



PUBLIC NOTICE

Application No:	NWO-2007-2489-BIS
Applicant:	Great River Energy
Waterway:	wetlands / tributary
Activity:	Construct railroad loop
Issue Date:	January 23, 2013
Expiration Date:	February 22, 2013

30 Day Notice

North Dakota Regulatory Office

1513 South 12th Street

Bismarck ND 58504

NOTICE OF PENDING PERMIT EVALUATION

Introduction. The District Engineer, U.S. Army Engineer District, Omaha, Nebraska is evaluating a Department of the Army (DA) permit application from Barr Engineering Company, on behalf of **Great River Energy**, for the proposed construction of a railroad loop that would impact jurisdictional wetlands. This application is being evaluated under Section 404 of the Clean Water Act [33 USC 1251, *et seq.*]. Section 404 regulates the discharge of dredged or fill material in the Nation's waters. In conjunction with this proposal, fill material would be discharged into jurisdictional waters of the United States.

- **PUBLIC NOTICE.** The purpose of this public notice is to inform the public; Indian Tribes; Federal, State and local agencies/officials; and other interested parties of a **30-day comment period** in which written comments in conjunction with **Great River Energy's** project may be submitted to the Army Corps of Engineers. Solicitation of comments regarding impacts to endangered species, historic properties, water quality, general environmental concerns and other public interest factors are discussed on **pages 2 and 3**. Written comments must be postmarked by **February 22, 2013**, prior to closure of the public notice administrative record.
- **PUBLIC HEARING.** Before the expiration date of this notice, anyone may request, in writing, that a public hearing be held to consider this application. Requests shall specifically state the reason(s) for holding a public hearing. The District Engineer shall determine whether a hearing is necessary to obtain additional public interest information. If a public hearing is warranted, interested parties will be notified of the time, date, and location.

Project Information.

APPLICATION. A DA permit application was received on **October 15, 2012** from Barr Engineering Company, on behalf of Great River Energy. The application was considered complete on **November 30, 2012**. A wetland delineation of the project area was conducted in August 2007.

PROJECT PURPOSE. The project purpose is to construct infrastructure, a railroad loop, which would establish rail service to the Spiritwood Energy Park to service future tenants, including a bioenergy plant and ammonia plant and other industrial enterprises.

PROJECT LOCATION. The project is located in Section 21, Township 140 North, Range 62 West, Stutsman County, North Dakota.

PROJECT DESCRIPTION. The applicant proposes to construct a railroad loop through the Spiritwood Energy Park. The railroad loop would connect to an existing rail line in the northern portion of the park. Construction of the proposed railroad loop would require grading and placement of fill material in two separate delineated wetlands, as identified in attachment 2 of this notice. The rail bed/loop would be constructed of earthen fill and gravel/rock ballast.

PROJECT'S LIFE CYCLE. The project is designed to be permanent.

CONSTRUCTION METHODS. Heavy equipment, such as scrapers, bulldozers, track excavators, motor graders, and backhoes, would be utilized to complete project construction.

ANTICIPATED EFFECTS

- ANTICIPATED ENVIRONMENTAL IMPACTS.
 - Wetlands and Other Waters of the United States. The project area includes 23.62-acres of delineated wetlands. The project proposal would result in filling of approximately 1.29-acres of jurisdictional wetlands (.94-acres and .35-acres), resulting from the construction of the railroad loop. Estimated 21,800 cubic yards of fill material for railroad embankment.
 - Woodlands. No woodlands would be impacted.
 - Grasslands. No grasslands would be impacted.

MITIGATION. The applicant has submitted a preliminary wetland mitigation plan, which is identified in attachment 3 of this notice. The mitigation plan would create approximately 5.0-acres of new wetland and incorporate approximately 13.8-acres of upland buffer. Proposed mitigation site is located on a 38-acre parcel of land in the northwest corner of the Spiritwood Energy Park's property boundary. The applicant would be responsible for monitoring, maintenance and management of the mitigation site. A detailed mitigation plan is currently being developed. A copy of the applicants wetland mitigation plan can be obtained by contacting the North Dakota Regulatory Office at the address or phone number provided in this public notice.

ALTERNATIVES. No alternatives were provided.

National Environmental Policy Act of 1969 [NEPA] (42 USC 4321 *et seq.*; Public Law 91-190) **NEPA Statement:** NEPA is the Nation's basic charter for protection of the environment. NEPA is to provide decision-makers and the public full disclosure of the environmental consequences of taking an action so they can make informed decisions. NEPA itself does not impose substantive duties mandating particular results, but prescribes the necessary process for preventing uninformed agency action.

