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Bismarck, ND 58506-5601  
(701) 530-1600

July 17, 2024

Debbie-Anne Reese, Acting Secretary  
Federal Energy Regulatory Commission  
888 First Street NE, Room 1A  
Washington, D.C. 20426

Re: WBI Energy Transmission, Inc.  
Wahpeton Expansion Project  
Docket No. CP22-466-000  
Variance Request for Project Modifications

Dear Acting Secretary Reese:

On October 23, 2023, the Federal Energy Regulatory Commission (FERC or Commission) issued an Order Issuing Certificate (Order) in the above referenced docket authorizing WBI Energy Transmission, Inc. (WBI Energy) to construct, modify, operate, and maintain its Wahpeton Expansion Project (Project) in Cass and Richland Counties, North Dakota. On February 13, 2024, the Commission authorized WBI Energy to proceed with construction of all Project facilities.

Pursuant to Environmental Condition No. 5 of the Order, WBI Energy is hereby submitting a table identifying and describing the following requested Project modifications:

- Additional temporary workspace for a guided bore road crossing (V05);
- Five landowner-requested minor reroutes (V7, V12, V57, V59, V61);
- Landowner requested relocation of the MDU-Wahpeton Border Station (V14);
- Utilize 10 existing approaches as temporary access roads (V15, V31, V34, V40, V41, V42, V43, V44, V45, V51);
- The modification of three approved access roads for safety reasons (V32, V60, V66); and
- Minor shift of the footprint of a valve site to align aboveground facilities with the pipeline alignment (V60).

The table provided as Attachment A provides descriptions and justifications for the requested Project modifications, the change in construction and operation impacts (acres) and completed field survey information for each modification. WBI Energy has received landowner approval for each modification. Attachment B provides a figure for each requested Project modification.

WBI Energy consulted with the U.S. Army Corps of Engineers (USACE) for the requested Project modifications<sup>1</sup> as the Project modifications will have minor impacts on wetlands and waterbodies. WBI Energy commits to restoring all wetlands and waterbodies in accordance with FERC’s *Wetland and Waterbody Construction and Mitigation Procedures* (Procedures). The USACE confirmed that the Project modifications are covered under Nationwide Permit 12<sup>2</sup>. Additionally, WBI Energy confirmed with the North Dakota Department of Environmental Quality (NDDEQ) that the modifications do not impact the Section 401 Water Quality Certification for the Project<sup>2</sup>.

Certain Project modification requested herein fall outside of previous biological and/or cultural survey corridors for the Project. WBI Energy consulted with the U.S. Fish and Wildlife Service (USFWS) for these modifications and the USFWS concluded that the requested Project modifications would not cause an effect to the listed species or critical habitat that was not considered in the previous consultations. WBI Energy is hereby submitting the correspondences with the USFWS as Attachment C-1 to this filing.

WBI Energy also consulted with the North Dakota Historic Preservation Office (ND SHPO) on an addendum survey report for cultural resources for Project modifications that fell outside of previous Project survey corridors. The ND SHPO concurred with WBI Energy’s determination of “No Historic Properties Affected” for the requested Project modifications. WBI Energy is hereby submitting the correspondence with the ND SHPO as public information in Attachment C-2 to this filing and the addendum survey report as privileged information in Volume II to this filing.

Implementation of these variances will provide equal or better protection to environmental resources. Additionally, WBI Energy will implement the mitigation measures in FERC’s *Upland Erosion Control, Revegetation, and Maintenance Plan*, FERC’s Procedures, WBI Energy’s Guided Bore Drilling Fluid Monitoring and Operations Plan, and other permits/plans as applicable to further reduce impacts during construction and restoration.

Project modifications, as noted in the table below, are within identified Census Tract 970700 Block Group 2 (MPs 36.7 to 45.3) that has a minority population of 11.6% which is meaningfully greater than that of Richland County. The impacts associated with the five Project modifications within this identified EJ community will be minor, temporary in nature, and no sensitivity receptors will be significantly impacted by the modifications.

<b>Variance Number</b>	<b>Mile Post</b>	<b>Modification</b>
V60	39.5	Modify AR-043.4 and Valve Site #5
V43 and V44	39.9	New Temporary AR-043.5 and AR-043.6
V45	40.5	New Temporary AR-043.7
V57	43.9 to 44.5	Landowner Requested Minor Reroute

<sup>1</sup> V05 and V41 did not require further consultation with USACE.

