

Subject: Finding of No Significant Environmental Impact and Necessary
Environmental Findings for Chippewa Valley Ethanol Co.'s Expand
Capacity of Biomass Gasification System at existing Ethanol Facility
Benson, Minnesota
9004 Repowering Assistance Program

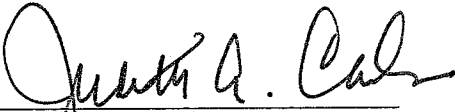
To: Project File

The attached environmental assessment for the subject proposal has been prepared and reviewed by the appropriate Rural Development official(s). After reviewing the assessment and the supporting materials attached to it, I find that the subject proposal will not significantly affect the quality of the human environment. Therefore, the preparation of an environmental impact statement is not necessary.

I also find that the assessment properly documents the proposal's status of compliance with the environmental laws and requirements listed therein.

Conditions:

- a. The applicant must provide a copy of all air quality permit(s) and permit modification(s) for the project prior to the issuance of any RD funding.
- b. The applicant must provide a copy of all water quality permit(s) and permit modification(s) for the project prior to the issuance of any RD funding. If no new permit(s) or permit modification(s) are required for the project for stormwater or wastewater discharge, then documentation must be submitted substantiating this claim.



JUDITH A. CANALES
Administrator
Rural Business and Cooperative Service



Date

USDA-Rural Development
 Form RD 1940-21
 (Rev. 6-88)

ENVIRONMENTAL ASSESSMENT FOR CLASS I ACTION

1. Description

- a. Name of Project: Chippewa Valley Ethanol, Co. - Gasifier
- b. Project Number: 9004 Program
- c. Location: 270 20th Street NW Benson, Minnesota 56215 S36 T122N, R39W, Swift Co.

2. Protected Resources

The following land uses or environmental resources will either be affected by the proposal or are located within the project site. (Check appropriate box for every item of the following checklist. If more than one item is checked "yes" the environmental assessment format for a Class II action must be completed, except if the action under review is either (1) an application for a Housing Preservation Grant or (2) normally a categorical exclusion that has lost its exclusion status. The reviewer should not initiate the Assessment for a Class I action when it is obvious that the assessment format for a Class II action will be required.)

	YES	NO
a. Wetlands	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Floodplains	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c. Wilderness (designated or proposed under the Wilderness Act)	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d. Wild or Scenic River (proposed or designated under the Wild and Scenic Rivers Act)	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e. Historical, Archeological Sites	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<i>(listed on the National Register of Historic Places or which may be eligible for listing)</i>		
f. Critical Habitat or Endangered/Threatened Species (listed or proposed)	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g. Coastal Barrier included in Coastal Barrier Resources System	<input type="checkbox"/>	<input checked="" type="checkbox"/>
h. Natural Landmark (listed on National Registry of Nature Landmark)	<input type="checkbox"/>	<input checked="" type="checkbox"/>
i. Important Farmlands	<input type="checkbox"/>	<input checked="" type="checkbox"/>
j. Prime Forest Lands	<input type="checkbox"/>	<input checked="" type="checkbox"/>
k. Prime Rangeland	<input type="checkbox"/>	<input checked="" type="checkbox"/>
l. Approved Coastal Zone Management Area	<input type="checkbox"/>	<input checked="" type="checkbox"/>
m. Sole Source Aquifer Recharge Area	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<i>(designated by Environmental Protection Agency)</i>		

For an item checked "yes", I have attached as Exhibit 1 both the necessary documentation to demonstrate compliance with the Agency's requirements for the protection of the resource and a discussion setting forth the reasons why the potential impact on the resource is not considered to be significant. If item e. is checked "no", the results of the consultation process with the State Historic Preservation Officer is also attached.

3. General Impacts

I have reviewed the environmental data submitted, dated and signed by the applicant as well as any previously completed environmental impact analysis and conclude the following:

- a. The project, the project area, and the primary beneficiaries are adequately identified;
- b. No incompatible land uses will be created nor direct impacts to parks, beaches, dunes, barrier islands, or important wildlife habitats or recreational areas; and
- c. Only minimal impacts or no impacts will result to the following checked items:

- | | |
|--|--|
| <input checked="" type="checkbox"/> Air Quality | <input checked="" type="checkbox"/> Wildlife |
| <input checked="" type="checkbox"/> Water Quality | <input checked="" type="checkbox"/> Energy |
| <input checked="" type="checkbox"/> Solid Waste Management | <input checked="" type="checkbox"/> Construction Impacts |
| <input checked="" type="checkbox"/> Transportation | <input checked="" type="checkbox"/> Secondary Impacts |
| <input checked="" type="checkbox"/> Noise | |

An analysis of an item which cannot be checked, therefore having a potential for more than minimal impacts, is attached as Exhibit _____. (If more than one item is unchecked, the environmental assessment format for a Class II action must be completed).

4. State, Regional and/or Local Government Consultation

Yes No This project is subject to review by State, regional, or local agencies under the requirements of Executive Order 12372, Intergovernmental Review of Federal Programs.

If "Yes" is checked, complete (a), or (b) or (c). (If negative environmental comments have been received, the environmental assessment format for a Class II action must be completed).

- a. The review period has expired and no comments were received.
- b. No negative comments of an environmental nature were received and the review period is complete, with the comments attached.
- c. Negative comments of an environmental nature have been received.

5. Controversy

Yes No This action is controversial for environmental reasons or is the subject of an environmental complaint. If yes, check one of the following::

The action is the subject of isolated environmental complaints or questions have been raised which focus on a single impact. Attached as Exhibit _____ is an analysis of the complaint or questions, and no further analysis is considered necessary.

6. Cumulative Impacts

Yes No The cumulative impacts of this action and other Rural Development actions, other federal actions, or related nonfederal actions exceed the criteria for a Class I action; or the action represents a phase or segment of a larger project, the latter which exceeds the criteria for a Class I action.

7. Need for the Project and Alternatives to it

Attached as Exhibit A is a brief statement of Rural Development's position regarding the need for the project. Also, briefly discussed are (a) the alternatives which have been considered by the applicant and Rural Development and (b) the environmental impacts of these alternatives. Alternatives include alternative locations, alternative designs, alternative projects having similar benefits, and no action.

8. Measures to Avoid or Mitigate Adverse Environmental Impacts

Yes No Mitigation measures are required. Attached as Exhibit A is a description of the site or design change that the applicant has agreed to make as well as mitigation measures that will be placed as special condition within the offer of financial assistance or subdivision approval.

9. Compliance With Highly Erodible Land and Wetland Conservation Requirements

Yes No This action is subject to the highly erodible and wetland conservation requirements contained in Exhibit M of RD Instruction 1940-G.

If "yes" is checked, complete (a), (b), (c), and (d).

a. Attached as Exhibit _____ is a completed Form SCS-CPA-026 which documents the following:

Yes No Highly erodible land is present on the farm property.

Yes No Wetland is present on the farm property.

Yes No Converted wetland is present on the farm property.

b. Yes No This action qualifies for the following exemption allowed under Exhibit M :

c. Yes No The applicant must complete the following requirements prior to approval of the action in order to retain or regain its eligibility for Agency financial assistance:

d. Yes No Under the requirements of Exhibit M, the applicant's proposed activities are eligible for Agency financial assistance.

10. Environmental Determinations

The following recommendations shall be completed and the environmental reviewer shall sign the assessment in the space provided below.

a. Based on an examination and review of the foregoing information and such supplemental information attached hereto, I recommend that the approving official determine that this project:

- will have a significant effect on the quality of the human environment and an Environmental Impact Statement must be prepared;
- will not have a significant effect on the quality of the human environment,
- will require further analysis through completion of the assessment format for a Class II action.

b. I recommend that the approving official make the following compliance determinations for the below listed environmental requirements.

Not In Compliance	In Compliance	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Clean Air Act
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Federal Water Pollution Control Act
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Safe Drinking Water Act-Section 1424(e)
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Endangered Species Act
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Coastal Barrier Resources Act
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Coastal Zone Management Act-Section 307(c)(1) and (2)
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Wild and Scenic Rivers Act
<input type="checkbox"/>	<input checked="" type="checkbox"/>	National Historic Preservation Act
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Archeological and Historic Preservation Act
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Highly Erodible Land and Wetland Conservation, Food Security Act
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Executive Order 11988, Floodplain Management
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Executive Order 11990, Protection of Wetlands
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Farmland Protection Policy Act
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Departmental Regulation 9500-3, Land Use Policy
<input type="checkbox"/>	<input checked="" type="checkbox"/>	State Office Natural Resource Management Guide

c. I have reviewed and considered the types and degrees of adverse environmental impacts identified by this assessment. I have also analyzed the proposal for its consistency with Rural Development environmental policies, particularly those related to land use, and have considered the potential benefits of the proposal. Based upon a consideration and balancing of these factors, I recommend from an environmental standpoint that the project

be approved not be approved because of the attached reasons (see Exhibit _____).

Juliet Bochner
Signature of Preparer*

01/12/10
Date

Title Environmental Protection Spec.

*See Section 1940.302 for listing of officials responsible for preparing assessment.

Justin A. Cole
Signature of Concurring Official 1

5/14/10
Date

Title ADMINISTRATOR

I have reviewed this environmental assessment and supporting documentation. Following are my Positions regarding its adequacy and the recommendations reached by the preparer. For any matter in which I do not concur, my reasons are attached as Exhibit _____

Do not
Concur Concur

- Adequate Assessment
- Environmental Impact Determination
- Compliance Determinations
- Project Recommendation

Paula Rodgers
Signature of State Environmental Coordinator 2
National Office - PSS Acting Director

01/14/2010
Date

¹ See Section 1940.316 for both the instances when a concurring official must sign the assessment and who is authorized to sign as the concurring official.

² See Section 1940.316 for instances when State Environmental Coordinator's review is required.

**EXHIBIT A – ATTACHMENTS TO
ENVIRONMENTAL ASSESSMENT FOR A CLASS I ACTION**

Project Name: Chippewa Valley Ethanol, Co.
Expand Capacity of Biomass Gasification System
Location: 270 20th Street NW Benson, Minnesota 56215
S36 T122N, R39W, Swift County
Program: 9004 Repowering Assistance Program \$5,000,000

Project Purpose: The project purpose and need is to replace a portion of the existing 46 million gallon per year ethanol plant's natural gas inputs with "producer gas" created by the biomass gasification system. The project purpose and need is to reduce costs associated with utilizing natural gas as well as replace finite, non-renewable fossil resources, and reduce associated CO₂ emissions, with sustainable, renewable biomass resources. The project would expand the throughput and production capacity of its existing biomass gasification system to support 80 percent or more of the ethanol plant's thermal energy needs with producer gas. Theoretically this would displace up to 74,000 tons of CO₂ emissions per year that would otherwise be released by the use of fossil fuels. The project will require expanding its throughput capacity from 75 tons of biomass per day to approximately 330 tons per day. The projected biomass for use is 50 percent corn cob use and 50 percent woody biomass use (logging residue, papermill residue, sawdust, shavings, wood chips, brush, wood waste etc.), although other biomass such as glycerin have been tested and could be utilized in the future. The project would entail the following:

- 1) Expand biomass feedstock origination and on-site handling infrastructure to most efficiently support the expanded feedstock volumes,
- 2) Add a parallel feed hopper system to expand the gasifier intake capacity,
- 3) Install a compressor/blower set designed to produce the required operating conditions in the gasifier,
- 4) Extend downstream gas piping and install multi-fuel burners at additional thermal energy demand sources (boilers, dryers, etc.) and
- 5) Install a char ash densification process to support improved downstream handling and marketing.

A summary of the resources evaluated is below: (Please refer to the Form RD 1940-20, attachments, and the applicant's 9004 Application for more detailed information on each of the resources evaluated).

- a. **Wetlands** - There are NRCS conservation reserve program (CRP) wetlands located adjacent to the property; however these resources will not be impacted by the project. The applicant indicated that the construction footprint of this project is in the location of formerly delineated "man-created/mitigation wetlands", however these wetlands were relocated under agreement with the Wetland Conservation Act Local Government Unit. According to the United States Army

Corps of Engineers (USACE) JD (issued August 10, 2006, 2006-2230-TMV) the 7.94 acres of wetland which was filled for the construction of the gasifier and associated infrastructure is not a “water of the United States” and therefore USACE did not take jurisdiction or regulate this resource. Therefore there is no effect on wetlands or waterways.

- b. **Floodplains** – The proposed project and existing facility is not located within the 100- or 500-year floodplain. A FEMA 81-93 Form is not required since there is no mortgage as funding is in the form of a grant.
- c. **Wilderness** – No wilderness is present or affected therefore there is no effect. The site is an established industrial site.
- d. **Wild or Scenic Rivers** – No Wild or Scenic Rivers are present or affected, therefore there is no effect.
- e. **Historical, Archeological Sites** - RD has made a determination under Section 106 of the NHPA that there would be no adverse effects to historic or cultural sites listed on, or eligible for listing on the National Register of Historic Places. The Minnesota SHPO concurred the project would have no potential to affect historic or archeological resources in a letter dated January 7, 2010. No known tribal resources are located within this area.
- f. **Critical Habitat or Endangered/Threatened Species** – RD has made a determination under Section 7 of the Endangered Species act that the proposed project has no potential to affect endangered or threatened species or their critical habitat since the project area is located within an established industrial site and no endangered or threatened species have been identified within either the project area or adjacent property.
- g. **Coastal Barrier** – No Coastal Barriers are present or affected, therefore there is no effect.
- h. **Natural Landmark** – No Natural Landmarks are present or affected, therefore there is no effect.
- i. **Important Farmlands** – No Important Farmlands are present or affected, therefore there is no effect.
- j. **Prime Forest Lands** – No Prime Forest Lands are present or affected, therefore there is no effect.
- k. **Prime Range Lands** – No Prime Range Lands are present or affected, therefore there is no effect.
- l. **Approved Coastal Zone Management Area** – No Coastal Zone Management Areas are present or affected, therefore there is no effect.
- m. **Sole Source Aquifer Recharge Area** – No Sole Source Aquifer Recharge Areas are present or affected, therefore there is no effect.
- n. **Air Quality** – This project will require an Environmental Assessment Worksheet (EAW) and Air Quality Permit Modification from MPCA. The EAW will determine what if any additional pollution control equipment will be required. The permit modification will determine future emission limits and the monitoring and control requirements necessary for compliance, whether the facility uses corn cobs, woody debris, glycerin or other biomass materials. A combination of pollution control equipment, emission controls and permit limitations will keep the criteria pollutants (Carbon Monoxide, Lead, NO_x, PM₁₀, PM, SO_x, VOCs)

within permitted threshold levels. Air emission estimates provided by the applicant indicate that NO_x, SO_x, and PM, would increase with the increased throughput of the gasifier (proposed project). The increase in these pollutants poses an adverse effect (adverse impact) to air quality; however the impact is not a significant adverse effect because the increases will be well within proposed air emission permit threshold levels for these pollutants. The applicant must provide a copy of all air quality permit(s) and permit modification(s) prior to the issuance of any RD funding.

- o. Water Quality** – The gasification process uses very little water, and waste water is not expected to be an issue or challenge. The water use and handling infrastructure are already in place to support the facility. The facilities existing NPDES permit(s) require water quality monitoring. Any increases in stormwater or wastewater that the project proposes will either be handled under existing NPDES permit(s) or modification(s) of the existing NPDES permit(s). The applicant must provide a copy of all water quality permit(s) and permit modification(s) prior to the issuance of any RD funding. If no permit(s) are required for stormwater or wastewater discharge, then documentation must be submitted substantiating this claim.
- p. Solid Waste Management** – This project is not anticipated to generate any solid wastes. Byproducts of the process include a high-carbon residual “char-ash” with soil amendment characteristics or fuel use and used fluid bed media that can be reused by local concrete operations.
- q. Transportation** – There will be an increase in truck traffic in order to supply the additional biomass used in the gasification process, which is projected to be supplied within 50 to 100 miles of the facility. The increase in truck traffic proposed by the project is an additional 4,000 trucks per year at peak capacity. This volume of truck traffic poses no significant impact to traffic patterns because existing infrastructure is sufficient. This volume of truck traffic poses no significant impact to air quality because the project area and surrounding supply region is located within an attainment area for the six criteria pollutants. Minnesota has been in compliance with all national ambient air quality standards since 2002. Rail transportation should be unaffected.
- r. Noise** – The project proposes no significant impacts to noise levels.
- s. Energy** – The only utility service required to support the planned expansion is electricity for which the primary infrastructure already exists.
- t. Environmental Justice** - The project poses no potential for adverse impact to minority or low income communities.
- u. Construction Impacts** – The preliminary site work where construction for the project is to take place was finished in 2007. The project proposes construction consisting of erecting prefabricated equipment on that site, much of which will already be enclosed within a building.
- v. Secondary Impacts** – The project poses no potential to significantly adversely affect air quality or other environmental resources.
- w. Cumulative Impacts** – The project poses no reasonably foreseeable potential to significantly adversely affect air quality or other environmental resources.

- x. **Intergovernmental Review:** RD coordinated with the MPCA to obtain info on previous EAWs completed on the Ethanol Plant. RD initiated contact with the SHPO.
- y. **Project Alternatives:** Project alternatives reviewed for this grant application were restricted to the no action alternative. In the no action alternative the project would not be funded and theoretically the gasification system would not be expanded. Since the goal of the project is to replace finite, non-renewable fossil resources, and reduce associated CO₂ emissions, with sustainable, renewable biomass resources, the no action alternative would not achieve this goal. The preferred alternative proposes an increase in the NO_x emissions, however, the other five criteria pollutants are not expected to increase, and the NO_x emission increase will be managed by pollution control equipment, emission controls and permit limitations. Therefore, the no action alternative would have a slightly less higher potential for adverse impact to air quality compared to the preferred alternative.
- z. **Mitigation Measures:** The applicant indicates that a combination of pollution control equipment, emission controls and permit limitations will keep the criteria pollutants (Carbon Monoxide, Lead, NO_x, PM₁₀, PM, Sulfur Dioxide, VOCs) within permitted threshold levels. This mitigation is required in order to obtain the MPCA air permit (or permit modification), therefore there is no mitigation required as special condition for financial assistance. However, as noted in air quality section above “The applicant must provide a copy of all air quality permit(s) and permit modification(s) prior to the issuance of any RD funding.” And as noted in the water quality section above “The applicant must provide a copy of all water quality permit(s) and permit modification(s) prior to the issuance of any RD funding. If no permit(s) or modification(s) are required for stormwater or wastewater discharge, then documentation must be submitted substantiating this claim”.

