland Survey Area of the Badger Wind Project in Logan and McIntosh Counties, North Dakota.



Appendix A7. Non-WOTUS and non-wetland points from 2025 and previously delineated Wetlands within the 2025 Spring Wetland Survey Area of the Badger Wind Project in Logan and McIntosh Counties, North Dakota.



Appendix A8. Non-WOTUS and non-wetland points from 2025 and previously delineated wetlands within the 2025 Spring Wetland Survey Area of the Badger Wind Project in Logan and McIntosh Counties, North Dakota.

**Appendix B. Summary of Non-waters of the US Points and Non-wetland Points Recorded
May 14–15, 2025, within the 2025 Spring Wetland Survey Area of the Badger Wind Project
in Logan and McIntosh Counties, North Dakota.**

Appendix B. Summary of non-waters of the US (WOTUS) and non-wetland points recorded May 14-15, 2025, within the 2025 Spring Wetland Survey Area of the Badger Wind Project in Logan and McIntosh counties, North Dakota¹.

Identification	Type²	Latitude	Longitude
600U	non-WOTUS	46.214061	-99.605198
601U	non-WOTUS	46.285868	-99.498688
602U	non-wetland	46.229634	-99.567651

¹ Wetlands delineated in 2020, 2021, 2022, and 2024 are presented in Atwell (2022), Flaig (2022), Chodachek and Welsch (2024), Chodachek and Hammer (2024), and Chodachek et al. (2025) reports.

² Non-WOTUS and non-wetland areas do not meet the definition of either a wetland or a waterbody.

Appendix C. US Army Corps of Engineers Great Plains Regional Datasheets for Non-wetlands, May 14–15, 2025, within the 2025 Spring Wetland Survey Area of the Badger Wind Project in Logan and McIntosh Counties, North Dakota.

U.S. Army Corps of Engineers WETLAND DETERMINATION DATA SHEET - Great Plains Region See ERDC/EL TR-10-1; the proponent agency is CECW-COR	OMB Control #: 0710-0024, Exp: 09/30/2027 Requirement Control Symbol EXEMPT: (Authority: AR 335-15, paragraph 5-2a)
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Project/Site: Badger Wind Project City/County: Wishek/McIntosh County Sampling Date: 05/15/2025
 Applicant/Owner: Orsted State: ND Sampling Point: 602U
 Investigator(s): Melissa Welsch Section, Township, Range: 21,132N, 7W
 Landform (hillslope, terrace, etc): flat area Local relief (concave, convex, none): none Slope (%): 0
 Subregion (LRR): F Lat: 48.229634 Long: 99.567651 Datum: WGS-84
 Soil Map Unit Name: _____ NWI classification: Upland
 Are climatic / hydrologic conditions on the site typical for this time of year? Yes X No _____ (If no, explain in Remarks.)
 Are Vegetation No, Soil No, or Hydrology No significantly disturbed? Are "Normal Circumstances" present? Yes X No _____
 Are Vegetation No, Soil No, or Hydrology No naturally problematic? (If needed, explain any answers in Remarks.)

SUMMARY OF FINDINGS - Attach site map showing sampling point locations, transects, important features, etc.

Hydrophytic Vegetation Present? Yes _____ No <u>X</u> Hydric Soil Present? Yes _____ No <u>X</u> Wetland Hydrology Present? Yes _____ No <u>X</u>	Is the Sampled Area within a Wetland? Yes _____ No <u>X</u>
Remarks: Cattle pasture.	

VEGETATION - Use scientific names of plants.