National Historic Preservation Act of 1966 [NHPA] (80 Stat 915; 16 USC 470a, *et seq.*) and amendments, including the 1992 amendments (PL 89-665 and PL 96-515). **Cultural Resources Statement:** The Omaha District will comply with the NHPA and amendments and the procedures set forth in 33 CFR, Appendix C. We will evaluate input by Indian Tribes, the North Dakota State Historic Preservation Officer, and any interested parties in response to this public notice. The Corps' initial review is that the project would not affect properties listed, or eligible for listing, on the National Register of Historic Places. The project area has been previously reviewed by the North Dakota State Historical Society [ND SHPO Ref.: 07-0869 and 07-0788A], resulting in the concurrence of a "No Historic Properties Affected" determination, by letter dated November 5, 2007.

Section 404(b)(1) Guidelines [Guidelines] (40 CFR 230 Subpart B): These Guidelines are the substantive environmental criteria used in evaluating the discharges of dredged or fill material in waters of the United States under Section 404 of the Clean Water Act and are applicable to all 404 permit decisions. The purpose of these Guidelines is to restore and maintain the chemical, physical, and biological integrity of United States waters through the control of discharges of dredged or fill material. Fundamental to the Guidelines is an understanding that dredge or fill material should not be discharged into such waters unless it is demonstrated that such discharges would not have unacceptable adverse impacts either individually or in combination with existing and/or probable impacts of other activities affecting the environment.

Section 401 of the Clean Water Act [Water Quality Certification] (33 USC Section 1341) Water Quality Certification Statement: The North Dakota Department of Health, Division of Water Quality, 918 East Divide Avenue, Bismarck, North Dakota 58501-1947 will review the proposed project for certification in accordance with the provisions of Section 401 of the Clean Water Act. The certification, if issued, will express the State's opinion that the project undertaken by the applicant will not result in a violation of applicable water quality standards. Although water quality certification is a prerequisite for issuance of a DA permit, certification alone does not guarantee a DA permit will be issued for the project.

Endangered Species Act of 1973 [ESA] (16 USC 1531, et seq.) ESA Statement: Pursuant to the Endangered Species Act, the proposed project is being reviewed for impacts to threatened and/or endangered species and their critical habitat. The project is within the known range of the endangered Whooping Crane and threatened Piping Plover. The Corps has determined that the proposed work will have no effect to threatened or endangered species.