Rural Development
Environmental Justice (EJ) and Civil Rights Impact Analysis (CRIA)
Certification

1. Applicant's name and proposed project description: Chippewa Valley Ethanol proposes to install a gasifier to utilize producer gas from biomass as replacement for natural gas.

2. Rural Development's loan/grant program/guarantee or other Agency action: RD gives Chippewa an annual payment based upon the fossil fuel replaced by renewable fuel. (Section 9004)

3. Attach a map of the proposal's area of effect identifying location or EJ populations, location of the proposal, area of impact or

Attach results of EJ analysis from the Environmental Protection Agency's (EPAs) EnviroMapper with proposed project location and impact footprint delineated.

4. Does the applicant's proposal or Agency action directly, indirectly or cumulatively affect the quality and/or level of services provided to the community?

Yes No N/A

5. Is the applicant's proposal or Agency action likely to result in a change in the current land use patterns (types of land use, development densities, etc)?

Yes No N/A

6. Does a demographic analysis indicate the applicant's proposal or Agency's action may disproportionately affect a significant minority and/or low-income populations?

Yes No N/A

If answer is no, skip to item 12. If answer is yes, continue with items 7 through 12.

7. Identify, describe, and provide location of EJ population _____

8. If a disproportionate adverse affect is expected to impact an EJ population, identify type/level of public outreach implemented. _____

9. Identify disproportionately high and adverse impacts on EJ populations. _____

10. Are adverse impacts appreciably more severe or greater in magnitude than the adverse impacts expected on non-minority/low-income populations?

Yes No N/A

11. Are alternatives and/or mitigation required to avoid impacts to EJ populations?

Yes No N/A

If yes, describe _____

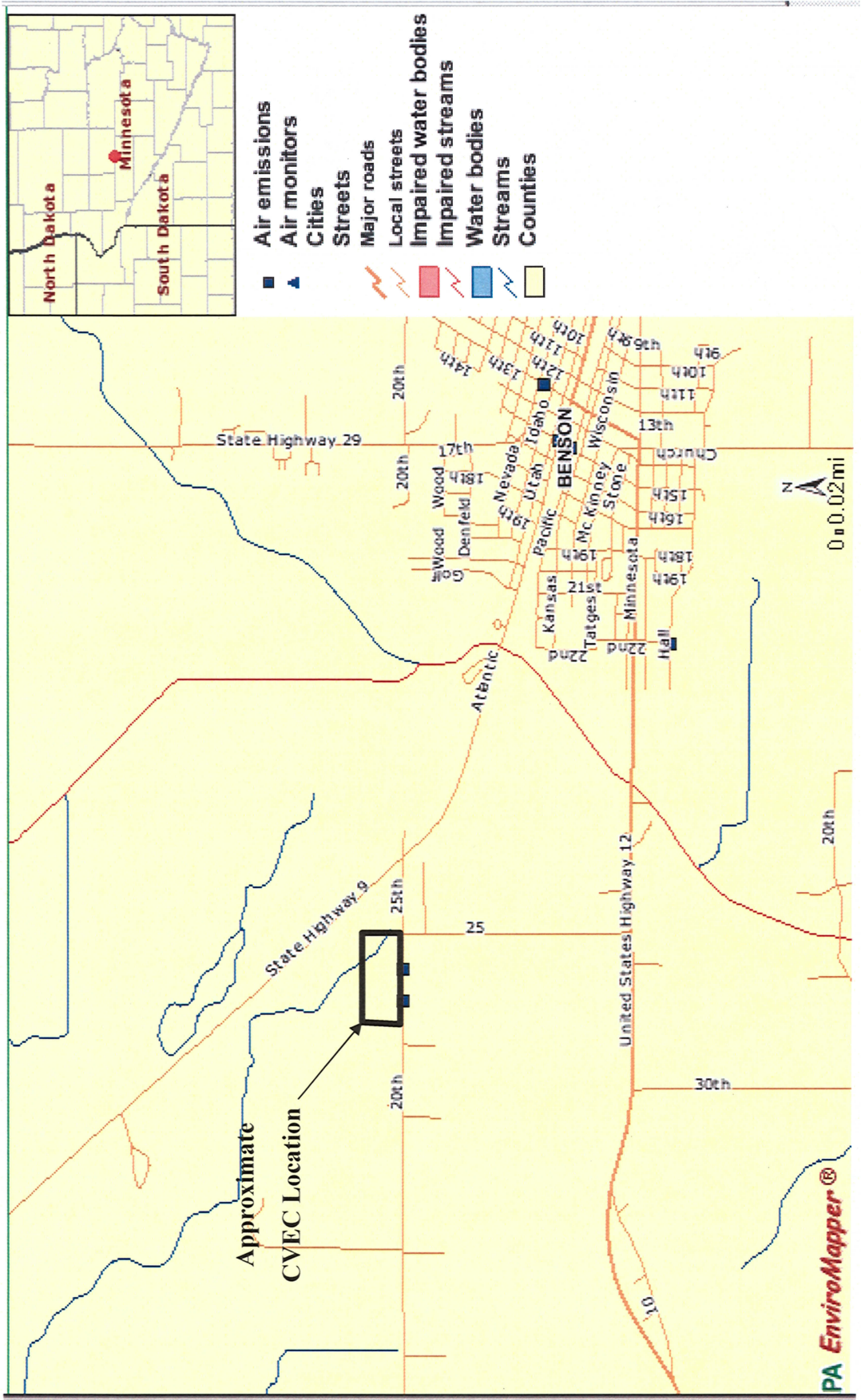
12. I certify that I have reviewed the appropriate documentation and have determined that:

No major EJ or civil rights impact is likely to result if the proposal is implemented.
 A major EJ or civil rights impact is likely to result if the proposal is implemented.

Juliet C. Bochicchio
Name and Title of Certifying Official

01-07-2010
Date

Juliet C. Bochicchio
Environmental Protection Specialist

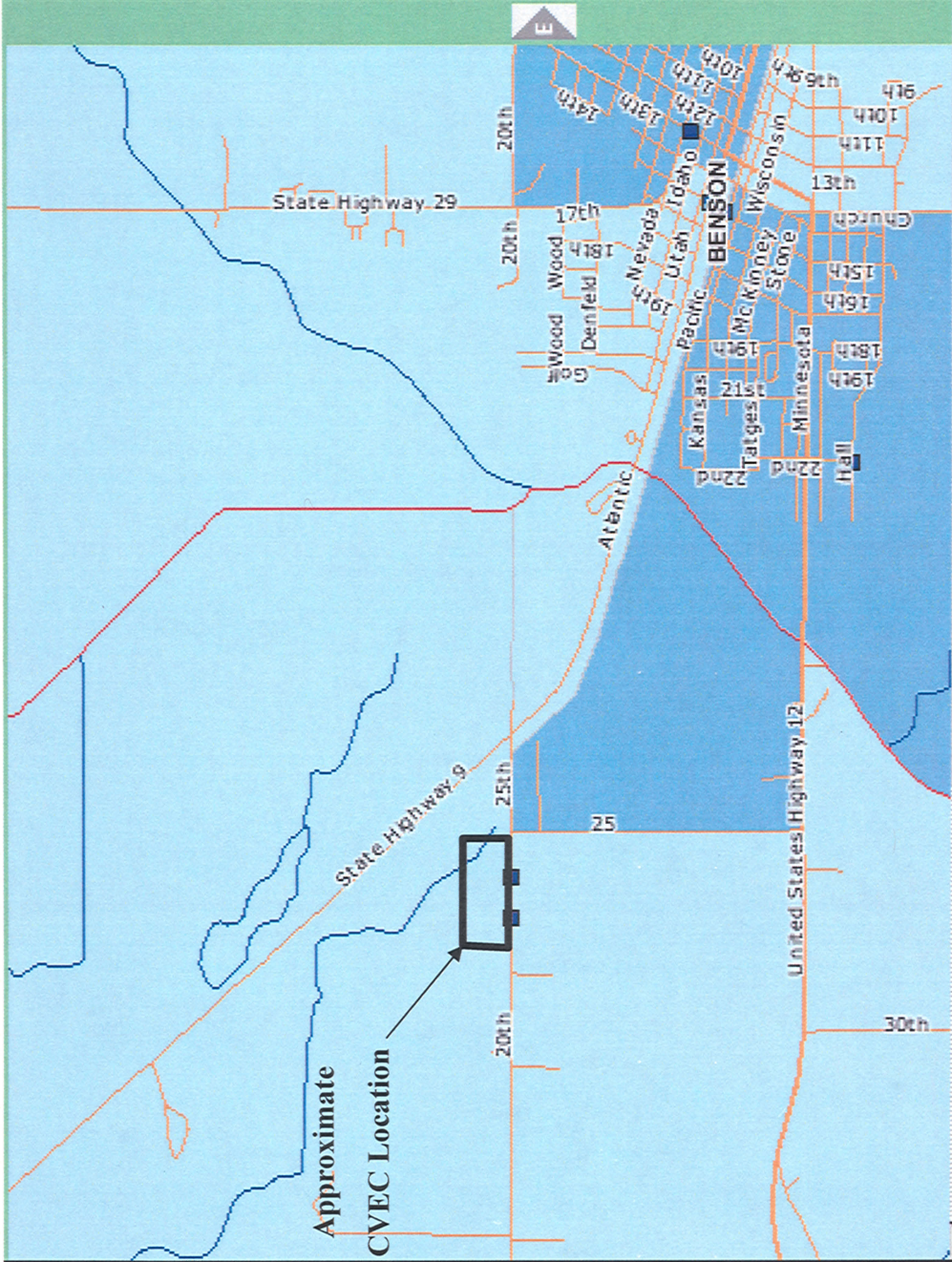


Redraw Map ↻

Percent Below Poverty
by Blockgroup



- Air emissions
- Air monitors
- Cities
- Streets
- Major roads
- Local streets
- Impaired water bodies
- Impaired streams
- Water bodies
- Streams
- Counties

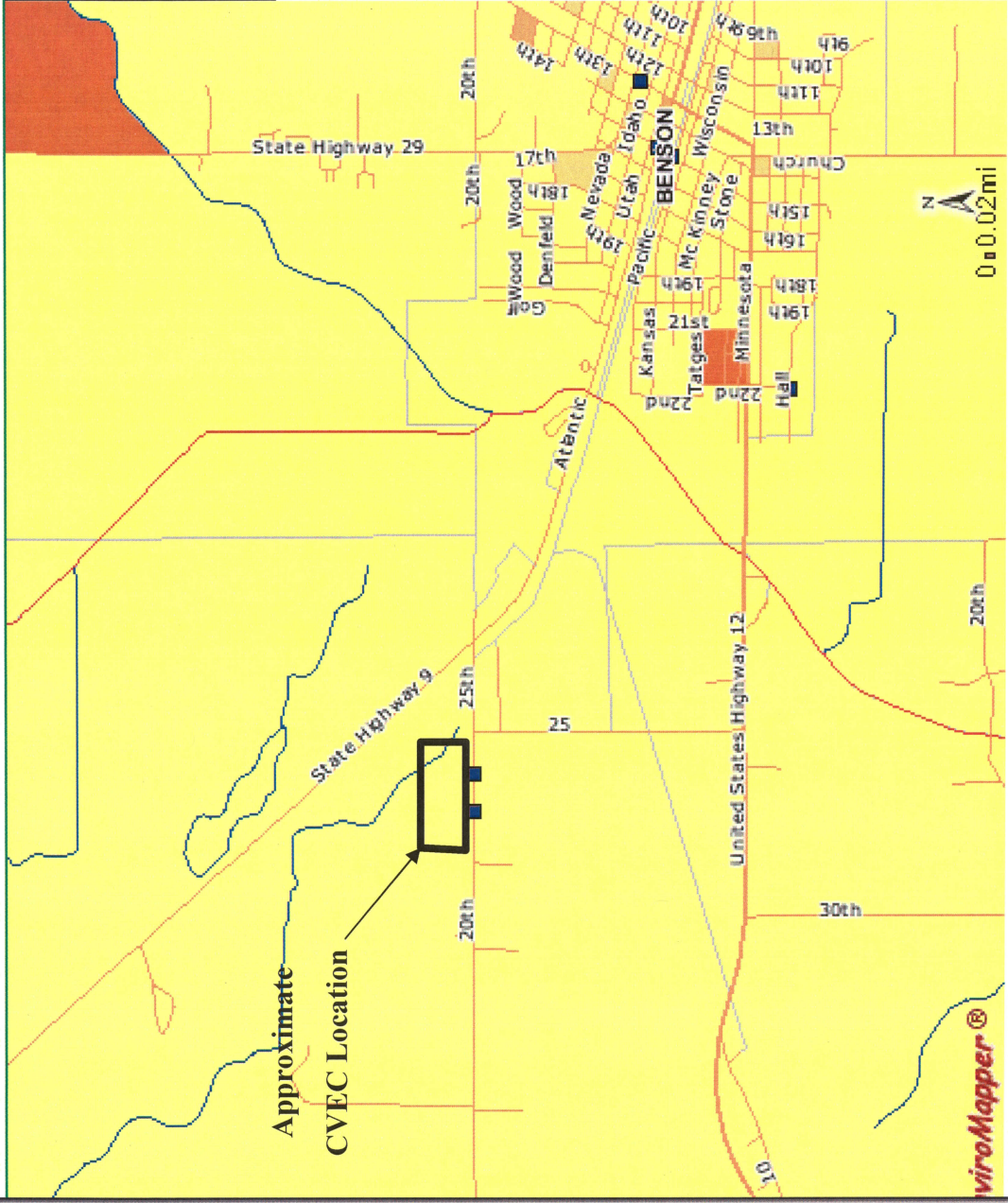




Percent Minority



- Air emissions
- Air monitors
- Cities
- Streets
- Major roads
- Local streets
- Impaired water bodies
- Impaired streams
- Water bodies
- Streams
- Counties





STATE HISTORIC PRESERVATION OFFICE

January 6, 2010

Ms. Juliet Bochicchio
Environmental Protection Specialist
USDA-RD
Mail Stop 0761
1400 Independence Ave SW
Washington, DC 20250-0700

RE: Chippewa Valley Ethanol Company – Installation of Supplemental Equipment within an Existing Ethanol Facility at 270 20th Street NW
T122 R39 S36, Benson, Swift County
SHPO Number: 2010-0971

Dear Ms. Bochicchio:

Thank you for the opportunity to review and comment on the above project. It has been reviewed pursuant to the responsibilities given the State Historic Preservation Officer by the National Historic Preservation Act of 1966 and the Procedures of the Advisory Council on Historic Preservation (36CFR800).

Based on available information, we conclude that **no properties** listed in or eligible for listing in the National Register of Historic Places will be affected by this project

Please contact our Compliance Section at (651) 259-3455 if you have any questions regarding our review of this project.

Sincerely,

A handwritten signature in black ink that reads 'Britta L. Bloomberg'.

Britta L. Bloomberg
Deputy State Historic Preservation Officer



United States Department of Agriculture
Rural Development

Minnesota Historical Society
345 W. Kellogg Blvd.,
St. Paul, MN 55102-1906

DEC 08 2009

Attention: Kelly Gragg-Johnson

Subject: Section 106 Review of **Chippewa Valley Ethanol Company** – Gasification Project, Assisted by the U. S. Department of Agriculture, Rural Development Benson, MN, Swift County, S36 T122N R39W

Dear Ms. Gragg-Johnson,

The U.S. Department of Agriculture, Rural Development, is reviewing an application for Chippewa Valley Ethanol Company (CVEC) for federal funding under our repowering assistance programs. The funding would allow CVEC to increase the production capacity of its existing biomass gasification system to support 80 percent or more of the ethanol plants thermal energy needs from biomass and in doing so reduce it's reliance on fossil fuels (natural gas) by 80 percent.

Rural Development has made a determination of no effect for this undertaking based on the following:

- 1) The ethanol facility is an existing facility, and is less than 50 years old,
- 2) The undertaking is for *installation of supplemental equipment* for the existing gasification process,
- 3) The undertaking will be located within an area that has been previously ground disturbed during the construction of the ethanol facility, and
- 4) The undertaking is centrally located within the existing ethanol facility.

36 CFR 800.4(a)

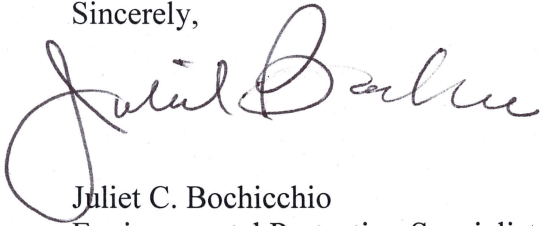
The location of the proposed undertaking and the area of potential effects (APE), as defined in 800.16(d), is shown on the enclosed USGS Quadrangle Maps. The APE is defined as the site footprint. The legal description of the property is located approximately at -95.53743 Longitude and 45.28181 Latitude, located on the Clontarf South USGS Quadrangle. The street address of the property is 270 20th Street, NW Benson, Minnesota, 56215. The property is located at Section 36 Township 122N Range 39W.

Rural Development is requesting that you respond to this letter with any comments/questions within 30 days from receipt of this letter. Please feel free to contact me with any comments or questions at juliet.bochicchio@wdc.usda.gov or at 202.205.8242. Please be sure to forward all correspondence to my attention to the address below at **Mail Stop 0761**.

1400 Independence Ave. S.W. · Washington DC 20250-0700
Web: <http://www.rurdev.usda.gov>

Committed to the future of rural communities.

