

Property Owner

Northern States Power Company
414 Nicollet Mall
Minneapolis, MN 55401

Applicant

Lab USA
211 N. Broadway, Suite 211
Green Bay, WI 54303

Request and Location

Request for review and approval of a Variance to reduce the required setback from the centerline of a private road from 65 feet to 30 feet for the construction of an Ash Processing Facility. The proposed facility will recover and remove ferrous and non-ferrous metals from the combustor ash generated by the Wilmarth Steam Plant, and from the existing ash landfill associated with the Wilmarth Ash Disposal Facility. The property is zoned Conservation and Agricultural. It is also located within the Urban Fringe Overlay District of the City of Mankato, and has a small portion within the Shoreland Overlay District of the Blue Earth River. The property is located in part of the Northeast Quarter of the Northwest Quarter and part of the Northwest Quarter of the Northeast Quarter of Section 32, South Bend Township.

Legal Description

The property is located in part of the Northeast Quarter of the Northwest Quarter and part of the Northwest Quarter of the Northeast Quarter of Section 32, South Bend Township.

Zoning

The property is zoned Conservation and Agricultural. It is also located within the Urban Fringe Overlay District of the City of Mankato, and has a small portion within the Shoreland Overlay District of the Blue Earth River.

Site Description and Proposal

The general area has been used as a solid waste disposal area since 1972. In 1986, Northern States Power (NSP) purchased 42 acres from the original landfill owners, and in 1987 began operations of the Wilmarth Ash Disposal Facility. The property currently consists of 42.54 acres that includes the Wilmarth Ash Disposal Facility, several monitoring wells, and a portion of 200th Lane (a private road).

The facility is currently permitted to store a maximum of 2.65 million cubic yards of ash. The site accepts approximately 50,000 cubic yards of ash per year from the Xcel Energy Wilmarth Generating Station. Based on current acceptance rates, NSP anticipates the existing facility having enough capacity to operate until 2035.

Lab USA is proposing to construct a 73,200 ft² facility which will process both the used combustor ash, as well as the ash mined onsite. The purpose of the processing is to recover and remove ferrous and non-ferrous metals. Although the proposed structure will meet all other required setbacks, the new structure will encroach into the required structure setback from the centerline of 200th Lane by 35 feet. See Attachment A-4

Project Outcome

If approved, the applicant's will need to apply for and receive approval of a Conditional Use Permit to allow the intensification of the use already permitted on this property. If the CUP is approved, they will also need to apply for a construction permit for proceeding with any development on this site.

Existing Land Use within One Mile

- North:** 200th Lane (Private Road), Ponderosa Solid Waste Landfill, woodland that includes a ravine system, crop land, a gravel mining operation, and the Blue Earth River
- South:** Woodland, crop land, 198th Lane (Township Road), Galena Lane (Township Road), CSAH 34, and 540th Avenue (Township Road)
- East:** Ponderosa Landfill, woodland, crop land, CSAH 34, and 549th Lane (Township Road)
- West:** Wooded ravine system, Blue Earth River, crop land, a gravel mining operation, and 539th Lane (Township Road)

Dwellings: Currently, there are 29 residential dwellings located within one mile of this location. The closest being approximately 1,300 feet south of the proposed structure. See Attachment A-5

Access

No change in access is being proposed. The existing access is to and from 200th Lane, a private road.

NATURAL RESOURCES INFORMATION

Topography

The topography of the site ranges between gradual elevation changes within the property, to steep slopes along the river and around the landfill area. See Attachment A-6

Floodplain

There is no mapped FEMA Floodplain within the area of the proposed structure. The nearest mapped FEMA Floodplain is approximately 550 feet west of the proposed structure.

See Attachment A-7

Shoreland

The northwest corner of the property contains an area within the Shoreland Overlay District of the Blue Earth River. However, the proposed structure will be located approximately 270 feet east of the Shoreland Overlay District. See Attachment A-8

Township Review

In an email dated, December 6, 2017, Jamie Malvin, the Clerk for South Bend Township stated the applicant's attended the regularly scheduled Township meeting for December 2017. The Township reviewed the proposal and approves of the request regarding the Metal Recovery Project.

City of Mankato Review

In an email dated, December 20, 2017, Mark Konz, the Planning Coordinator of the Community Development Department of the City of Mankato stated that the City of Mankato does not object to the proposal as it is a complimentary use to the existing allowed utilization of the property.

Minnesota Pollution Control Agency Review

In an email dated December 20, 2017, Dan Aamodt from the MPCA stated he has reviewed Xcel's application for the modification of their solid waste permit and found that their design plans and procedures outlined in their operations manual conform to Minnesota State Rules and will not pose a substantial risk to the environment. He added that he is drafting a new version of the facilities solid waste permit which will incorporate new regulations related to the ash recovery operation. After receiving Xcel's comments on the permit and finalizing a draft permit, it will be placed on a 30-day public notice period. All comments received during the public notice period will receive a written response and the permit may be modified accordingly. Mr. Aamodt anticipates that the public notice period to begin in mid-January.

Environmental Health Review

See Attachment A-9

APPLICABLE SECTIONS OF THE COUNTY ZONING ORDINANCE

Sec. 24-48. Board of Adjustment

(h) **Powers and Duties of the Board of Adjustment.** The Board of Adjustment shall have the following duties

1. **Variances.** The Board of Adjustment shall have the exclusive authority to order the issuance of denial of variances from the requirements of any official control, including restrictions placed on nonconformities.

(j) **Criteria for Granting Variances.** A variance to a provision of the Zoning Ordinance may be issued to provide relief to the landowner in those zones where the intent of the applicable standards creates practical difficulties for the property owner in the use of their land.

No variance shall have the effect of allowing the Floodplain District a lower degree of flood protection than the Regulatory Flood Protection Elevation for the particular area or permit standards lower than those required by state law.

A variance may be granted only in the event that all of the following circumstances exist:

1. The variance is in harmony with the general purpose and intent of the official control.
2. The variance is consistent with the intent of the comprehensive plan.
3. The property owner proposes to use the property in a reasonable manner not permitted by an official control.

4. The plight of the landowner is due to circumstances unique to the property, not created by the landowner.
5. The variance will not alter the essential character of the locality.
6. The practical difficulty includes more than economic considerations alone.

Sec. 24-113 Height, yard and lot area, width and depth regulations.

(b) *Front yard regulations.* There shall be a front yard setback in the A district of not less than 130 feet from the centerline of all federal, state, county and county-state aid highways, except for divided highways which shall be 100 feet from the highway right-of-way line. There shall be a front yard setback of not less than 65 feet from the centerline of all other public rights-of-way and private roads.

Applicant's Statement of Practical Difficulty

In summary: The variance proposal is due to the existing location of the ash landfill and its infrastructure. The applicant stated the use is complementary to the existing use and should not change the character of the locality. The parcel size, other setback requirements, and the size of the building required for this type of operation are reasons why the variance is needed. In addition to County regulations, the applicant will have to adhere to all regulations imposed by the Minnesota Pollution Control Agency. See Attachment A-10

Proposed Findings

Staff has developed the following proposed findings to be considered by the Board of Adjustment:

1. The variance is in harmony with the general purpose and intent of the official control.
The official controls call for extensive areas of the County to be preserved for Agricultural related uses. This variance request will allow the proposed structure to be located near existing utilities, access, and other necessary infrastructure. If it were to be placed in another location within this parcel, that would require additional agricultural land to be used for access and the placement of utilities, in addition to supporting the proposed structure. For these reasons, the request appears to be in harmony with the general purpose and intent of the official control.
2. The variance is consistent with the intent of the comprehensive plan.
The Blue Earth County Land Use Plan states, "Blue Earth County contains large areas of environmentally sensitive land. It is in the County's best interest to adopt performance standards to protect natural resources such as bluff areas, rivers, wetlands, and wooded areas, from development pressures." This request will allow the proposed structure to be in an area that is already disturbed, and away from the environmentally sensitive areas to the west and near the Blue Earth River. For this reason, the request appears to be consistent with the intent of the Land Use Plan.

3. The property owner proposes to use the property in a reasonable manner not permitted by an official control.
The property where the proposal will be located contains an existing ash landfill. A structure that contains equipment that processes the ash is a permitted use. Allowing the structure to be in an area where the existing infrastructure can be utilized appears to be a reasonable request. Therefore, the request appears to be a reasonable one that is not permitted by an official control.
4. The plight of the landowner is due to circumstances unique to the property, not created by the landowner.
In addition to the existing ash landfill and its necessary infrastructure, this property has some sloped areas which may meet the County's definition of a bluff, and some other environmentally sensitive areas as well. The presence of the landfill, mixed with the environmentally sensitive areas, represents a unique circumstance for any property in the Agricultural district. The location of the existing infrastructure is also based on the size and location of the parcel. Therefore, it appears as if the plight of the landowner is due to circumstances unique to the property, not created by the landowner.
5. The variance will not alter the essential character of the locality.
The locality contains an ash land fill, and a mixed-municipal solid waste landfill in an agricultural district. The intensification of the existing use matches the character of the area. Building a structure closer to the centerline of a private road will not change the essential character of the locality.
6. The practical difficulty includes more than economic considerations alone.
The practical difficulty in this location is partially based on the topography of the property, as well as the nearby environmentally sensitive areas. In addition to natural landscape, the location of existing infrastructure creates further practical difficulty for the location of the proposed structure. For these reasons, it appears as if the practical difficulty includes more than economic considerations alone.

Recommendation

Staff recommends **APPROVAL** of the request to reduce the setback from the centerline of a Private Road from 65 feet to 30 feet to allow for the construction of a facility to recover and remove ferrous and non-ferrous metals from the combustor ash generated by the Wilmarth Steam Plant, and from the existing ash mining operation conducted by the Wilmarth Ash Disposal Facility with the following conditions:

1. The applicants apply for, and receive approval of a Conditional Use Permit before commencing any activities related to this request.
2. The location of this structure shall not impede the normal operations of the County's Ponderosa Landfill.