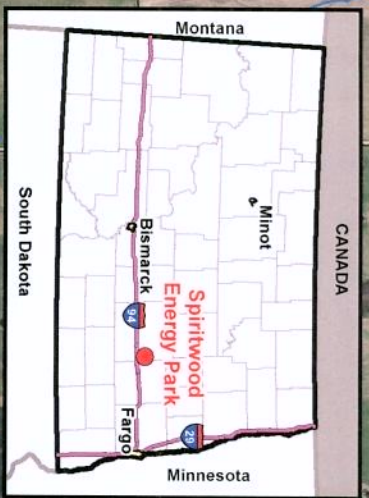
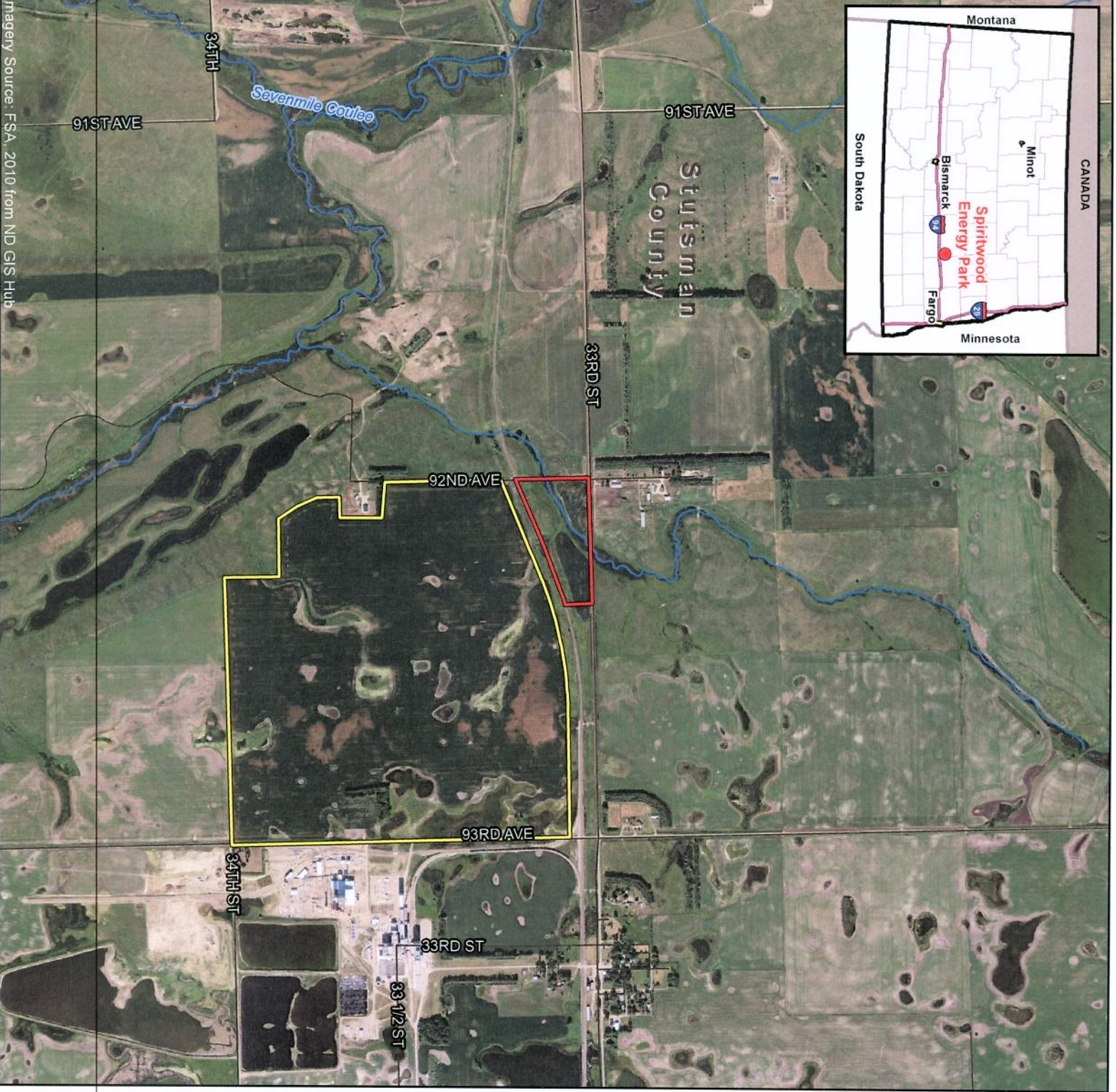
Public Interest Review [33 CFR 325.3(c)(1)]: The public interest review procedures call for weighing the benefits that reasonably may be expected to accrue. These are balanced against its reasonably foreseeable detriments and results in reaching a determination that expresses the public interest. Public interest factors include all factors which may be, or may become, relevant to this project, such as conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership and, in general, the needs and welfare of the people. The decision whether to issue a permit is based on an evaluation of those factors and the probable impact, including cumulative impacts, and reflects the national concern for both the protection and utilization of important natural resources.





The 404(b)(1) Guidelines and the Public Interest Review are both administrative processes required as part of the Regulatory Program, but they are independent of each other. A project must be in compliance with the Guidelines and must not be contrary to the public interest in order to be permitted by the Army Corps of Engineers.

Anyone whose interests may be affected by Great River Energy's proposal is invited to submit favorable or unfavorable written comments to the U.S. Army Corps of Engineers [Omaha District] **North Dakota Regulatory Office, 1513 South 12th Street, Bismarck, North Dakota 58504**. Comments must be submitted on or before the date on the front of this notice to be considered in subsequent actions on this application. For additional information, you may contact **Daniel E. Cimarosti**, North Dakota State Program Manager [Daniel.E.Cimarosti@usace.army.mil] or **Jason Renschler**, Project Manager [Jason.J.Renschler@usace.army.mil] or telephone (701) 255-0015.

Request to Postmasters: Please post this notice in a conspicuous place until the expiration date specified at the top of page one.

