

APPENDIX F – ENVIRONMENTAL CONSTRAINTS MEMORANDUM

MEMORANDUM

To: Michelle Carpenter
TPE IL KN415, LLC

From: Ashley Payne
Kimley-Horn and Associates, Inc.

Date: September 20, 2023

Subject: Rutland Township, Kane County, Illinois – KN415 Environmental Constraints
Memorandum

INTRODUCTION

Kimley-Horn was contracted by TPE IL KN415, LLC to review the KN415 project study area for potential environmental constraints. See Figure 1 for project location and Figure 2 for the study area boundary. The study area is located in Rutland Township, Kane County, Illinois. The study area is approximately 45 acres in size and is located in Section 1 of Township 42N, Range 7E. Kimley-Horn reviewed available background data to assist in determining if there are any potential environmental constraints for the study area.

ENVIRONMENTAL CONSTRAINTS:

Level 1 (Desktop) Wetland Delineation

Kimley-Horn reviewed available topographic maps, the National Wetlands Inventory (NWI), the National Hydrography Dataset (NHD), LiDAR, soil survey data, public waters, floodplain data, and aerial photography to identify potential wetlands or surface waters within the study area vicinity.

U.S. Geological Survey (USGS) Topographic Map

A review of the Crystal Lake, Illinois 7.5-minute topographic quadrangle depicted primarily undeveloped land with one structure in the northern section of the study area. The USGS topographic map is presented on Figure 3.

National Wetlands Inventory (NWI)

Based on a review of the U.S. Fish and Wildlife Service (USFWS) NWI,¹ no wetland features are present within the study area. The adjacent NWI-mapped features are presented on Figure 4.

USGS National Hydrography Dataset (NHD)

Based on a review of the USGS NHD,² no NHD features are present within the study area. The adjacent NHD-mapped resources are presented on Figure 4.

¹ USFWS. 2023. National Wetlands Inventory. Vector Digital Data. Published May 26, 2023.

² USGS. 2023. National Hydrography Dataset. Vector Digital Data. Published March 5, 2023.

2-ft LiDAR Contours

Two-foot contours³ were reviewed to determine if any wetland areas or drainage swales may be present on the study area. The study area is gently rolling and slopes gradually to the southwest with an isolated depression in the south central portion of the study area. The study area ranges in elevation from 908 feet to 892 feet above sea level. The 2-foot contours are presented on Figure 5.

Kane County Soil Survey

A review of the Kane County soil survey via the Soil Survey Geographic (gSSURGO) database⁴ identified 6 soil types within the study area. Less than 1 percent of the study area is mapped with a hydric soils rating of 100 percent. The remainder of the study area is mapped with a predominantly non-hydric soils rating at or below 5 percent, or a non-hydric soils rating of 0 percent. Hydric soils rating data are presented on Figure 6.

Illinois Department of Natural Resources (IDNR) Public Waters Inventory

A review of the IDNR Public Waters Inventory⁵ was completed. No IDNR Public Waters are located within the project vicinity. The Fox River is located approximately three miles east of the study area.

FEMA Floodplain

The Federal Emergency Management Agency (FEMA) National Flood Hazard Layer (NFHL) Viewer⁶ was reviewed to determine if FEMA 100-year floodplains are located within the study area. Based on Panel 17089C0065H (effective August 3, 2009), the study area is not located within a FEMA 100-year floodplain. The FEMA floodplain data are presented on Figure 7.

Previous Study Area Disturbance

Historic aerials from 1988 to 2021 were reviewed to determine previous land use and disturbance on the study area and are presented in Attachment A. No potential wetlands were visible on the reviewed historic aerials, see comments in Table 1. The study area has been used for agricultural purposes since at least 1988.

Table 1. Study Area Historic Aerial Review

| Year | Land Use | 3-month Antecedent Precipitation Conditions | Comments |
|------|--------------|---|--|
| 1988 | Agricultural | Normal | Study area consists of cropped agricultural field with a structure present in the northern portion of the site and a north-south oriented field access road in the central portion of the study area. These features are visible on all the historic aerials. No wetland signatures present. |
| 1999 | Agricultural | Wetter than Normal | Soil saturation present in the middle of the study area. |

³ USGS. 2016. USGS 3 Meter DEM Panels. Published August 17, 2016.

⁴ NRCS. 2022. National Soil Survey Geographic (gSSURGO). Illinois. Vector Digital Data. Published September 7, 2022.

⁵ IDNR. 2023. Illinois Public Waters. Available online at

<https://idnr.maps.arcgis.com/apps/webappviewer/index.html?id=b64decfb69504164a46badb2841ebb11>

⁶ USGS. FEMA National Flood Hazard Layer Viewer. Available online at <https://hazards-fema.maps.arcgis.com/apps/webappviewer/index.html?id=8b0adb51996444d4879338b5529aa9cd>

| Year | Land Use | 3-month Antecedent Precipitation Conditions | Comments |
|------|--------------|---|---|
| 2002 | Agricultural | Normal | No wetland signatures present. |
| 2006 | Agricultural | Normal | Crop stress present on the southern sloped boundary of the study area. |
| 2008 | Agricultural | Wetter than Normal | No wetland signatures present. |
| 2010 | Agricultural | Wetter than Normal | Crop stress present in the middle of the study area and on the southern sloped boundary of the study area. |
| 2011 | Agricultural | Normal | Crop stress present on the southern sloped boundary of the study area. |
| 2013 | Agricultural | Wetter than Normal | Soil saturation present in the middle of the study area. |
| 2016 | Agricultural | Normal | No wetland signatures present. |
| 2017 | Agricultural | Wetter than Normal | Soil saturation present in the southwest corner of the study area. |
| 2018 | Agricultural | Wetter than Normal | Crop stress present on sloped boundaries in the southern portion of the study area. |
| 2019 | Agricultural | Wetter than Normal | No wetland signatures present. |
| 2020 | Agricultural | Wetter than Normal | Crop stress and drowned out crops present in the southwest corner and in two areas in the center of the study area. |
| 2021 | Agricultural | Drier than Normal | Soil saturation present in the southwest corner of the site. |

Potential areas of stunted or stressed vegetation were visible on the reviewed historic aerials. However, none of the areas meet desktop wetland criteria.

Desktop Wetlands Assessment

Based on the Level 1 Wetland Delineation, Kimley-Horn identified no potential wetlands within the property. Based on the historic review, no continued stunted or stressed vegetation is visible during the growing season within the study area. If the current (as of the date of this report) project extents remain as-is, a field delineation would not be needed. The site plan is included as Attachment D.

USFWS Federally Listed Threatened and Endangered Species

Kimley-Horn conducted a preliminary review of the potential for federally listed threatened, endangered, and proposed species to occur within the study area or be affected by the proposed project for the purposes of due diligence in compliance with the Endangered Species Act (ESA). A list of the threatened, endangered, and proposed species, and designated critical habitat that could occur in Kane County was obtained and evaluated from the USFWS Information for Planning and Consultation (IPaC)

online planning tool. The resource list is not considered official USFWS correspondence for ESA consultation. Habitat descriptions for the identified species were compared to the habitat within or near the study area. The resource list obtained via the USFWS IPaC for the project identified four species that should be considered in an effects analysis. The resource list is included in Attachment B and the four identified species are reviewed below in Table 2.

Table 2. USFWS Listed Threatened and Endangered Species

| Species | Status | Preferred Habitat | Findings |
|---|--|--|--|
| <i>Myotis septentrionalis</i> (Northern Long-Eared Bat [NLEB]) | Endangered | During summer, NLEB roost singly or in colonies underneath bark, in cavities, or in crevices of both live and dead trees. This bat uses tree species based on suitability to retain bark or provide cavities or crevices. It has also been found, rarely, roosting in structures like barns and sheds. Northern long-eared bats spend winter hibernating in caves and mines. | No critical habitat has been designated for this species. Minimal suitable habitat may be present within the study area due to the presence of a structure located in the northern portion of the study area. Any tree trimming or removal or structure demolition should be completed between October 1 and March 31. |
| <i>Grus americana</i> (Whooping crane) | Experimental population, Non-essential | The whooping crane breeds, migrates, winters and forages in a variety of habitats, including coastal marshes and estuaries, inland marshes, lakes, open ponds, shallow bays, salt marsh and sand or tidal flats, upland swales, wet meadows and rivers, pastures, and agricultural fields. | No critical habitat has been designated for this species. The study area contains agricultural fields which are listed as habitat for the whooping crane. Due to the presence of adjacent farmland, no adverse impacts are anticipated. |
| <i>Danaus plexippus</i> (Monarch butterfly) | Candidate | The monarch butterfly requires grassland habitats where milkweed and flowers are present. North American populations of the monarch butterfly typically follow a seasonal migration pattern. | No critical habitat has been designated for this species. No preferred habitat appears within the study area, as it is primarily active farmland. No adverse impacts are anticipated. To avoid potential impacts, reseeding with native seed mixes is recommended, although not required. |
| <i>Platanthera leucophaea</i> | Threatened | The eastern prairie fringed orchid occurs in a wide variety of habitats, from wet | No critical habitat has been designated for this species. Minimal preferred habitat may |

| Species | Status | Preferred Habitat | Findings |
|----------------------------------|--------|---|--|
| (Eastern Prairie Fringed Orchid) | | to mesic prairie, to wetland communities, including sedge meadow, fen, marsh and marsh edge. It can occupy a very wide moisture gradient of prairie and wetland vegetation. In general, the habitat is moist or moderately moist. | appear within the study area. Wetlands may be within study area which are listed as habitat for the eastern prairie fringed orchid. However, the study area is primarily active farmland and any wetlands present would be annually disturbed with cultivation of row crops. No adverse impacts are anticipated. |

Migratory Birds

According to the IPaC resource list, nine migratory species on the Birds of Conservation Concern (BCC) list have been identified within the study area. The BCC list was updated in 2021 by the USFWS and is an effort to “identify species, subspecies, and populations of all migratory nongame birds that, without additional conservation actions, are likely to become candidates for listing under the Endangered Species Act.”

The Migratory Bird Treaty Act (MBTA) makes it illegal for anyone to “take, possess, import, export, transport, sell, purchase, barter, or offer for sale, purchase, or barter, any migratory bird, or the parts, nests, or eggs of such a bird except under the terms of a valid permit issued pursuant to Federal regulations by the USFWS”. Typically, if active nests of bird species protected by the MBTA are identified, the USFWS recommends avoiding tree clearing or nest removal until at least the peak of the nesting season (generally March through August) has passed or until the nest is abandoned.

The U.S. Department of the Interior, Office of the Solicitor, published a memorandum (M-37050) dated December 22, 2017 regarding the MBTA and how “incidental take” is viewed by the Department. The memorandum analyzes whether the MBTA prohibits the accidental or “incidental” taking or killing of migratory birds. “Incidental take” is take that results from an activity, but is not the purpose of that activity. In this memorandum, the Department of the Interior concluded that “the MBTA’s prohibition on pursuing, hunting, taking, capturing, killing, or attempting to do the same applies only to direct and affirmative purposeful actions that reduce migratory birds, their eggs, or their nests, by killing or capturing, to human control.” Therefore, according to the Department of the Interior, the MBTA does not prohibit “incidental take.” Courts have different opinions and decisions with respect to including or excluding “incidental take” when considering the prohibitions under the MBTA. In 2015, the Fifth Circuit in *United States v. Citgo Petroleum Corp.* issued an opinion that agreed with the Eighth and Ninth circuits that a taking is limited to deliberate acts done directly and intentionally to migratory birds. Therefore, the Fifth Circuit decided that the MBTA only prohibits intentional take and does not prohibit incidental take. This decision by the Fifth Circuit set precedent within the Fifth Circuit’s jurisdiction.

On January 7, 2021, the USFWS published a final rule (“MBTA rule”) defining the scope of the MBTA which excluded incidental take of migratory birds from being unlawful. This interpretation of the MBTA was effective as of March 8, 2021. On May 7, 2021, the USFWS proposed to revoke the January 7, 2021 final regulation and opened a public comment period which closed on June 7, 2021. On September 29, 2021, the U.S. Department of Interior announced a series of actions to unwind the most recent rulemaking in an effort “to ensure that the MBTA conserves birds today and into the future.” On October 4, 2021, the USFWS published a final rule revoking the most recent rule enacted by the Trump

Administration that limited the scope of the MBTA. According to the Federal Register, the final MBTA revocation rule will go into effect on December 3, 2021.

In addition, on October 4, 2021, the USFWS published an Advanced Notice of Proposed Rulemaking announcing the intent to solicit public comments and information to help develop proposed regulations that would establish a permitting system to authorize the incidental take of migratory birds in certain circumstances. The USFWS issued a Director's Order establishing criteria for the types of conduct that will be a priority for enforcement activities with respect to incidental take of migratory birds.