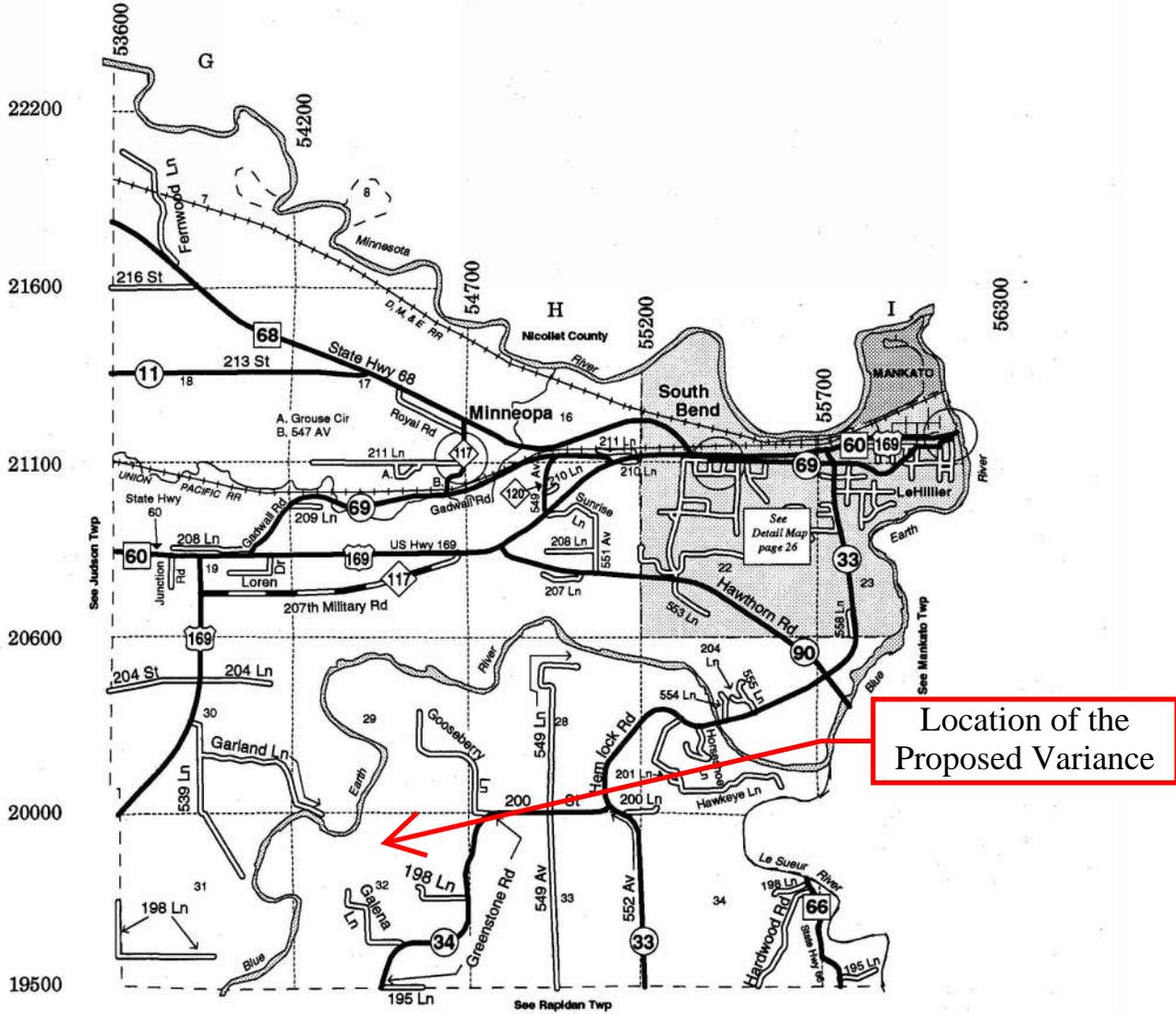
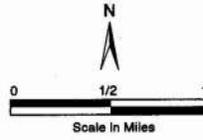
Attachments

- A-1 General Location Map
- A-2a Current Site Map
- A-2b Current Site Map
- A-3 Project Plans
- A-4 Proposed Site Map
- A-5 Residential Structure Proximity Map
- A-6 Topography Map
- A-7 Floodplain Map
- A-8 Shoreland Overlay Map
- A-9 Environmental Health Review
- A-10 Applicant's Statement of Practical Difficulty
- A-11 Variance Findings of Fact Form

General Location Map Attachment A-1

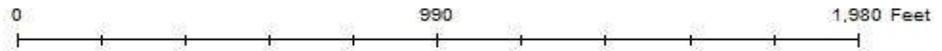
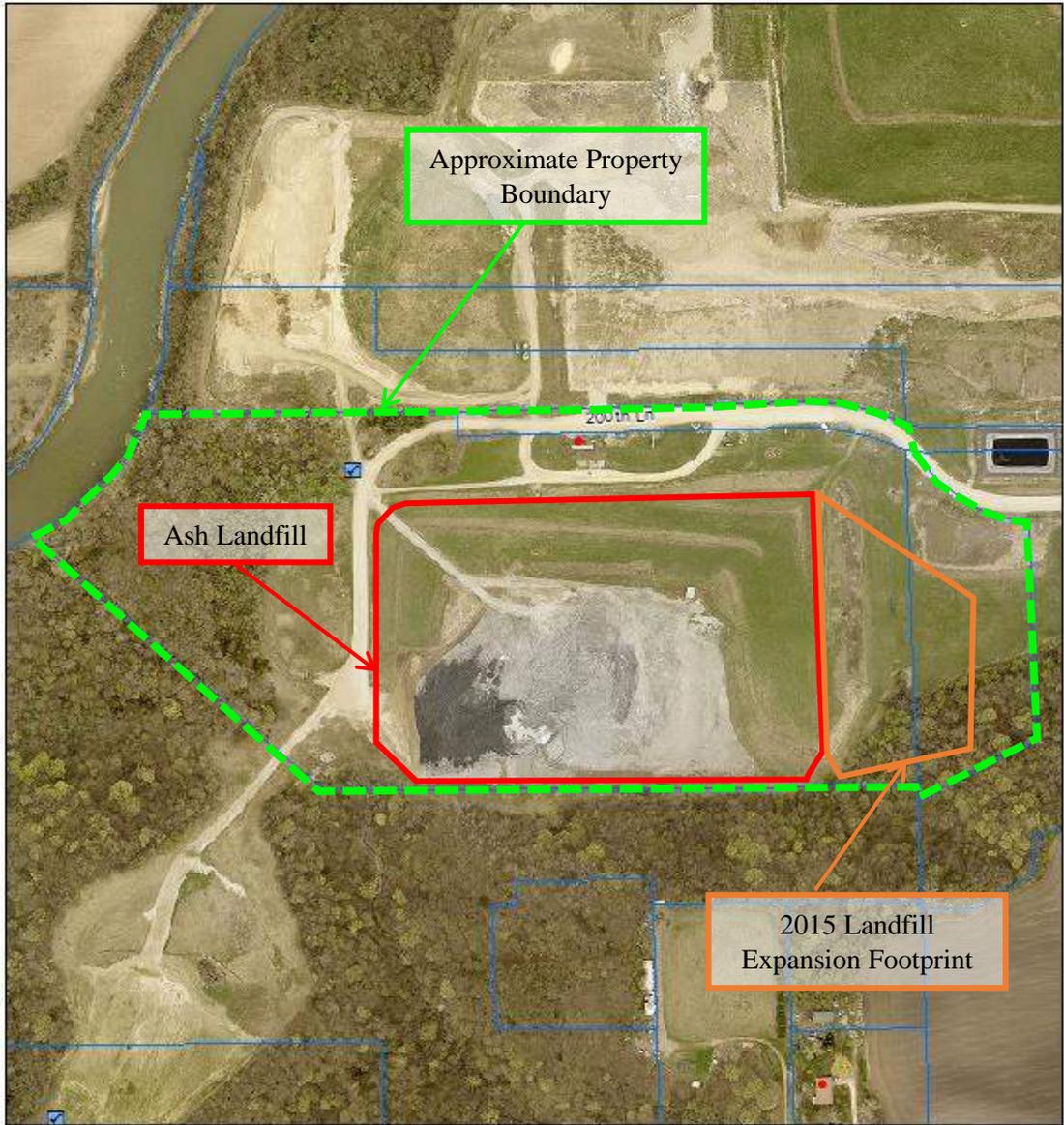
South Bend

T 108 N - R 27 W

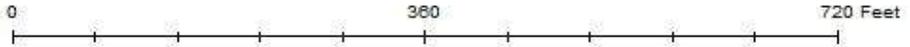
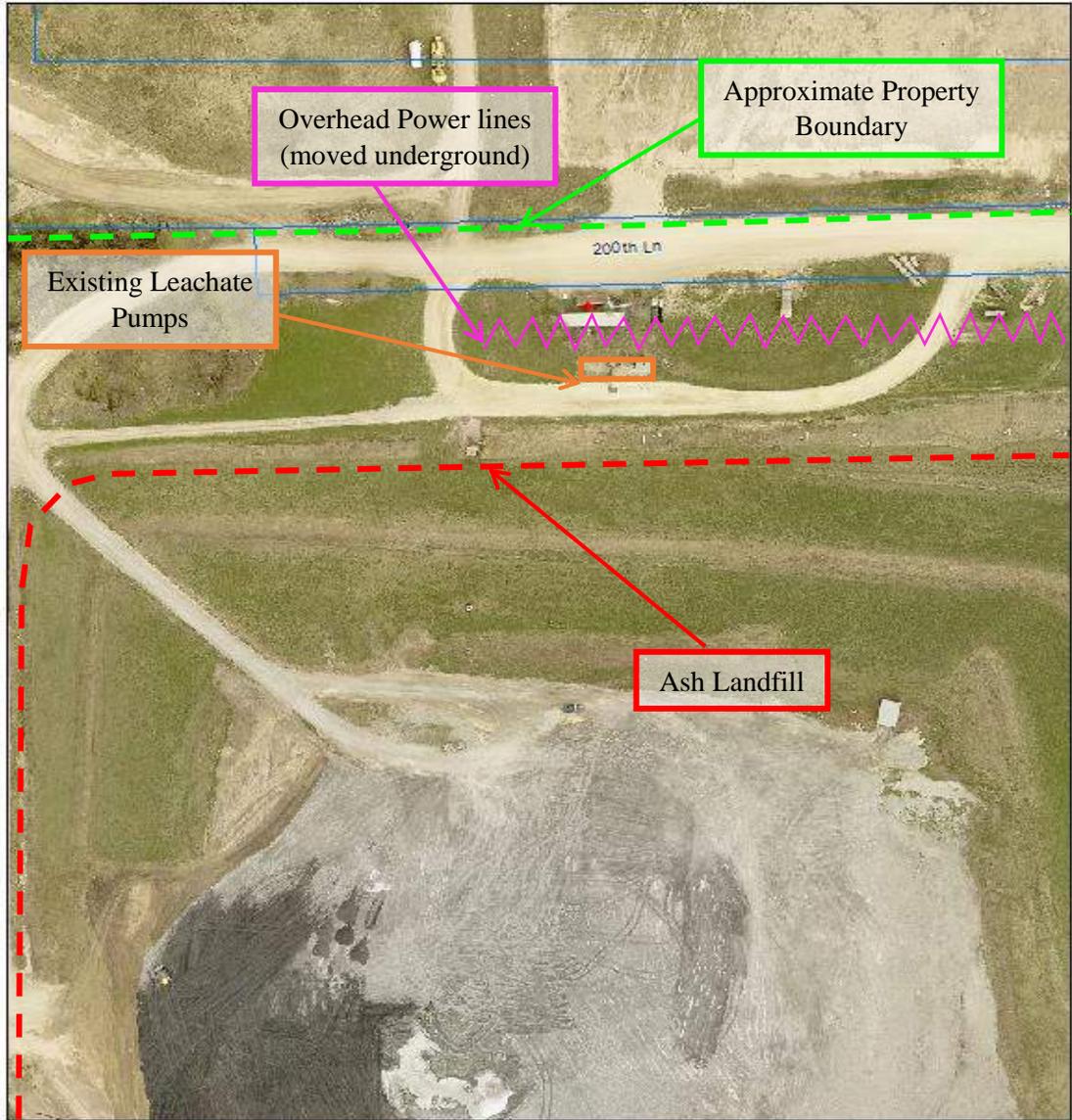