<sup>2</sup> See eLibrary accession number 20240610-5127, Supplemental Information to Variance Request for Project Modifications.

As required under Environmental Condition No. 5 of the Order, WBI Energy respectfully requests written authorization from the Director of the Office of Energy Projects to utilize the requested Project modification, by Wednesday, July 31, 2024.

Volume I –the related attachments and the information contained in Volume I is public.

Volume II – consists of privileged information and WBI Energy requests privileged treatment of this information, which is labeled “CUI//PRIV – DO NOT RELEASE.” The information contained in Volume II includes:

- Class III Archaeological Survey Addendum Report 3

Pursuant to 18 CFR § 385.2010 of the Commission’s regulations, copies of this filing are being served to each person whose name appears on the official service list for this proceeding.

Any questions regarding this filing should be addressed to the undersigned at (701) 530-1563.

Sincerely,

/s/ Lori Myerchin

Lori Myerchin  
Vice President, Regulatory Affairs  
and Transportation Services

Attachment

cc: via email

David Hanobic, FERC Environmental Project Manager  
Dawn Ramsey, FERC Deputy Environmental Project Manager  
Official Service List

## **CERTIFICATE OF SERVICE**

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated this 17th day of July, 2024.

By /s/ Lori Myerchin

Lori Myerchin

Vice President, Regulatory Affairs and  
Transportation Services

WBI Energy Transmission, Inc.

1250 West Century Avenue

Bismarck, ND 58503

Telephone: (701) 530-1563

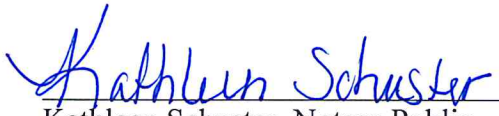
STATE OF NORTH DAKOTA     )  
COUNTY OF BURLEIGH     )

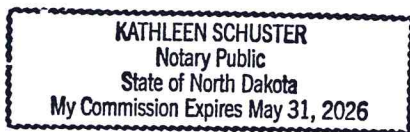
I, Lori Myerchin, being first duly sworn, do hereby depose and say that I am the Vice President, Regulatory Affairs and Transportation Services for WBI Energy Transmission, Inc.; that I have read the foregoing document; that I know the contents thereof; that I am authorized to execute such document; and that all such statements and matters set forth therein are true and correct to the best of my knowledge, information and belief.

Dated this 17<sup>th</sup> day of July, 2024.

By   
Lori Myerchin  
Vice President, Regulatory Affairs and  
Transportation Services

Subscribed and sworn to before me this 17<sup>th</sup> day of July, 2024.

  
Kathleen Schuster, Notary Public  
Burleigh County, North Dakota  
My Commission Expires: 5/31/2026