It should be noted that the regulatory climate with respect to the MBTA is changing; however, it is our understanding that as of December 3, 2021 incidental take of migratory birds will be liable under the MBTA. This should be considered until a rulemaking process is complete. Kimley-Horn recommends evaluating the MBTA regulation prior to ground disturbance activities commencing.

Kimley-Horn downloaded the Trust Resources Report Migratory Bird List from the IPaC online planning tool. The IPaC results are included in Attachment B. Kimley-Horn conducted a preliminary desktop review of the potential for migratory bird habitat (focusing primarily on trees and shrubs) to occur on the proposed study area or be affected by the proposed study area for the purposes of due diligence in complying with the MBTA. The desktop review revealed the presence of minimal potential migratory bird habitat within the study area. It is our understanding that as of December 3, 2021, incidental take would be enforceable under the MBTA.

IDNR State Listed Threatened, Endangered, and Species of Special Concern

The IDNR identified one state listed threatened or endangered species in the vicinity of the study area. There were no Illinois Natural Area Inventory sites, dedicated Illinois Nature Preserves, or registered Land and Water Reserves in the vicinity of the study area. State-listed endangered Blanding's Turtles are known to occur within the general vicinity of the study area. The IDNR has recommended that construction and maintenance personnel be instructed to identify and to not to harass the turtle if encountered. The IDNR determined that adverse effects are unlikely as suitable habitat within the study area is minimal and therefore, consultation is terminated. The IDNR Natural Resource Review Results and Consultation Letter are included in Attachment B.

Historic Resources Database Review

Kimley-Horn reviewed the Illinois Inventory of Archaeological Sites (IIAS) database for known historic resources within the project vicinity. According to the IIAS database, there are no previously identified archaeological sites, archaeological surveys, or cemeteries within the study area (see Attachment C). Within 0.5 mile of the study area, there is one known cemetery (Buena Vista Cemetery), nine archaeological surveys, and 6 previously identified archaeology sites. According to the Historic and Architectural Resources Geographic Information System (HARGIS), there are no previously identified historic buildings within the study area boundary or within 0.5 mile of the study area (see Attachment C). Therefore, there are no known resources listed in or eligible for inclusion in the National Register of Historic Places within 0.5 mile of the study area. The results of the IIAS review are sensitive in nature and should not be shared publicly. Correspondence with the Illinois State Historic Preservation Office (SHPO) is ongoing and results are pending.

CONCLUSIONS AND RECOMMENDATIONS:

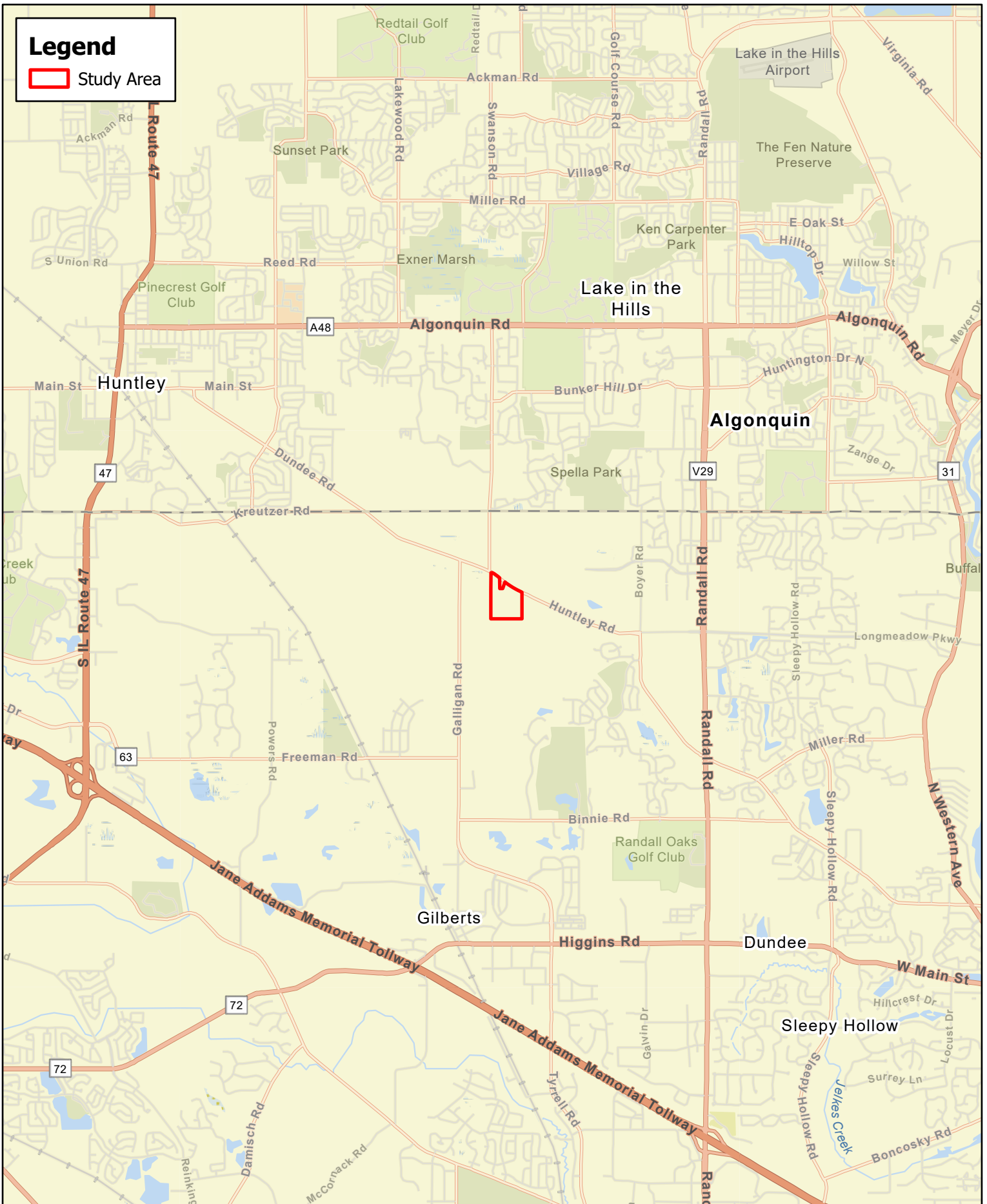
Based on the information reviewed, Kimley-Horn has identified potential environmental constraints that could require additional planning.

Based on the Level 1 Wetland Delineation, Kimley-Horn identified no potential wetlands within the property. Based on the historic review, no continued stunted or stressed vegetation is visible during the growing season within the study area. If the current (as of the date of this report) project extents remain as-is, a field delineation would not be needed. The site plan is included as Attachment D.

Potential suitable habitat for listed federal species may be present within the study area. If tree clearing or structure demolition is anticipated, it is recommended to be completed between October 1 and March 31, which is outside of the active bat season. The IDNR determined that adverse effects to state listed species or protected resources are unlikely.

No impacts to known IAS-listed resources are anticipated. Correspondence with the Illinois State Historic Preservation Office (SHPO) is ongoing and results are pending.