	U.S. Highway		Township Road
	State Highway		Railroad
	County State Aid Highway		Section Line
	County Road		Township Boundary

Current Site Map
Attachment A-2a



Current Site Plan Attachment A-2b



Project Plans
 Attachment A-3
PERMIT DRAWINGS
 FOR
LAB USA

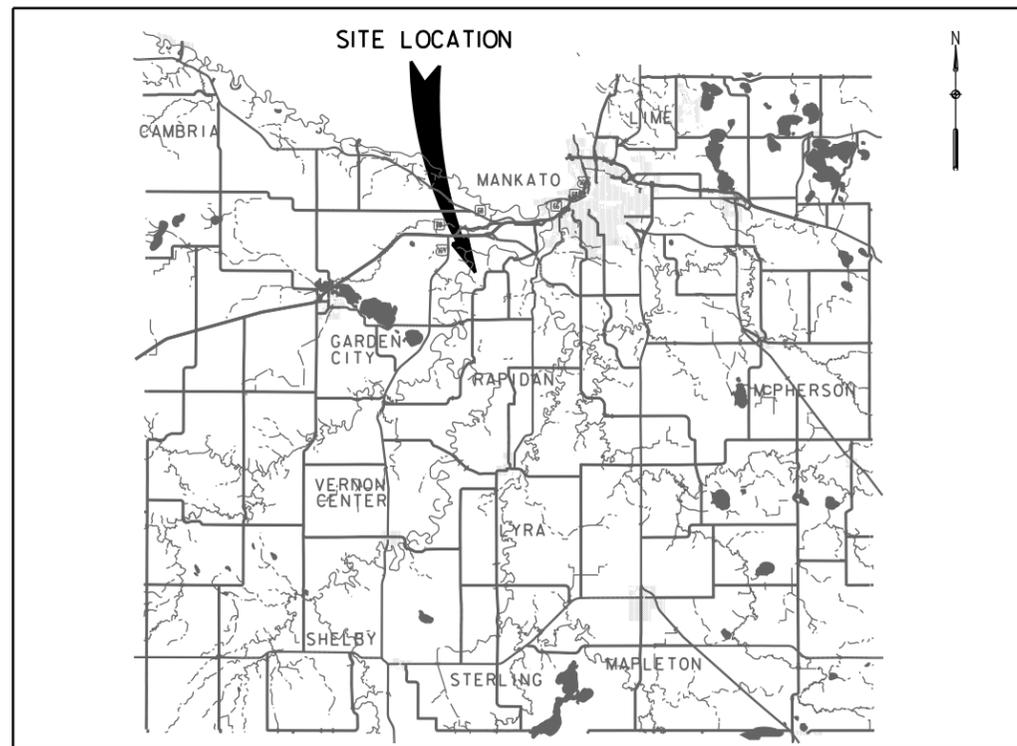
WILMARTH ASH PROCESSING FACILITY
BLUE EARTH COUNTY, MINNESOTA

OCTOBER 2017

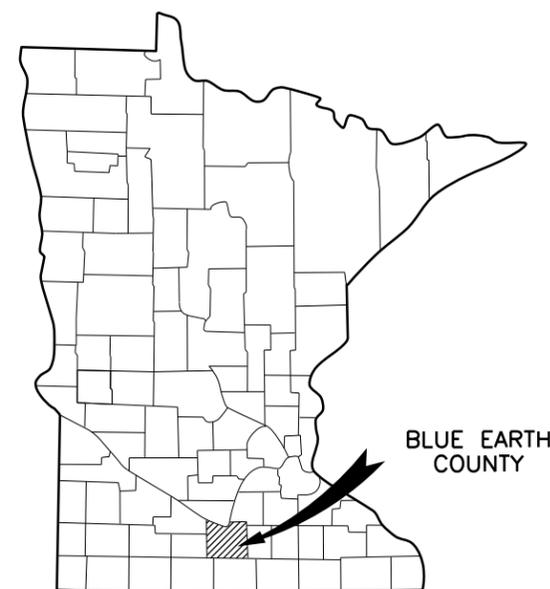
Prepared By



17L016.00



SITE LOCATION MAP



COUNTY LOCATION MAP

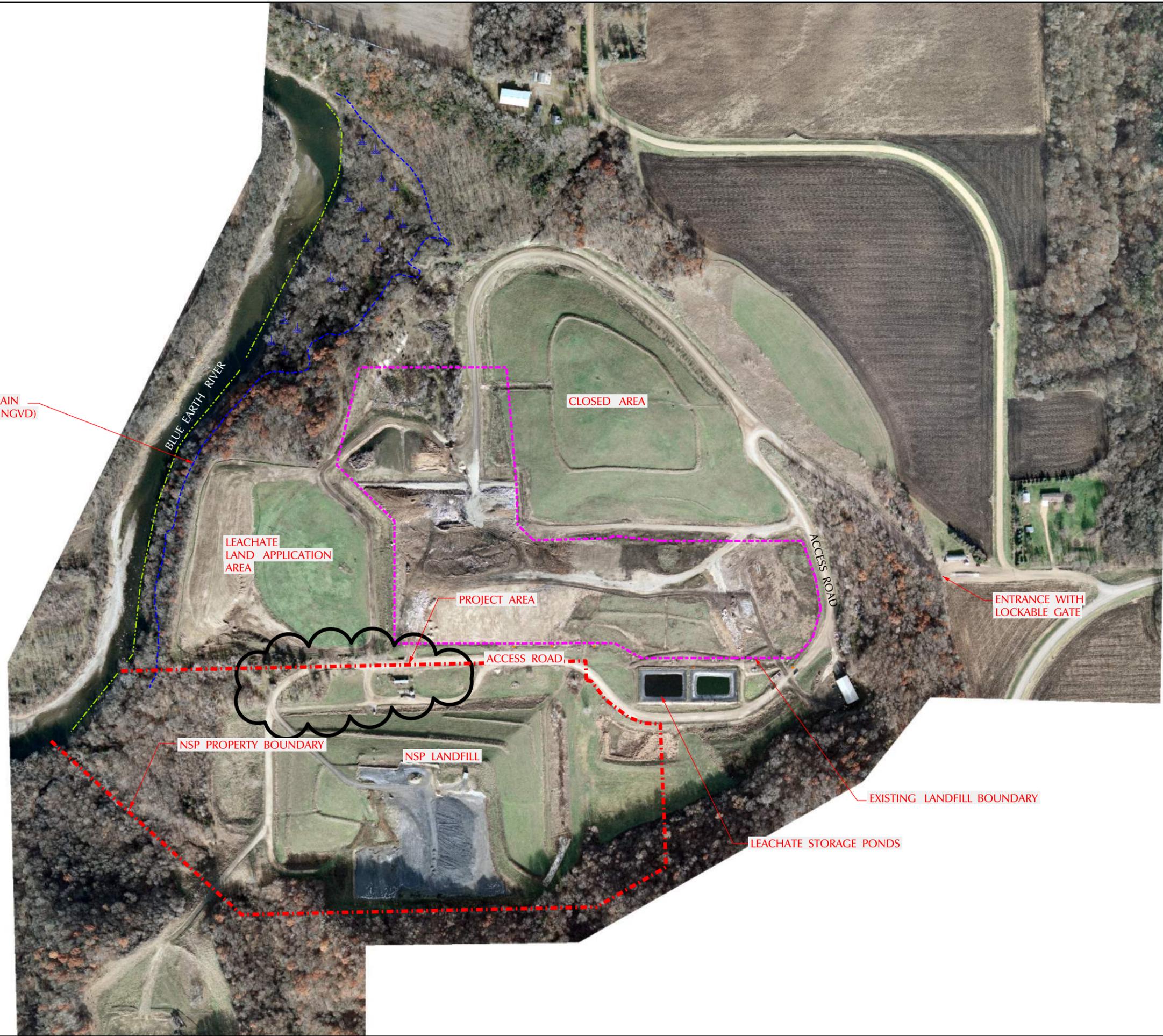
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INDEX	
DRAWING NO.	DESCRIPTION
1	TITLE SHEET
2	SITE MAP
3	SITE PLAN
4	BUILDING ELEVATIONS AND SECTION
5	FLOOR PLAN
6	SCALE DETAILS

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FLOOD PLAIN
(ELEV. 807 NGVD)



LEACHATE
LAND APPLICATION
AREA

PROJECT AREA

ACCESS ROAD

NSP PROPERTY BOUNDARY

NSP LANDFILL

EXISTING LANDFILL BOUNDARY

LEACHATE STORAGE PONDS

CLOSED AREA

ACCESS ROAD

ENTRANCE WITH
LOCKABLE GATE



Foth Infrastructure & Environment, LLC
Eagle Point II
5550 Flanders Way, Suite 105
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PERMIT DRAWINGS FOR
LAB USA WILLMARTH
ASH PROCESSING FACILITY

BLUE EARTH COUNTY MINNESOTA

REVISIONS		DATE	DESCRIPTION
NO.	BY		
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2	AK		
3	AK		
4	AK		