# Attachment A

## Variance Table

**Wahpeton Expansion Project  
Summary of the Proposed Project Modifications**

WBI Energy Variance Number	Modification	County	Pipeline Milepost	Alignment Sheet No. 1/ Approx. Station No.	Reason for Variance/Modification	Change in Construction Impacts (acres)	Change in Operation Impacts (acres)	Field Survey Complete – Wetland / Waterbody Delineation (Yes/No)	Field Survey Complete – Environmental - USFWS (Yes/No) 4/	Field Survey Complete – Cultural (Yes/No)	Existing Land Use	Landowner Approval and Date
V05	Additional temporary workspace (ATWS)	Richland	36.1	18 / 1910+00	ATWS is required west of Milepost (MP) 36.1 for bore equipment and material storage at a guided bore crossing (Bore #44) of 168th Ave. SE. 7/	0.34	0	Yes 2/	Yes	Yes 5/ 6/	Open Land / Wetland	Yes 3/12/2024
V07	Pipeline Reroute and Modified ATWS	Richland	52.9 - 54.5	26 - 27 / 2795+00 to 2900+00	Landowner requested reroute to move the pipeline alignment closer to the east side of 177th Ave. SE, the north side of 71st St. SE, and the property line. ATWS for a guided bore crossing of 71st St. SE at MP 54.4 will be modified due to the proposed reroute.	1.14	-0.14	Yes 3/	Yes	Yes 6/	Agricultural	Yes 3/15/2024
V12	Pipeline Reroute	Richland	32.6 - 33.0	16 / 1725+50 to 1740+00	Landowner requested reroute to move the pipeline alignment east to the adjacent field. 8/	-0.86	-0.21	Yes 2/ 3/	Yes	Yes 5/ 6/	Agricultural	Yes 3/05/2024
V14	Relocate MDU-Wahpeton Border Station	Richland	59.0	29 / 3101+20	Landowner requested relocation of the MDU-Wahpeton Border Station approximately 1.5 miles north to MP 59.0 and west of 180th Ave. SE. 9/	-18.10	-9.00	Yes 2/ 3/	Yes	Yes 5/ 6/	Agricultural	Yes 3/06/2024
V15	New Temporary Access Road (AR)-001.3	Cass	1.4	1 / 80+00	To access the construction ROW, WBI Energy will utilize an existing approach and travel through an agricultural field west of 163rd Ave. SE and south of MP 1.4 to avoid a steep embankment off of 163rd Ave. SE onto the construction ROW. The current access point over a steep ditch is not safe for heavy equipment to access the construction right of way and has resulted in an approximate 20- to 30-gallon diesel fuel spill as reported in Weekly Status Report No. 29. 16/	0.78	0	Yes 2/ 3/	Yes	Yes 5/ 6/	Agricultural	Yes 3/01/2024
V31	New Temporary AR-025.1	Cass	23.3 - 23.6	11 / 1230+00 to 1240+00	To access the construction ROW, WBI Energy will utilize an existing approach and travel through an agricultural field north of 53rd St. SE from MP 23.6 to MP 23.3 to avoid a deep drainage ditch off of 53rd St. SE onto the construction ROW. Waterbody scae003e runs through an existing 36-inch culvert at the existing approach.	2.24	0	Yes 3/	Yes	Yes 6/	Agricultural /Developed	Yes 3/01/2024
V32	Modify AR-027	Cass	24.1	12 / 1270+00	Modify an approved temporary access road west of 167th Ave. SE and east of MP 24.1 by shifting temporary workspace north to avoid a severe approach drop-off from 167th Ave. SE. 10/	-0.01	0	Yes 3/	Yes	Yes 6/	Agricultural /Developed	Yes 3/01/2024
V34	New Temporary AR-028a.2	Cass	24.7	12 / 1306+21	To access the construction ROW, WBI Energy will utilize an existing approach and travel through an agricultural field west of 167th Ave. SE and south of MP 24.6 to provide safe access to the construction ROW and minimize construction equipment crossing 54th St. SE (Highway 46).	0.28	0	Yes 3/	Yes	Yes 6/	Agricultural /Developed	Yes 3/15/2024
V40	New Temporary AR-030.5	Richland	27.7	13 / 1460+00	To access the construction ROW, WBI Energy will utilize an existing approach and travel through an agricultural field at the intersection of 55th St. SE and 167th Ave. SE south of MP 27.7 to avoid a deep ditch off of 167th Ave. SE onto the construction ROW. 11/	0.5	0	Yes 2/ 3/	Yes	Yes 5/ 6/	Agricultural /Developed	Yes 3/19/2024