Figures

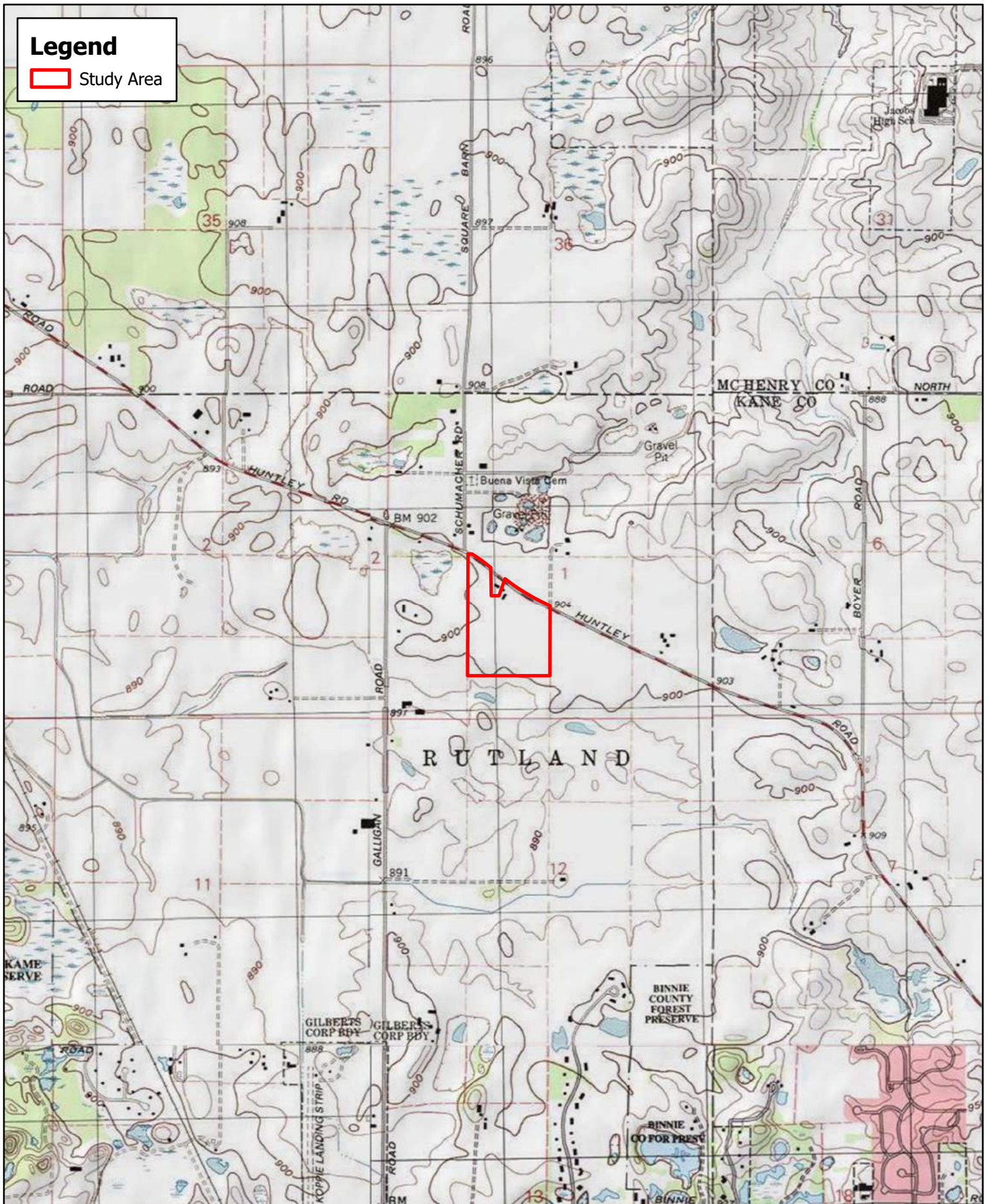


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 Study Area





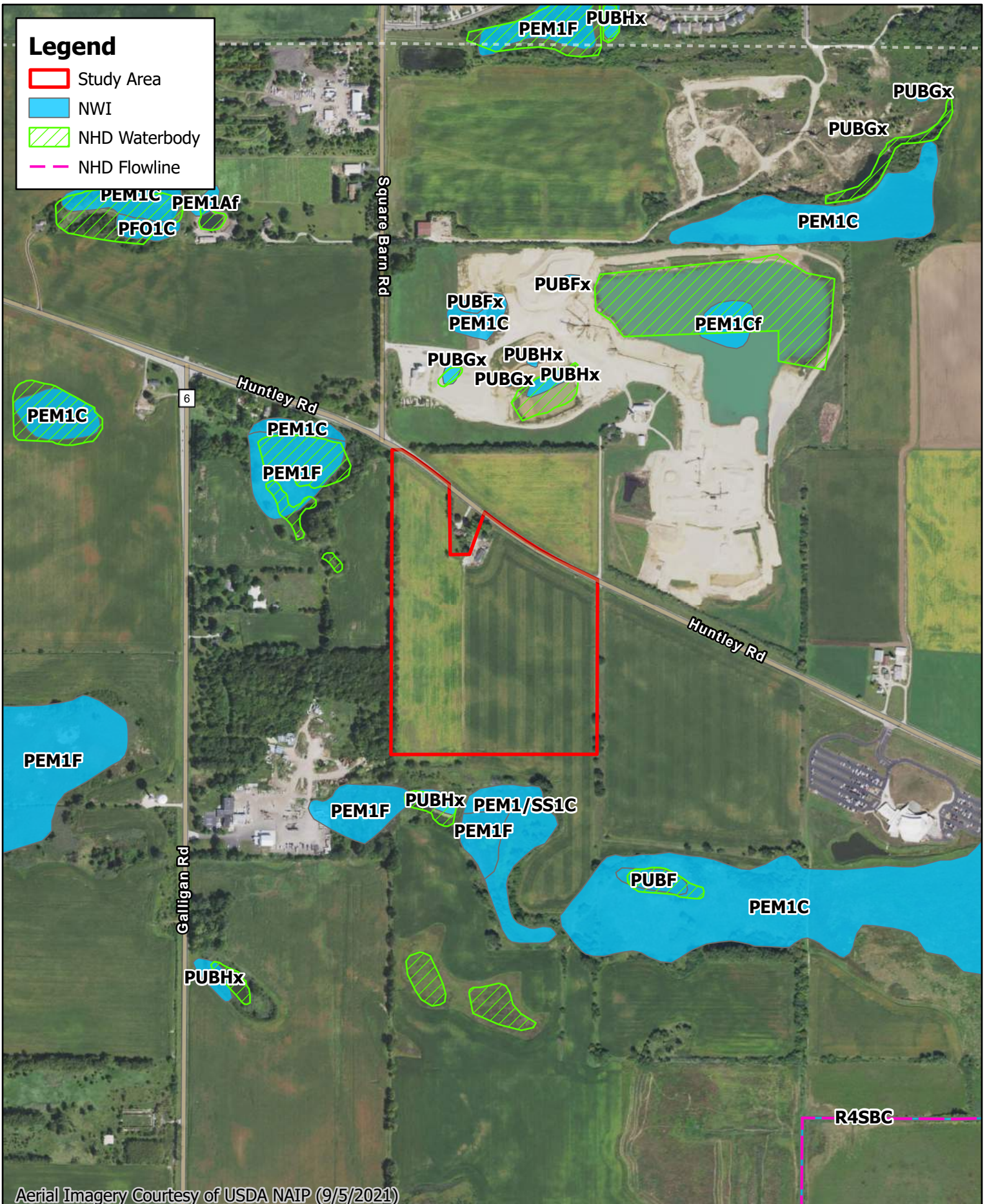


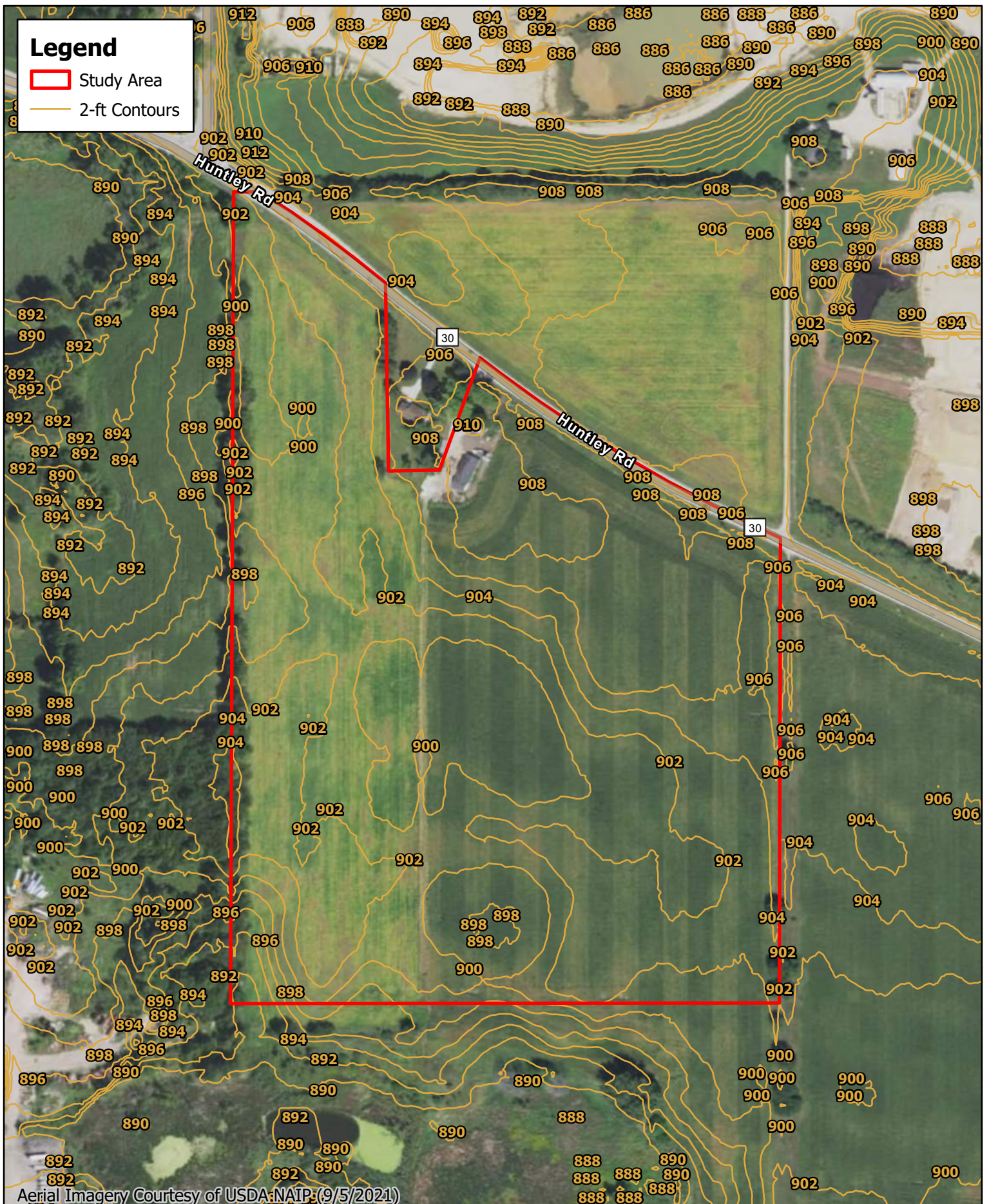
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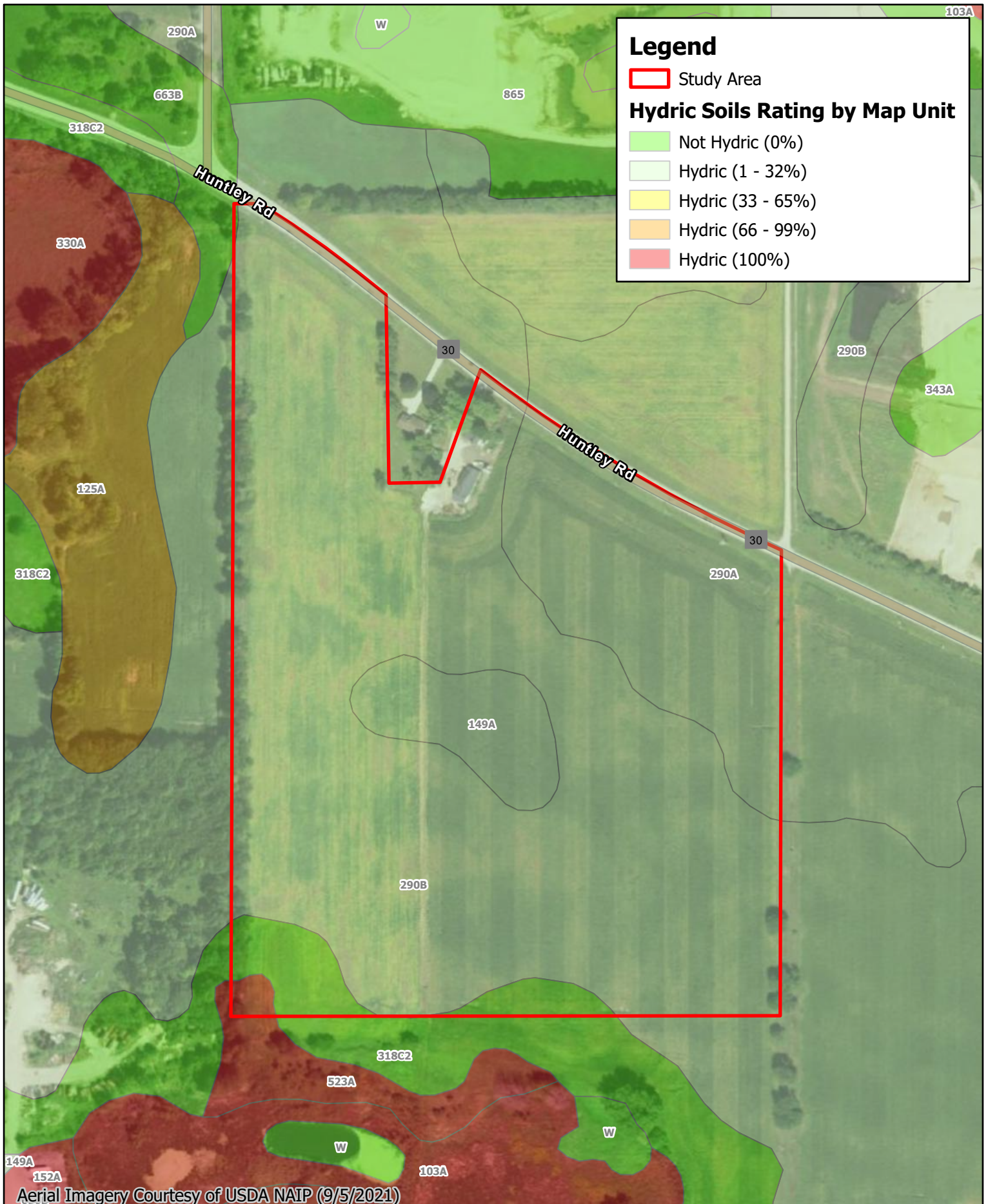
Study Area