ATTACHMENTS – (3 total)

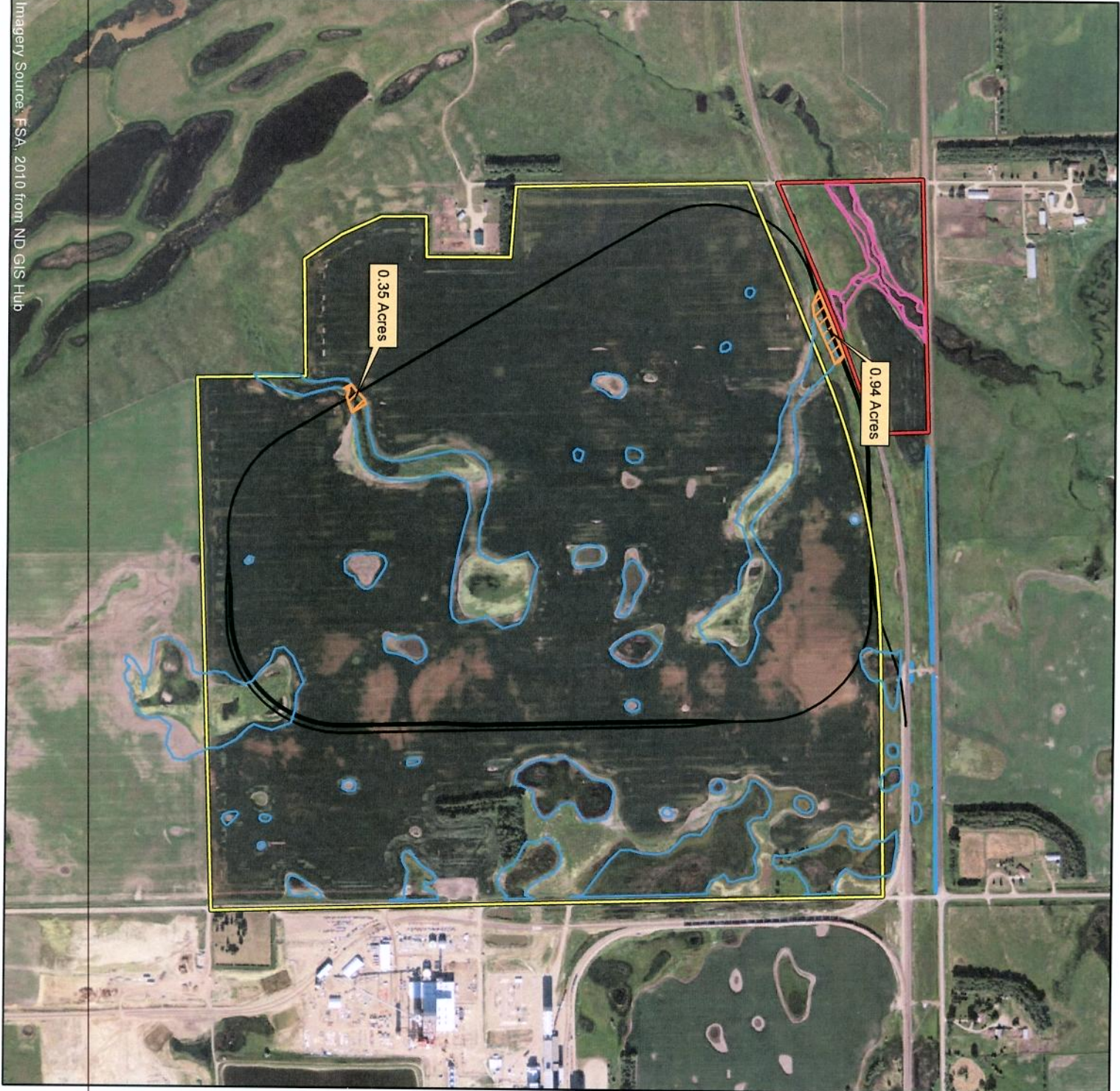








-  Wetland Mitigation Area
-  Project Area
-  Street/Road
-  River/Stream

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Attachment 1 of 3



SITE LOCATION
Wetland Permit Application
Spiritwood Energy Park
Great River Energy
Spiritwood, North Dakota