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V41	New Temporary AR-039.1	Richland	35.6	18 / 1880+00	Utilize an existing approach north of 62nd St. SE at MP 35.6 to avoid a steep ditch off of 62nd St. SE onto the construction ROW. 12/	0.01	0	Yes 2/	Yes	Yes 5/	Developed / Wetland	Yes 3/22/2024
V42	New Temporary AR-039.2	Richland	36.2	18 / 1910+00	Utilize an existing approach east of 168th Ave. SE and northwest of MP 36.2 to access the construction ROW and avoid a bore pit and construction equipment for the guided bore crossing of 168th Ave. SE.	0.03	0	Yes 2/ 3/	Yes	Yes 5/ 6/	Developed, Open Land	Yes 3/05/2024
V43 and V44	New Temporary AR-043.5 and AR-043.6	Richland	39.9	20 / 2104+97 and 2106.97	Utilize two existing approaches north of 64th St. SE and west of MP 39.9 to access the construction ROW and avoid a bore pit for the guided bore crossing of waterbody sria002e. The waterbody is approximately 15 feet east of proposed AR-043.5 and 15 feet west of proposed AR-043.6 with no impacts anticipated at this feature. 13/	0.04 each	0	Yes 2/ 3/	Yes	Yes 5/ 6/	Agricultural /Developed	Yes 3/03/2024 and 3/15/2024
V45	New Temporary AR-043.7	Richland	40.5	20 / 2136+88	Utilize an existing approach northwest of the intersection of 171st Ave. SE and 64th St. SE, and west of MP 40.5 to minimize construction equipment crossing 171st Ave. SE. 13/ 14/	0.04	0	Yes 2/ 3/	Yes	Yes 5/ 6/	Agricultural /Developed	Yes 3/22/2024
V51	New Temporary AR-056.1	Richland	51.9	25 / 2738+00	To access the construction ROW, WBI Energy will utilize an existing approach and travel through an agricultural field west of 176th Ave. SE (County Road 81) and south of MP 51.9 to avoid a steep slope off of County Road 81 onto the construction ROW.	0.68	0	Yes 3/	Yes	Yes 6/	Agricultural /Developed	Yes 3/01/2024
V57	Pipeline Reroute, ATWS, Modify ATWS and AR	Richland	43.9 - 44.5	22 / 2319+00 to 2350+00	Landowner requested reroute to move the pipeline alignment from the west side of 172nd Ave. SE to the east of the road. Due to the requested reroute, one guided bore will be modified and two additional bores will be required. ATWS will be required for the guided bore crossing of 172nd Ave. SE near MPs 43.9-44.0 and for the guided bore crossing of a unnamed road near MPs 44.1-44.2. In addition, approved AR-046.1 will need to be relocated to the east side of road and ATWS adjusted for the guided bore crossing of 67th St. SE near MPs 44.4-44.5. 13/ 15/	3.24	0.03	Yes 2/ 3/	Yes	Yes 5/ 6/	Agricultural	Yes 3/15/2024
V59	Pipeline Reroute, Modify ATWS	Cass	4.9 - 5.4	3 / 258+46 to 287+34	Landowner requested reroute to abut an existing pipeline easement on their property. In addition, a minor shift in the centerline/permanent ROW from MPs 4.9 to 5.2 is required to accommodate a combined guided bore crossing (approved variance request V65). Modifications to the ATWS at MPs 5.2, 5.3, and 5.4 are required due to the proposed reroute. Wetlands wcaa002e, wcaa010e and wcaa011e will be avoided by a guided bore crossing with no impacts at these features. 16/	-0.29	-0.34	Yes 2/ 3/	Yes	Yes 5/ 6/	Agricultural /Developed	Yes 3/01/2024
V60	Modify AR-043.4 and Valve Site #5	Richland	39.5	20 / 2090+00	Widen the approved permanent access road to Valve Site #5 to safely transport equipment to the valve site and construction ROW. Additionally, a minor shift south in the footprint of the valve site is required to accommodate alignment of aboveground facilities and the mainline alignment. 13/	-0.003	0.03	Yes 2/ 3/	Yes	Yes 5/ 6/	Agricultural /Developed	Yes 3/18/2024



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Summary of the Proposed Project Modifications**

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V61	Pipeline Reroute	Richland	57.0 - 57.5	28 / 3000+21 to 3020+00	Landowner requested reroute to follow the landowner's property line and move the pipeline alignment closer to the south side of 72nd St. SE and the west side of 180th Ave. SE.	5.75	3.58	Yes 2/ 3/	Yes	Yes 5/ 6/	Agricultural /Developed	Yes 4/01/2024
V66	Modify AR-029	Cass	24.7	12 / 1306+37	Widen the approved permanent access road south of MP 24.7 to safely transport construction equipment to and from the construction ROW.	0.02	0	Yes 2/ 3/	Yes	Yes 5/ 6/	Agricultural	Yes 3/15/2024

1/ Alignment sheets submitted with WBI Energy's Implementation Plan (see eLibrary accession number 20231201-5361, attachment 4-1).