Figure 3. USGS Topographic Map
 Rutland Township, Kane County
 TPE IL KN415, LLC

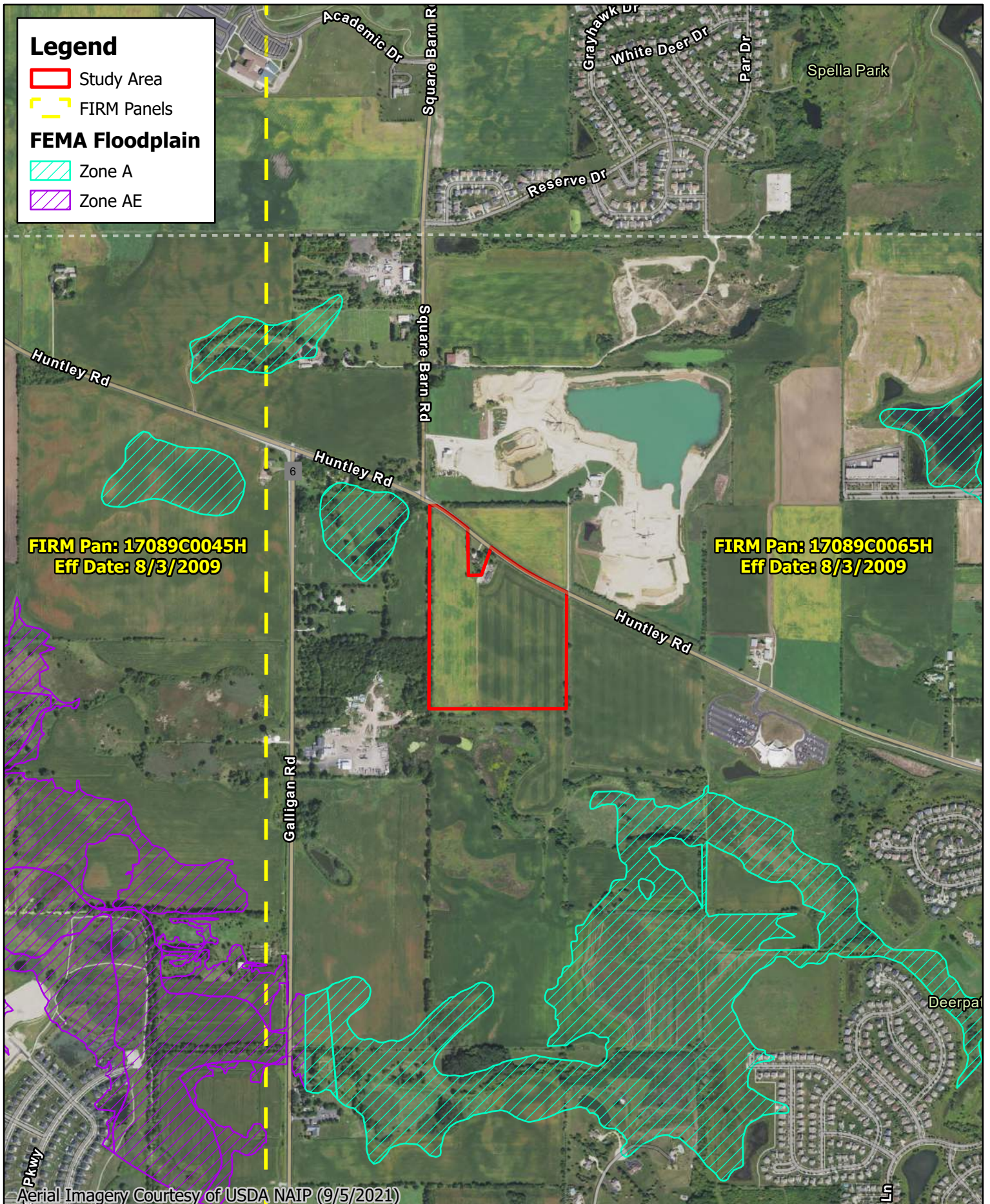






Hydric Rating by Map Unit

| Map unit symbol | Map unit name | Rating | Acres in AOI | Percent of AOI |
|------------------------------------|---|--------|--------------|----------------|
| 149A | Brenton silt loam, 0 to 2 percent slopes | 3 | 2.5 | 5.6% |
| 290A | Warsaw loam, 0 to 2 percent slopes | 5 | 7.9 | 17.5% |
| 290B | Warsaw loam, 2 to 4 percent slopes | 5 | 32.9 | 72.5% |
| 318C2 | Lorenzo loam, 4 to 6 percent slopes, eroded | 0 | 1.8 | 3.9% |
| 523A | Dunham silty clay loam, 0 to 2 percent slopes | 100 | 0.2 | 0.5% |
| 663B | Clare silt loam, 2 to 5 percent slopes | 0 | 0.0 | 0.0% |
| Totals for Area of Interest | | | 45.4 | 100.0% |



Legend

- Study Area
- FIRM Panels
- FEMA Floodplain**
- Zone A
- Zone AE

FIRM Pan: 17089C0045H
Eff Date: 8/3/2009

FIRM Pan: 17089C0065H
Eff Date: 8/3/2009



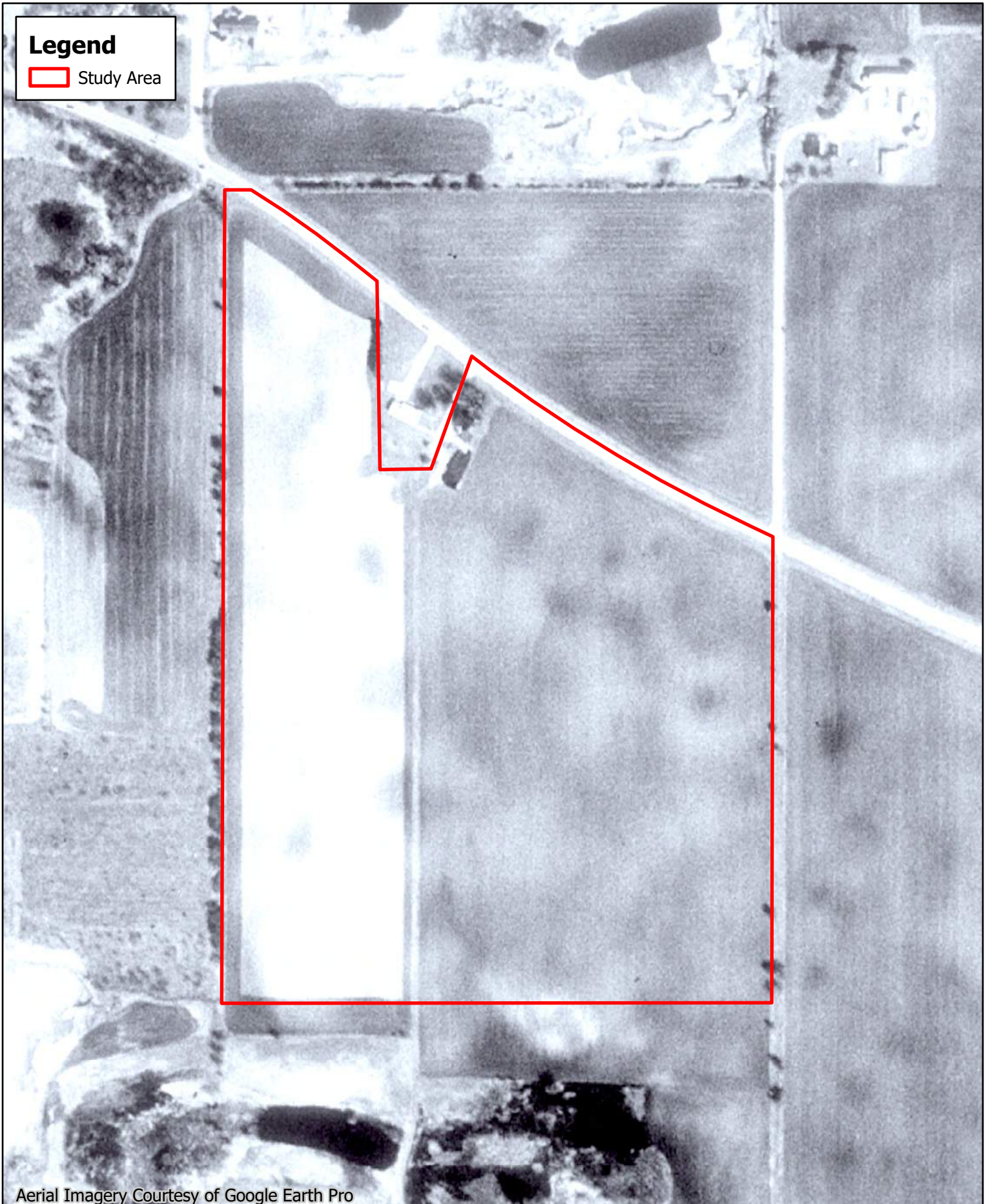
Figure 7. FEMA Floodplain Map
 Rutland Township, Kane County
 TPE IL KN415, LLC

ATTACHMENT A

Historic Aerials

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 Study Area



Aerial Imagery Courtesy of Google Earth Pro



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 Study Area

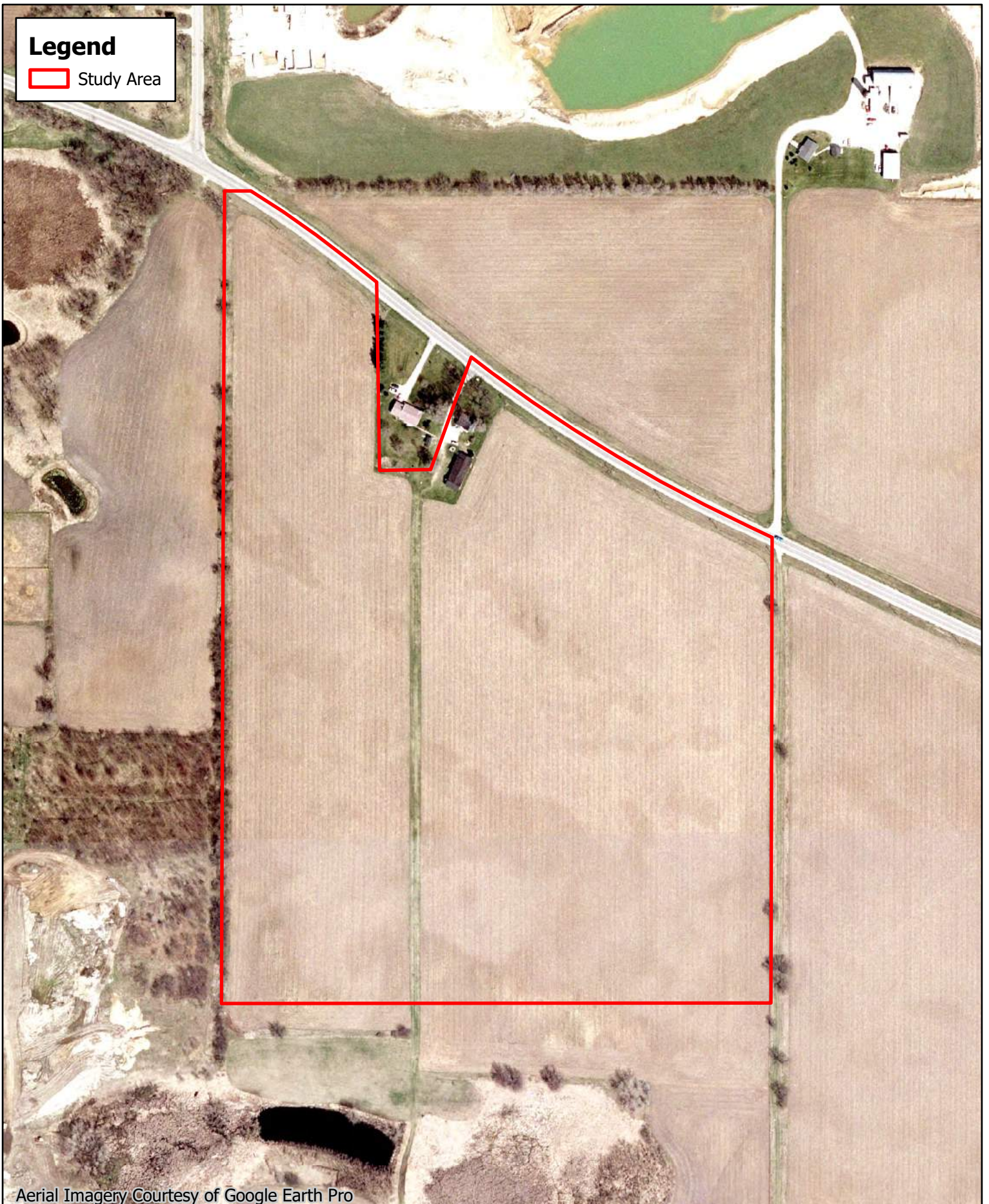


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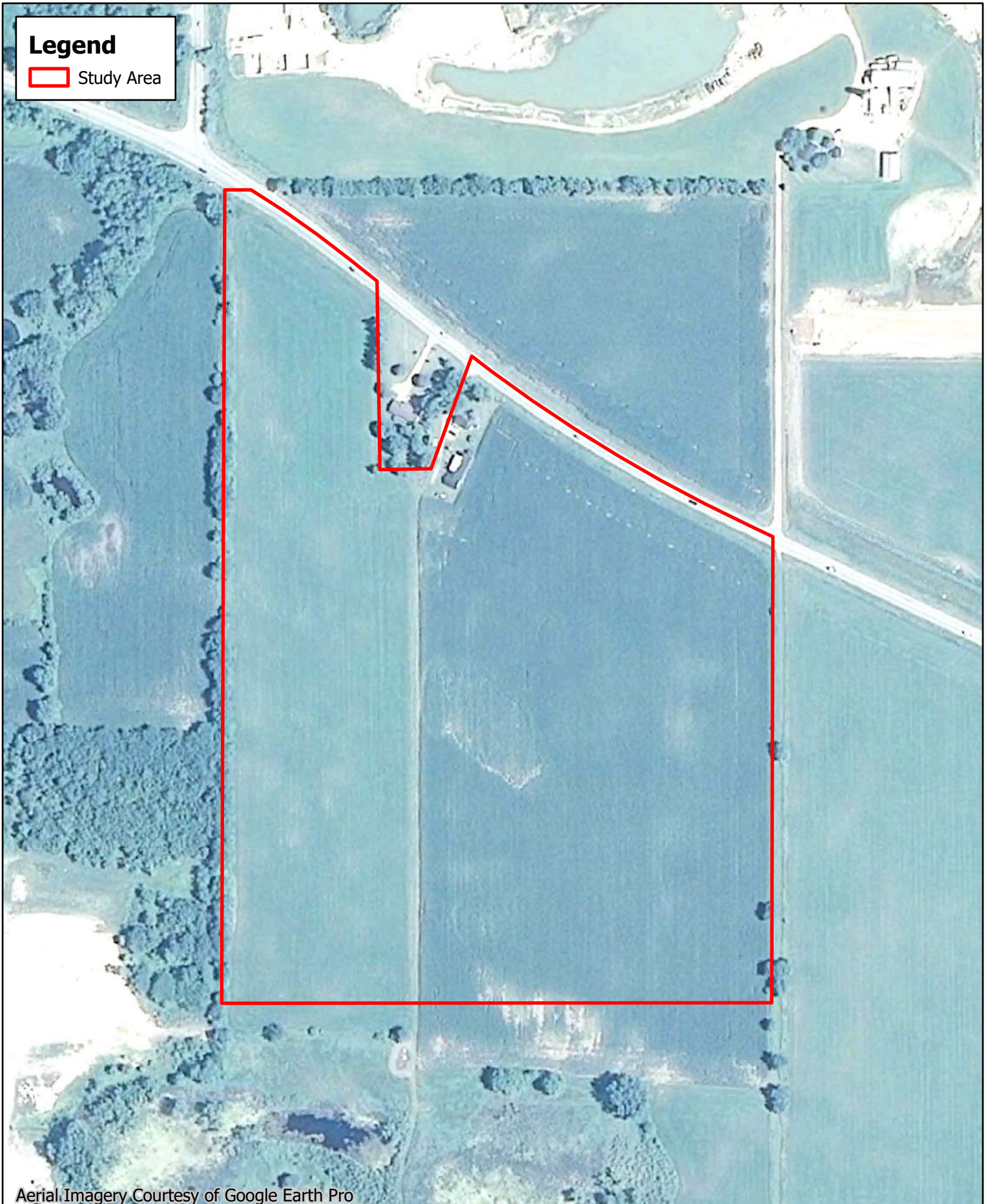