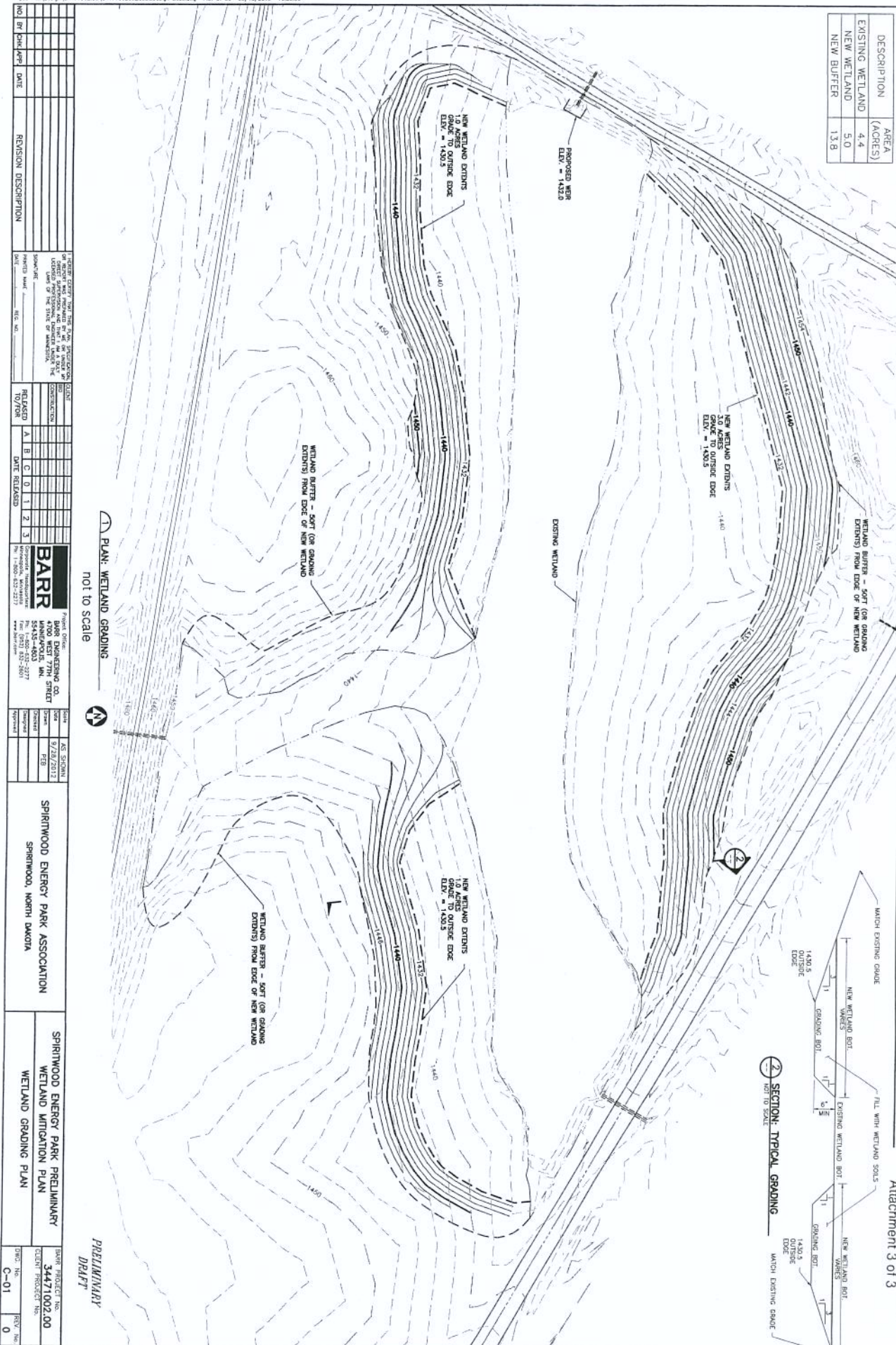


-  Proposed Railroad Loop
-  Impacted Jurisdictional Wetland
-  Wetland Delineation (Barr, 8/27/2007)
-  Wetland Delineation (Barr, 8/27/2012)
-  Wetland Mitigation Area
-  Project Area

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Attachment 2 of 3



SITE LAYOUT
Wetland Permit Application
Spiritwood Energy Park
Great River Energy
Spiritwood, North Dakota



DESCRIPTION	AREA (ACRES)
EXISTING WETLAND	4.4
NEW WETLAND	5.0
NEW BUFFER	13.8

NO.	BY	CHKD BY	DATE	REVISION DESCRIPTION

PROJECT NAME	SPIRITWOOD ENERGY PARK PRELIMINARY WETLAND MITIGATION PLAN
CLIENT PROJECT NO.	34471002.00
DRAWING NO.	C-01
REV. NO.	0

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