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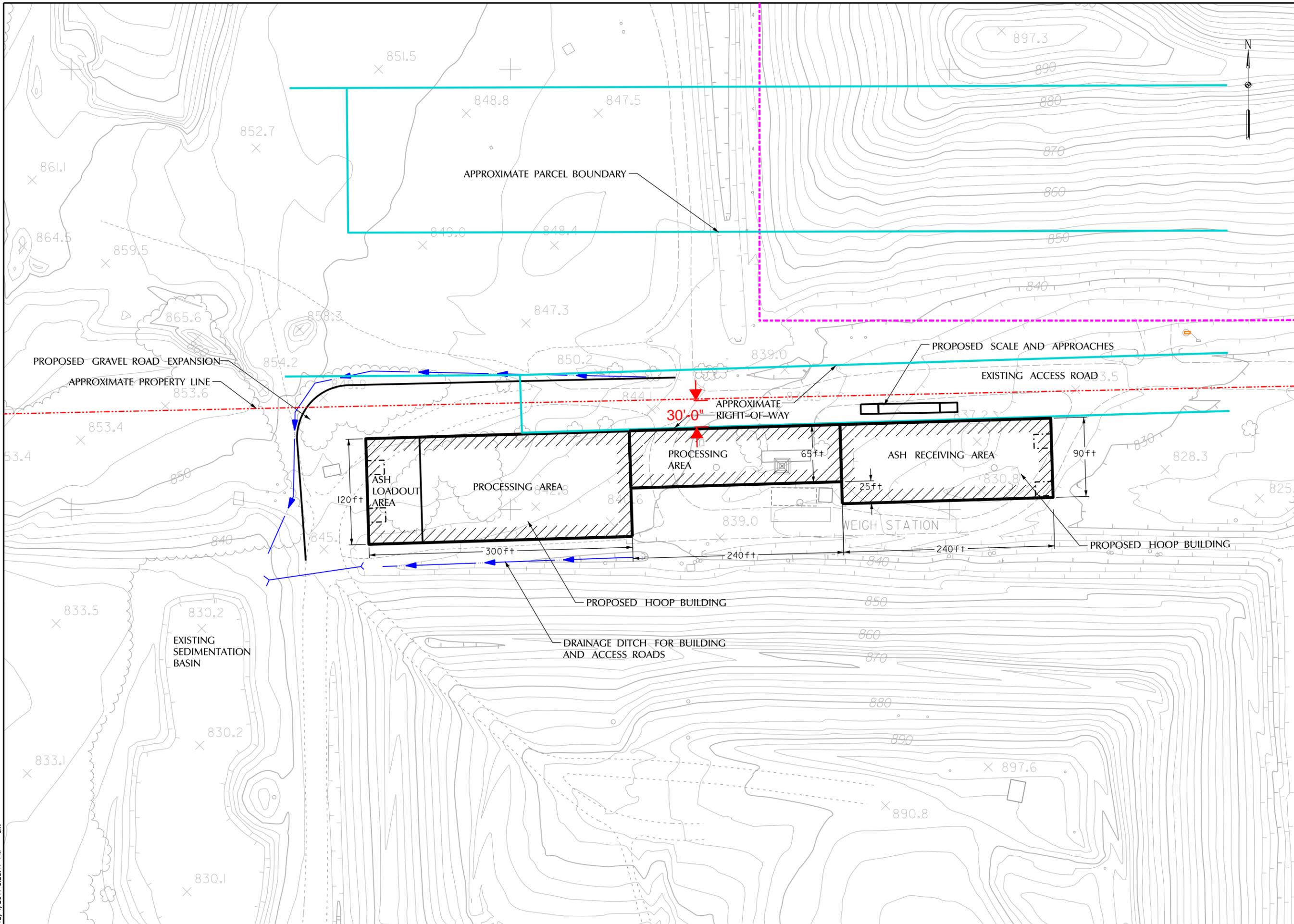
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BY	DATE
SURVEYED	QUANTUM NOV. 1, 2015
DRAWN	CKV OCT 2017
DESIGNED	CKV OCT 2017
CHECKED	CLH OCT 2017

SITE MAP



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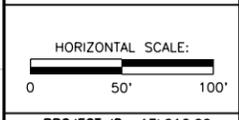
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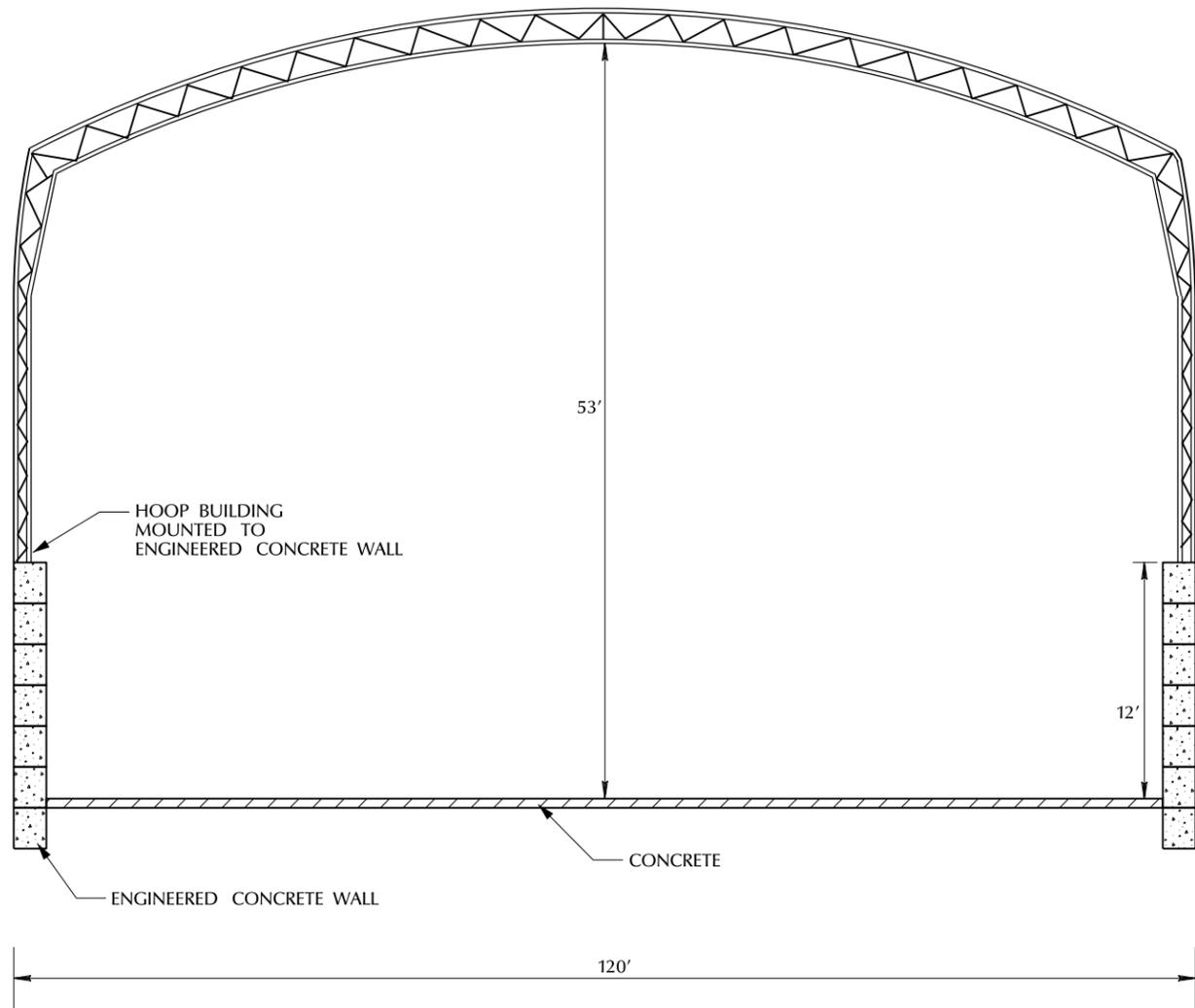
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BY	DATE
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DESIGNED	CKV OCT 2017
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**SITE PLAN
 REVISED BUILDING**

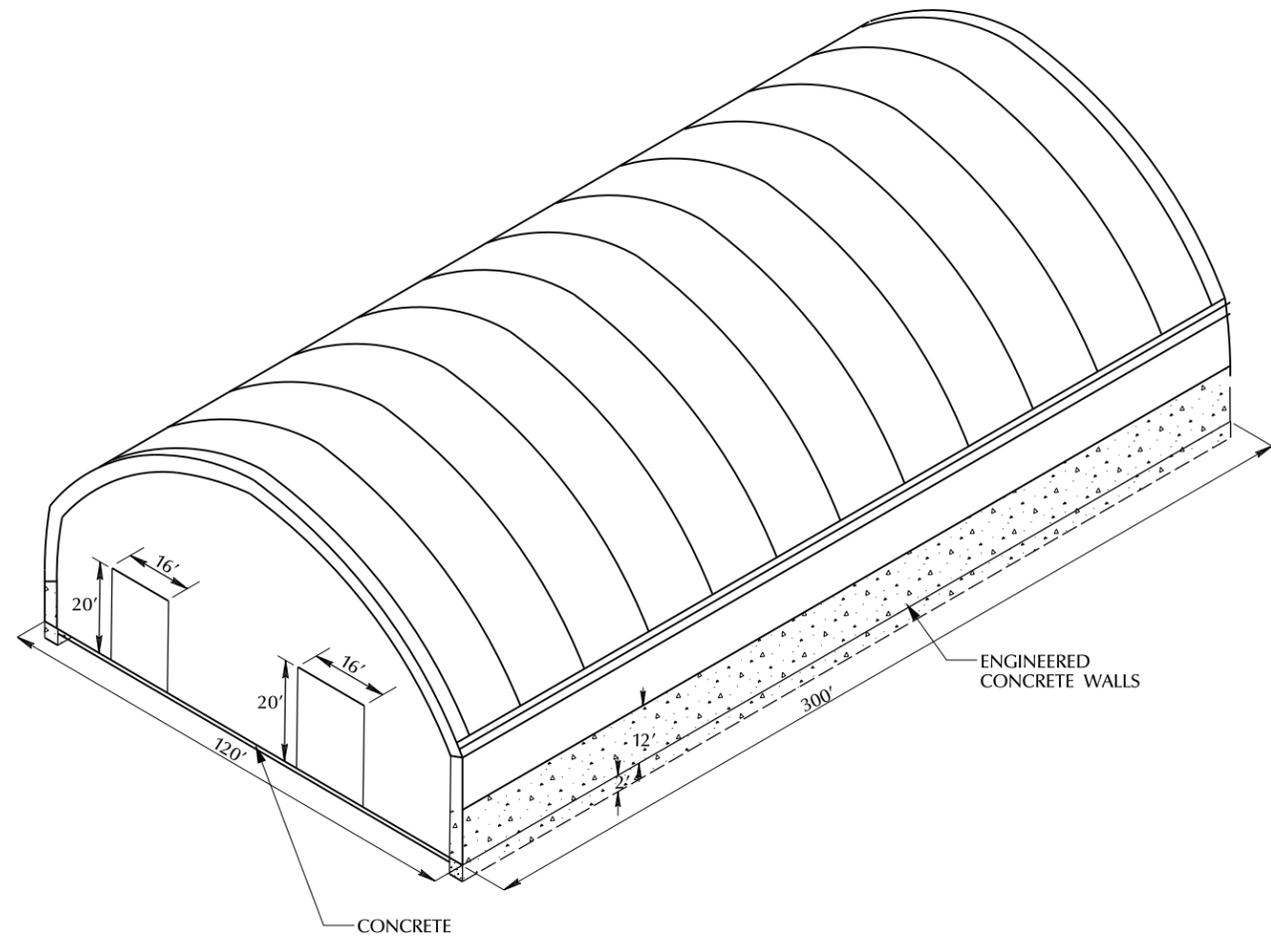


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HOOP BUILDING SECTION
N.T.S.