Sincerely,

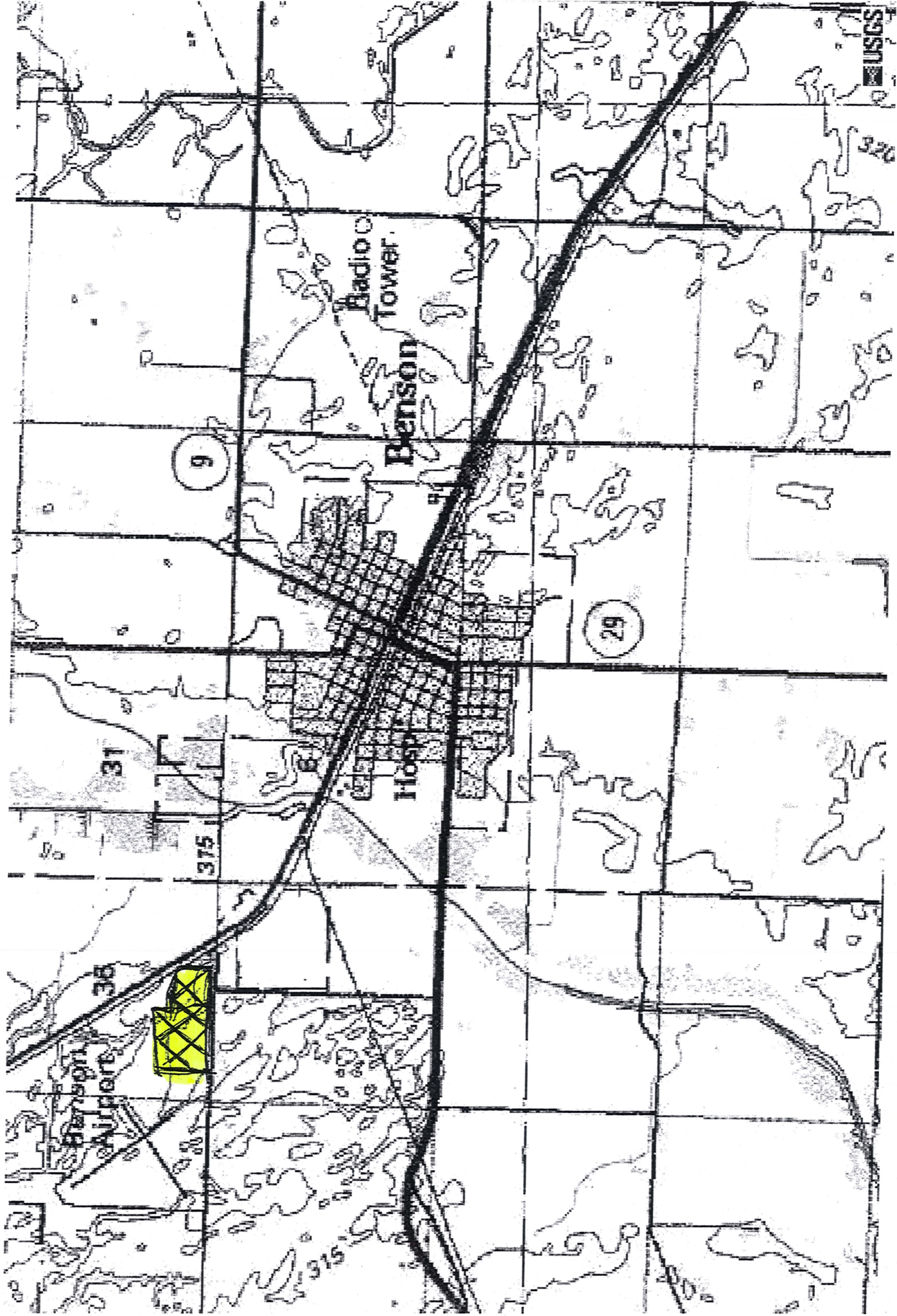


Juliet C. Bochicchio
Environmental Protection Specialist

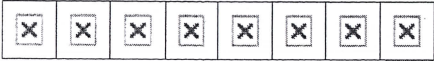
cc: Andy Zurn, Chippewa Valley Ethanol Company, LLLP

- Attachments:
- 1) Clontarf South USGS Quadrangle Location Map
 - 2) Mapquest Location Map
 - 3) Mapquest Aerial Photograph
 - 4) Mapquest Aerial Photograph with Proposed Construction Footprint
 - 5) Map of Existing and Proposed Equipment
 - 6) Aerial Photograph of the Plant with proposed construction areas identified
 - 7) Photograph of existing facility

Chippewa Valley Ethanol



PROJECT LOCATION

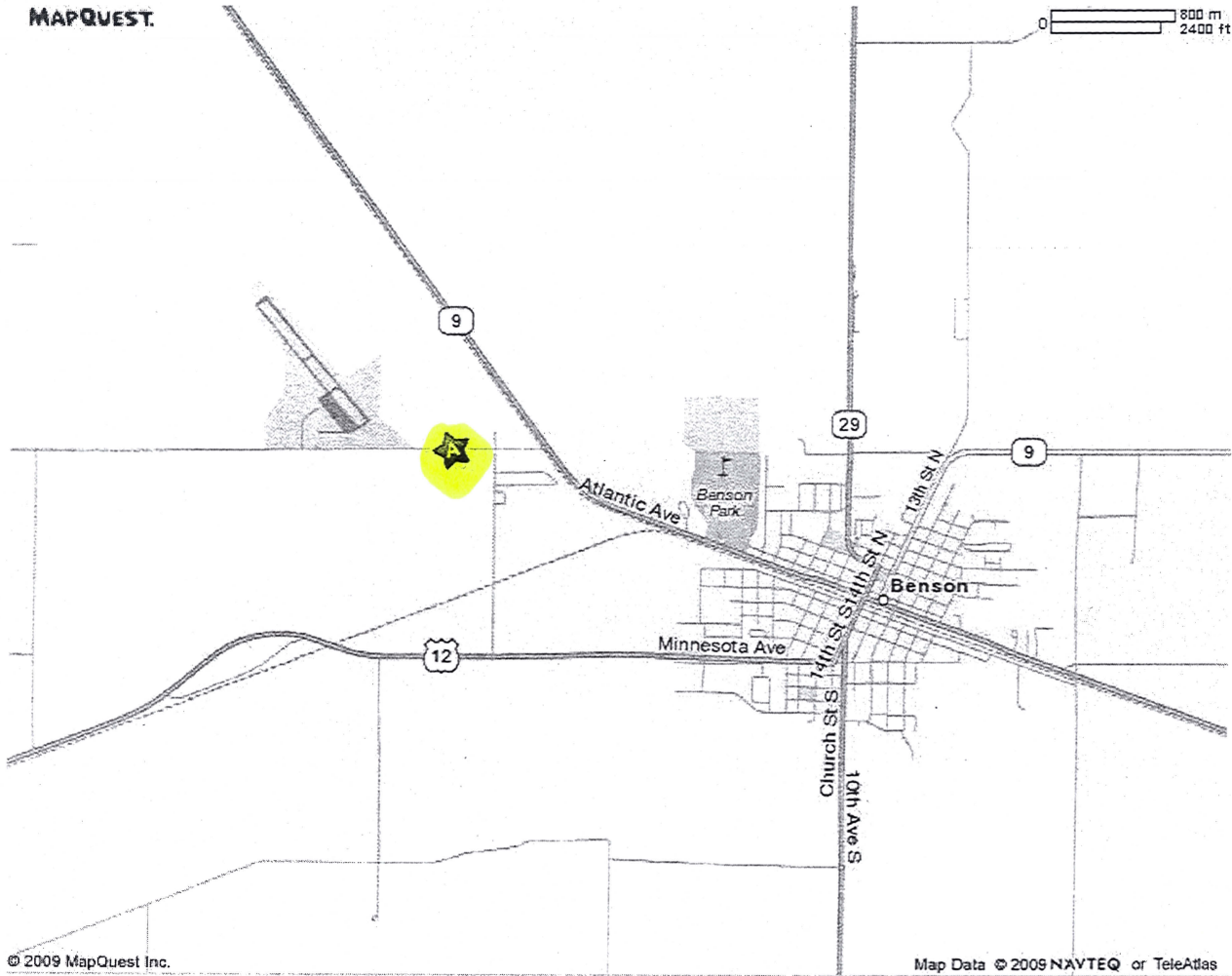


MAPQUEST.

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★ **270 20th St NW**
Benson, MN 56215-1039

MAPQUEST.



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Benson, MN 56215-1039



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Site Footprint / Area of Potential Effect

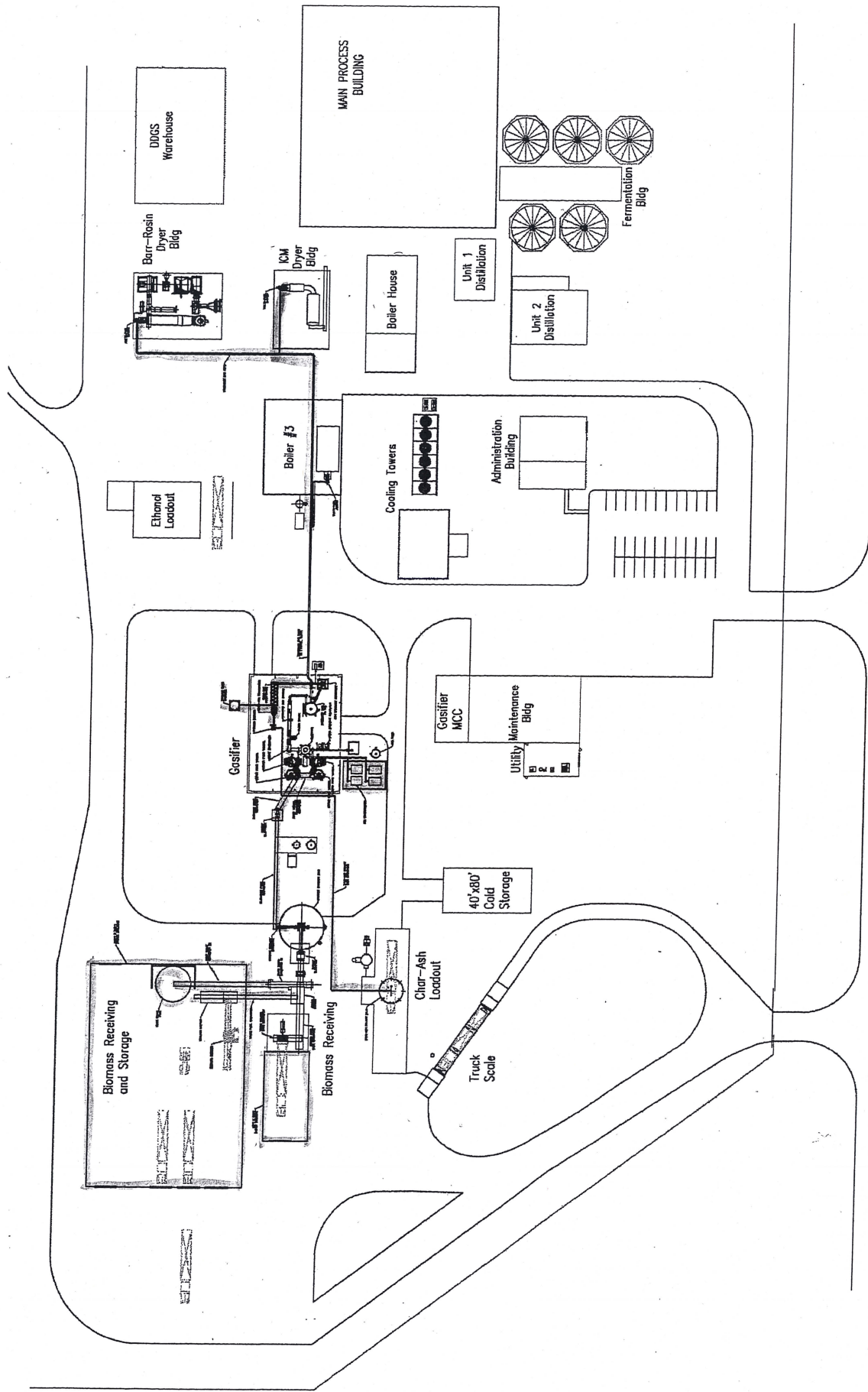


Figure 11: Existing Equipment (Black) and New Equipment (Red)

A. Project Site Description

CVEC is located just outside Benson, Minnesota. Benson is located in the west central region of the State, approximately 120 miles west of Minneapolis.

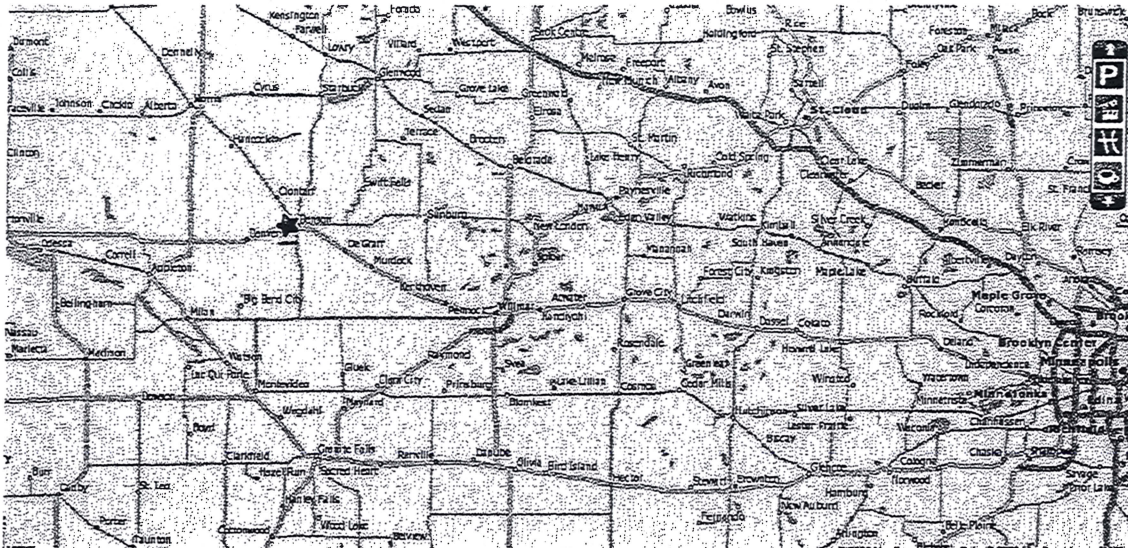


Figure 2: Map – Minnesota – CVEC Location

The biomass gasifier is installed on CVEC property and located adjacent to the ethanol plant.

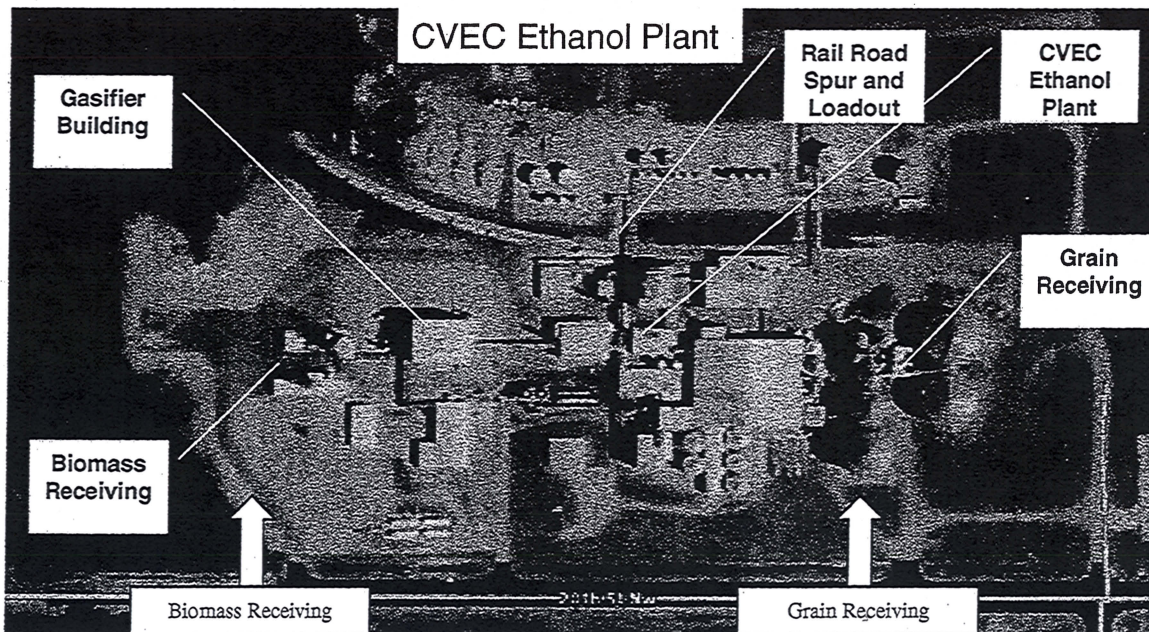


Figure 3: CVEC Plant Layout

Gasification is an intensive process that requires industrial infrastructure to support efficient operations. An assessment of the suitability of the site to support proposed operating conditions

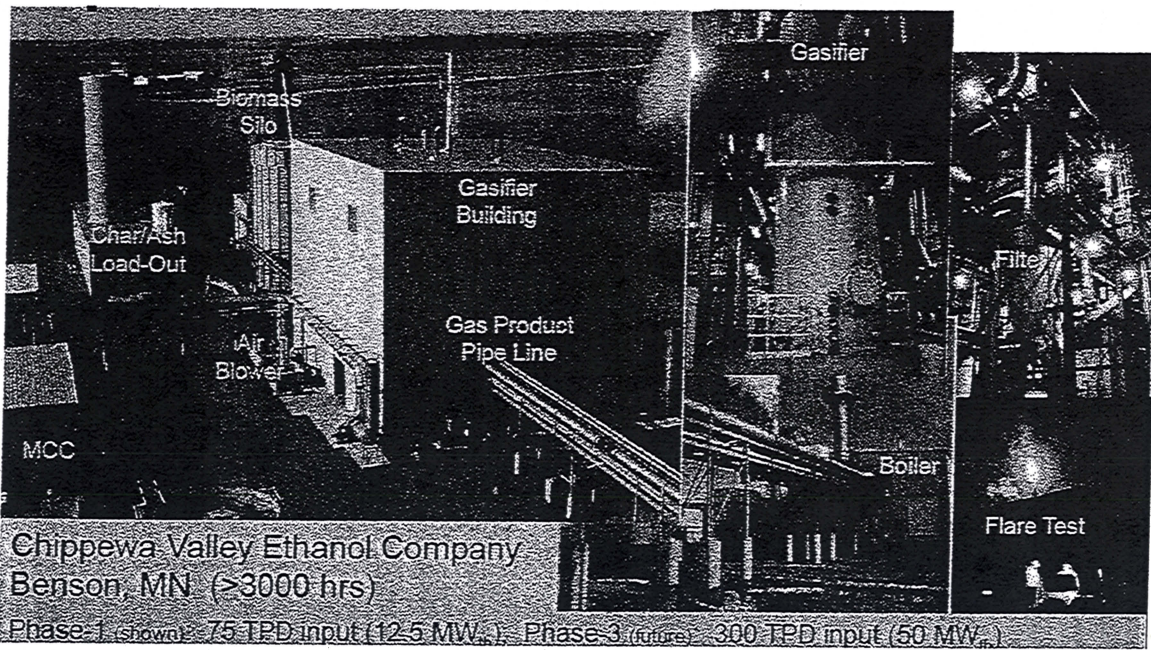


Figure 1: Chippewa Valley Ethanol Facility, Benson, MN

REQUEST FOR ENVIRONMENTAL INFORMATION

Name of Project	CVEC Biomass Gasifier
Location	Beeson, MN

- Item 1a. Has a Federal, State, or Local Environmental Impact Statement or Analysis been prepared for this project?
 Yes No Copy attached as EXHIBIT I-A.
 1b. If "No," provide the information requested in Instructions as EXHIBIT I.
- Item 2. The State Historic Preservation Officer (SHOP) has been provided a detailed project description and has been requested to submit comments to the appropriate Rural Development Office. Yes No Date description submitted to SHPO _____
- Item 3. Are any of the following land uses or environmental resources either to be affected by the proposal or located within or adjacent to the project site(s)? (Check appropriate box for every item of the following checklist).