2/ Addendums to Environmental Survey Reports - Wetland and Waterbody Delineation Report submitted with WBI Energy's Implementation Plan (see eLibrary accession number 20231201-5360, attachment 7-2).

3/ Correspondences with USACE and NDDEQ regarding proposed Project modifications impacting wetland/waterbodies (see eLibrary accession number 20240610-5127, Supplemental Information to Variance Request for Project Modifications).

4/ Supplemental response to FERC's August 10, 2022 Environmental Information Request (see eLibrary accession number 20220901-5265, Resource Report 3, Request No. 2 Attachment - FWS Consultation Package).

See Attachment C of this filing for USFWS conclusion that the proposed modifications will not affect listed species or critical habitat that was not considered in previous consultations.

5/ Archaeological and Architectural Survey Reports - Class III Archaeological Inventory Survey Report submitted with WBI Energy's Supplemental Filing and Draft EIS comments (see eLibrary accession number 20221222-5270, attachment 8 (PRIV)).

6/ See Volume II of this filing for an addendum survey report for cultural resources for proposed modifications outside of previous Project survey corridors. Information is being filed as privileged information.

7/ Wetland wrwb019e is within the proposed ATWS. Approximately 0.22 acre will be temporary impacted at this feature.

8/ The proposed reroute will impact waterbody srwg002e, resulting in temporary construction impacts of 0.005 acre.

However, the proposed reroute will reduce construction and operation impacts by avoiding wetlands wrae002e (-0.139 acre), wrbi003e (-0.622 acre), and wrwb005e (-0.135 acre).

9/ The proposed relocation will impact waterbody srwg001e, resulting in temporary construction impacts of 0.012 acre and operational impacts of 0.007 acre.

The proposed relocation will avoid wetland wrwb008e.

10/ Approved AR-027 is approximately 29 feet west (across the street) of the boundary of a historic architectural (arch) site. No impacts are anticipated as the distance from the arch site remains unchanged by the proposed modification.

11/ Wetland wrwb009e is approximately 50 feet west and wetland wrwb001e is approximately 36 feet west of the proposed access road. No impacts are anticipated at these features.

12/ The proposed access road will be matted therefore impacting wetland wrwb015e, resulting in temporary construction impacts of 0.004 acre and no operational impacts.

The North Country Trail is located approximately 25 feet west of the proposed access road. No impacts on the trail are anticipated.

13/ The proposed access roads fall within identified Census Tract 970700 Block Group 2 (MPs 36.7 to 45.3) that has a minority population of 11.6% which is meaningfully greater than that of Richland County.

The proposed access road impacts within this identified EJ community will be minor, temporary in nature, and no sensitivity receptors will be significantly impacted.

14/ The proposed access road is approximately 14 feet north (across the street) of the boundary of a historic architectural site. No impacts are anticipated at this feature.