HOOP BUILDING ISOMETRIC
N.T.S.



Foth Infrastructure & Environment, LLC
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ASH PROCESSING FACILITY

BLUE EARTH COUNTY MINNESOTA

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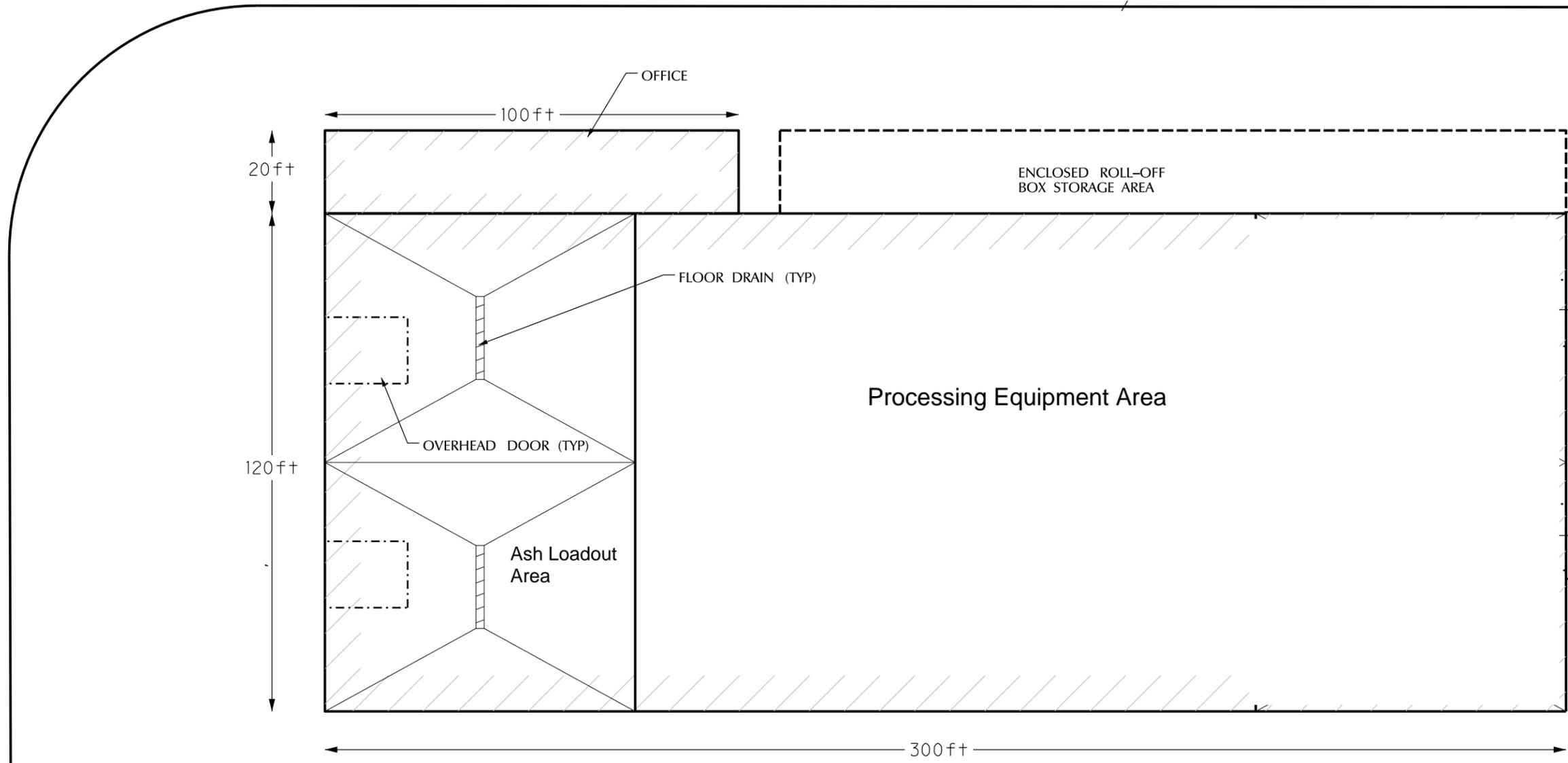
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BUILDING ELEVATIONS AND SECTION

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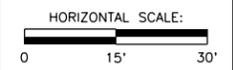
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ASH PROCESSING FACILITY
BLUE EARTH COUNTY
MINNESOTA

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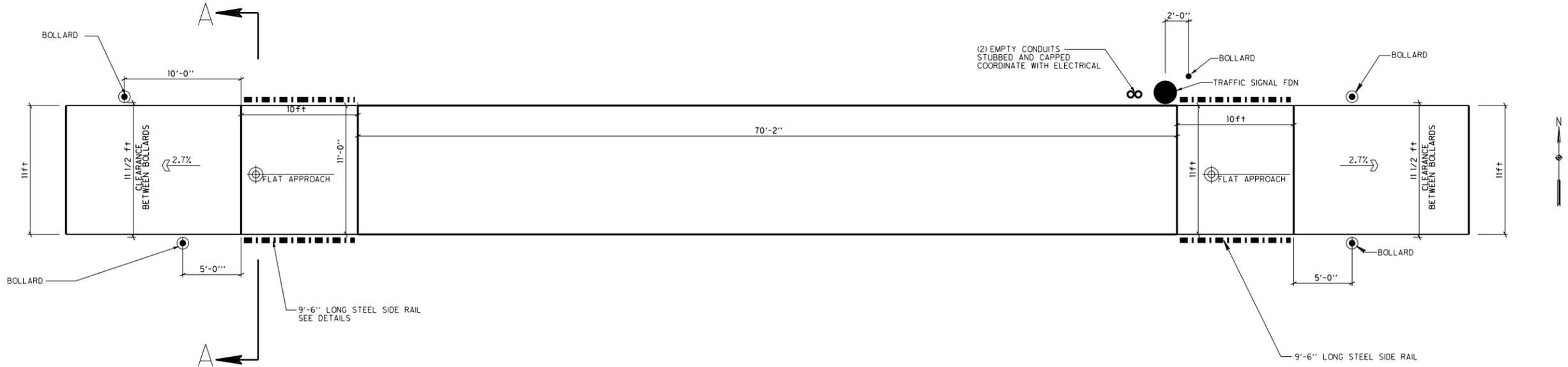
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FLOOR PLAN

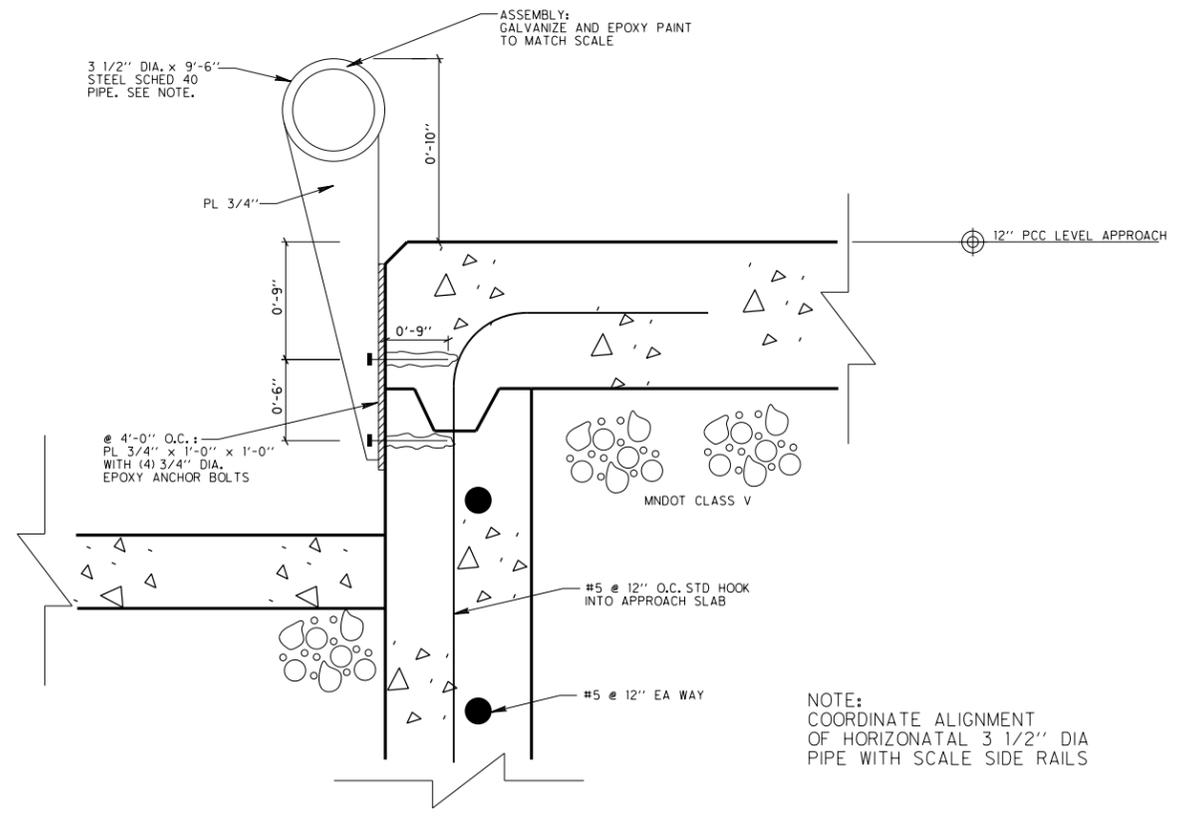
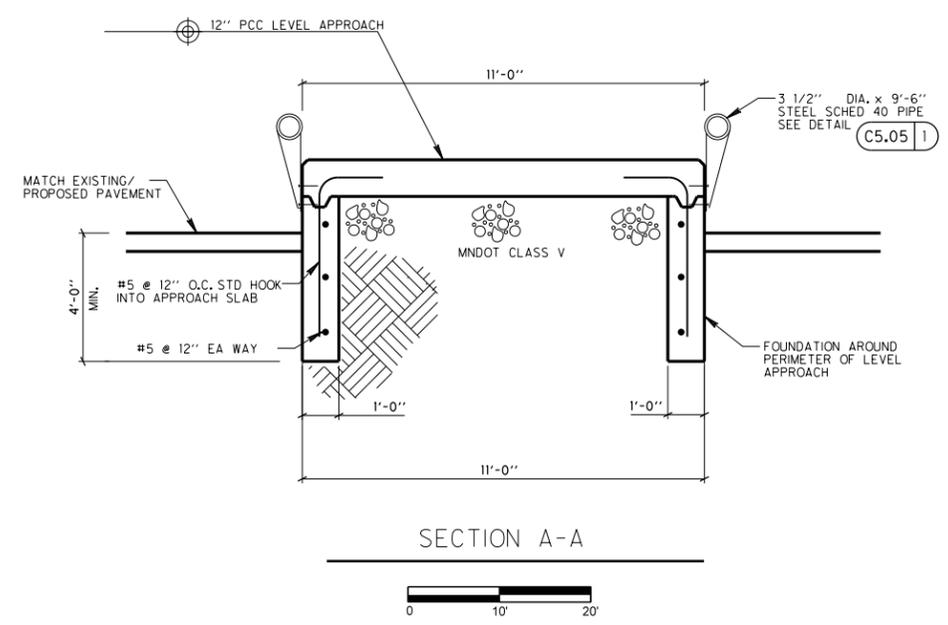