	Yes	No	Unknown		Yes	No	Unknown
1. Industrial	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	19. Dunes	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2. Commercial	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	20. Estuary	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3. Residential	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	21. Wetlands	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4. Agricultural	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	22. Floodplain	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
5. Grazing	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	23. Wilderness	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
6. Mining, Quarrying	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	(designated or proposed under the Wilderness Act)			
7. Forests	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	24. Wild or Scenic River	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
8. Recreational	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	(proposed or designated under the Wild and Scenic Rivers Act)			
9. Transportation	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	25. Historical, Archeological Sites	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
10. Parks	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	(Listed on the National Register of Historic Places or which may be eligible for listing)			
11. Hospital	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	26. Critical Habitats	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
12. Schools	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	(endangered /threatened species)			
13. Open spaces	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	27. Wildlife	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
14. Aquifer Recharge Area	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	28. Air Quality	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
15. Steep Slopes	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	29. Solid Waste Management	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
16. Wildlife Refuge	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	30. Energy Supplies	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
17. Shoreline	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	31. Natural Landmark	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
18. Beaches	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	(Listed on National Registry of Natural Landmarks)			
				32. Coastal Barrier Resources System	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Item 4. Are any facilities under your ownership, lease, or supervision to be utilized in the accomplishment of this project, either listed or under consideration for listing on the Environmental Protection Agency's List of Violating Facilities? Yes No

10-12-09
(Date)

Signed: [Signature]
(Applicant)

Process Engineer
(Title)

According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0575-0094. The time required to complete this information collection is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Chippewa Valley Ethanol
Request for Environmental Information: RD 1940-20 Exhibit I

1.) Primary Beneficiaries

The primary beneficiary that will benefit from the proposal is the Chippewa Valley Ethanol Company (CVEC) and its subsidiaries. CVEC has already made a substantial investment in its biomass gasifier technology to replace some natural gas inputs to its existing dry-mill corn ethanol plant and the fact that this project will allow CVEC to offset 90% of natural gas inputs puts the company in a favorable classification for the future. Secondly, CVEC's farmer-owners will have the opportunity supply biomass (in addition to corn) to the plant, giving them an additional revenue stream. This also keeps energy dollars in the local area to trickle down and benefit rural communities. Finally, this project opens up a market for biomass procurement, processing, and transportation that can be filled by local entrepreneurs seeking to grow their business and provide rural jobs.

2.) Area Description

a) The proposed location of the project is a previously developed industrial site bordered by low-lying CRP wetlands to the north, a small airport to the west, and agricultural land to the south and east.

b) Industrial: The existing industrial use of the site will be expanded.

Transportation: There will be an increase in truck traffic in order to deliver biomass to the site. Rail transportation should be unaffected.

Air Quality: There will be an Environmental Assessment Worksheet (EAW) and Air Quality permit modification in support of the proposal. The EAW will determine what, if any, additional pollution control equipment will be required. The permit modification will determine future emission limits and the monitoring and control requirements necessary for compliance.

Energy Supplies: There will be a shift from natural gas to biomass as the prevailing energy supply to the existing ethanol plant.

c) See Exhibit II.

3.) Air Quality

a) No active air quality monitoring stations exist within 100 miles of the project site. However, existing operations on the project site are a point source for which data exists within the public domain. The past five available years of criteria pollutant data, corresponding to the years since CVEC's last major expansion, are shown below (rounded to the nearest pound):

Pollutant	2003	2004	2005	2006	2007
Carbon Monoxide	160604	215178	195485	147482	147431
Lead	0	1	1	0	0
NOx	96690	113577	111388	125442	130860
PM10	126589	66451	49906	39436	37228
PM	63329	60364	57495	41161	44491
Sulfur Dioxide	836	1314	1302	1316	1423
VOC	561213	344070	194340	82973	94001

- b) A combination of pollution control equipment and ambient air quality modeling will maintain PM/PM10/PM2.5 emissions at approximately current levels. NOx emissions due to the combustion of producer gas are expected to increase relative to NOx emissions due to the combustion of natural gas. NOx emissions for 2008 and 2009 increased slightly as a result of the startup of the biomass gasifier. Presumably, a combination of emission controls and permit limitations will keep NOx emissions below the PSD synthetic minor threshold of 250 tons per year. The emissions of all other criteria pollutants are expected to maintain similar trends to those already established above and are not of concern in regards to permitting.
- c) Topological and meteorological conditions do not hinder the dispersal of air emissions.
- d) Particulate Matter emissions (PM/PM10/PM2.5) are controlled via high efficiency baghouse filters, cyclones, and indoor operations. Oxides of Nitrogen (NOx) are controlled via low-NOx burners, flue gas recirculation (FGR), and combustion controls. The biomass gasifier has shown to not be a significant source of carbon monoxide, lead, sulfur dioxide, or volatile organic compounds.

4.) Water Quality

- a) Water analysis (Benson Lower aquifer) on 6/21/07:

ANALYSIS	UNITS	RESULT
pH	units	7.86
Conductivity	µmhos/cm	960
Total Organic Carbon	mg/L	4.6
P-Alkalinity	mg/L	0
M-Alkalinity	mg/L	382
Bromide	mg/L	<0.5
Chloride	mg/L	17.5
Flouride	mg/L	0.530
Nitrate (NaO3)	mg/L	<1.0
Nitrite (NaO2)	mg/L	<0.5
Total Phosphate	mg/L	1.02
Ortho Phosphate	mg/L	1.02
TDS	mg/L	651

- b) Water for the existing plant is obtained via wells into the Benson Middle and Benson Lower aquifers. The amount of water that can be obtained is limited by a water appropriation permit, but the available supply is well in excess of the permit limitations. CVEC is the only current draw upon the Benson Lower aquifer. This project is designed to utilize a minimal amount of water (2 gpm) relative to that used by existing operations (250 gpm).
- c) The current operations at CVEC discharge water via the following streams: cooling tower blowdown, boiler water blowdown, reverse osmosis (RO) water reject, and water softener regeneration reject. The cooling tower blowdown is by far the largest water discharge from current operations, amounting to approximately 40 gallons per minute of high-conductivity

wastewater (approximately 3500 µmhos/cm). The other reject streams combined amount to approximately 5 gallons per minute of similar quality wastewater.

- d) Current effluent streams are sent to a pond where they are aerated for the removal of Biological Oxygen Demand (BOD) and released to a drainage ditch for eventual discharge into the Chippewa River. No additional treatment systems are proposed for this project. CVEC's current NPDES permit requires only water quality monitoring.
 - e) Since there is no permit requirement for treatment, no improvements are planned at this time.
 - f) Surface runoff is managed by sloping landscaping in the direction of a system of sewers and ditches that discharge to the pond.
- 5.) Solid Waste Management
- a) This project is not anticipated to generate any solid wastes. Byproducts of the process include a high-carbon residual "char-ash" with soil amendment characteristics or fuel use and used fluid bed media that can be reused by local concrete operations.
 - b) Not applicable.
 - c) All byproduct streams will be recycled or reused as described above.
- 6.) Transportation
- a) The current site is serviced by a spur off the Burlington Northern Santa Fe (BNSF) railway and by a recently expanded county road.
 - b) This project will result in increased truck traffic to deliver biomass to the west end of the existing industrial site.
 - c) No other land uses are likely to be affected by the increased truck traffic. CVEC is located approximately a mile outside of the city of Benson in an area where industrial and agricultural operations are the major users of the roads.
 - d) The county road that serves CVEC was recently expanded to handle any potential increase in traffic to the site. Although no plans exist, the railway spur could also be expanded as desired.
- 7.) Noise
- No major sources of noise are anticipated.
- 8.) Historic/Archeological Properties
- a) No known historic or archeological resources are known to exist within the project area. The project site was previously developed from mitigated wetlands and little if any further site development is anticipated.
 - b) A survey of the adjacent wetlands conducted in 2007 revealed no historical or archeological resources.
- 9.) Wildlife and Endangered Species
- a) The project area is an established industrial site that contains no wildlife resources. Adjacent to the project area are protected wetlands enrolled in the Federal CRP program that supply habitat to local waterfowl.
 - b) No endangered or threatened species have been identified within either the project area or the adjacent wetlands.
- 10.) Energy

- a) The existing industrial site has access to a nearby natural gas pipeline, onsite propane storage, and a dedicated electrical transformer station nearby.
- b) This project will add to the remaining capacity of the local natural gas and propane supplies by utilizing local biomass instead of those resources for process heating. The project is also likely to add a small level of demand to the local electricity grid.

11.) Construction

The preliminary site work where construction for the project is to take place was finished in 2007. As a result, the remaining construction will consist of erecting prefabricated equipment on that site, much of which will already be enclosed within a building.

12.) Toxic Substances

13.) Public Reaction

- a) No public objections have been made to this project. CVEC also had no objections to the initial gasification project which was on public notice early in 2007.
- b) No public hearing has been held.
- c) The initial biomass gasification project has been featured in national trade publications such as Ethanol Producer

14.) Alternatives to the Proposed Project

The only alternatives to the proposed project that were considered were the scope and budget of the project. Additional processing equipment, such as a biomass dryer, were considered but deemed too expensive in the current limited capital environment. It is not feasible to construct the project in another location.

15.) Mitigation Measures

There are no adverse environmental impacts associated with this project. The goal of the project is to replace finite, non-renewable fossil resources with sustainable, renewable biomass resources.

16.) Permits

- a) An Environmental Assessment Worksheet (EAW) and corresponding Air Emission permit modification are necessary for this project.
- b) This permitting process will take 9-12 months and will not be initiated until the project is greenlighted.

17.) Other Federal Actions

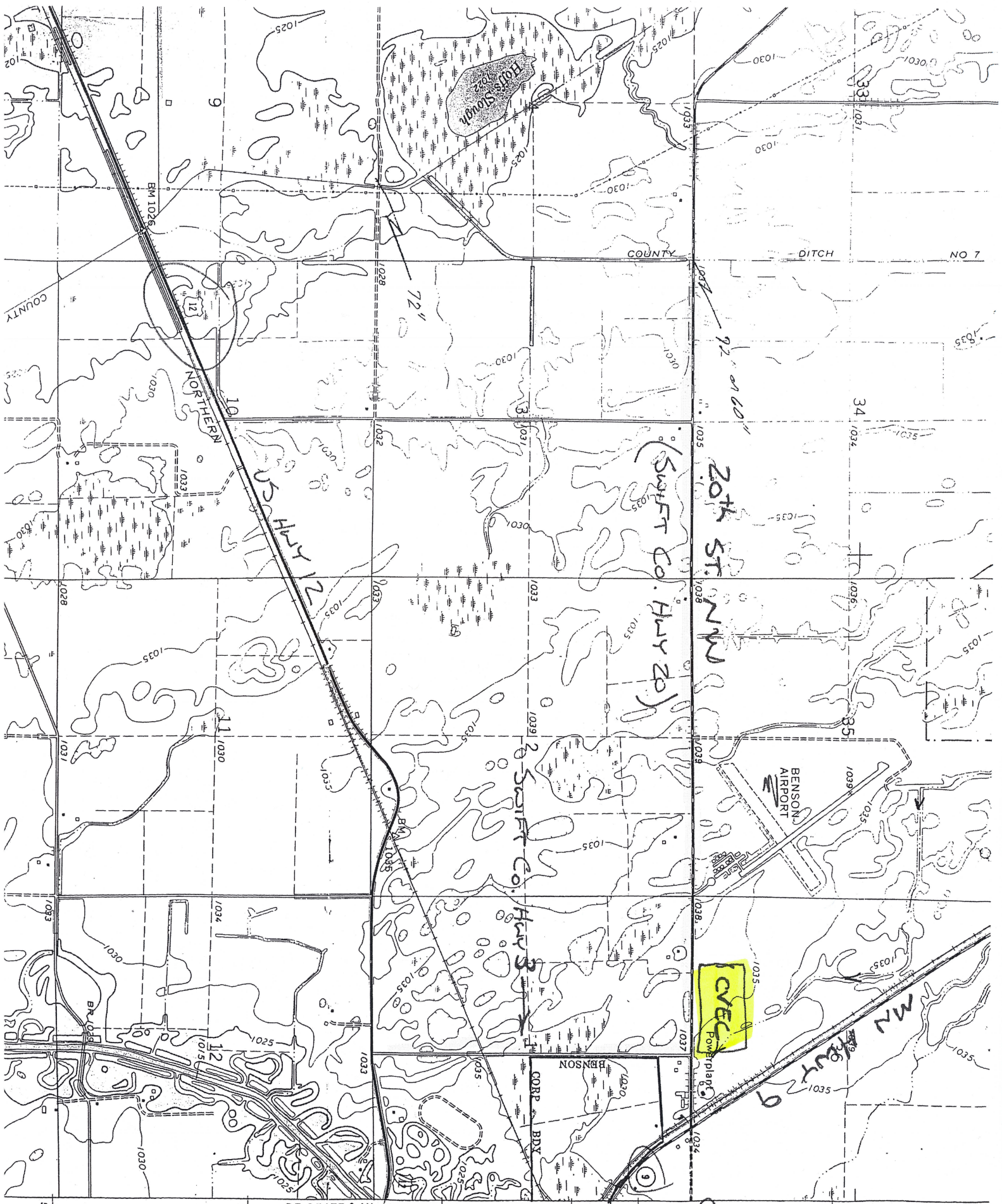
CVEC is looking at any and all Federal and State government programs related to incentivizing the production of advanced biofuels. To date, CVEC has submitted an application and been approved for the production of Producer Gas manufactured through the gasification of biomass materials as an advanced gaseous biofuel through the Advance Biofuel Payment program authorized under Title IX of Section 9001 of the Food, Conservation, and Energy Act of 2008.

Repowering Assistance Program

Chippewa Valley Ethanol Company, January 11, 2010

Current Emissions versus Estimated Emissions at Proposed 80% Natural Gas Displacement

criteria pollutant	current ethanol (tpy)	current gasifier (tpy)	current total (tpy)	proposed ethanol (tpy)	proposed gasifier (tpy)	proposed total (tpy)
ozone	0.0	0.0	0.0	0.0	0.0	0.0
PM	6.5	2.3	8.8	7.0	34.5	41.5
CO	41.7	0.2	41.9	41.7	0.8	42.5
NOx	54.2	33.2	87.4	11.7	225.0	236.7
SOx	0.3	2.4	2.7	0.1	36.0	36.1
Pb	0.0	0.0	0.0	0.0	0.0	0.0



DE GRAFF 9 MI. (BENSON)
WILLMAR 33 MI. SUNBURG 20 MI. 33 MI. TO U.S. 71

BENSON, MN

CVEC
Pump plant

20th St NW

(Swift Co. Hwy 20)

Swift Co. Hwy 20

Northern Highway

20th St NW

T. 122 N.

R. 45 W.

Send To Printer Back To TerraServer Change to 11x17 Print Size Show Grid Lines Change to Landscape

USGS 7 km SW of De Graff, Minnesota, United States 01 Jul 1977

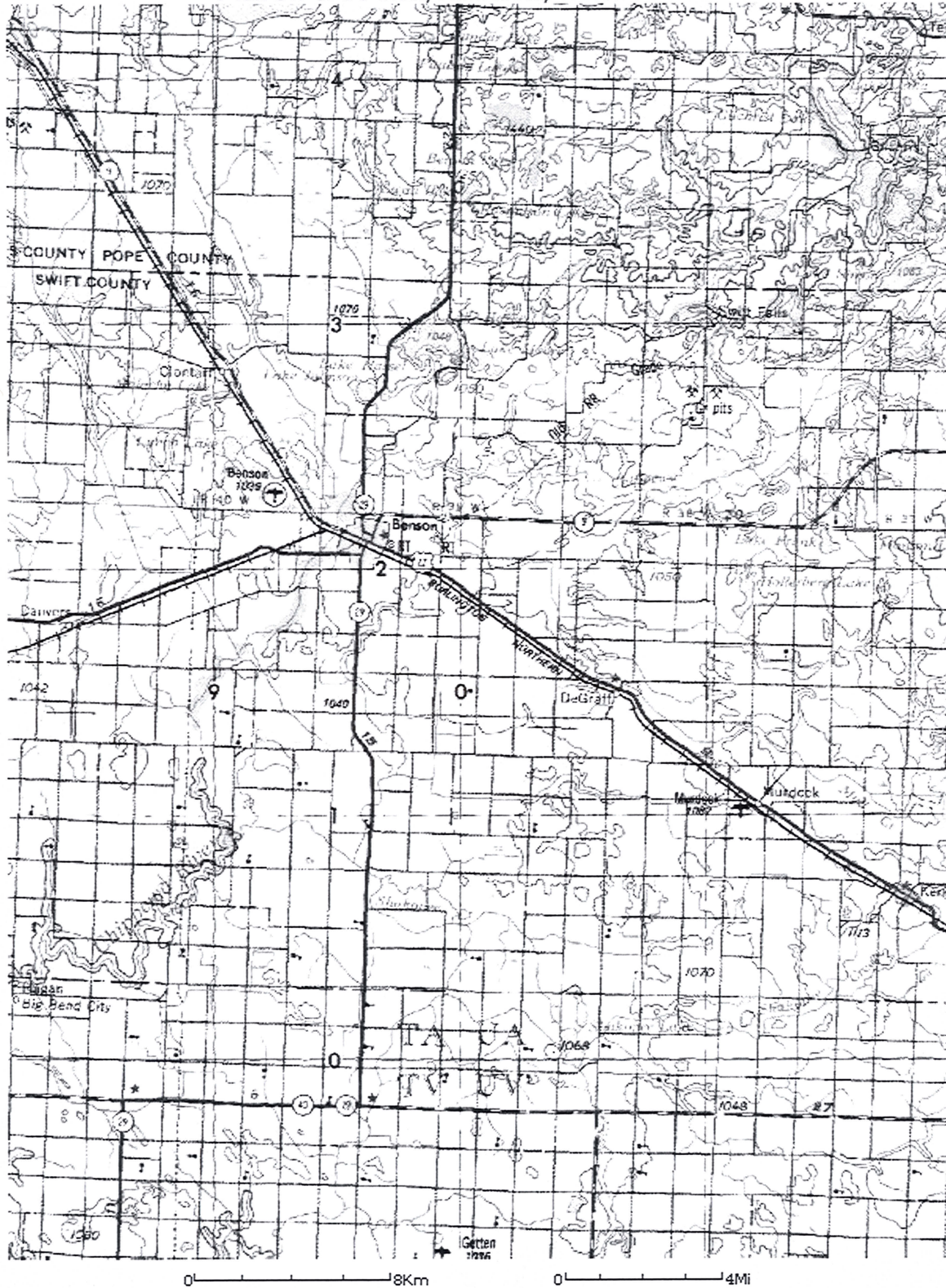


Image courtesy of the U.S. Geological Survey
© 2004 Microsoft Corporation. **Terms of Use** **Privacy Statement**