<table style="width:100%; border-collapse: collapse;"> <tr> <th style="text-align: left;">Tree Stratum (Plot size: <u>30-ft</u>)</th> <th style="text-align: center;">Absolute % Cover</th> <th style="text-align: center;">Dominant Species?</th> <th style="text-align: center;">Indicator Status</th> </tr> <tr><td>1. _____</td><td></td><td></td><td></td></tr> <tr><td>2. _____</td><td></td><td></td><td></td></tr> <tr><td>3. _____</td><td></td><td></td><td></td></tr> <tr><td>4. _____</td><td></td><td></td><td></td></tr> <tr><td colspan="4" style="text-align: right;">0 = Total Cover</td></tr> </table> <table style="width:100%; border-collapse: collapse;"> <tr> <th style="text-align: left;">Sapling/Shrub Stratum (Plot size: <u>15-ft</u>)</th> <th style="text-align: center;">Absolute % Cover</th> <th style="text-align: center;">Dominant Species?</th> <th style="text-align: center;">Indicator Status</th> </tr> <tr><td>1. _____</td><td></td><td></td><td></td></tr> <tr><td>2. _____</td><td></td><td></td><td></td></tr> <tr><td>3. _____</td><td></td><td></td><td></td></tr> <tr><td>4. _____</td><td></td><td></td><td></td></tr> <tr><td>5. _____</td><td></td><td></td><td></td></tr> <tr><td colspan="4" style="text-align: right;">0 = Total Cover</td></tr> </table> <table style="width:100%; border-collapse: collapse;"> <tr> <th style="text-align: left;">Herb Stratum (Plot size: <u>5-ft</u>)</th> <th style="text-align: center;">Absolute % Cover</th> <th style="text-align: center;">Dominant Species?</th> <th style="text-align: center;">Indicator Status</th> </tr> <tr><td>1. <u>Agropyron sp. / Wheatgrass</u></td><td style="text-align: center;">40</td><td style="text-align: center;">Yes</td><td style="text-align: center;">NI</td></tr> <tr><td>2. <u>Poa pratensis / Kentucky blue grass</u></td><td style="text-align: center;">10</td><td style="text-align: center;">No</td><td style="text-align: center;">FACU</td></tr> <tr><td>3. <u>grass sp in seed now</u></td><td style="text-align: center;">1</td><td style="text-align: center;">No</td><td style="text-align: center;">NI</td></tr> <tr><td>4. _____</td><td></td><td></td><td></td></tr> <tr><td>5. _____</td><td></td><td></td><td></td></tr> <tr><td>6. _____</td><td></td><td></td><td></td></tr> <tr><td>7. _____</td><td></td><td></td><td></td></tr> <tr><td>8. _____</td><td></td><td></td><td></td></tr> <tr><td>9. _____</td><td></td><td></td><td></td></tr> <tr><td>10. _____</td><td></td><td></td><td></td></tr> <tr><td colspan="4" style="text-align: right;">51 = Total Cover</td></tr> </table> <table style="width:100%; border-collapse: collapse;"> <tr> <th style="text-align: left;">Woody Vine Stratum (Plot size: <u>30-ft</u>)</th> <th style="text-align: center;">Absolute % Cover</th> <th style="text-align: center;">Dominant Species?</th> <th style="text-align: center;">Indicator Status</th> </tr> <tr><td>1. _____</td><td></td><td></td><td></td></tr> <tr><td>2. _____</td><td></td><td></td><td></td></tr> <tr><td colspan="4" style="text-align: right;">0 = Total Cover</td></tr> </table> <p>% Bare Ground in Herb Stratum <u>49.0</u></p>	Tree Stratum (Plot size: <u>30-ft</u>)	Absolute % Cover	Dominant Species?	Indicator Status	1. _____				2. _____				3. _____				4. _____				0 = Total Cover				Sapling/Shrub Stratum (Plot size: <u>15-ft</u>)	Absolute % Cover	Dominant Species?	Indicator Status	1. _____				2. _____				3. _____				4. _____				5. _____				0 = Total Cover				Herb Stratum (Plot size: <u>5-ft</u>)	Absolute % Cover	Dominant Species?	Indicator Status	1. <u>Agropyron sp. / Wheatgrass</u>	40	Yes	NI	2. <u>Poa pratensis / Kentucky blue grass</u>	10	No	FACU	3. <u>grass sp in seed now</u>	1	No	NI	4. _____				5. _____				6. _____				7. _____				8. _____				9. _____				10. _____				51 = Total Cover				Woody Vine Stratum (Plot size: <u>30-ft</u>)	Absolute % Cover	Dominant Species?	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**Appendix D. Select Non-waters of the US (WOTUS) and Non-wetland Point Photographs
within the 2025 Spring Wetland Survey Area of the Badger Wind Project in Logan and
McIntosh Counties, North Dakota.**



Appendix D1. Non-WOTUS point 600U facing north.



Appendix D2. Non-WOTUS point 601U facing north.



Appendix D3. Non-wetland point 602U soil pit.