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NOTE:
 THE SCALE DRAWINGS MAY BE MODIFIED DEPENDING ON THE SCALE MANUFACTURER SELECTED. MODIFICATIONS TO THE HEIGHT OF THE SCALE AND THE LENGTH OF THE APPROACH MAY OCCUR DEPENDING ON THE SCALE MANUFACTURER. A COMPLETE SET OF SCALE SHOP DRAWINGS SHALL BE SUBMITTED TO THE ENGINEER FOR REVIEW PRIOR TO CONSTRUCTION.



NOTE:
 COORDINATE ALIGNMENT OF HORIZONTAL 3 1/2" DIA PIPE WITH SCALE SIDE RAILS

Foth
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 Eagle Point II
 5550 Freedom Way
 Blue Earth, MN 56004
 Phone: 651-288-9550 Fax: 651-288-8551

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 MINNESOTA

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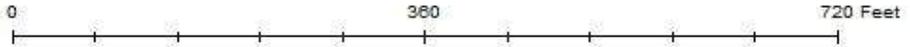
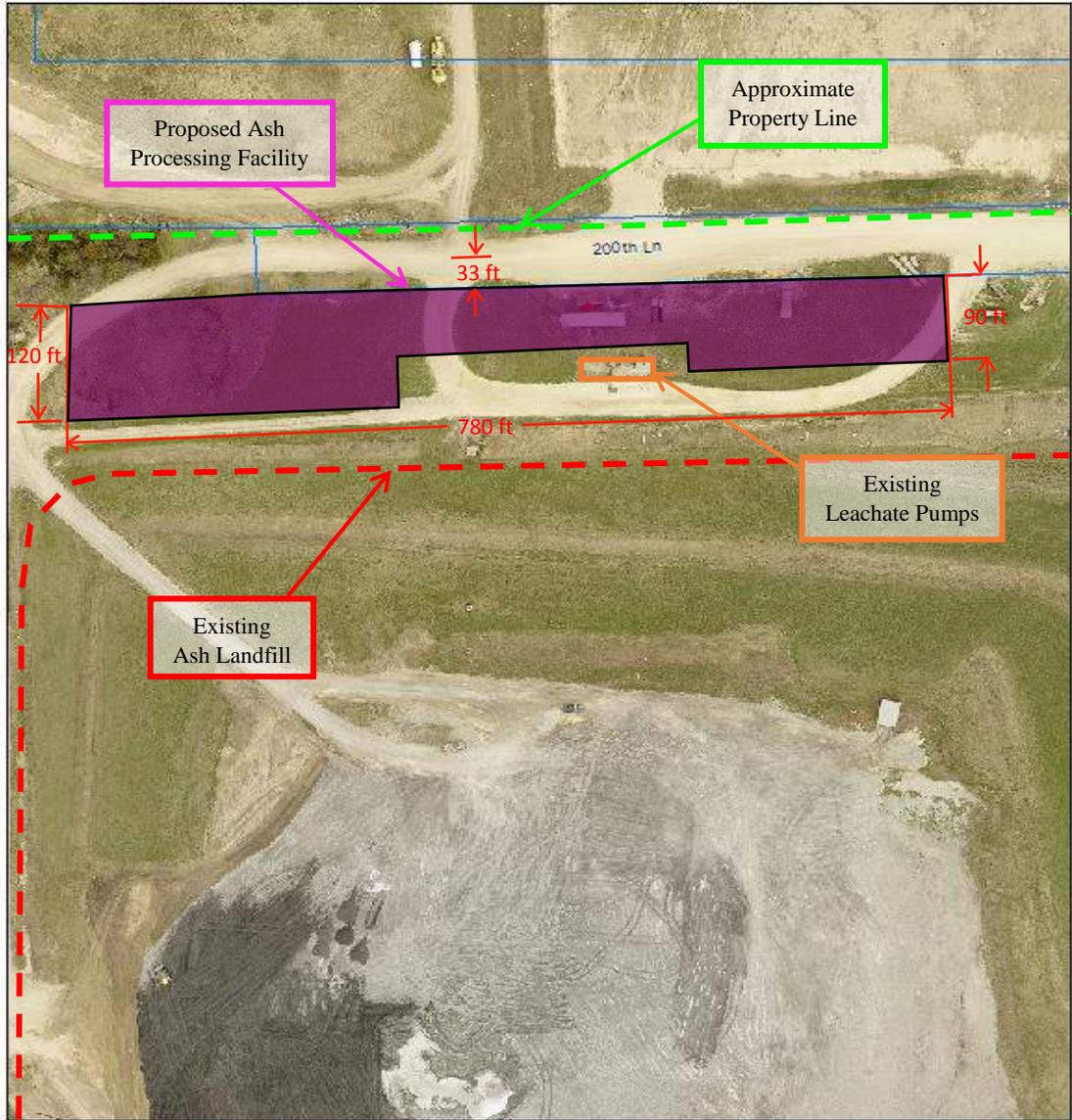
SCALE DETAILS

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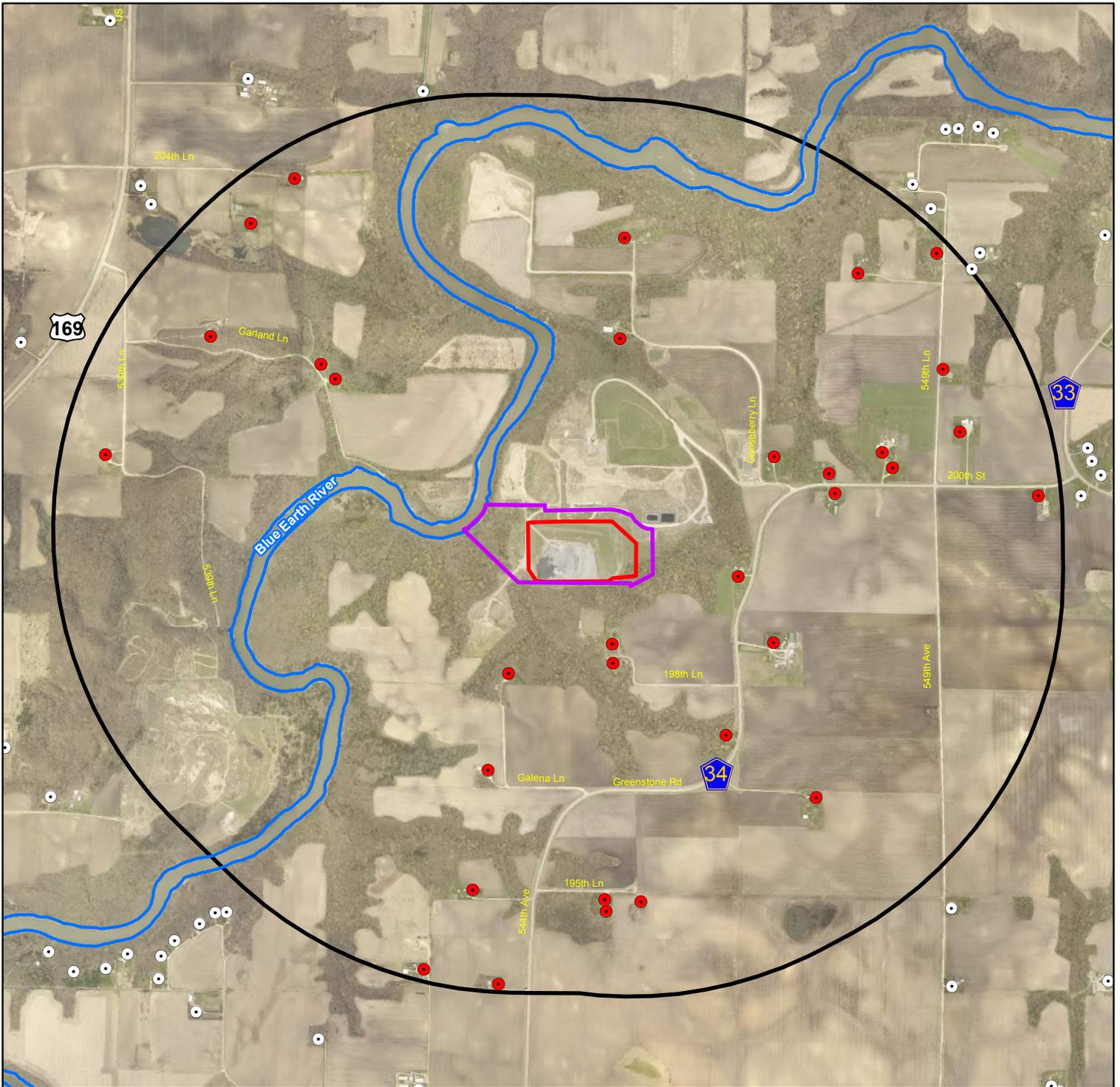
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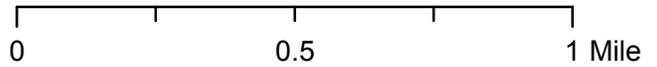
Proposed Site Map Attachment A-4