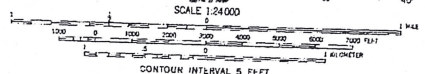
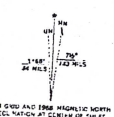
Mapped, edited, and published by the Geological Survey
Control by USGS and USGCS

Topography by photogrammetric methods from aerial
photographs taken 1955. Field checked 1968

Soundings compiled from chart furnished by
Minnesota Department of Conservation

Polyconic projection. 1927 North American datum
10,000-foot grid based on Minnesota coordinate system, south zone
1000-meter Universal Transverse Mercator grid ticks,
zone 15, shown in blue

Fine red dashed lines indicate selected fence and field lines where
generally visible on aerial photographs
This information is unclassified



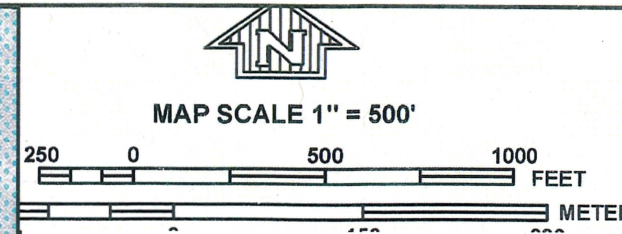
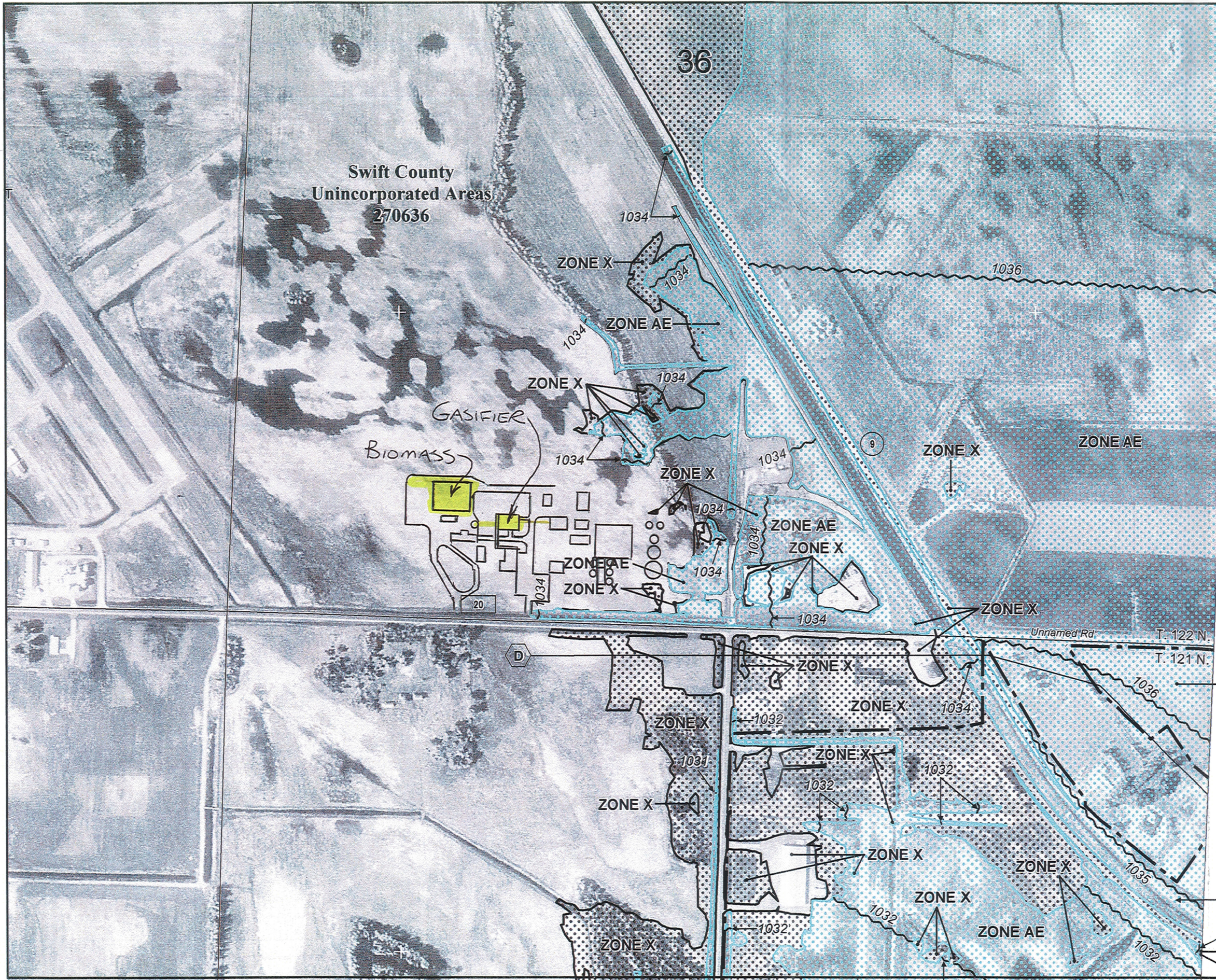
ROAD CLASSIFICATION

Primary highway, all weather, hand surface	Light-duty road, all weather, improved surface
Secondary highway, all weather, hard surface	Unimproved road, fair or dry weather

U. S. Route State Route

THIS MAP COMPIES WITH NATIONAL MAP ACCURACY STANDARDS
FOR SALE BY U. S. GEOLOGICAL SURVEY, DENVER, COLORADO 80225, OR WASHINGTON, D. C. 20542
A FOLD-OUT DESCRIBING TOPOGRAPHIC MAPS AND SYMBOLS IS AVAILABLE ON REQUEST

CLONTARF SOUTH, MINN.
N4515—W537.5/7.5
1968



Swift County
Unincorporated Areas
270636

**Proposed
RAP**

NATIONAL FLOOD INSURANCE PROGRAM

PANEL 0264C

FIRM
FLOOD INSURANCE RATE MAP

SWIFT COUNTY,
MINNESOTA
AND INCORPORATED AREAS

PANEL 264 OF 550
(SEE MAP INDEX FOR FIRM PANEL LAYOUT)

CONTAINS:

COMMUNITY	NUMBER	PANEL	SUFFIX
BENSON, CITY OF	270467	0264	C
SWIFT COUNTY	270636	0264	C

Notice to User: The Map Number shown below should be used when placing map orders; the Community Number shown above should be used on insurance applications for the subject community.



MAP NUMBER
27151C0264C


EFFECTIVE DATE
FEBRUARY 16, 2006

Federal Emergency Management Agency

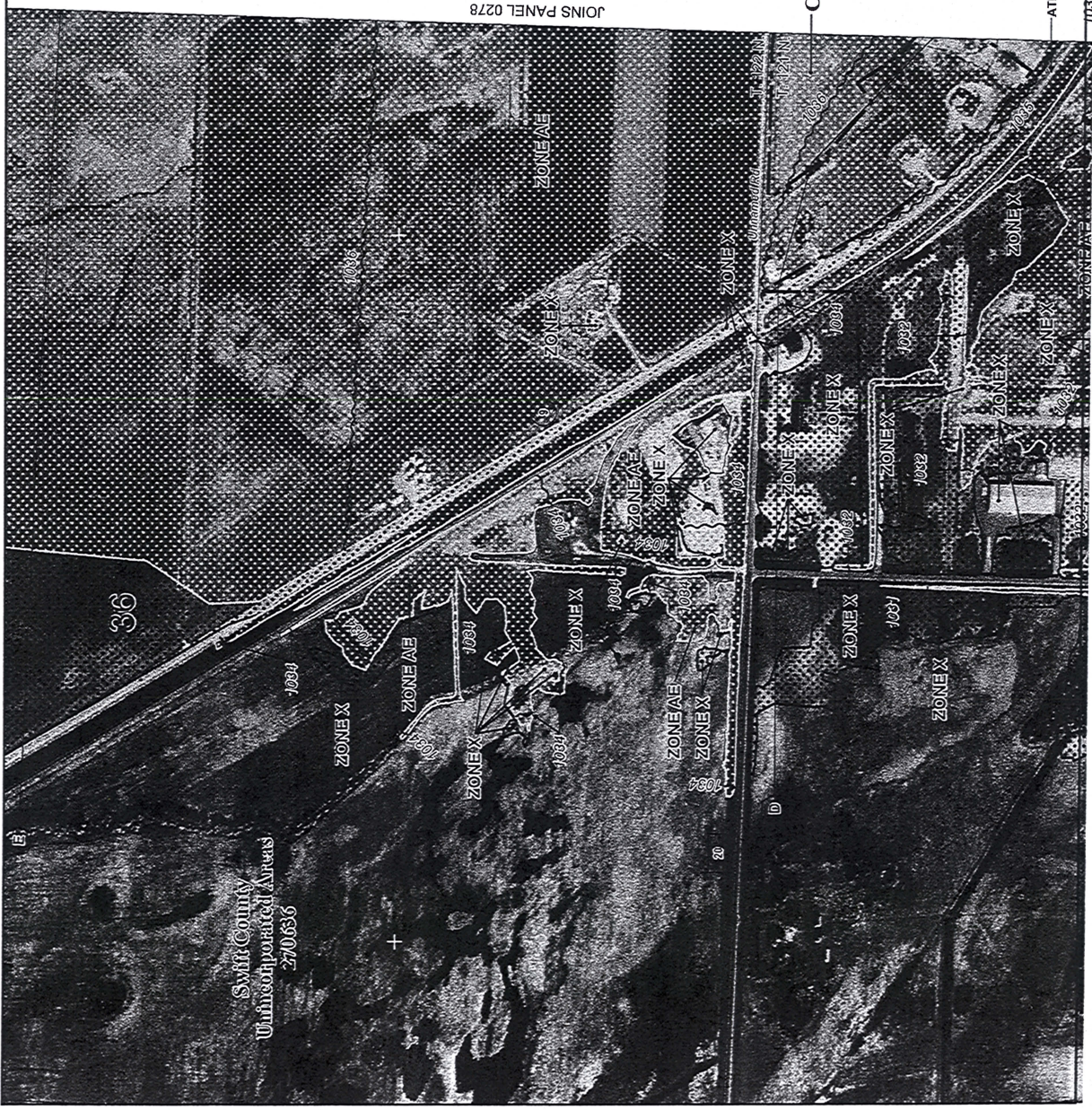
1/14/2010
A. ZURN
CVEC

This is an official copy of a portion of the above referenced flood map. It was extracted using F-MIT On-Line. This map does not reflect changes or amendments which may have been made subsequent to the date on the title block. For the latest product information about National Flood Insurance Program flood maps check the FEMA Flood Map Store at www.msc.fema.gov



NFIP	
FIRM	
FLOOD INSURANCE RATE MAP	
SWIFT COUNTY, MINNESOTA AND INCORPORATED AREAS	
PANEL 264 OF 550 (SEE MAP INDEX FOR FIRM PANEL LAYOUT)	
COMMUNITY:	NUMBER PANEL SAFETY
BENSON, CITY OF	27047 024 C
SWIFT COUNTY	27048 024 C
<p>Notice to User: The Map Number shown below should be used when placing map orders; the community name should be used when used on insurance applications for the subject community.</p>	
	
MAP NUMBER 271510264C EFFECTIVE DATE FEBRUARY 16, 2006 Federal Emergency Management Agency	

This is an official copy of a portion of the above referenced flood map. It was excluded using F-MIT On-Line. This map does not reflect changes or amendments which may have been made subsequent to the date on the title block. For the latest product information about National Flood Insurance Program flood maps visit the FEMA Flood Map Store at www.mca.texas.gov



JOINS PANEL 0278

City of Benson
270467

ATLANTIC AVE / 8



DEPARTMENT OF THE ARMY

St. Paul District Corps of Engineers
190 Fifth Street East
St. Paul, Minnesota 55101-1683

AUG 10 2006

REPLY TO
ATTENTION OF
Operations
Regulatory (2006-2230-TMV)

Mr. Andy Zurn
Chippewa Valley Ethanol Company
270 20th Street NW
Benson, Minnesota 56215

Dear Mr. Zurn:

We have reviewed information about the Chippewa Valley Ethanol Company (CVEC) Expansion project which involves discharging fill material into 7.94 acres of wetland and installing a culvert in an unnamed ditch. The project is located in the E1/2 of Section 36, T. 122N., R. 40W., Swift County, Minnesota.

We have determined that the 7.94 acre wetland that has been proposed to be filled is not a surface water resource that is adjacent or tributary to a water of the United States. This **jurisdictional determination** takes into consideration the U.S. Supreme Court's decision in Solid Waste Agency of Northern Cook County v. Corps of Engineers (the SWANCC decision). The area encompassed by this jurisdictional determination is the 7.94 acre wetland identified on the attached map as **"Created Wetland to be Filled"**. The 7.94 acre wetland area was created as replacement for non-jurisdictional wetland impacts resulting from the existing CVEC facility (MVP-2002-2240).

The subject wetland is not a **"water of the United States"** because it is: (1) not a "navigable water" as defined by Federal law, (2) not an interstate water, (3) not part of a tributary system to (1) or (2), (4) not a wetland adjacent to any of the foregoing, and (5) not an impoundment of any of the above. In addition, the interstate commerce nexus to this particular wetland is insufficient to establish Clean Water Act jurisdiction. This wetland is therefore not subject to regulation by the Corps of Engineers under Section 404 of the Clean Water Act. Please note that a water that is not navigable under Federal law may still be "navigable" as defined by state law (and may therefore be subject to regulation by the state). This determination is valid only for the 7.94 acre wetland as referenced herein. It is based on the Headquarters guidance available to us at this time.

PLEASE NOTE THAT THIS LETTER DOES NOT ELIMINATE THE NEED FOR OTHER FEDERAL, STATE, LOCAL, OR OTHER AUTHORIZATIONS SUCH AS THOSE OF THE DEPARTMENT OF NATURAL RESOURCES OR COUNTY.

The proposed culvert location as shown on the attached map is within an unnamed ditch that is a tributary to the Chippewa River which is a tributary to the Minnesota River, a navigable water of the United States. The installation of the proposed culvert is therefore subject to Corps of Engineers jurisdiction.

The information we have received indicates that the culvert will be installed at the current ditch base elevation (1032.8 feet) for the purpose of controlling hydrology in the proposed mitigation area. The proposed culvert may be authorized by a non-reporting Department of the Army General Permit (RGP-3-MN), provided that it would impact less than 400 square feet wetland/water area and that the attached Standard Conditions are followed.

This determination covers only the proposed culvert as described above. If the design, location, or purpose of the project is changed, or if the proposed culvert would impact more than 400 square feet of wetland/water area, our office should be contacted to make sure the work would not result in a violation of Federal law.

This General Permit is valid until August 2, 2011, unless modified, reissued, or revoked. The time limit for completing the work described above ends on that day, OR two years from the date of this letter, whichever occurs later. It is the permittee's responsibility to remain informed of changes to the General Permit program. If this authorized work is not undertaken within the above time period, or the project specifications have changed, our office must be contacted to determine the need for further approval or re-verification.

It is the permittee's responsibility to ensure that the work complies with the terms of this letter and any enclosures, AND THAT ALL REQUIRED STATE AND LOCAL PERMITS AND APPROVALS ARE OBTAINED BEFORE WORK PROCEEDS.

If you disagree with this jurisdictional determination, you may provide new information. Please follow the directions in Section D of the enclosed Notification of Administrative Appeal Options and Process and Request for Appeal.

The June 19, 2006, joint U.S. Supreme Court decision on *Rapanos vs. U.S. and Carabell vs. Corps of Engineers* addresses the scope of Clean Water Act jurisdiction over certain waters of the United States, including wetlands. If you believe this decision may affect the extent of our jurisdiction over aquatic areas impacted by your project, you may exercise the following options. You may delay conducting the work authorized by this General Permit until the St. Paul District receives substantive guidance from our headquarters regarding any possible impacts of the court decision. That guidance might require us to re-evaluate our jurisdiction and our permit conditions. Otherwise, you can accept the General Permit now with its existing terms and conditions and proceed with your project.

The decision regarding this action is based on information found in the administrative record, which documents the District's decision-making process, the basis for the decision, and the final decision.

If you have any questions, contact Todd Vesperman in our St. Paul District office at (651) 290-5358. In any correspondence or inquiries, please refer to the Regulatory number shown above.