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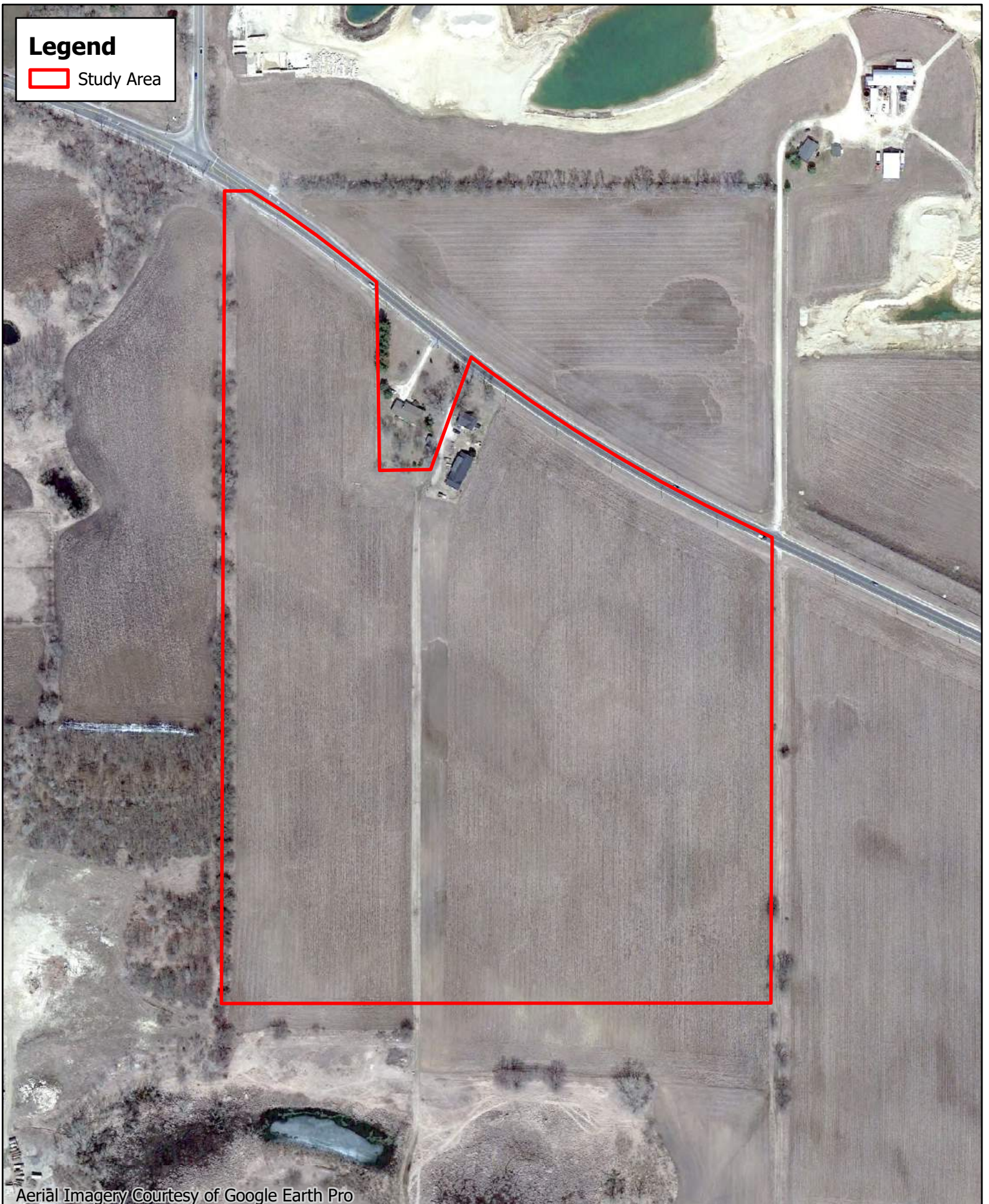


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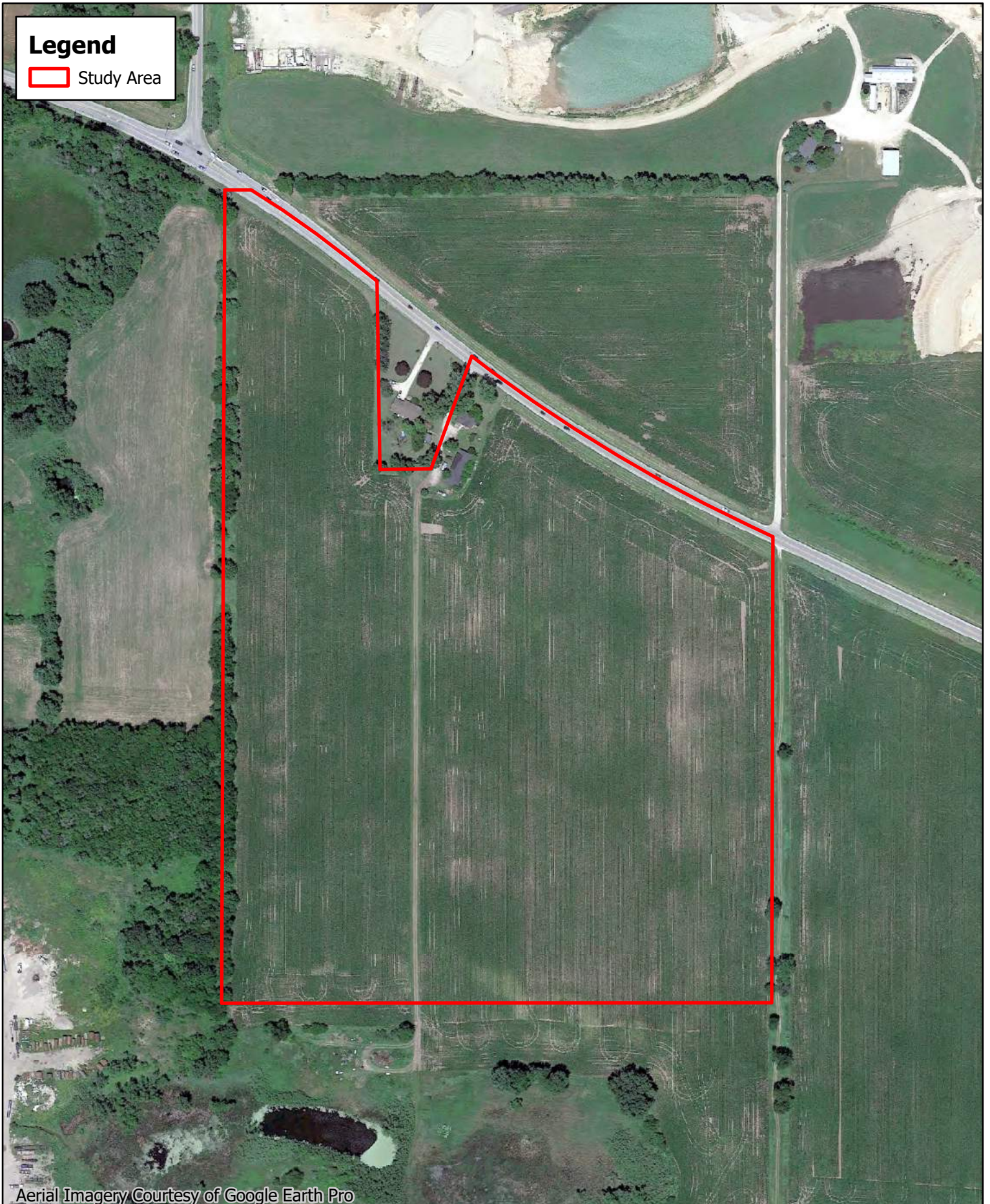


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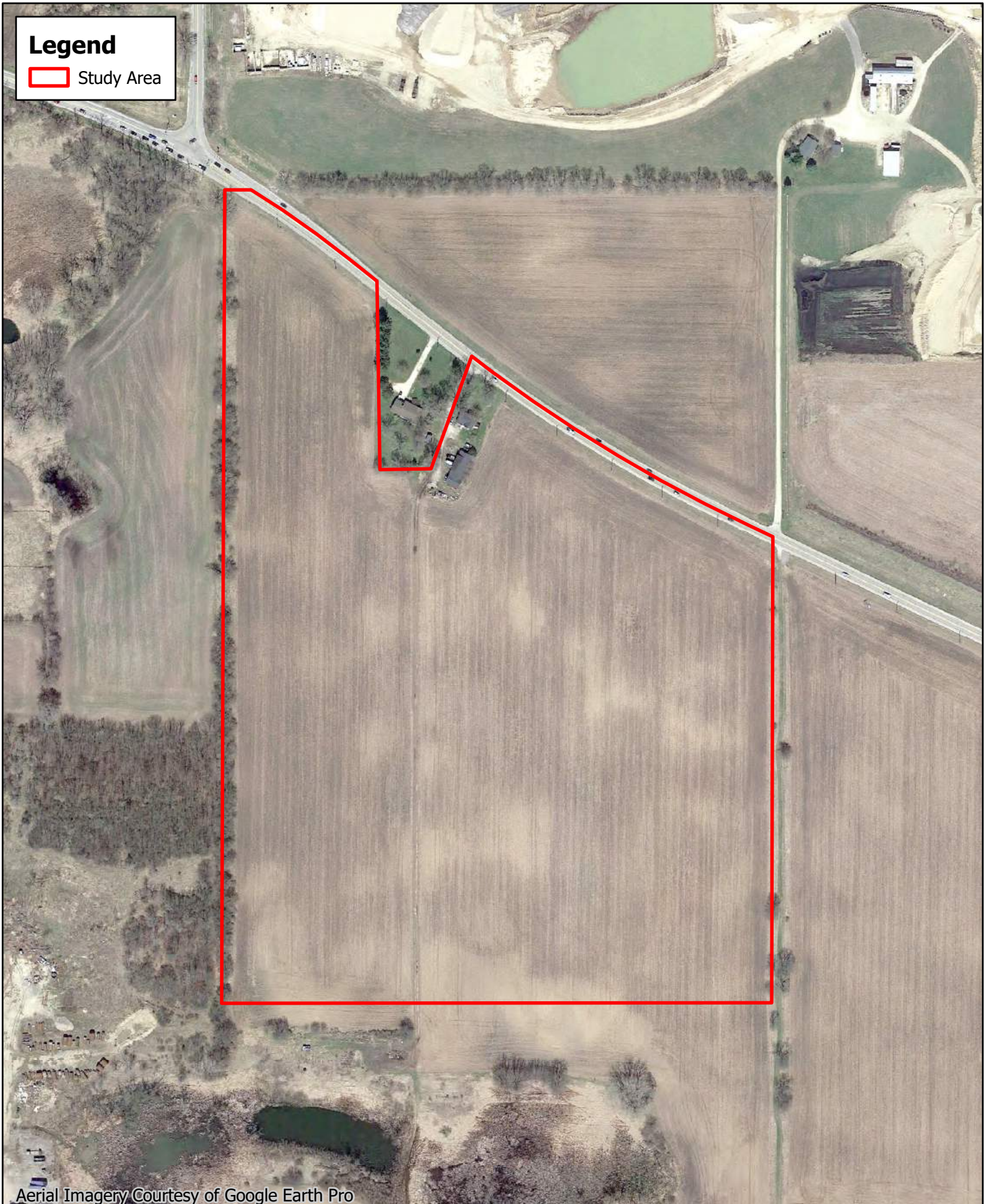