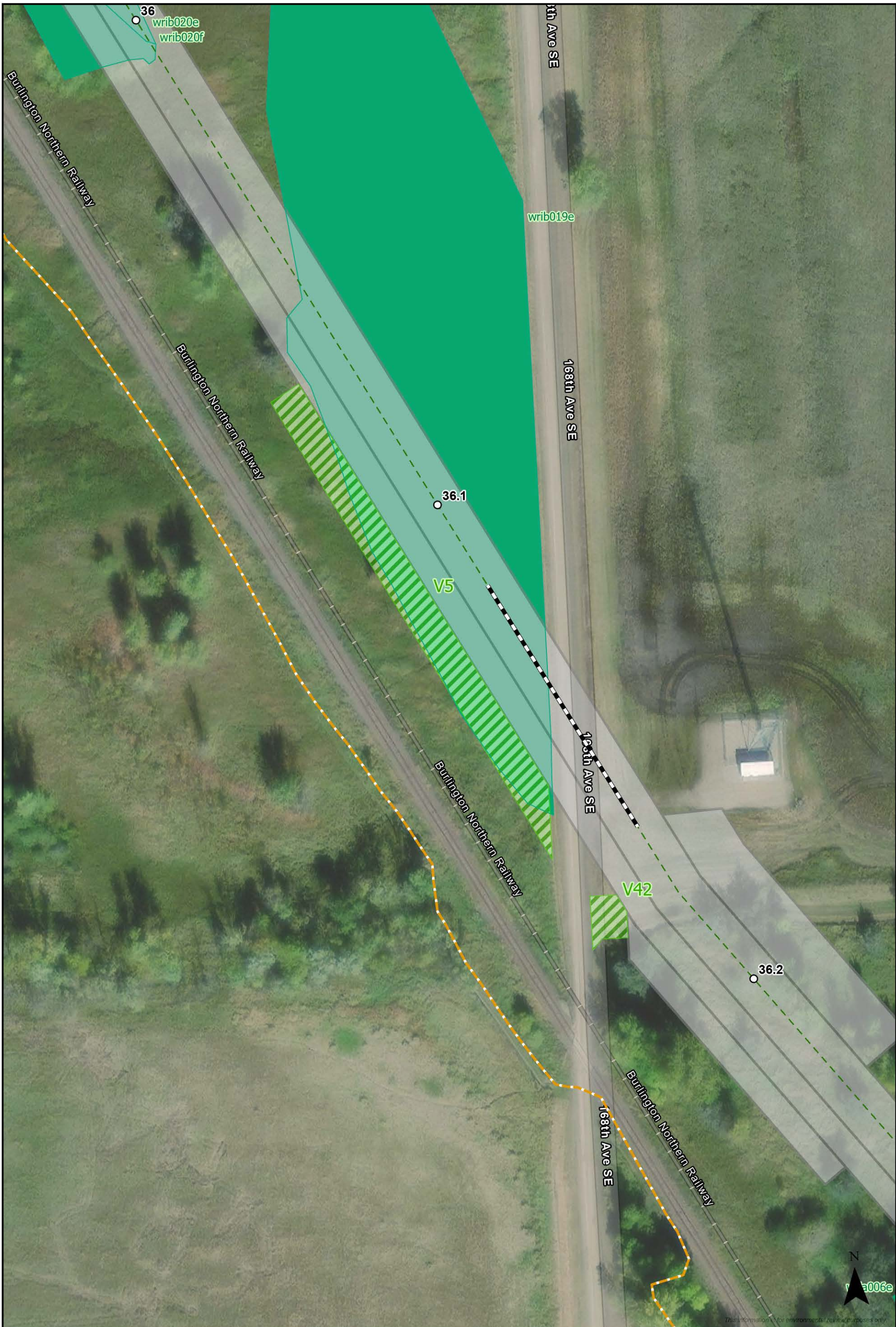
15/ Proposed ATWS and guided bore crossing of 172nd Ave. SE will impact wetland wrwb012e, resulting in temporary construction impacts of 0.019 acre.

The proposed relocation of AR-046.1 will avoid wetland wrwb014e.

16/ This variance was discussed in Weekly Status Report 30.

# Attachment B

## Variance Figure





TEMP Workspace Added	North Country Trail - Public
Milepost	Surveyed Wetland
Centerline	No Change
Bore Location	