Sincerely,



for Robert J. Whiting
Chief, Regulatory Branch

Enclosure

Copy furnished to:
Jason Kirwin-WCEC
Mike Johnson-Swift County
Dave Sill-BWSR
MPCA

KEY

- Trees on ditch area
- Wetland acres delineated, approved by LGU, and surveyed
- Edge of Delineation Area
- Known Property Boundaries

PROJECT No.: 05-5274-30
CVEC Replacement Wetland

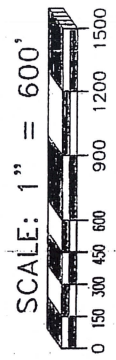
FIGURE 4: Detailed Site Map with Wetland Replacement Plan

WCEC
ENVIRONMENTAL CONSULTANTS



LEGEND

- = FOUND CORNER MONUMENT
- = SET 5/8" REBAR WITH CAP STAMPED "RLS 19092"
- = RECORD DISTANCE



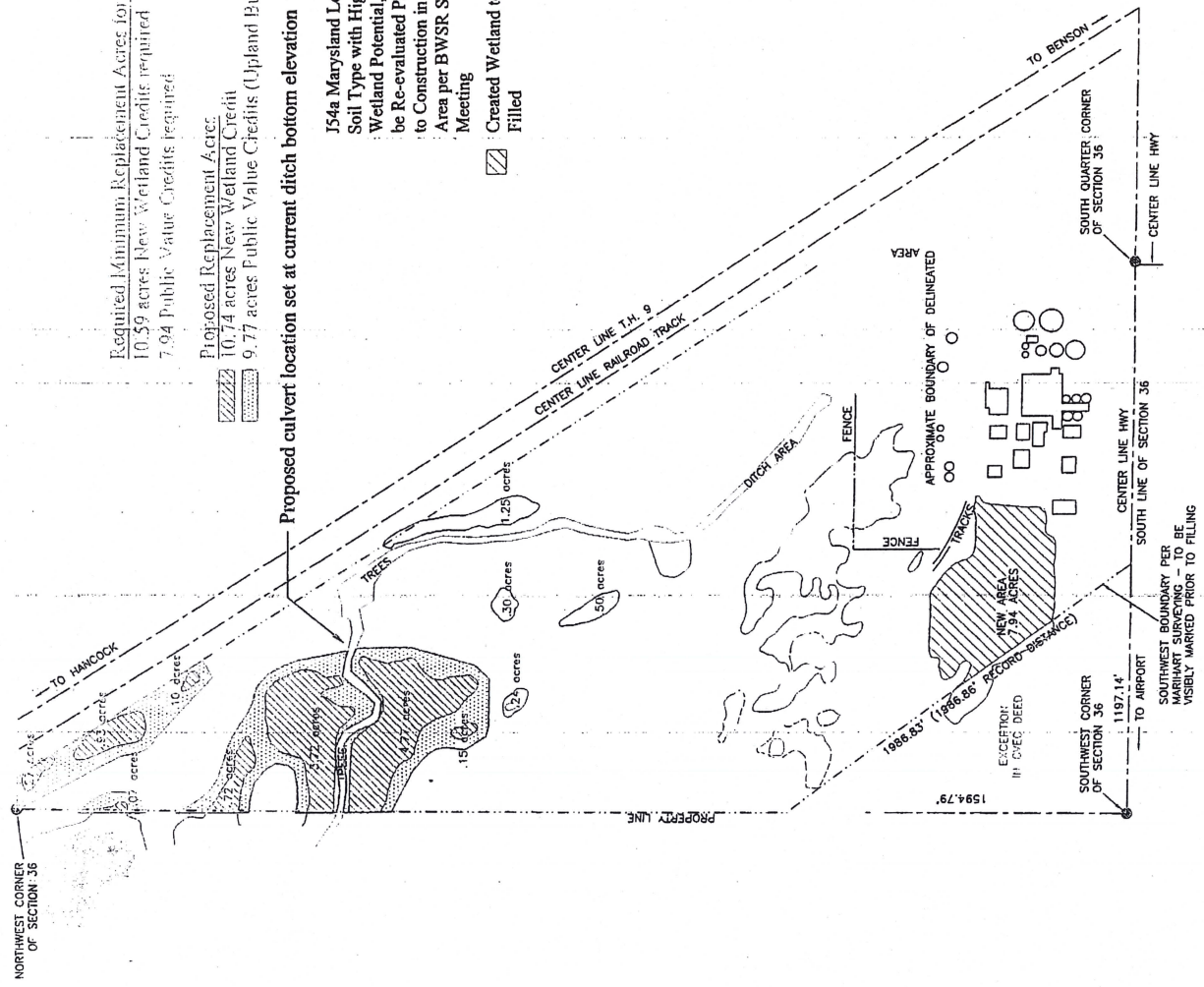
NOTE: LOCATION OF BUILDINGS ARE APPROXIMATE.

Required Minimum Replacement Acres for Wetland to be Filled
10.59 acres New Wetland Credits required
7.94 Public Value Credits required

Proposed Replacement Acres
10.74 acres New Wetland Credits
9.77 acres Public Value Credits (Upland Buffer less Ditch Area)

Proposed culvert location set at current ditch bottom elevation

- 154a Marysland Loam Soil Type with High Wetland Potential, to be Re-evaluated Prior to Construction in this Area per BWSR Site Meeting
- ▨ Created Wetland to be Filled



RGP-03-MN STANDARD CONDITIONS

All RGP-03-MN authorizations are subject to the following standard conditions, as applicable. These conditions must be satisfied for any RGP authorization to be valid:

1. Mitigation/Sequencing. Discharges of dredged or fill material into waters of the United States **must be or avoided and minimized to the maximum extent practicable.**

2. Suitable fill material. No discharge of dredged or fill material may consist of unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.). All fill (including riprap) authorized under this permit, must consist of suitable material free from toxic pollutants in other than trace quantities. In addition, rock or fill material used for activities dependent upon this permit and obtained by excavation must either be obtained from existing quarries or, if a new borrow site is opened up to obtain fill material, St. Paul District must be notified prior to the use of the new site to determine whether a cultural survey of the site is necessary.

3. Proper maintenance. Any structure or fill authorized shall be properly maintained, including maintenance, to ensure public safety.

4. Erosion and siltation controls. Appropriate erosion and siltation controls must be used and maintained in effective operating condition during construction, and all exposed soil and other fills, as well as any work below the ordinary high water mark, must be permanently stabilized at the earliest practicable date. Work should be done in accordance with state-approved, published practices, such as defined in Minnesota Pollution Control Agency Document, PROTECTING WATER QUALITY IN URBAN AREAS - BEST MANAGEMENT PRACTICES FOR MINNESOTA.

Upon completion of earthwork operations, all exposed slopes, fills, and disturbed areas must be given sufficient protection by appropriate means such as landscaping, or planting and maintaining vegetative cover, to prevent subsequent erosion. Cofferdams shall be constructed and maintained so as to prevent erosion into the water. If earthen material is used for cofferdam construction, sheet piling, riprap or a synthetic cover must be used to prevent dam erosion.

5. Removal of temporary fills. Temporary fills are allowed to remain in place for up to three months. Upon request the District Engineer may extend this period allowing temporary fills to remain in place for up to a total of 180 days, where appropriate.

At the end of the specified timeframe, temporary fills must be removed in their entirety and the affected areas returned to their preexisting elevation.

6. General Information-Information about Federal Endangered species may be obtained by contacting the U. S. Fish and Wildlife Service at (612) 725-3548. The District's web page (www.mvnp.usace.army.mil/regulatory/) will also contain a link to the U.S. Fish and Wildlife Service. Information concerning cultural resources may be obtained by contacting the State Historic Preservation Office at (651) 296-5462. Project proponents are encouraged to contact these agencies early in project planning because doing so can help avoid violations of Federal law and potentially lengthy permitting delays. Persons performing work should be aware that Federal or state regulations concerning endangered species and cultural resources may apply to their projects whether or not the work requires a Corps permit. If referenced web sites are unavailable or the necessary information is not available on the referenced web site, the Corps contact for your county can be found on our web site referenced above, or you may call 651-290-5375.

7. Other permit requirements. No Corps RGP-03-MN authorization eliminates the need for other local, state or Federal authorizations, including but not limited to National Pollutant Discharge Elimination System (NPDES) or State Disposal System (SDS) permits from the Minnesota Pollution Control Agency, public waters work permits from the Minnesota Department of Natural Resources, or Wetland Conservation Act authorizations from the applicable local governmental unit.

8. Historic properties, (cultural resources). No activity which may affect historic properties listed, or eligible for listing, in the National Register of Historic Places is authorized, until the Director of Engineers has complied with the provisions of 33 CFR part 325 Appendix C. Information on the location and existence of historic resources can be obtained from the State Historic Preservation Office and the National Register of Historic Places.

9. Cultural resources. If cultural, archaeological, or historical resources are unearthed during activities authorized by this permit, work must be stopped immediately and the State Historic Preservation Officer must be contacted for further instruction.

10. If you discover any previously unknown historic or archaeological remains while accomplishing the authorized activity you must immediately stop work and notify this office of what you have found. We will initiate the Federal and state coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

11. Spawning areas. Discharges in spawning areas during spawning seasons must be avoided to the maximum extent practicable.

12. Obstruction of high flows. To the maximum extent practicable, discharges must not permanently restrict or impede the passage of normal or expected high flows or cause the relocation of the water (unless the primary purpose of the fill is to impound waters).

13. Adverse effects from impoundments. If the discharge creates an impoundment of water, adverse effects on the aquatic system caused by the accelerated passage of water and/or the restriction of its flow shall be minimized to the maximum extent practicable.

14. Waterfowl breeding areas. Discharges into breeding areas for migratory waterfowl must be avoided to the maximum extent practicable.

15. Navigation. No activity may cause more than a minimal adverse effect on navigation.

16. Aquatic life movements. No activity may substantially disrupt the movement of those species of aquatic life indigenous to the water body, including those species that normally migrate through the area, unless the activity's primary purpose is to impound water.

17. Equipment. Heavy equipment working in wetlands must be placed on mats, or other measures must be taken to minimize soil disturbance.

18. Tribal rights. No activity or its operation may impinge or abrogate reserved treaty rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights.

19. Wild and Scenic Rivers. No activity may occur in a component of the National Wild and Scenic River System; or in a river officially designated by Congress as a "study river" for possible inclusion in the system, while the river is in an official study status; unless the appropriate Federal agency with direct management responsibility for such river has determined that the proposed activity will not adversely affect the Wild and Scenic River designation, or study status. Information on Wild and Scenic Rivers may be obtained from the appropriate Federal land management agency in the area (e.g., National Park Service, U.S. Forest Service, Bureau of Land Management, U.S. Fish and Wildlife Service.)

20. Water quality standards. All work or discharges to a watercourse resulting from permitted construction activities, particularly hydraulic dredging, must meet applicable Federal, State, and local water quality and effluent standards on a continuing basis.

21. Preventive measures. Measures must be adopted to prevent potential pollutants from entering the watercourse. Construction materials and debris, including fuels, oil, and other liquid substances, will not be stored in the construction area in a manner that would allow them to enter the watercourse as a result of spillage, natural runoff, or flooding.

22. Spill contingency plan. A contingency plan must be formulated that would be effective in the event of a spill. This requirement is particularly applicable in operations involving the handling of petroleum products. If a spill of any potential pollutant should occur, it is the responsibility of the permittee to remove such material, to minimize any contamination resulting from this spill, and to immediately notify the State Duty Officer at 1-800-422-0798 and the U.S. Coast Guard at telephone number (1-800) 424-8802.

23. Disposal sites. If dredged or excavated material is placed on an upland disposal sight (above the ordinary high-water mark), the site must be securely diked or contained by some other acceptable method that prevents the return of potentially polluting materials to the watercourse by surface runoff or by leaching. The containment area, whether bulkhead or upland disposal sight, must be fully completed prior to the placement of any dredged material.

24. Water intakes/activities. No activity, including structures and work in waters of the U.S. or discharges of dredged or fill material, may occur in the proximity of a public water supply intake except where the activity is for repair of the public water supply intake structures or adjacent bank stabilization.

25. Endangered Species.

a. No activity is authorized which is likely to adversely affect a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act, or which is likely to destroy or adversely modify the critical habitat of such species. Non-federal permittees shall notify the District if any listed species or critical habitat might be affected or is in the vicinity of the project, and shall not begin work on the activity until notified by the District that the requirements of the Endangered Species Act have been satisfied and that the activity is authorized.

b. Authorization of an activity under RGP-03-MN does not authorize the take of a threatened or endangered species as defined under the Federal Endangered Species Act. In the absence of separate authorization (e.g., an ESA Section 10 Permit, a Biological Opinion with incidental take provisions, etc.) from the U.S. Fish and Wildlife Service or the National Marine Fisheries Service, both lethal and non-lethal takes of protected species are in violation of the Endangered Species Act. Information on the location of threatened and endangered species and their critical habitat can be obtained directly from the offices of the U.S. Fish and Wildlife Service and National Marine Fisheries Service or their World Wide Web pages on the Internet.

c. If it becomes apparent that a federally listed endangered plant or animal species will be affected by work authorized by this permit, work must be stopped immediately and the St. Paul District of the Corps of Engineers must be contacted for further instruction.

26. Known Populations of Federally Listed Threatened and Endangered species. Information on known populations of Federally listed species and their designated critical habitat is available on our web site and from the Twin Cities Field Office of the U.S.F.W.S. See standard condition 6 or contact information.

27. The time limit for completing work authorized by RGP-03-MN ends upon the expiration date of RGP-03-MN. If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least three months before the expiration date is reached.

28. You must maintain the authorized activity in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.

29. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of RGP-03-MN.

30. State Section 401 Water quality Certification. The Minnesota Pollution Control Agency has waived Section 401 certification for RGP-03-MN.

31. Coastal Zone Management consistency determination. The State of Minnesota has determined that GP-03-MN is consistent with the Minnesota CZM program.

Further Information:

1. Congressional Authorities: You have been authorized to undertake the activity described above pursuant to Section 404 of the Clean Water Act (33 U.S.C. 1344).

2. Limits of this authorization.

a. RGP-03-MN does not obviate the need to obtain other Federal, state, or local authorizations required by law.

b. RGP-03-MN does not grant any property rights or exclusive privileges.

c. RGP-03-MN does not authorize any injury to the property or rights of others.

d. RGP-03-MN does not authorize interference with any existing or proposed Federal project.

3. Limits of Federal Liability. In authorizing work, the Federal Government does not assume any liability, including but not limited to the following:

a. Damages to the permitted project or uses thereof as a result of other permitted or un-permitted activities or from natural causes.

b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.

c. Damages to persons, property, or to other permitted or un-permitted activities or structures caused by the activity authorized by this permit.

d. Design or construction deficiencies associated with the permitted work.

e. Damage claims associated with any future modification, suspension, or revocation of this permit.

4. Reliance on Applicant's Data: The determination of this office that a proponent's project is authorized by RGP-03 will be made in reliance on the information provided by the applicant.

5. Reevaluation of Permit Decision. This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:

a. You fail to comply with the terms and conditions of this permit.

b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (see 4 above).

c. Significant new information surfaces which this office did not consider in reaching the original public interest decision. Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you to comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measures ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

6. Extensions. Standard condition 27 above, establishes a time limit for the completion of the activity authorized by this general permit. Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the Corps will normally give favorable consideration to a request for an extension of this time limit. This permit becomes effective upon the issuance date specified after the Federal official, designated to act for the Secretary of the Army, has signed below. This general permit remains in effect for five years unless it is otherwise modified, suspended, or revoked.

DISTRICT OFFICE: St. Paul District
FILE NUMBER: MVP-2006-2230-TMV
PROJECT LOCATION INFORMATION:

State: Minnesota

County: Swift

Center coordinates of site (latitude/longitude): 45.3269316690824/-95.6386428939022

Approximate size of area (parcel) reviewed, including uplands: 80 acres.

Name of nearest waterway: unnamed ditch

Name of watershed: Chippewa

JURISDICTIONAL DETERMINATION

Completed: Desktop determination

Date: 07/31/2006

Site visit(s)

Date(s): 04/14/2006

Jurisdictional Determination (JD):

Preliminary JD - Based on available information, there appear to be (or) there appear to be no "waters of the United States" and/or "navigable waters of the United States" on the project site. A preliminary JD is not appealable (Reference 33 CFR part 331).

Approved JD - An approved JD is an appealable action (Reference 33 CFR part 331).

Check all that apply:

There are "navigable waters of the United States" (as defined by 33 CFR part 329 and associated guidance) within the reviewed area. Approximate size of jurisdictional area:

There are "waters of the United States" (as defined by 33 CFR part 328 and associated guidance) within the reviewed area. Approximate size of jurisdictional area:

There are "isolated, non-navigable, intra-state waters or wetlands" within the reviewed area.

Decision supported by SWANCC/Migratory Bird Rule Information Sheet for Determination of No Jurisdiction.

BASIS OF JURISDICTIONAL DETERMINATION:

A. Waters defined under 33 CFR part 329 as "navigable waters of the United States":

The presence of waters that are subject to the ebb and flow of the tide and/or are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.

B. Waters defined under 33 CFR part 328.3(a) as "waters of the United States":

(1) The presence of waters, which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide.

(2) The presence of interstate waters including interstate wetlands¹.

(3) The presence of other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation or destruction of which could affect interstate commerce including any such waters (check all that apply):

(i) which are or could be used by interstate or foreign travelers for recreational or other purposes.

(ii) from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.

(iii) which are or could be used for industrial purposes by industries in interstate commerce.

(4) Impoundments of waters otherwise defined as waters of the US.

(5) The presence of a tributary to a water identified in (1)–(4) above.

(6) The presence of territorial seas.

(7) The presence of wetlands adjacent² to other waters of the US, except for those wetlands adjacent to other wetlands.

Rationale for the Basis of Jurisdictional Determination (applies to any boxes checked above). *If the jurisdictional water or wetland is not itself a navigable water of the United States, describe connection(s) to the downstream navigable waters. If B(1) or B(3) is used as the Basis of Jurisdiction, document navigability and/or interstate commerce connection (i.e., discuss site conditions, including why the waterbody is navigable and/or how the destruction of the waterbody could affect interstate or foreign commerce). If B(2, 4, 5 or 6) is used as the Basis of Jurisdiction, document the rationale used to make the determination. If B(7) is used as the Basis of Jurisdiction, document the rationale used to make adjacency determination:* **The proposed culvert is within an unnamed ditch that is tributary to the Chippewa River which is a tributary to the Minnesota River, a navigable water of the United States.**

The 7.94-acre wetland proposed for fill is an isolated, non-navigable, intra-state wetland.

FILE NUMBER: 2006-2230-TMV

Lateral Extent of Jurisdiction: (Reference: 33 CFR parts 328 and 329)

- Ordinary High Water Mark indicated by:
- clear, natural line impressed on the bank
 - the presence of litter and debris
 - changes in the character of soil
 - destruction of terrestrial vegetation
 - shelving
 - other:
- High Tide Line indicated by:
- oil or scum line along shore objects
 - fine shell or debris deposits (foreshore)
 - physical markings/characteristics
 - tidal gages
 - other:
- Mean High Water Mark indicated by:
- survey to available datum; physical markings; vegetation lines/changes in vegetation types.