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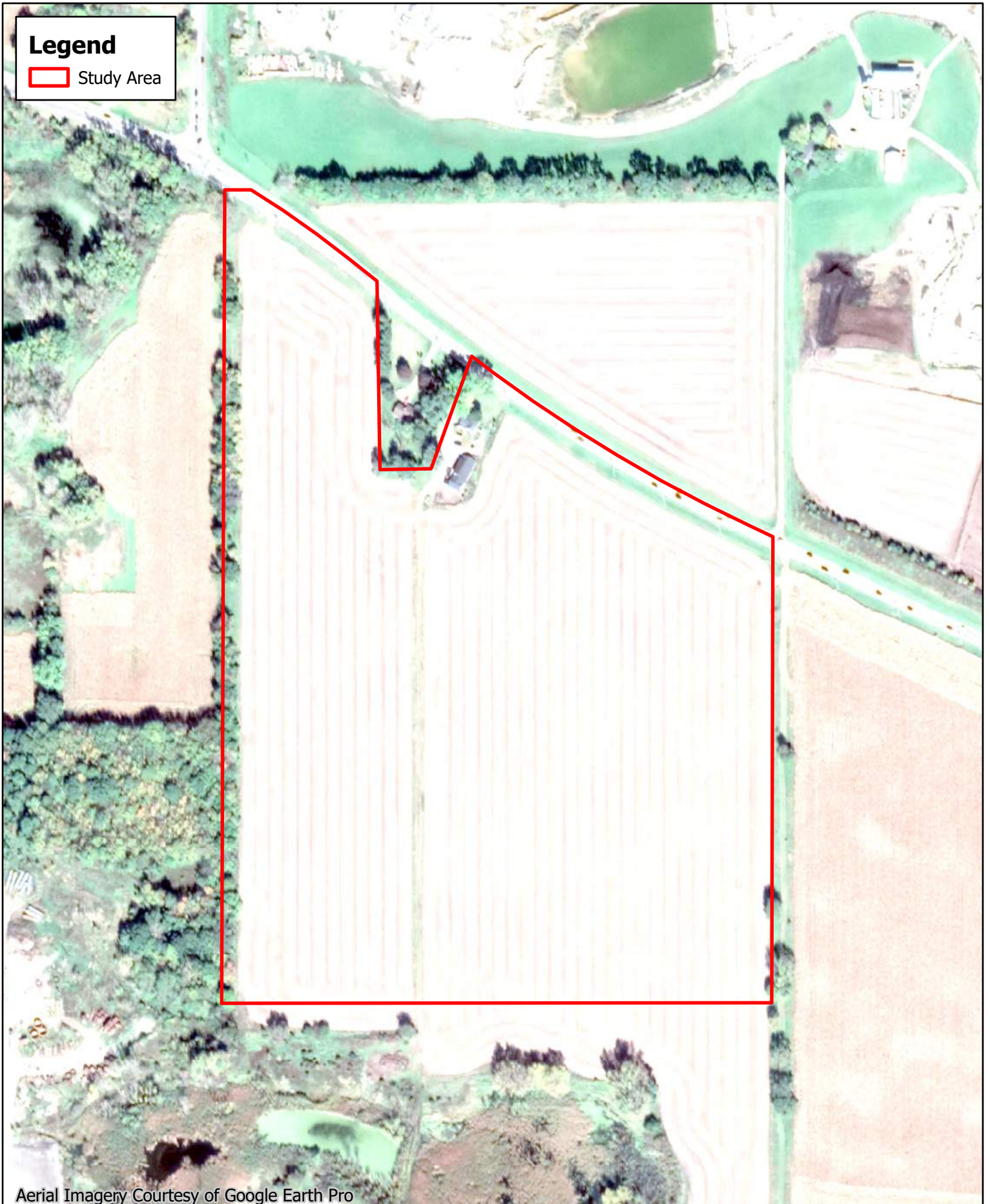


Aerial Imagery Courtesy of Google Earth Pro



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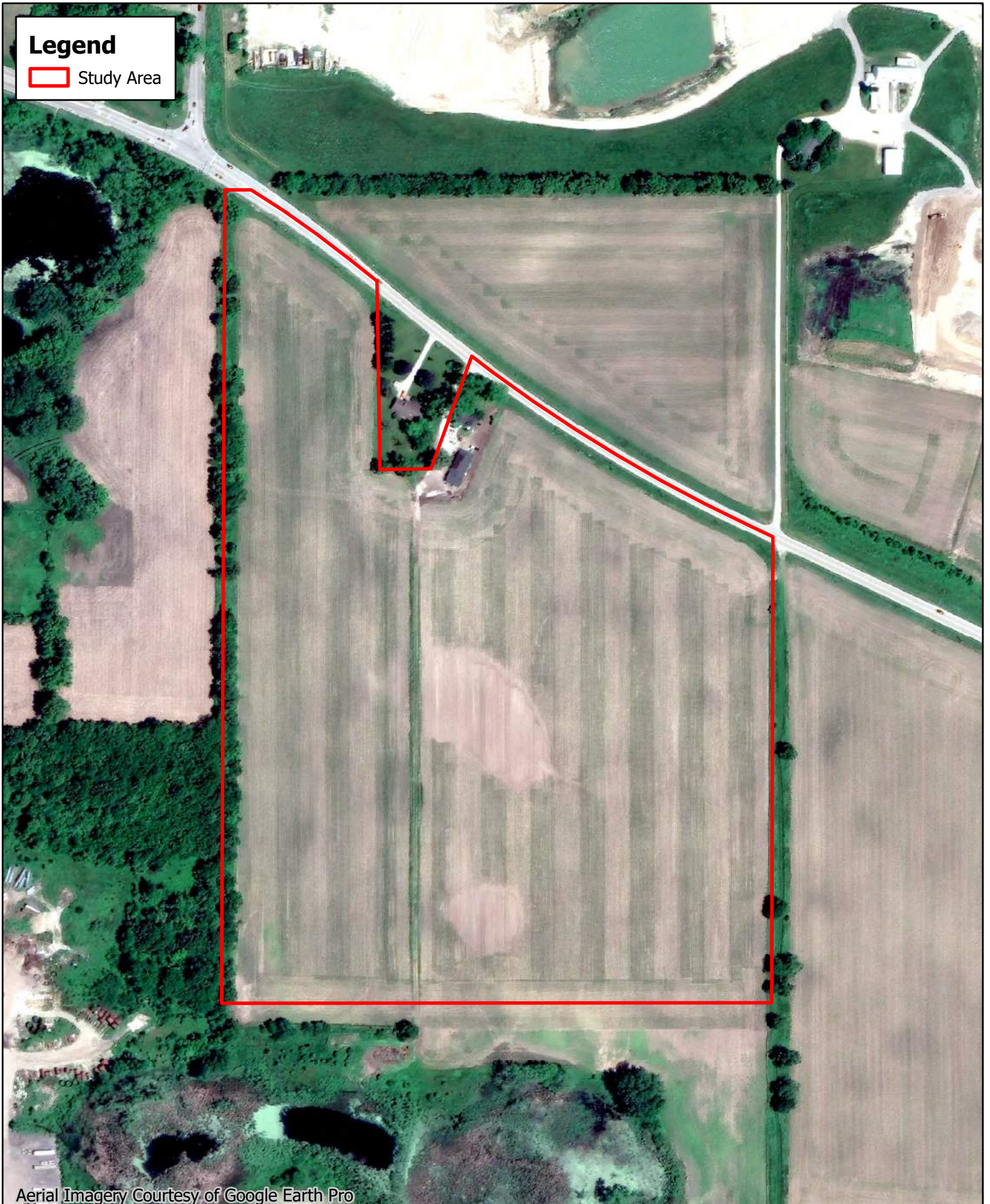


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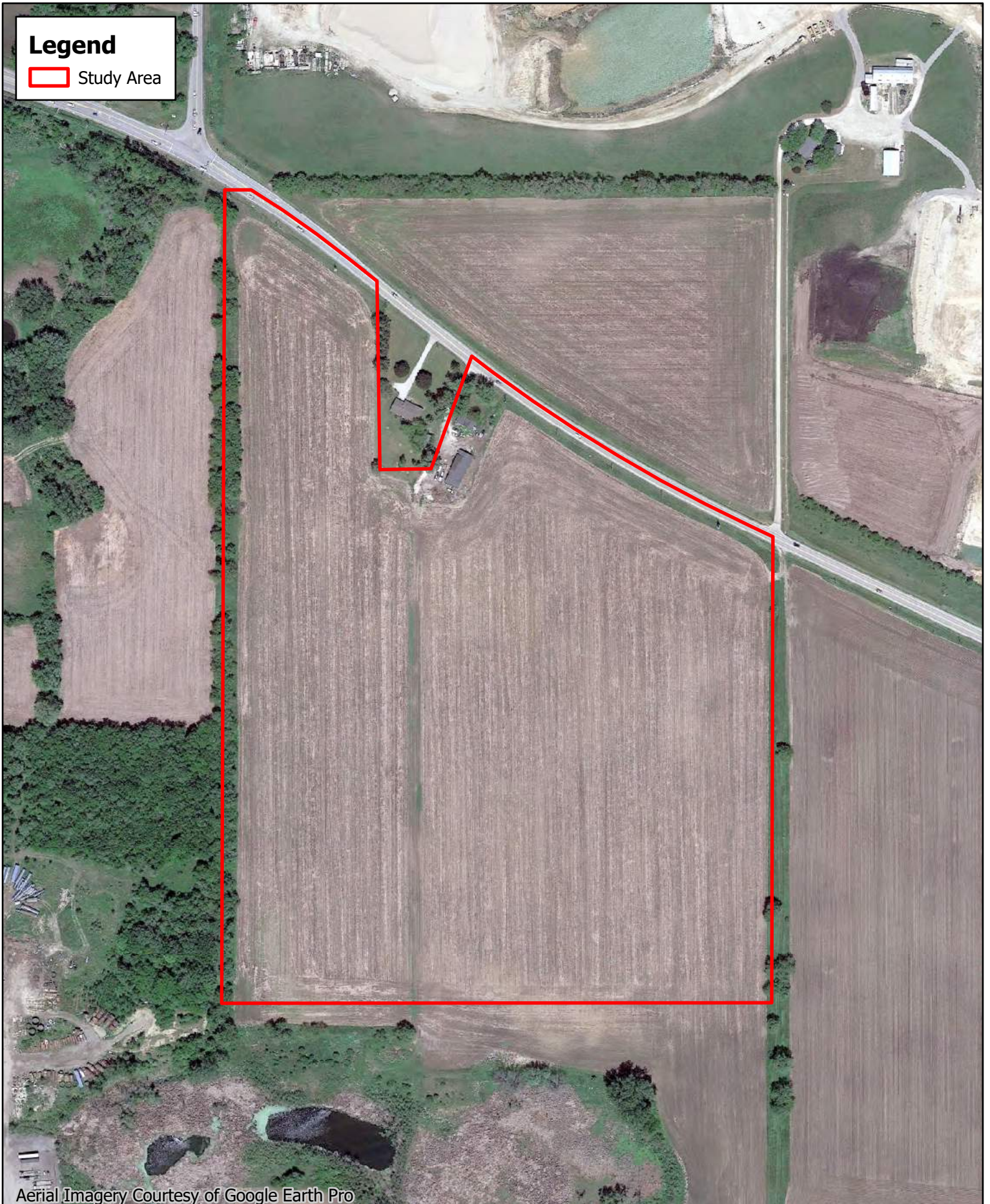


Aerial Imagery Courtesy of Google Earth Pro



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 Study Area



Aerial Imagery Courtesy of Google Earth Pro



ATTACHMENT B

Species Resources

Applicant: TPE IL KN415, LLC
Contact: Keller Leet-Otley
Address: 3720 S Dahlia St
Denver, CO 80326

IDNR Project Number: 2402393
Date: 08/07/2023

Project: TPE IL KN415, LLC
Address: Huntley Road, Dundee

Description: Construction of solar farm with associated access roads, utilities, and equipment on-site.

Natural Resource Review Results

Consultation for Endangered Species Protection and Natural Areas Preservation (Part 1075)

The Illinois Natural Heritage Database shows the following protected resources may be in the vicinity of the project location:

Blanding's Turtle (*Emydoidea blandingii*)

An IDNR staff member will evaluate this information and contact you to request additional information or to terminate consultation if adverse effects are unlikely.

Location

The applicant is responsible for the accuracy of the location submitted for the project.