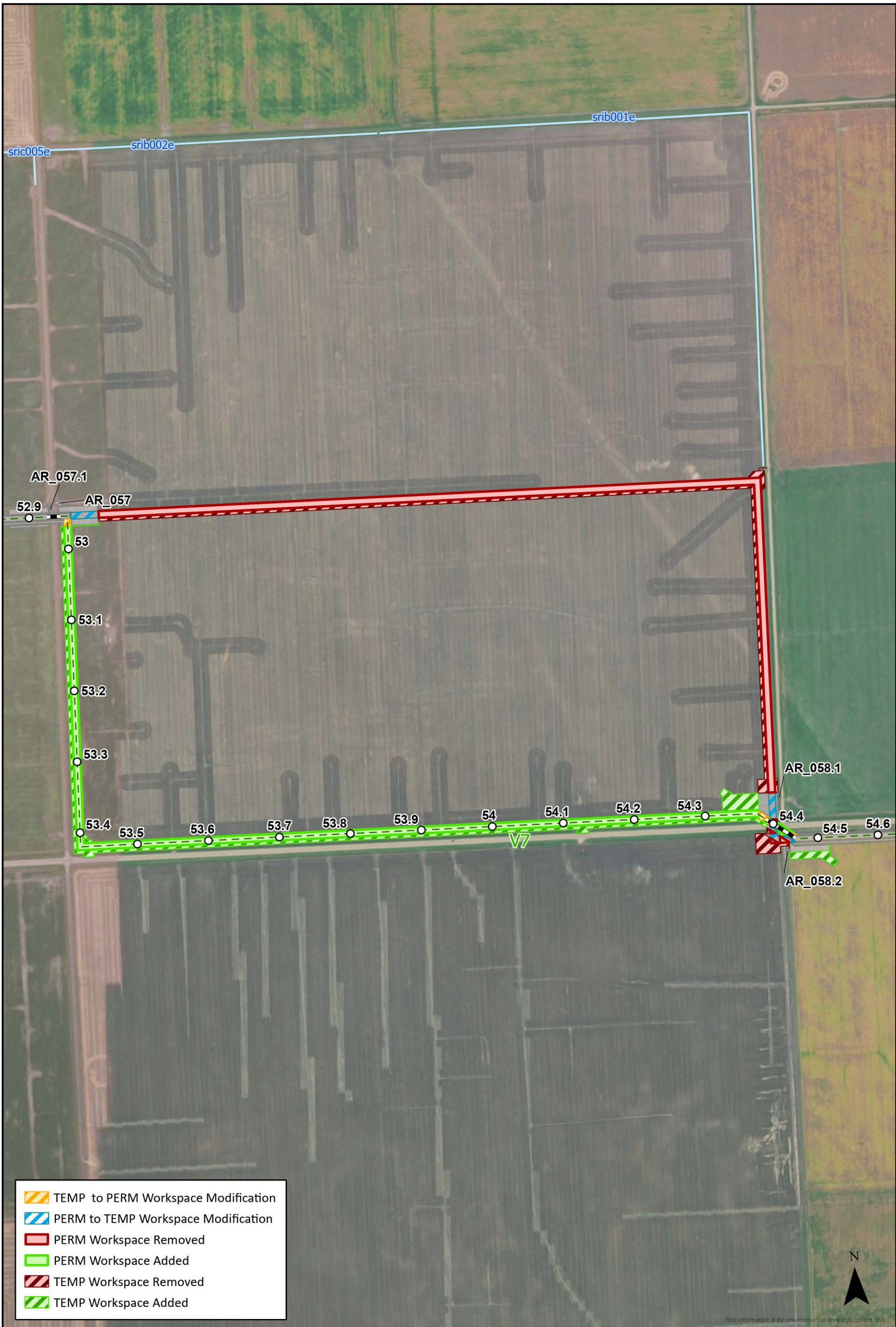
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0      100      200  
Feet

**Proposed Project Modifications**

**V5 and V42**



This information is for environmental review purposes only.



○ Milepost	□ No Change
— Centerline	□ Surveyed Waterbody
▬ Bore Location	

1:8,000

0 100200  
Feet

**Proposed Project Modifications**

**V7**



This information is for environmental review purposes only.



○ Milepost	□ No Change
- - - Centerline	□ Surveyed Waterbody
▬ Bore Location	■ Surveyed Wetland

1:2,000

0      100      200  
Feet

**Proposed Project Modifications**

**V12**



- TEMP to PERM Workspace Modification
- PERM Workspace Removed
- PERM Workspace Added
- TEMP Workspace Removed
- TEMP Workspace Added

- Milepost
- No Change
- Centerline
- Surveyed Waterbody
- Bore Location
- Surveyed Wetland