Wetland boundaries, as shown on the attached wetland delineation map and/or in a delineation report prepared by:

Basis For Not Asserting Jurisdiction:

- The reviewed area consists entirely of uplands.
- Unable to confirm the presence of waters in 33 CFR part 328(a)(1, 2, or 4-7).
- Headquarters declined to approve jurisdiction on the basis of 33 CFR part 328.3(a)(3).
- The Corps has made a case-specific determination that the following waters present on the site are not Waters of the United States:
 - Waste treatment systems, including treatment ponds or lagoons, pursuant to 33 CFR part 328.3.
 - Artificially irrigated areas, which would revert to upland if the irrigation ceased.
 - Artificial lakes and ponds created by excavating and/or diking dry land to collect and retain water and which are used exclusively for such purposes as stock watering, irrigation, settling basins, or rice growing.
 - Artificial reflecting or swimming pools or other small ornamental bodies of water created by excavating and/or diking dry land to retain water for primarily aesthetic reasons.
 - Water-filled depressions created in dry land incidental to construction activity and pits excavated in dry land for the purpose of obtaining fill, sand, or gravel unless and until the construction or excavation operation is abandoned and the resulting body of water meets the definition of waters of the United States found at 33 CFR 328.3(a).
 - Isolated, intrastate wetland with no nexus to interstate commerce.
 - Prior converted cropland, as determined by the Natural Resources Conservation Service. Explain rationale:
 - Non-tidal drainage or irrigation ditches excavated on dry land. Explain rationale:
 - Other (explain):

DATA REVIEWED FOR JURISDICTIONAL DETERMINATION (mark all that apply):

- Maps, plans, plots or plat submitted by or on behalf of the applicant.
- Data sheets prepared/submitted by or on behalf of the applicant.
 - This office concurs with the delineation report, dated _____, prepared by (company):
 - This office does not concur with the delineation report, dated _____ p prepared by (company):

- Data sheets prepared by the Corps.
- Corps' navigable waters' studies:
- U.S. Geological Survey Hydrologic Atlas:
- U.S. Geological Survey 7.5 Minute Topographic maps:
- U.S. Geological Survey 7.5 Minute Historic quadrangles:
- U.S. Geological Survey 15 Minute Historic quadrangles:
- USDA Natural Resources Conservation Service Soil Survey:
- National wetlands inventory maps:
- State/Local wetland inventory maps:
- FEMA/FIRM maps (Map Name & Date):
- 100-year Floodplain Elevation is: _____ (NGVD)
- Aerial Photographs (Name & Date): **FSA 2003**
- Other photographs (Date):
- Advanced Identification Wetland maps:
- Site visit/determination conducted on: **04/14/2006**
- Applicable/supporting case law:
- Other information (please specify):

¹Wetlands are identified and delineated using the methods and criteria established in the Corps Wetland Delineation Manual (87 Manual) (i.e., occurrence of hydrophytic vegetation, hydric soils and wetland hydrology).

²The term "adjacent" means bordering, contiguous, or neighboring. Wetlands separated from other waters of the U.S. by man-made dikes or barriers, natural river berms, beach dunes, and the like are also adjacent.

**NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND
REQUEST FOR APPEAL**

Applicant: Chippewa Valley Ethanol Company		File Number: 2006-2230-TMV	Date: 08/10/2006
Attached is:			See Section below
	INITIAL PROFFERED PERMIT (Standard Permit or Letter of permission)		A
	PROFFERED PERMIT (Standard Permit or Letter of permission)		B
	PERMIT DENIAL		C
X	APPROVED JURISDICTIONAL DETERMINATION		D
	PRELIMINARY JURISDICTIONAL DETERMINATION		E

SECTION I - The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found at <http://usace.army.mil/inet/functions/cw/cecwo/reg> or Corps regulations at 33 CFR Part 331.

A. INITIAL PROFERRED PERMIT: You may accept or object to the permit.

ACCEPT: If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approve jurisdictional determinations associated with the permit.

- **OBJECT:** If you object to the permit (Standard or LOP) because of certain terms and conditions therein, you may request that the permit be modified accordingly. You must complete Section II of this form and return the form to the district engineer. Your objections must be received by the district engineer within 60 days of the date of this notice, or you will forfeit your right to appeal the permit in the future. Upon receipt of your letter, the district engineer will evaluate your objections and may: (a) modify the permit to address all of your concerns, (b) modify the permit to address some of your objections, or (c) not modify the permit having determined that the permit should be issued as previously written. After evaluating your objections, the district engineer will send you a proffered permit for your reconsideration, as indicated in Section B below.

B. PROFFERED PERMIT: You may accept or appeal the permit.

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.

- **APPEAL:** If you choose to decline the proffered permit (Standard or LOP) because of certain terms and conditions therein, you may appeal the declined permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

C. PERMIT DENIAL: You may appeal the denial of a permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

D. APPROVED JURISDICTIONAL DETERMINATION: You may accept or appeal the approved JD or provide new information.

- **ACCEPT:** You do not need to notify the Corps to accept an approved JD. Failure to notify the Corps within 60 days of the date of this notice, means that you accept the approved JD in its entirety, and waive all rights to appeal the approved JD.

- **APPEAL:** If you disagree with the approved JD, you may appeal the approved JD under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

E. PRELIMINARY JURISDICTIONAL DETERMINATION: You do not need to respond to the Corps regarding the preliminary JD. The Preliminary JD is not appealable. If you wish, you may request an approved JD (which may be appealed), by contacting the Corps district for further instruction. Also you may provide new information for further consideration by the Corps to reevaluate the JD.

SECTION II - REQUEST FOR APPEAL or OBJECTIONS TO AN INITIAL PROFFERED PERMIT

REASONS FOR APPEAL OR OBJECTIONS: (Describe your reasons for appealing the decision or your objections to an initial proffered permit in clear concise statements. You may attach additional information to this form to clarify where your reasons or objections are addressed in the administrative record.)

ADDITIONAL INFORMATION: The appeal is limited to a review of the administrative record, the Corps memorandum for the record of the appeal conference or meeting, and any supplemental information that the review officer has determined is needed to clarify the administrative record. Neither the appellant nor the Corps may add new information or analyses to the record. However, you may provide additional information to clarify the location of information that is already in the administrative record.

POINT OF CONTACT FOR QUESTIONS OR INFORMATION.

If you have questions regarding this decision and/or the appeal process you may contact:

Todd Vesperman
U. S. Army Corps of Engineers, Regulatory Branch
190 Fifth Street East
St. Paul, MN 55101-1638
Telephone (651) 290-5358

If you only have questions regarding the appeal process you may also contact:

Division Engineer
Appeal Review Office
CEMVD
P. O. Box 80
Vicksburg, MS 39181-0080
Telephone (601) 634-5821

RIGHT OF ENTRY: Your signature below grants the right of entry to Corps of Engineers personnel, and any government consultants, to conduct investigations of the project site during the course of the appeal process. You will be provided a 15 day notice of any site investigation, and will have the opportunity to participate in all site investigations.

Signature of appellant or agent.	Date:	Telephone number:
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Bochicchio, Juliet - Washington, DC

From: Andy Zurn [azurn@cvec.com]
Sent: Monday, January 11, 2010 3:06 PM
To: Bochicchio, Juliet - Washington, DC
Subject: CVEC: Army Corps, NPDES and Emissions
Attachments: Estimated criteria pollutant emissions.xls; Army Corps Wetland Jurisdiction.pdf

Greetings Juliet,

1. The NPDES permit CVEC is functioning under:
 - Permit MN 0062898
 - National Pollutant Discharge Elimination System (NPDES)/State Disposal System (SDS)
 - Issued by the MPCA
 - The permit covers both wastewater and storm water.
2. Attached is a spreadsheet showing our estimates of criteria pollutants associated with the proposed project.
3. Also attached is a scan of the Army Corps document discussing jurisdiction and the wetland mitigation at CVEC to allow construction of the gasifier.

Please let me know if any other documentation is required.

Regards,

Andy

Andrew Zurn, P.E.
Engineering Manager
Chippewa Valley Ethanol Co.
270 20th St. NW
Benson, MN 56215
320-843-1238
azurn@cvec.com

This e-mail message and any files transmitted herewith, are intended solely for the use of the individual(s) addressed and may contain confidential, proprietary or privileged information.

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Minnesota Wetland Conservation Act
Notice of Wetland Conservation Act Decision

Name and Address of Local Government Unit: Michael Johnson, Box 241, Benson, MN 56215

Name of Applicant: Chippewa Valley Ethanol Company (CVEC) Project Name: Wetland Mitigation

Application Number: 2006-2

Type of Application (check one): Exemption Decision
 No Loss Decision
 Replacement Plan Decision
 Banking Plan Decision
 Wetland Type/Boundary Decision

Date of Decision: August 22, 2006

Check One: Approved
 Approved with conditions (see note on page 2 regarding use of wetland banking credits)
 Denied

Summary of Project/Decision (indicate exemption number per MN Rule 8420.0122, if applicable):_ CVEC is mitigating a previously created wetland that was used replace wetlands when the plant was originally constructed. CVEC plans to expand in that area.

List of Addressees:

Landowner

CVEC, 270 20th Street NW, Benson, MN 56215

Members of Technical Evaluation Panel

Tom Orr, Swift County SWCD, 1430 Utah Ave, Benson, MN 56215

David Sill, BWSR Board Conservationists, 1400 East Lyon, Marshall, MN 56258

Department of Natural Resources Regional Office

Southern Region:

Reg. Env. Assess. Ecol.

Div. Ecol. Services

261 Hwy. 15 South

New Ulm, MN 56073

Todd Vesperman, Project Manager @

Department of the Army, Corps of Engineers, St. Paul District

ATTN: CO-R, 190 Fifth Street East

St. Paul, MN 55101-1638

You are hereby notified that the decision of the Local Government Unit on the above-referenced application was made on the date stated above. A copy of the Local Government Unit's Findings and Conclusions is attached. Pursuant to Minn. R. 8420.0250 any appeal of the decision must be commenced by mailing a petition for appeal to the Minnesota Board of Water and Soil Resources within thirty (30) calendar days of the date of the mailing of this Notice.

NOTE: Approval of Wetland Replacement Plan Applications involving the use of wetland banking credits is conditional upon withdrawal of the appropriate credits from the state wetland bank. No wetland impacts may commence until the applicant receives a copy of the fully signed and executed "Application for Withdrawal of Wetland Credits," signed by the BWSR wetland bank administrator certifying that the wetland bank credits have been debited.

THIS DECISION ONLY APPLIES TO the Minnesota Wetland Conservation Act. Additional approvals or permits from local, state, and federal agencies may be required. Check with all appropriate authorities before commencing work in or near wetlands.

LOCAL GOVERNMENT UNIT


Signature

August 22, 2006

Date

Michael Johnson Swift County WCA/ LGU
Name and Title

**JOINT APPLICATION
FOR
WETLAND PROJECTS**

**CVEC
270 20th Street
Benson, Minnesota 56215**

WCEC Job No.: 06-5274-30

July 17, 2006

prepared by

**West Central Environmental Consultants, Inc.
14 Green River Rd
P.O. Box 594
Morris, MN 56267-0594**

NA-026620-03B

Minnesota Local/State/Federal Application Form for Water/Wetland Projects

For Internal Use Only

Application No.	Field Office Code	Date Initial Application Received	Date initial Application Deemed Complete
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PART I: BASIC APPLICATION

"See HELP" directs you to important additional information and assistance in Instructions, Page 1.

1. LANDOWNER/APPLICANT CONTACT INFORMATION (See Help 1)

Name: CVEC Phone: (320) 843-4813

Complete mailing address: 270 20th Street NW, Benson, MN 56215

1A. AUTHORIZED AGENT (See Help 1A) (Only if applicable; an agent is not required)

Name: WCEC, Phone: (320) 589-2039

Complete mailing address: PO Box 594, Morris, MN 56267

2. NAME, TYPE AND SIZE OF PUBLIC WATERS or WETLANDS IMPACTED (Attach Additional Project Area sheets if needed)

Name or I.D. # of Waters Impacted (if applicable; if known): NA

(Check all that apply): Lake River Wetland type 1 1L 2 3 4 5 6 7 8

Indicate size of entire lake or wetland (check one): Less than 10 acres (indicate size: 7.94 Acres) 10 to 40 acres Greater than 40 acres

3. PROJECT LOCATION (Information can be found on property tax statement, property title or title insurance):

Project street address: 270 20th Street Fire #: City (if applicable): Benson

¼ Section: SW Section: 36 Township #: 122 Range #: 40 County: Swift

Lot #: NA Block: NA Subdivision: NA Watershed (name or #) Chippewa

Attach a simple site locator map. If needed, include on the map written directions to the site from a known location or landmark, and provide distances from known locations. Label the sheet *SITE LOCATOR MAP*.

4. TYPE OF PROJECT: Describe the type of proposed work. Attach *TYPE OF PROJECT* sheet if needed. See Attached Information

5. PROJECT PURPOSE, DESCRIPTION AND DIMENSIONS: Describe what you plan to do and why it is needed, how you plan to construct the project with dimensions (length, width, depth), area of impact, and when you propose to construct the project. **This is the most important part of your application.** See **HELP 5** before completing this section; see **What To Include on Plans** (Instructions, page 1). Attach *PROJECT DESCRIPTION* sheet. See Attached Information

Footprint of project: 7.94 acres or square feet drained, filled or excavated.


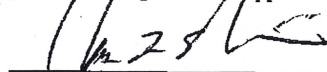
6. PROJECT ALTERNATIVES: What alternatives to this proposed project have you considered that would avoid or minimize impacts to wetlands or waters? List at least **TWO** additional alternatives to your project in Section 5 that avoid wetlands (one of which may be "no build" or "do nothing"), and explain why you chose to pursue the option described in this application over these alternatives. Attach *PROJECT ALTERNATIVES* sheet if needed. See Attached Information

7. ADJOINING PROPERTY OWNERS: For projects that impact more than 10,000 square feet of water or wetlands, list the complete mailing addresses of adjacent property owners on an attached separate sheet. (See **HELP 7**)

8. PORTION OF WORK COMPLETED: Is any portion of the work in wetland or water areas already completed? Yes No. If yes, describe the completed work on a separate sheet of paper labeled **WORK ALREADY COMPLETED**. (See **HELP 8**)

9. STATUS OF OTHER APPROVALS: List any other permits, reviews or approvals related to this proposed project that are either pending or have already been approved or denied on a separate attached sheet. See **HELP 9**.

10. I am applying for state and local authorization to conduct the work described in this application. I am familiar with the information contained in this application. To the best of my knowledge and belief, all information in Part I is true, complete, and accurate. I possess the authority to undertake the work described, or I am acting as the duly authorized agent of the applicant.

Signature of applicant (Landowner) 7/12/06 Date 7/10/06 Date
 Signature of agent (if applicable)

This block must be signed by the person who desires to undertake the proposed activity and has the necessary property rights to do so. If only the Agent has signed, please attach a separate sheet signed by the landowner, giving necessary authorization to the Agent.

The public burden for this collection of information is estimated to average 10 hours per response, although the majority of applications should require 5 hours or less. This includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Department of Defense, Washington Headquarters Service Directorate of Information Operations and Reports, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202-4302; and to the Office of Management and Budget, Paperwork Reduction Project (0710-0003), Washington, DC 20503. Respondents should be aware that notwithstanding any other provision of law, no person shall be subject to any penalty for failing to comply with a collection of information if it does not display a currently valid OMB control number. Please DO NOT RETURN your form to either of these addresses. Completed applications must be submitted to the District engineer having jurisdiction over the location of the proposed activity.

PRIVACY ACT STATEMENT: Authorities: Rivers and Harbors Act, Section 10, 33 USC 403; Clean Water Act, Section 404, 33 USC 1344; Marine Protection, Research and Sanctuaries Act, 33 USC 1413, Section 103. Principal purpose: Information provided on this form will be used in evaluating the application for a permit. Routine uses: This information may be shared with the Department of Justice and other Federal, state, and local government agencies. Submission of requested information is voluntary; however, if information is not provided, the permit application cannot be evaluated nor can a permit be issued.

ITEMS 1 THROUGH 4 TO BE FILLED IN BY THE CORPS

- 1. APPLICATION NO. 2. FIELD OFFICE CODE 3. DATE RECEIVED 4. DATE APPLICATION COMPLETED

YOU DO NOT NEED TO COMPLETE ITEMS 6-10 and 12-25 in the SHADED AREAS.

All applicants must complete non-shaded items 5 and 26. If an agent is used, also complete items 8 and 11. This optional Federal form is valid for use only when included as part of this entire state application packet.

- 5. APPLICANT'S NAME CVEC 8. AUTHORIZED AGENT'S NAME AND TITLE (an agent is not required) WCEC

6. APPLICANT'S ADDRESS 7. APPLICANT'S PHONE NO. 9. AGENT'S ADDRESS 10. AGENT'S PHONE NO.

11. STATEMENT OF AUTHORIZATION (if applicable; complete only if authorizing an agent) I hereby authorize WCEC to act on my behalf as my agent in the processing of this application and to furnish, upon request, supplemental information in support of this permit application.

APPLICANT'S SIGNATURE: [Signature] DATE: 7/12/06

12. PROJECT NAME OR TITLE (see instructions) 13. NAME OF WATERBODY, IF KNOWN (if applicable) 14. PROJECT STREET ADDRESS (if applicable) 15. LOCATION OF PROJECT 16. OTHER LOCATION DESCRIPTIONS IF KNOWN (see instructions) 17. DIRECTIONS TO THE SITE 18. NATURE OF ACTIVITY 19. PROJECT PURPOSE 20. REASON(S) FOR DISCHARGE 21. TYPES OF MATERIAL BEING DISCHARGED AND THE AMOUNT OF EACH TYPE IN CUBIC YARDS 22. SURFACE AREA IN ACRES OF WETLANDS OR OTHER WATERS FILLED 23. IS ANY PORTION OF THE WORK ALREADY COMPLETED? YES NO IF YES, DESCRIBE COMPLETED WORK 24. ADDRESSES OF ADJOINING PROPERTY OWNERS 25. LIST OF OTHER PERMITS OR APPROVALS/DECISIONS RECEIVED FROM OTHER FEDERAL, STATE OR LOCAL AGENCIES FOR WORK DESCRIBED IN THIS APPLICATION

26. Application is hereby made for a permit or permits to authorize the work described in this application. I certify that the information in this application is complete and accurate. I further certify that I possess the authority to undertake the work described herein or am acting as the duly authorized agent of the applicant.

Signature of applicant [Signature] Date 7/12/06 Signature of agent (if any) [Signature] Date 7/10/06

The application must be signed by the person who desires to undertake the proposed activity (applicant), or it may be signed by a duly authorized agent if the statement in Block 11 has been filled out and signed. 18 U.S.C. Section 1001 provides that: Whoever, in any manner within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals, or covers up with any trick, scheme, or disguises a material fact or makes any false, fictitious or fraudulent statements or representations or makes or uses any false writing or document knowing same to contain any false, fictitious or fraudulent statements or entry, shall be fined not more than \$10,000 or imprisoned not more than five years or both.