County: Kane

Township, Range, Section:
42N, 7E, 1



IL Department of Natural Resources
Contact
Adam Rawe
217-785-5500
Division of Ecosystems & Environment

Government Jurisdiction
IL Environmental Protection Agency
Terri LeMasters
1020 North Grand Avenue East
Springfield, Illinois 62794 -9276

Disclaimer

The Illinois Natural Heritage Database cannot provide a conclusive statement on the presence, absence, or condition of natural resources in Illinois. This review reflects the information existing in the Database at the time of this inquiry, and should not be regarded as a final statement on the site being considered, nor should it be a substitute for detailed site surveys or field surveys required for environmental assessments. If additional protected resources are encountered during the project's implementation, compliance with applicable statutes and regulations is required.

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1. The IDNR EcoCAT website was developed so that units of local government, state agencies and the public could request information or begin natural resource consultations on-line for the Illinois Endangered Species Protection Act, Illinois Natural Areas Preservation Act, and Illinois Interagency Wetland Policy Act. EcoCAT uses databases, Geographic Information System mapping, and a set of programmed decision rules to determine if proposed actions are in the vicinity of protected natural resources. By indicating your agreement to the Terms of Use for this application, you warrant that you will not use this web site for any other purpose.

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3. IDNR reserves the right to enhance, modify, alter, or suspend the website at any time without notice, or to terminate or restrict access.

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Unauthorized use, tampering with or modification of this system, including supporting hardware or software, may subject the violator to criminal and civil penalties. In the event of unauthorized intrusion, all relevant information regarding possible violation of law may be provided to law enforcement officials.

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EcoCAT generates a public record subject to disclosure under the Freedom of Information Act. Otherwise, IDNR uses the information submitted to EcoCAT solely for internal tracking purposes.



Illinois Department of Natural Resources

One Natural Resources Way Springfield, Illinois 62702-1271
<http://dnr.state.il.us>

JB Pritzker, Governor

Natalie Phelps Finnie, Director

August 07, 2023

Keller Leet-Otley
TPE IL KN415, LLC
3720 S Dahlia St
Denver, CO 80326

RE: TPE IL KN415, LLC
Project Number(s): 2402393
County: Kane

Dear Applicant:

This letter is in reference to the project you recently submitted for consultation. The natural resource review provided by EcoCAT identified protected resources that may be in the vicinity of the proposed action. The Department has evaluated this information and concluded that adverse effects are unlikely. Therefore, consultation under 17 Ill. Adm. Code Part 1075 is terminated.

However, state listed Blanding's turtles are known to occur in the general area. Construction and maintenance personnel should be educated about this species and instructed not to harass or move the turtles if encountered. The Department should be notified if a Blanding's turtle is encountered on the solar site.

This consultation is valid for two years unless new information becomes available that was not previously considered; the proposed action is modified; or additional species, essential habitat, or Natural Areas are identified in the vicinity. If the project has not been implemented within two years of the date of this letter, or any of the above listed conditions develop, a new consultation is necessary.

The natural resource review reflects the information existing in the Illinois Natural Heritage Database at the time of the project submittal, and should not be regarded as a final statement on the site being considered, nor should it be a substitute for detailed site surveys or field surveys required for environmental assessments. If additional protected resources are encountered during the project's implementation, you must comply with the applicable statutes and regulations. Also, note that termination does not imply IDNR's authorization or endorsement of the proposed action.

Please contact me if you have questions regarding this review.

Adam Rawe
Division of Ecosystems and Environment
217-785-5500



United States Department of the Interior



FISH AND WILDLIFE SERVICE

Chicago Ecological Service Field Office
U.s. Fish And Wildlife Service Chicago Ecological Services Office
230 South Dearborn St., Suite 2938
Chicago, IL 60604-1507
Phone: (312) 485-9337

In Reply Refer To:
Project Code: 2023-0126182
Project Name: TPE IL KN415, LLC

September 07, 2023

Subject: List of threatened and endangered species that may occur in your proposed project location or may be affected by your proposed project

To Whom It May Concern:

The enclosed species list identifies threatened, endangered, proposed, and candidate species, as well as proposed and final designated critical habitat, that may occur within the boundary of your proposed project and/or may be affected by your proposed project. The species list fulfills the requirements of the U.S. Fish and Wildlife Service (Service) under section 7(c) of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*).

New information based on updated surveys, changes in the abundance and distribution of species, changed habitat conditions, or other factors could change this list. Please feel free to contact us if you need more current information or assistance regarding the potential impacts to federally proposed, listed, and candidate species and federally designated and proposed critical habitat. Please note that under 50 CFR 402.12(e) of the regulations implementing section 7 of the Act, the accuracy of this species list should be verified after 90 days. This verification can be completed formally or informally as desired. The Service recommends that verification be completed by visiting the IPaC website at regular intervals during project planning and implementation for updates to species lists and information. An updated list may be requested through the IPaC system by completing the same process used to receive the enclosed list.

The purpose of the Act is to provide a means whereby threatened and endangered species and the ecosystems upon which they depend may be conserved. Under sections 7(a)(1) and 7(a)(2) of the Act and its implementing regulations (50 CFR 402 *et seq.*), Federal agencies are required to utilize their authorities to carry out programs for the conservation of threatened and endangered species and to determine whether projects may affect threatened and endangered species and/or designated critical habitat.

Additionally, please note that on March 23, 2022, the Service published a proposal to reclassify the northern long-eared bat (NLEB) as endangered under the Endangered Species Act. The U.S. District Court for the District of Columbia has ordered the Service to complete a new final listing

determination for the NLEB by November 2022 (Case 1:15-cv-00477, March 1, 2021). The bat, currently listed as threatened, faces extinction due to the range-wide impacts of white-nose syndrome (WNS), a deadly fungal disease affecting cave-dwelling bats across the continent. The proposed reclassification, if finalized, would remove the current 4(d) rule for the NLEB, as these rules may be applied only to threatened species. Depending on the type of effects a project has on NLEB, the change in the species' status may trigger the need to re-initiate consultation for any actions that are not completed and for which the Federal action agency retains discretion once the new listing determination becomes effective (anticipated to occur by December 30, 2022). If your project may result in incidental take of NLEB after the new listing goes into effect this will first need to be addressed in an updated consultation that includes an Incidental Take Statement. If your project may require re-initiation of consultation, please contact our office for additional guidance.

A Biological Assessment is required for construction projects (or other undertakings having similar physical impacts) that are major Federal actions significantly affecting the quality of the human environment as defined in the National Environmental Policy Act (42 U.S.C. 4332(2)(c)). For projects other than major construction activities, the Service suggests that a biological evaluation similar to a Biological Assessment be prepared to determine whether the project may affect listed or proposed species and/or designated or proposed critical habitat. Recommended contents of a Biological Assessment are described at 50 CFR 402.12.

If a Federal agency determines, based on the Biological Assessment or biological evaluation, that listed species and/or designated critical habitat may be affected by the proposed project, the agency is required to consult with the Service pursuant to 50 CFR 402. In addition, the Service recommends that candidate species, proposed species and proposed critical habitat be addressed within the consultation. More information on the regulations and procedures for section 7 consultation, including the role of permit or license applicants, can be found in the "Endangered Species Consultation Handbook" at:

<https://www.fws.gov/sites/default/files/documents/endangered-species-consultation-handbook.pdf>

Migratory Birds: In addition to responsibilities to protect threatened and endangered species under the Endangered Species Act (ESA), there are additional responsibilities under the Migratory Bird Treaty Act (MBTA) and the Bald and Golden Eagle Protection Act (BGEPA) to protect native birds from project-related impacts. Any activity, intentional or unintentional, resulting in take of migratory birds, including eagles, is prohibited unless otherwise permitted by the U.S. Fish and Wildlife Service (50 C.F.R. Sec. 10.12 and 16 U.S.C. Sec. 668(a)). For more information regarding these Acts, see <https://www.fws.gov/program/migratory-bird-permit/what-we-do>.

The MBTA has no provision for allowing take of migratory birds that may be unintentionally killed or injured by otherwise lawful activities. It is the responsibility of the project proponent to comply with these Acts by identifying potential impacts to migratory birds and eagles within applicable NEPA documents (when there is a federal nexus) or a Bird/Eagle Conservation Plan (when there is no federal nexus). Proponents should implement conservation measures to avoid or minimize the production of project-related stressors or minimize the exposure of birds and

their resources to the project-related stressors. For more information on avian stressors and recommended conservation measures, see <https://www.fws.gov/library/collections/threats-birds>.

In addition to MBTA and BGEPA, Executive Order 13186: *Responsibilities of Federal Agencies to Protect Migratory Birds*, obligates all Federal agencies that engage in or authorize activities that might affect migratory birds, to minimize those effects and encourage conservation measures that will improve bird populations. Executive Order 13186 provides for the protection of both migratory birds and migratory bird habitat. For information regarding the implementation of Executive Order 13186, please visit <https://www.fws.gov/partner/council-conservation-migratory-birds>.

We appreciate your concern for threatened and endangered species. The Service encourages Federal agencies to include conservation of threatened and endangered species into their project planning to further the purposes of the Act. Please include the Consultation Code in the header of this letter with any request for consultation or correspondence about your project that you submit to our office.

Attachment(s):

- Official Species List

OFFICIAL SPECIES LIST

This list is provided pursuant to Section 7 of the Endangered Species Act, and fulfills the requirement for Federal agencies to "request of the Secretary of the Interior information whether any species which is listed or proposed to be listed may be present in the area of a proposed action".

This species list is provided by:

Chicago Ecological Service Field Office

U.s. Fish And Wildlife Service Chicago Ecological Services Office

230 South Dearborn St., Suite 2938

Chicago, IL 60604-1507

(312) 485-9337

PROJECT SUMMARY

Project Code: 2023-0126182
Project Name: TPE IL KN415, LLC
Project Type: Power Gen - Solar
Project Description: Community scale solar development with its associated access roads and utilities.

Project Location:

The approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/@42.144069599999995,-88.36671680020598,14z>



Counties: Kane County, Illinois

ENDANGERED SPECIES ACT SPECIES

There is a total of 4 threatened, endangered, or candidate species on this species list.

Species on this list should be considered in an effects analysis for your project and could include species that exist in another geographic area. For example, certain fish may appear on the species list because a project could affect downstream species. Note that 1 of these species should be considered only under certain conditions.

IPaC does not display listed species or critical habitats under the sole jurisdiction of NOAA Fisheries¹, as USFWS does not have the authority to speak on behalf of NOAA and the Department of Commerce.

See the "Critical habitats" section below for those critical habitats that lie wholly or partially within your project area under this office's jurisdiction. Please contact the designated FWS office if you have questions.

-
1. [NOAA Fisheries](#), also known as the National Marine Fisheries Service (NMFS), is an office of the National Oceanic and Atmospheric Administration within the Department of Commerce.

MAMMALS

| NAME | STATUS |
|--|------------|
| Northern Long-eared Bat <i>Myotis septentrionalis</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/9045 | Endangered |

BIRDS

| NAME | STATUS |
|--|--|
| Whooping Crane <i>Grus americana</i> Population: U.S.A. (AL, AR, CO, FL, GA, ID, IL, IN, IA, KY, LA, MI, MN, MS, MO, NC, NM, OH, SC, TN, UT, VA, WI, WV, western half of WY) No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/758 | Experimental Population, Non-Essential |

INSECTS

| NAME | STATUS |
|--|-----------|
| Monarch Butterfly <i>Danaus plexippus</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/9743 | Candidate |

FLOWERING PLANTS

| NAME | STATUS |
|---|------------|
| Eastern Prairie Fringed Orchid <i>Platanthera leucophaea</i> | Threatened |
| No critical habitat has been designated for this species. | |
| This species only needs to be considered under the following conditions: | |
| <ul style="list-style-type: none">▪ Follow the guidance provided at https://www.fws.gov/midwest/endangered/section7/s7process/plants/epfos7guide.html | |
| Species profile: https://ecos.fws.gov/ecp/species/601 | |

CRITICAL HABITATS

THERE ARE NO CRITICAL HABITATS WITHIN YOUR PROJECT AREA UNDER THIS OFFICE'S JURISDICTION.

YOU ARE STILL REQUIRED TO DETERMINE IF YOUR PROJECT(S) MAY HAVE EFFECTS ON ALL ABOVE LISTED SPECIES.