Residential Structure Proximity Map Attachment A-5

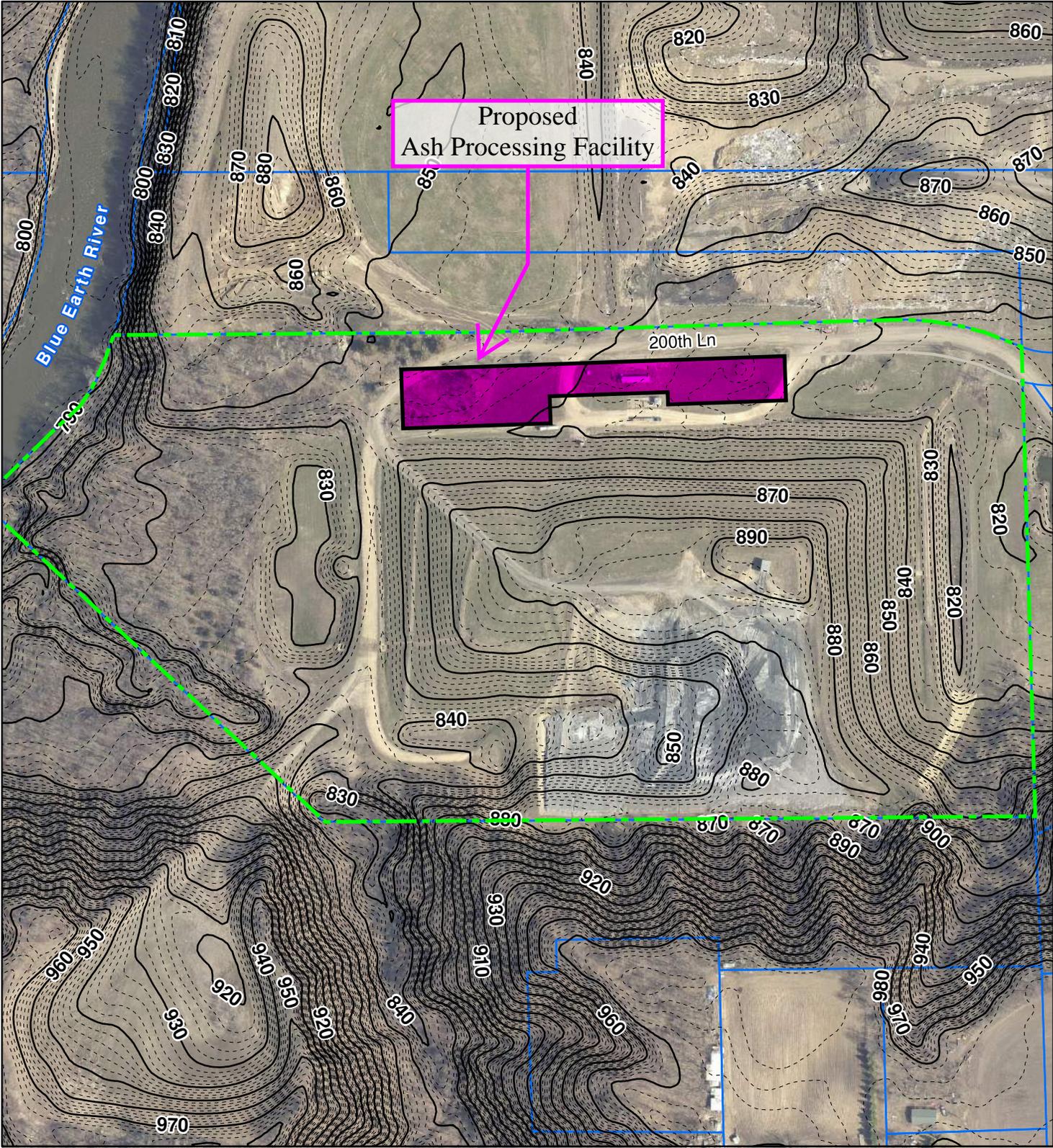


- House within 1-Mile of Ash Landfill Property
- House over 1-Mile from Ash Landfill Property
- Ash Landfill
- Ash Landfill Property
- 1-Mile Radius from Ash Landfill Property



Prepared By: Blue Earth County
Environmental Services
December 2017

Topography Map Attachment A-6

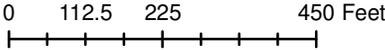


Parcel

Elevation Contour

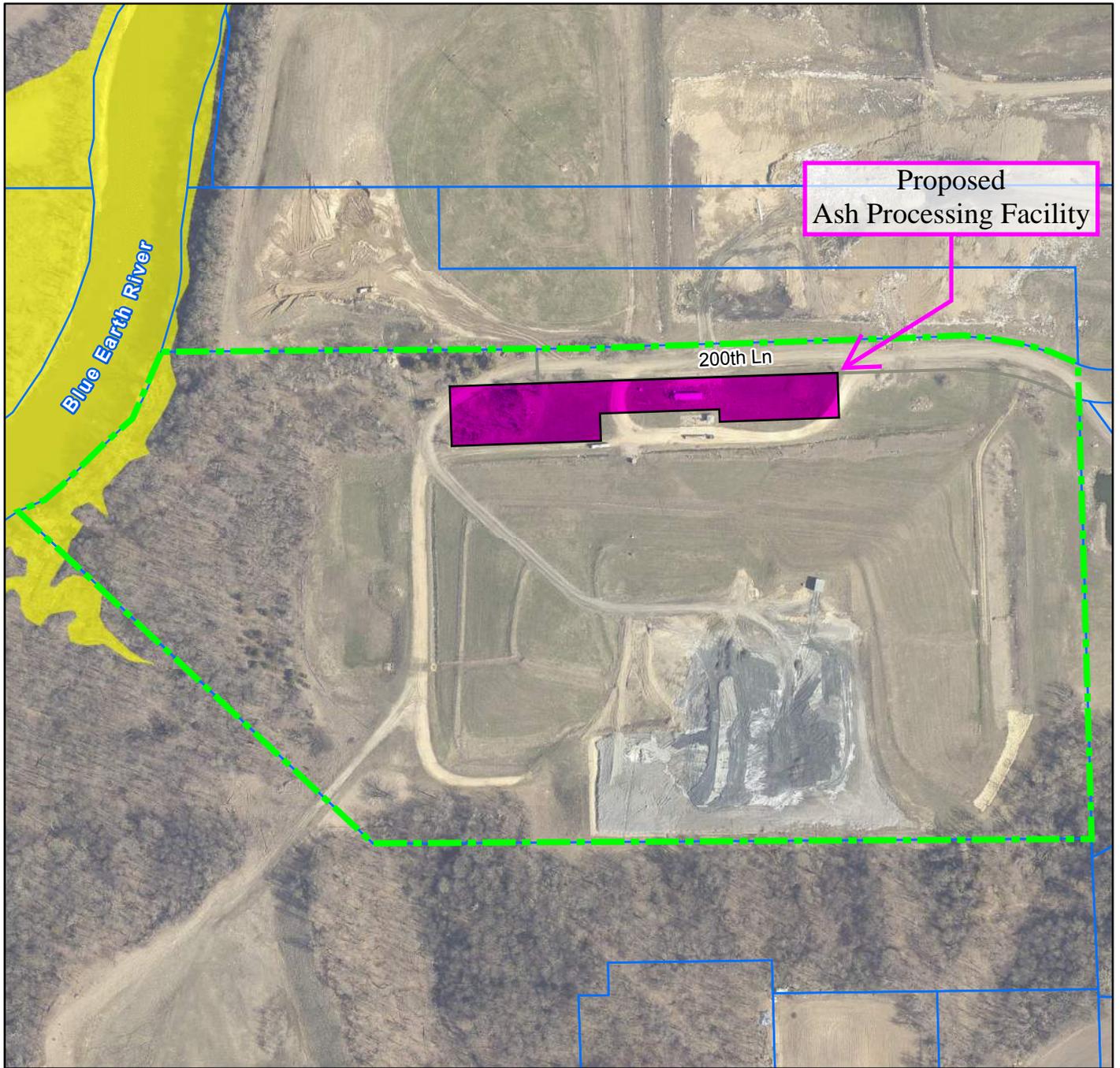
Index (10 Ft)

Intermediate (2 Ft)



Source: Contours - MN LiDAR 2012

Floodplain Map Attachment A-7



0 185 370 740 Feet



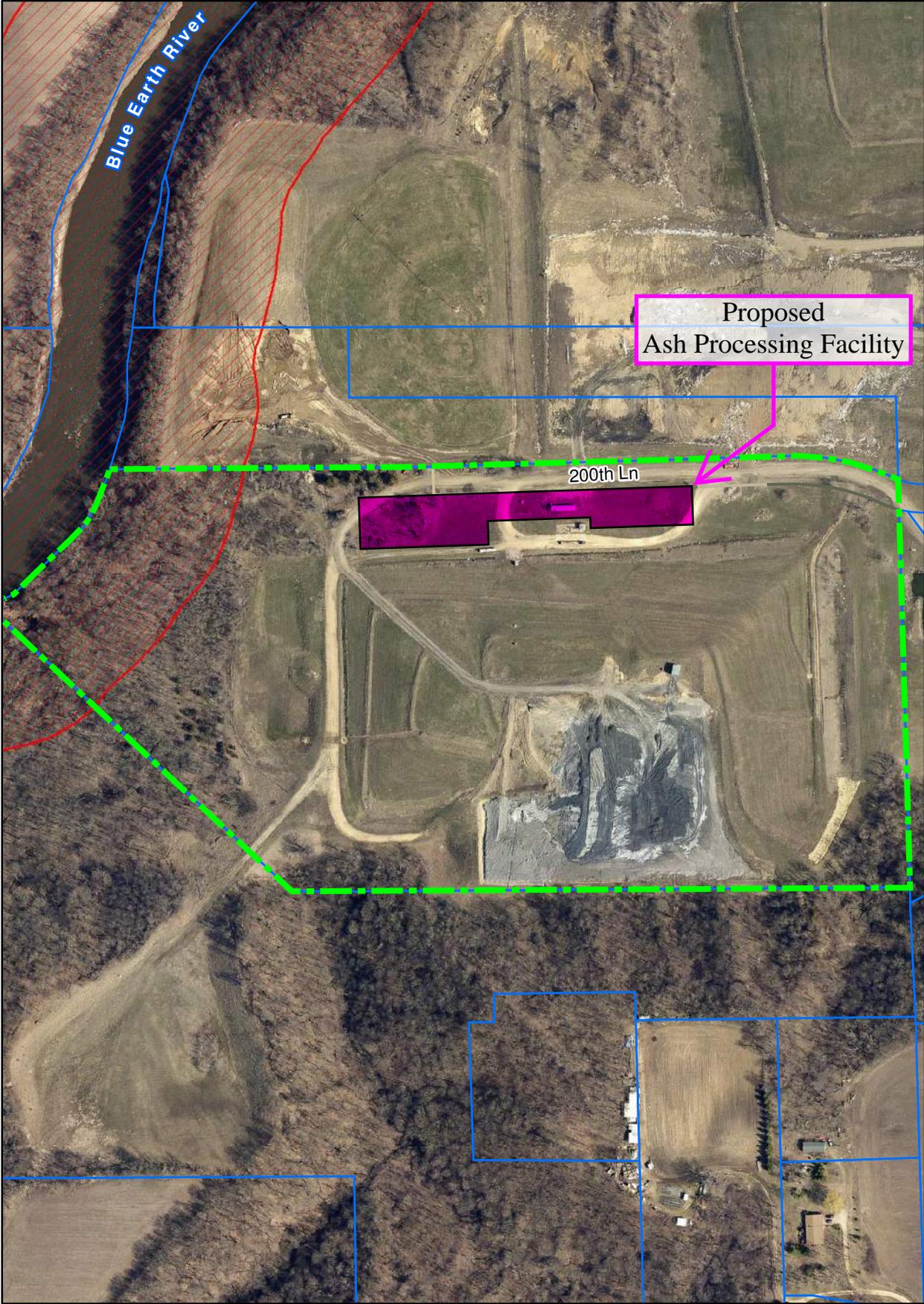
Special Flood Hazard Area (1% Chance Flood)