FOR LGU USE ONLY:

Determination for Part 1:

- No WCA Jurisdiction
- Exempt: No. ____ (per MN Rule 8420.0122)
- No Loss: ____ (A,B, . . G, per MN Rule 8420.0220)
- Replacement required – applicant must complete Part II

COMPLETE THE SECTION BELOW ONLY IF REPLACEMENT IS NOT REQUIRED:

Application is (check one): Approved Approved with conditions (conditions attached) Denied

Comments/Findings: _____

LGU official signature

Date

Name and Title

For Agricultural and Drainage exemptions (MN Rule 8420.0122 Subps. 1 and 2B), LGU has received proof of recording of restrictions (per MN Rule 8420.0115):

County where recorded

Date

Document # assigned by recorder

LGU official signature

Date

PART II: REPLACEMENT PLAN SUPPLEMENT

For assistance in completing Part II, contact your Local Government Unit or a professional consultant

11. DESCRIPTION OF WETLAND IMPACTS: Complete the chart below: 1) Use one row of boxes for each wetland impact; 2) If your project has more than one wetland impact, reference your overhead view (part of Section 5) to this chart by identifying and labeling "first impact" and "second impact" on your overhead view; 3) If you are identifying only one wetland type within a given wetland impact area, use the first dotted line and leave the others blank; 4) If you have chosen to identify more than one wetland type within a given wetland impact area, use the extra dotted lines to indicate each wetland type, and identify predominant vegetation and size of impacted area for each separate wetland type within that impact area; 5) If you do not have access to some of this information, call your LGU or SWCD office for assistance. *(Photocopy chart for more impacts, if needed.)*

DESCRIPTION OF WETLAND IMPACTS

Wetland impact (as noted on overhead view)	Watershed name or number (if known)	County, Section, Township, Range	Wetland type ¹	Predominant vegetation in impacted wetland area	Size of area impacted (in acres or square feet)	Existing land use in project area (check all that apply)
First impact	Chippewa	Swift, 36, 122, 40	Type 3	Cattails, Sedges, Willows	1.0 acres	<input type="checkbox"/> Housing <input type="checkbox"/> Commercial <input checked="" type="checkbox"/> Industrial <input type="checkbox"/> Parks/recreation areas <input type="checkbox"/> Highways and associated rights-of-way <input type="checkbox"/> Forested <input type="checkbox"/> Farmsteads/agricultural <input type="checkbox"/> Vacant lands <input type="checkbox"/> Public and semi-public (schools/gov't facilities) <input type="checkbox"/> Airports <input type="checkbox"/> Extractive (gravel pits/quarries) <input type="checkbox"/> Other:
			----- Type 1, 2	sedges, rush, shrubs	6.94 Acres	
Second impact			-----			

¹If you are identifying only one wetland type within a given wetland impact area, use the first dotted line and leave the others blank. If you have chosen to identify more than one wetland type within a given wetland impact area, use the extra dotted lines to indicate each separate wetland type, and identify predominant vegetation and size of impacted area for each separate wetland type with that impact area.

TOTALS OF AREA(S) IMPACTED FOR EACH WETLAND TYPE ON CHART (indicate acres or square feet)

Type: 1: 2.44 1L: _____ 2: 4.5 3: 1.0 4: _____ 5: _____ 6: _____ 7: _____ 8: _____ R: _____

12. SPECIAL CONSIDERATIONS: Are you aware of any special considerations that apply to either the impact site(s) or the replacement site(s)? Yes No (Examples: the presence of endangered species, special fish and wildlife resources, sensitive surface waters, or waste disposal site.) If YES, list and describe briefly.

13. SHORELAND IMPACT ZONE: Please identify each wetland impact site noted in Section 15 that is within 1000 feet of a lake or 300 feet of a river.

None

14. **HOW PROPOSED REPLACEMENT WILL BE ACCOMPLISHED:** Indicate how proposed replacement will be accomplished (check only one box below and continue as indicated):

- A. Wetland banking only
Complete *Application for Withdrawal of Wetland Credits Form* and include with your application. Copies of this form are available from your LGU, or download a copy from www.bwsr.state.mn.us
Skip to Section 19, page 6 (You do not need to complete Sections 15-18).
- B. Project-specific replacement only
Continue with Section 15 below.
- C. A Combination of wetland banking and project-specific replacement
Complete *Application for Withdrawal of Wetland Credits Form* and include with your application. Copies of this form are available from your LGU, or download a copy from www.bwsr.state.mn.us
Continue with Section 15 below.

15. **DESCRIPTION OF REPLACEMENT WETLAND(S) CONSTRUCTION** (Complete this section only if you marked Box B or Box C in Section 14 above):

Describe in detail how replacement wetland(s) will be constructed. If several methods will be used, describe each method. Details should include the following: 1) type of construction (such as excavated in upland, restored by tile break, restored by ditch block or revegetated); 2) type, size and specifications of outlet structures; 3) elevations relative to Mean Sea Level or established benchmarks or key features (such as sill, emergency overflow or structure height); 4) what best management practices will be implemented to prevent erosions or site degradation; 5) proposed timetable for starting and ending the project; and 6) a vegetation management plan. Write this description on a separate sheet of paper labeled *DESCRIPTION OF REPLACEMENT WETLAND CONSTRUCTION*.

See Attached Section 15 description

16. **SURPLUS WETLAND CREDITS:** If using project-specific replacement (Box B or Box C in Section 14 above), will the replacement result in any surplus wetland credits that you wish to have deposited in the State Wetland Bank for future use? Yes No. If yes, submit a *Wetland Banking Application* directly to your LGU. Copies are available from your LGU, or download a copy from www.bwsr.state.mn.us

17. **DESCRIPTION OF REPLACEMENT WETLANDS:** Complete the chart below: 1) Use one row of boxes for each wetland replacement site; 2) If your project has more than one wetland replacement site, reference your overhead view (part of Section 5) to this chart by identifying and labeling "first replacement site" and "second replacement site" on your overhead view; 3) If you are identifying only one wetland type within a given replacement site, use the first dotted line(s) and leave the others blank; 4) If you have chosen to identify more than one wetland type in a given replacement site, use the extra dotted lines to indicate each separate wetland type, and identify type(s) of replacement credits and "restored or created" for each separate wetland type with that replacement site; 5) If you do not have access to some of the information, or if you do not know your replacement ratio, call your LGU or SWCD office for assistance. *Photocopy chart for more wetland replacements, if needed.*

DESCRIPTION OF REPLACEMENT WETLANDS

Identify Wetland replacement site <i>(as noted on overhead view)</i>	Watershed name or number <i>(if known)</i>	County	Section, Township, Range	Wetland Type ¹	Type(s) of replacement credits <i>(in acres or square feet)</i>		Restored or created? Indicate R or C
					New Wetland Credits (NWC)	Public Value Credits (PVC)	
Name of First replacement site	Chippew	Swift	36, 122, 40	1	8.74		R
				2	2.0		R
Name of Second replacement site						9.77	
					10.74 TOTAL NWC	9.77 TOTAL PVC	

¹Circular 39 wetland types: Indicate 1L, 2, 3, 4, 5, 6, 7, 8, R, or U. If you are identifying only one wetland type within a given wetland impact area, use the first dotted line and leave the others blank. If you have chosen to identify more than one wetland type within a given wetland impact area, use the extra dotted lines to indicate each separate wetland type, and identify predominant vegetation and size of impacted area for each separate wetland type within that impact area.

REQUIRED REPLACEMENT RATIO:
(If known) 2:1 (75% credit for NWC)

18. ADDITIONAL INFORMATION REQUIRED FOR PROJECT-SPECIFIC REPLACEMENT (Required only if you marked Box B or Box C in Section 14):
For projects involving at least some project-specific replacement, include the following additional information:

Two drawings to scale of the replacement wetland. Include both overhead view and profile (side view or cross-sectional view). See *What to Include on Plans* (Instructions, Page 3) for a detailed description of what should be included in these drawings. Without drawings, your application will be considered incomplete.

For created replacement wetlands, include additional soils information (if available) that indicates the capability of the site to produce and maintain wetland characteristics.

Note 1: For replacement wetlands located on pipeline easements, you need to receive endorsement of your project from both the easement holder and the Minnesota Department of Public Safety's Office of Pipeline Safety. Before start of construction, the owner of any utilities must be notified. The landowner or contractor is responsible for giving this notice by calling "Gopher State One-Call" at 652-454-0002 (Twin Cities Metro Area) or 1-800-252-1166 (all other locations).

Note 2: For extensive or complex projects supplementary information may be requested at a later date from one or more of the responding agencies. Such information may include (but not be limited to) the following: topographic map, water table map, soil borings, depth soundings, aerial photographs, environmental assessment and/or engineering reports.

19. SIGNED AFFIRMATION:

FOR PROJECTS INVOLVING REPLACEMENT BY WETLAND BANKING ONLY. To the best of my knowledge and belief, all information in Part II is true, complete and accurate; and I affirm that the wetland losses will be replaced via withdrawal from an account in the State Wetland Bank.

FOR PROJECTS INVOLVING EITHER PROJECT-SPECIFIC REPLACEMENT ONLY OR A COMBINATION OF WETLAND BANKING AND PROJECT-SPECIFIC REPLACEMENT:

Part A: The replacement wetland. I affirm that the replacement wetland was not:

Previously restored or created under a prior approved replacement plan or permit; AND
Drained or filled under an exemption during the previous 10 years; AND
Restored with financial assistance from public conservation programs; AND

Restored using private funds, other than landowner funds, unless the funds are paid back with interest to the individual or organization that funded the restoration; and the individual or organization notifies the local government unit in writing that the restored wetland may be considered for replacement.

Part B: Additional assurances (check all that apply):

The wetland will be replaced before or concurrent with the actual draining or filling of a wetland.

An irrevocable bank letter of credit, performance bond, or other acceptable security has been provided to guarantee successful completion of the wetland replacement.

The wetland losses will be replaced via withdrawal from an account in the State Wetland Bank.

Part C. For projects involving any project-specific replacement: Within 30 days of either receiving approval of this application or beginning work on the project, I will record the Declaration of Restrictions and Covenants on the deed for the property on which the replacement wetland(s) will be located; and I will at the same time submit proof of such recording to the LGU.

To the best of my knowledge and belief, all information in Part II is true, complete and accurate; and I affirm all statements in Part A and C, as well as checked assurance(s) in Part B.

Signature of applicant or agent

7/10/06

Date

FOR LGU USE ONLY

Replacement plan is (check one): Approved Approved with conditions (conditions attached) Denied

LGU official signature

Date

LGU has received evidence of title and proof of recording of Declaration of Restrictions and Covenants for Replacement Wetland:

County where recorded

Date

Document # assigned by recorder

LGU official signature

Date

ATTACHED INFORMATION

Section 1 - Applicant Contact Information

Name: Chippewa Valley Ethanol Company (CVEC)

Complete Mailing Address: CVEC
270 20th Street NW
Benson, MN 56215

Phone: (320) 843 4813

Section 1A - Authorized Agent

Specific Questions and comments on the Minnesota Local/State/Federal Application Form for Water/Wetland Projects should be directed to West Central Environmental Consultants, Inc. at the following:

Name: West Central Environmental Consultants, Inc. (WCEC)
Jason Kirwin

Complete Mailing Address: 14 Green River Road, P.O. Box 594
Morris, MN 56267

Phone: 320-589-2039

Fax: 320-589-2814

E-mail: jkirwin@wcec.com

Section 4 - Type of Project

The subject property is the CVEC ethanol plant property (Figure 1). CVEC is planning a series of expansions beginning with a pilot gasifier, required roads and feedstock storage in 2006 (Phase I). Phase II is to build the road loop, move the propane tanks, and build the large feedstock storage area and the 350ton/day gasifier in 2007 -2009 (Figure 2). As part of this expansion, a recently delineated wetland will need to be filled to provide the necessary area (Figure 3). This wetland was delineated by WCEC and approved by the LGU as outlined in the Wetland Delineation Report dated July 6, 2006.

Section 5 - Project Purpose, Description, Dimensions

The purpose of this proposed project is to allow for the expansion of the CVEC ethanol plant. Specifically, the expansion includes a gasification project for the purpose of converting corn stover to a gas fuel to end CVEC's use of natural gas and provide farmers with additional revenue.

To make room for the proposed expansion, CVEC will need to fill a 7.94 acre wetland on the proposed property (Figure 3). All or most of this wetland was created to replace wetlands

originally filled to make room for the existing CVEC facility. In hindsight, it is now realized that the created wetland was placed too close to the facility.

Section 6 - Project Alternatives

In compliance with the Minnesota Wetland Conservation Act (WCA) and Section 404 of the Clean Water Act, alternatives have been considered to avoid, and minimize impacts to wetlands associated with development of the proposed access road.

The CVEC plant is planning an expansion. It is not feasible to complete the expansion on some other property; therefore areas directly adjacent to the current plant must be utilized. The plant could be expanded to the north, but that would impact more natural wetlands and may result in additional wetland impacts. In addition, expansion to the north may be limited by the flight path limitations associated with the adjacent airport. As a result, this alternative was not the selected alternative.

CVEC considered possibly filling the majority of the wetland and leaving small areas undisturbed. This alternative was not selected since Phase I and Phase II of the projects discussed in Section 4 will impact the entire 7.94 acre wetland. In addition, it was already realized from past experience at CVEC that wetlands present near the plant impede plant expansions and the value of the wetland is lessened by issues associated with close proximity to an ethanol plant.

Section 7 -- Adjoining Property Owners

City of Benson
1410 Kansas Ave.
Benson, MN 56215

Swift County
301 14th Street North
Benson, MN 56215

Burlington Northern Santa Fe
400 Pacific Ave. SW
Willmar, MN 56201

United States Fish and Wildlife Service
43875 230th Street
Morris, MN 56267

Section 15 Description of Replacement Wetland Construction

Proposed Replacement Plan

CVEC is proposing permanent protection of enhanced wetlands under Minnesota Rules 8420.0541 Subpart 7, Wetlands previously restored via conservation easements as outlined in Figure 4. Under this provision, the New Wetland Credits are given 75% credit while the Public Value Credits are given 100% credit.

The property north of the plant is owned by CVEC and is currently enrolled in the Conservation Reserve Program (CRP). This area was previously farmed and contained many farmed wetlands. These wetlands are now enhanced as a result of their enrollment into CRP. Based on review of historic air photos, the proposed wetland replacement area on the north side of the property was cropped in 1950, 1961, 1978, 1984, 1985, 1987 (mostly cropped), 1988, and 1989. In October 1989, the property was enrolled into CRP for 10 years. In spring of 1990, the property was seeded in warm and cool season grasses. In 1999, the land was re-enrolled into CRP for another 10 years and is due to expire in 2009. At that time, all the land could again be farmed.

As outlined in Figure 4, CVEC is proposing to permanently protect three areas on the north side of the property that are currently in CRP. These areas include 10.74 acres of previously restored farmed wetlands and 9.77 acres of previously restored upland buffer. At the 2:1 replacement ratio, the proposed replacement areas would slightly exceed the 75% credit for New Wetland and Public Value Credits for the proposed 7.94 acre wetland impact. In addition, the proposed upland buffer meets or exceeds the 50 foot minimum for Public Value Credits.

The ditch that runs near and through the replacement area may need to be maintained in the future. If the bottom of the ditch was cleaned deeper than its current elevation, the nearby wetlands would likely be drained. To avoid this while allowing future maintenance of the ditch, CVEC agrees with the LGU recommendation and proposes that a culvert be installed at the current ditch base elevation (1032.8 feet). The culvert would be located on the down gradient edge of the replacement area (Figure 4).

On July 7, 2005, Marihart Surveying identified the ditch bottom elevation at 1032.8 feet above sea level using the 1988 Datum. The top of the ditch was measured at 1036.1 feet and 1035.4 feet on the east and west sides respectively. Based on the ditch depth, a 24" culvert is proposed.

Vegetation Management Plan

When this property was enrolled into CRP, the farmed wetlands naturally regained their function and diversity. The entire area currently consists of warm and cool season grasses. The CRP planting is now 16 years old and is in some need of maintenance. WCEC completed a vegetation survey of the proposed replacement area and identified that Switch grass and Indian grass were the dominant warm season grasses, while Smooth Brome and Kentucky Blue grass were the dominant cool season grasses. There was also an area along the north side of the ditch which contained Canada thistle. In all areas within the proposed replacement site, native warm season grasses are either present or dominant with switch grass being the most prevalent. Rather than digging up the entire area and replanting, WCEC recommends initially subcontracting a

professional habitat team to complete a controlled burn of the proposed replacement site either in the fall of 2006 or the spring of 2007. The burn would be timed as to inhibit the non-native cool season grasses while promoting the growth of the native warm season grasses. Following the initial burn, WCEC then proposes meeting with the LGU and BSWR at the site during the subsequent growing season to assess the effectiveness of the initial controlled burn. If following the initial controlled burn native vegetation does not become the dominant species (>90%), several options are listed below in order of likely consideration.

Option A: If cool season non-native plants exceed 10% of the plant community, the site could be reburned, preferably after a couple years as to allow time for sufficient fuel to accumulate. If following the second burn non-native cool season grasses still exceed 10% of the plant community, additional measures outlined in Option C or D would be implemented for either the entire parcel or just areas within the parcel where cool season non-native grasses persist.

Option B: If noxious or broadleaf weeds become an issue, the site could be sprayed with Curtail or some 2,4-D based herbicide. Spot spraying would be preferred if possible, but the entire area could be sprayed if needed.

Option C: If non-native plants exceed 10% of the plant community following the prescribed burns, the site could be sprayed with a glyphosate based herbicide when the warm season grasses are dormant. This would likely be in the early spring (Late April) or late fall (Early October), but the actual timing would be determined by the professional habitat team familiar with this habitat management method.

Option D: If Options A-C are not successful in allowing native grasses to dominate the replacement area, the entire area could be sprayed with glyphosate in early summer, tilled, sprayed again in the following spring, and reseeded with W6-BWSR Native Wet Prairie Mix at 10 lbs per acre. The area will be monitored for noxious weeds and non-native species, and if needed, mowed or spot sprayed with 2,4-D to control noxious weeds. This option would be the last resort as it would require total disruption of the currently established plant communities.

The above vegetation management plan is a general plan and CVEC would be willing to implement different or additional measures as discussed with the LGU.

Wetland Replacement Site Monitoring Plan

Following the implementation of the above habitat establishment options, the site will be monitored by CVEC and/or WCEC annually for at least 5 years. Each year the vegetation types and percentage cover will be assessed and mapped during the cool season (May-June) and during the warm season (August). Color photographs representative of each wetland area will be taken during each period from specified areas outlined on the site map. All collected data will be included in the Annual Monitoring Report to be submitted to the LGU annually. If problems are identified during the monitoring period, the above Vegetation Management Plan options will be implemented until the goal of 90% native vegetation is met.

Proposed Replacement Area Removal from Conservation Reserve Program (CRP)

Following the required comment period and after the LGU believes the Joint Application is acceptable, CVEC will work with the local Farm Service Agency Office to remove the proposed replacement area from the current CRP contract. At that point, the land would be free of any easements and the application could be approved by the LGU.

Section 16. Surplus Wetland Credits

The proposed project has surplus New Wetland Credit (0.15 acres) and Public Value Credit (1.83 acres). To avoid the delays and costs associated with possibly banking the excess credit, CVEC does not wish to apply for any banking credit.