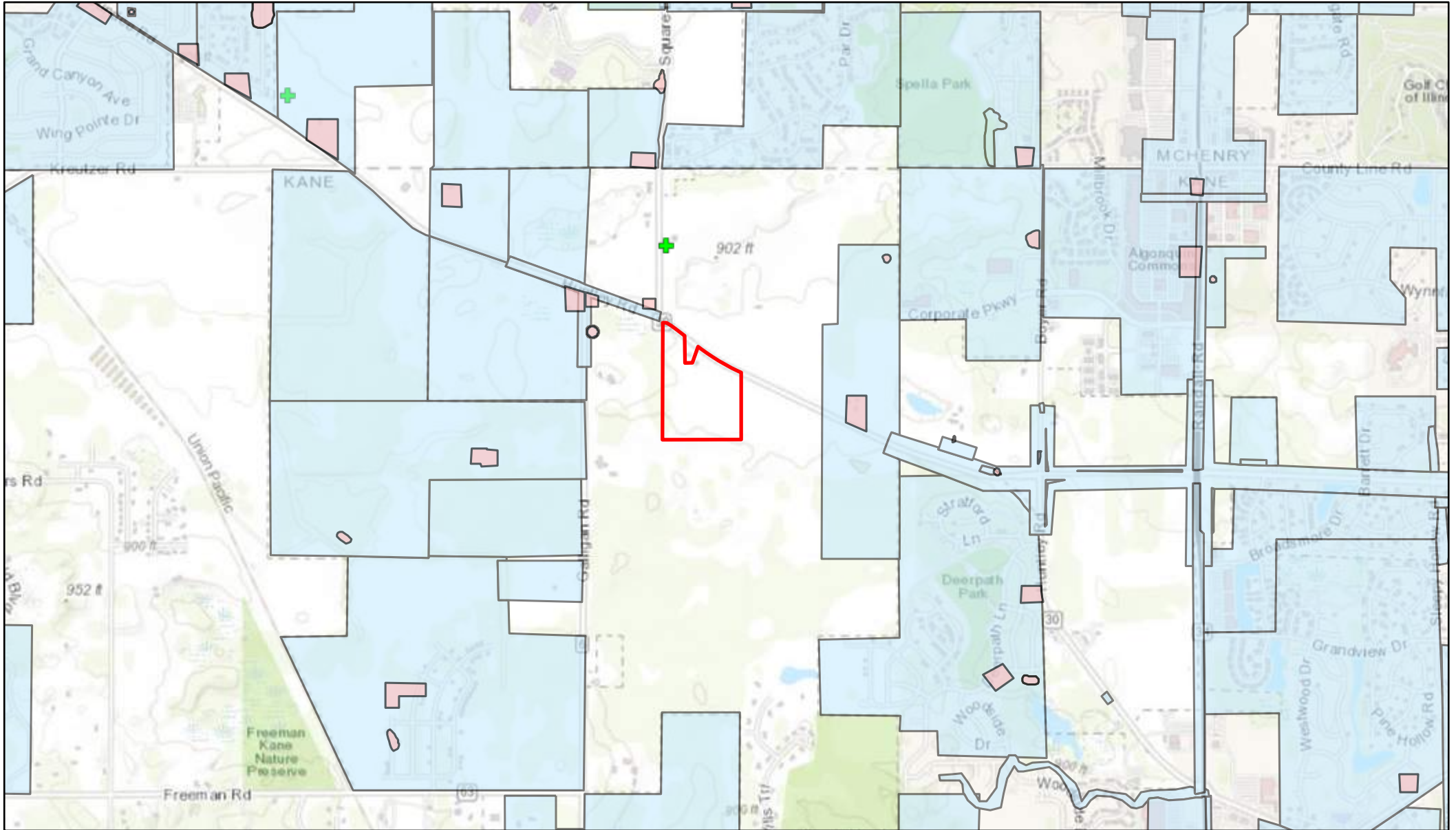
IPAC USER CONTACT INFORMATION

Agency: Kimley-Horn
Name: Mason Kunkel
Address: 767
Address Line 2: N EUSTIS ST
City: St. Pual
State: MN
Zip: 55114
Email: mason.kunkel@kimley-horn.com
Phone: 6124705678

ATTACHMENT C

Historic Resources

TPE KN415



8/22/2023, 5:54:47 PM

-  Study Area
-  Surveys
-  IAS Sites
-  ISM Cemeteries

1:36,112

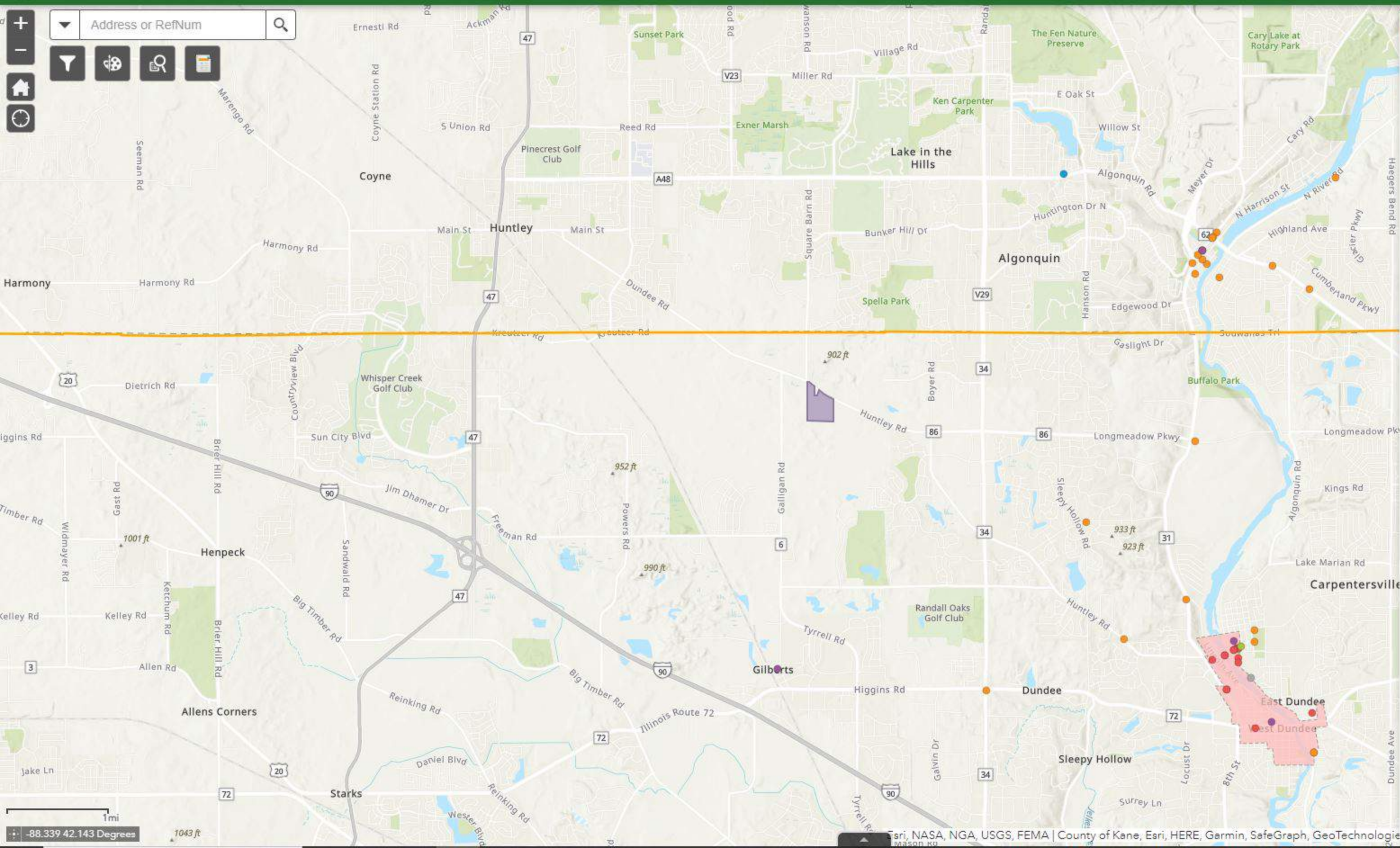
0 0.23 0.45 0.9 mi

0 0.35 0.7 1.4 km

County of Kane, Esri Canada, Esri, HERE, Garmin, INCREMENT P, USGS, METI/NASA, EPA, USDA

Address or RefNum

Map navigation icons: Zoom In, Zoom Out, Home, Refresh, Full Screen, Print, Layers, Settings, Location



Legend

- Areas**
 - [Grey polygon symbol]
- National Register Properties**
 - [Red dot symbol] Part of a NR Historic District
 - [Blue dot symbol] Determined eligible for the NR
 - [Green dot symbol] Part of a NR Historic District - contributing
 - [Purple dot symbol] Entered in the NR
 - [Orange dot symbol] Undetermined
 - [Grey dot symbol] Other
- NR Evaluation - Undetermined**
 - [Orange dot symbol] Undetermined
- IL Boundary**
 - [Black outline symbol]
- National Register Districts**
 - [Pink shaded area symbol]
- CLG Districts**
 - [Hatched area symbol]
- Survey Areas**
 - [Hatched area symbol]
- County Boundaries**
 - [Yellow outline symbol]

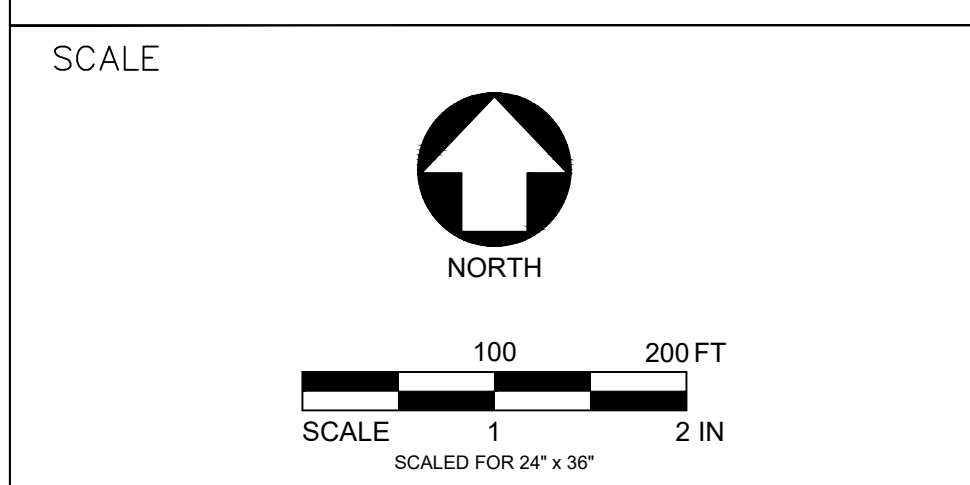
ATTACHMENT D

Site Plan



SYSTEM SUMMARY

| | |
|------------------------|--|
| AC SYSTEM SIZE | 4.99MW _{AC} |
| DC SYSTEM SIZE | 7.50MW _{DC} |
| OVERALL SITE AREA | 45.39 ACRES |
| LEASE AREA | 36.28 ACRES |
| TOTAL LOD | 34.46 ACRES |
| FENCE AREA | 33.08 ACRES |
| ARRAY AREA | 29.45 ACRES |
| GEN-TIE LENGTH | 252 FEET |
| TOTAL NEW ROADS LENGTH | 219 FEET |
| TOTAL NEW ROADS AREA | 4,741 SQFT |
| TOTAL FENCE LENGTH | 5,573 FEET |
| TREE CLEARING AREA | 0.00 ACRES |
| TOTAL NEW LANDSCAPING | 0 FEET |
| GCR | 33% |
| MODULE STC RATING | 555 W |
| MODULE QUANTITY | 13,520 |
| STRING SIZE (# PANELS) | 26 |
| STRING QUANTITY | 520 |
| NUMBER OF TRACKERS | 1 STRINGS TRACKER- 19 2 STRINGS TRACKER- 66 3 STRINGS TRACKER- 123 |
| RACK TYPE | SINGLE AXIS TRACKER |
| ARRAY AZIMUTH | 180° |
| TILT ANGLE | 60° TO 60° |
| TOTAL LAYDOWN AREA | 0.27 ACRES |
| PARCEL ID | 02-01-300-018 |
| MODULE MFR | LONGI SOLAR |
| MODULE MODEL | LR5-72HBD-555M BIFACIAL |
| INVERTER MFR | CPS SCH125KTL-DO/US-600 |
| INVERTER MODEL | CHINT POWER SYSTEMS |
| INVERTER QUANTITY | 40 |
| INVERTER AC OUTPUT | 125kW _{AC} |



PRELIMINARY
NOT FOR CONSTRUCTION

PROJECT LAND OWNER
**ILKN415 BENNER, STEVEN
G & TAMARA L**

ADDRESS
**HUNTLEY RD,
DUNDEE, IL 60118**

| REV | DESCRIPTION | DATE |
|-----|-------------|------|
| | | |
| | | |
| | | |

PROJECT # **ILKN415** DRAWN BY **EQ**

DATE **2023-06-30**

SHEET NAME **SITE PLAN** SHEET NUMBER **A.1**