1:7,000  
0 100 200 Feet

### Proposed Project Modifications

## V14



*This information is for environmental review purposes only.*



○ Milepost	□ No Change
- - - Centerline	□ Surveyed Waterbody
--- Bore Location	

1:2,000


0      100      200  
Feet




**Proposed Project Modifications**

**V15**



 TEMP Workspace Added

-  Milepost
-  Centerline
-  Bore Location
-  No Change
-  Surveyed Waterbody

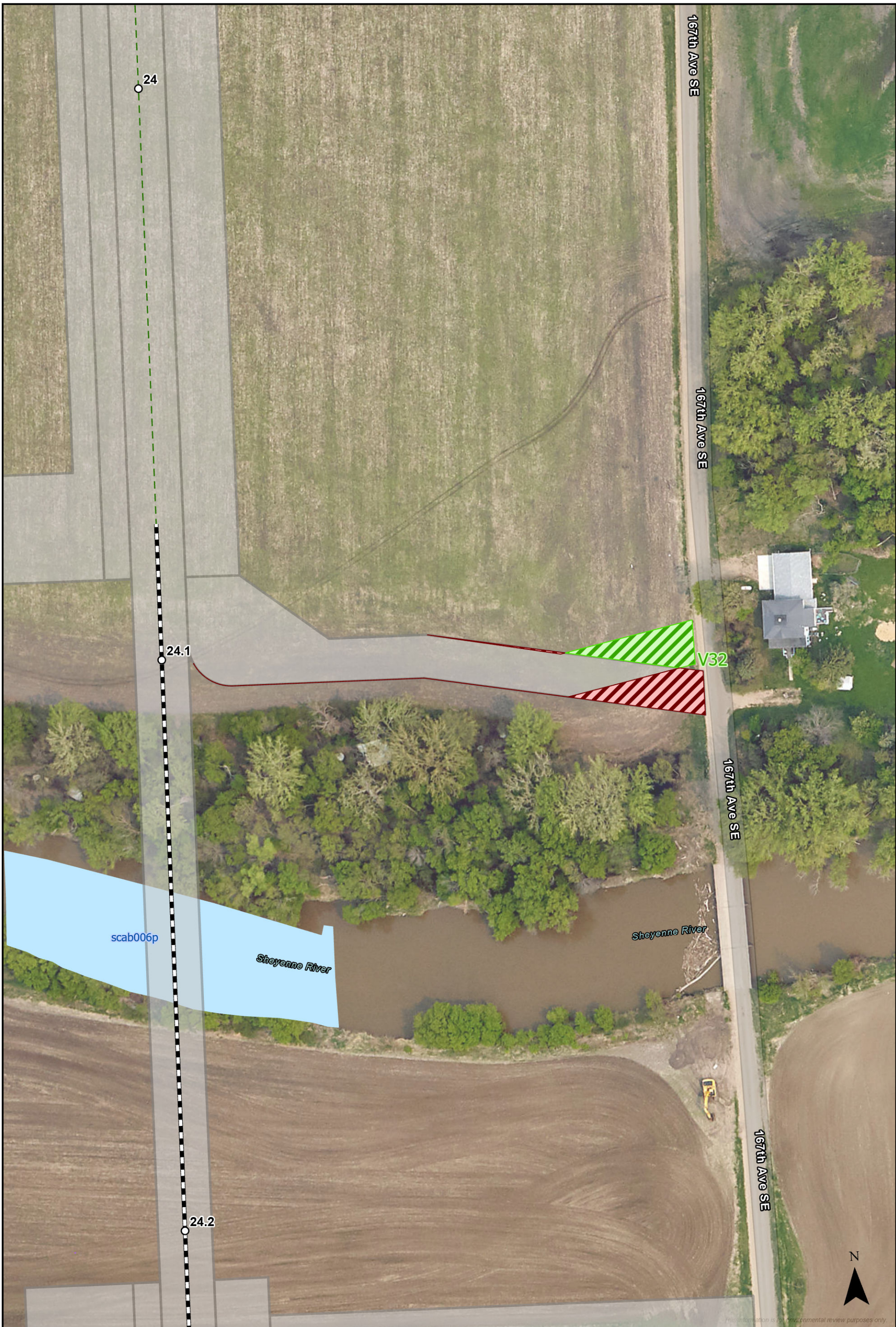


**Proposed Project Modifications**

**V31**







This information is for environmental review purposes only.



TEMP Workspace Removed	Bore Location
TEMP Workspace Added	Surveyed Waterbody
Milepost	No Change
Centerline	

1:1,000

0      100      200  
Feet

**Proposed Project Modifications**

**V32**



This information is for environmental review purposes only.



TEMP Workspace Added	Bore Location
Milepost	No Change
Centerline	

1:800

0      100      200  
Feet

**Proposed Project Modifications**

**V34**



This information is for environmental review purposes only.

TEMP Workspace Added	Bore Location	1:1,000
Milepost	No Change	
Centerline	Surveyed Wetland	

0                      100                      200  
Feet

### Proposed Project Modifications

## V40