- Base Flood Elevation (FT)
- Zone AE - Floodway
- Zone AE - Floodfringe
- Zone A - No Base Flood Elevations

Other Flood Areas

- 0.2 % Chance Annual Flood Hazard
- Area Protected By Levee

Shoreland Overlay Map
Attachment A-8



Environmental Health Review
Attachment A-9
BLUE EARTH COUNTY
ENVIRONMENTAL SERVICES

*Government Center, 410 South Fifth Street
P.O. Box 3566, Mankato, Minnesota 56002-3566
Phone: (507) 304-4381 Fax: (507) 304-4431*

Environmental Health Section - Planning Application Reviews

Date Printed:	December 28, 2017	Permit Number:	PL2017099
Property Owner:	NORTHERN STATES POWER CO	Applicant:	LAB USA
Parcel Number:	R50.08.32.200.012	File ID:	BOA 01-18

Application Description: Request for review and approval of a Variance to reduce the required setback from the centerline of a private road from 65 feet to 30 feet for the construction of an Ash Processing Facility. The proposed facility will recover and remove ferrous and non-ferrous metals from the combustor ash generated by the Wilmarth Steam Plant, and from the existing ash mining operation conducted by the Wilmarth Ash Disposal Facility. The property is zoned Conservation and Agricultural. It is also located within the Urban Fringe Overlay District of the City of Mankato, and has a small portion within the Shoreland Overlay District of the Blue Earth River. The property is located in part of the Northeast Quarter of the Northwest Quarter and part of the Northwest Quarter of the Northeast Quarter of Section 32, South Bend Township.

Septic Review

Status: Complete - Comments Received

Comments: If there are any bathrooms, laundry, shower/sink waste, or any culinary activities, the sewage from these must go into a code compliant septic system designed for the use. No additional information needed at this time. Anderson, Jesse 12/12/2017 9:05 AM

Well Review

Status: Additional Information Needed

Comments: The County needs the location information of all monitoring wells possibly impacted by this project shown on site plan map.

Wetland Review

Status: Complete - Comments Received

Comments: Base on many on-site visits by County staff the proposed variance for this construction between the current ash landfill and the gravel access road does not appear to negatively impact any known or suspected wetlands which may exist on this property. grant 12/14/2017 10:58 AM

Applicant's Statement of Practical Difficulty
Attachment A-10
Blue Earth County Environmental Services
Variance Request Form

Variations shall only be permitted when they are in harmony with the general purposes and intent of the official control and when the variations are consistent with the comprehensive plan. Variations may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the official control. A determination that a practical difficulty exists is based upon criteria defined by Minnesota Statutes 2011, Section 394.27, subdivision 7, and Section 24-48 of the Blue Earth County Zoning Ordinance. "Practical difficulties," as used in connection with the granting of a variance, means that the property owner proposes to use the property in a reasonable manner not permitted by an official control; the plight of the landowner is due to circumstances unique to the property not created by the landowner; and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone do not constitute practical difficulties.

This form is meant to aid the applicant in preparing a statement of practical difficulty and to provide information to the Board of Adjustment regarding the variance request to help make the determination for approval or denial.

Staff Use Only	
Applicant <u>Lab USA</u>	Parcel # <u>R50.08.32.200.012</u>
File # <u>PL2017099</u>	Project # <u>BOA 01-18</u>

Staff Use Only (to be used for question #5)	
Goals and policies of the Land Use Plan: <u>Large areas of Blue Earth County contain very productive agricultural land. It is in the best interest of the County to maintain these agricultural areas through limiting the intrusion of urban uses...</u>	

Staff Use Only (to be used for question #6)	
Goals and policies of the Zoning District: <u>The purpose of the Conservation district is to provide a district that will protect environmentally sensitive areas, preserve natural ground cover, and conserve natural resources.</u>	

Describe the proposed variance request:

This variance request is for the right of way setback limits. The proposed ash processing facility will be 30 feet from the centerline of 200th lane due to building and ash processing equipment requirements.

1. Describe the reasons why you believe the variance you are proposing is a reasonable use of the property.

The ash processing facility is complementary to the Wilmarth ADF in that the ash material is processed to remove recyclable ferrous and non ferrous metals for reuse. Additionally the ash processing will increase the life expectancy of the Wilmarth ADF. Since the facility is part of the greater ADF, the use of the property for ash processing and recycling is reasonable.

a. Is the variance you are requesting the minimum variance necessary to allow you to do what you are proposing? If yes, explain why you believe that to be the case.

The variance from the property line setbacks is the minimum needed to support the building and ash processing equipment including the roads and facilities.

b. Describe all plans and options you have considered (such as alternative design, placement, sizing, or other action you could take) if any, to do away with the need for a variance.

Building changes have been examined to meet the current property line setbacks. However the equipment size requires a specific building footprint. The building cannot be moved to the south without impacting existing infrastructure for Xcel Energy.

2. Please describe the unique characteristics of your property that, in your opinion, make you unable to comply with the existing land use regulations.

Since the parcel size is limited and changes in property are not feasible, the setbacks cannot be met for the project.

a. Describe how and why the need for a variance arose.

Due to building and equipment requirements for ash processing, the setback could not be met without a variance being granted.

b. Describe any unique features or existing site conditions of your property that you believe created the need for a variance.

Due to the existing parcel size and existing infrastructure coupled with ash processing equipment and building requirements, the setback requirements for property line could not be achieved without variance.

- c. Describe any actions that to your knowledge or belief were taken by any prior owners that may have caused the need for a variance.

None

- d. Describe any actions you have taken since you've owned the property that may have caused the need for a variance.

None

3. Will the issuance of the variance maintain the essential character of the locality?

Yes. We believe the issuance of a variance will not impact the locality.

- a. Describe what you believe to be the character of the locality where the property is located.
the locality consists of two disposal sites, the Wilmarth ADF and the Ponderosa Sanitary Landfill.

- b. Explain why you believe that the variance you have requested will not significantly change or alter the area.

The area will remain as landfill with the variance request approval and will not change or alter the area.

- c. Explain why you believe that the variance would not diminish or impair existing property values in the area or impede future development.

Since the proposed ash processing facility will be surrounded by landfill property, no impairment of property values is expected as a result of this project or variance request.

- d. Explain why you believe that the variance would not interfere with the use and enjoyment of the land of other property owners in the locality.

The variance request is not anticipated to impact landfill operations at either the Wilmarth ADF or the Ponderosa Sanitary Landfill.

- e. Would there be any adverse effects on the environment if the variance were granted? Why or why not?
No. The ash processing facility is subject to MPCA permitting requirements for environmental protection.

4. Does the need for the variance involve more than just economic considerations?

No. The variance is being requested due to engineering requirements for the ash processing equipment and the building footprint to accommodate the equipment and ash handling.

- a. Describe the key reasons why you are requesting the variance.

To provide adequate space for the ash processing facility, the property line setbacks cannot be achieved.

- b. Describe any unreasonable financial burden, if any, you believe you will face if the variance is not approved.

If the variance is not approved, it is likely the project will not move forward. Ash processing equipment and facilities require a specific amount of space that can only be met by a variance to the setbacks.

5. Please describe what specific goals and policies in the Blue Earth County Land Use plan you believe support your variance request (please use the supplied information from the first page).

The proposed project meets the natural environment and protection goals by adequately managing storm water and supports recycling and land use by increasing the life expectancy of the Wilmarth ADF.

6. Please describe why you believe your proposal is a reasonable variation of the regulations that will be consistent with the general purpose and intent of the official controls (please use the supplied information from the first page).

The variance request for setbacks is reasonable for the area given the existing land use as landfill. The setback approval will not change or otherwise impact the existing land use.

7. Are there any other considerations or facts that you feel should be taken into account by the Board of Adjustment when reviewing this request? If so, please explain.

The proposed project is subject to additional regulations from the MPCA and will operate according to the MPCA permit conditions when issued. The variance from the setback requirements is need to support the recycling equipment and process to capture metals from the ash material.

DATE: 12/8/17

SIGNATURE: 

**Findings of Fact Form
Attachment A-11
BLUE EARTH COUNTY BOARD OF ADJUSTMENT**

**FINDINGS OF FACT
SUPPORTING/DENYING A VARIANCE**

Name of Applicant: Lab USA

Date: January 3, 2018

Parcel #: R50.08.32.200.012

Variance Application #: BOA 01-18

The criteria for the granting of a variance are set forth in Chapter 24 of the Blue Earth County Ordinance, Section 24-48(j). Variances will only be issued when the Board of Adjustment answers "Yes" to each of the six questions set forth below.

1. Is the variance in harmony with the general purposes and intent of the official control?
Yes () No ()

Why or why not?

2. Is the variance consistent with the goals and policies of the comprehensive plan (also referred to as the "Blue Earth County Land Use Plan")?

Yes () No ()

Why or why not?

3. Is the property owner proposing to use the property in a reasonable manner not permitted by an official control?

Yes () No ()

Why or why not?

4. Is the need for the variance due to circumstances unique to the property and not created by the landowner?

Yes () No ()

Why or why not?

5. Will the issuance of the variance maintain the essential character of the locality?
Yes () No ()
Why or why not?

6. Does the need for the variance involve more than economic considerations?
Yes () No ()
Why or why not?

The answers to the questions above, together with the Facts supporting the answers and those other facts that exist in the record, are hereby certified to be the Findings of the Board of Adjustment.

APPROVED () DENIED ()

DATE: January 3, 2018

Chairperson, Board of Adjustment