

March 17, 2025

NOTICE TO CONTRACTORS

Sealed bids will be received by the South Dakota Department of Transportation until **1:30 pm, Friday, April 04, 2025** at which time they will be opened for the following project(s):

Project Number	PCN	County	Type of Work	Area Engineer
000i-171 000n-171 000p-171	i7TK i7TL i7TM	Brookings	Weed Spraying	Matt Brey (605-882-5166)
000i-171 000i-172	i7QV i7QW	Deuel, Moody, Roberts	Vegetation Management of Pollinator Plots	
000i-172 000n-172 000p-172	i7U3 i7U4 i7U5	Roberts	Weed Spraying	

Should you have questions you are encouraged to contact Area Engineer listed for the project.

AVAILABILITY OF PLANS AND PROPOSALS:

Specifications and proposal forms are available at the Watertown Area Office and at the following website:
<https://apps.sd.gov/hc65bidletting/RegionDefault.aspx>

The DOT-123 form provided within the proposal document is for information only. Do not use for bidding purposes. Bids submitted on the enclosed DOT-123 form will be considered void and will not be accepted by the department. Please email the Aberdeen Area office for the DOT-123 form that can be used for bidding purposes to the following:

Michael.Welch@state.sd.us and Erin.Mullen@state.sd.us

The email request for the DOT-123 form shall include the following information, so that the SDDOT can maintain a list of prospective bidders for this project and to maintain a contact list for future region lettings:

Company Name
Mailing Address
Phone Number

Addendums, if any, will be made available on-line at the above website, no later than **48 hours** prior to opening bids. It will be the Contractor's responsibility to check for addendums prior to submitting bids.

CONTENT OF PROPOSALS:

Returned Proposals shall include the following items all signed in ink:

1. A notarized Contract Proposal (DOT-123). Non-signature items shall be typed or completed in ink.

Bids shall be in sealed envelopes and clearly marked on the outside as to the content when delivered to the Regional Office by the time indicated for Opening. Proposals faxed to the office will not be accepted.

<i>If hand delivering or using a package delivery service, address the envelope:</i>	<i>If using the US Postal Service, address the envelope:</i>
Mark Peterson, Region Engineer Department of Transportation 2735 West Highway 12 Aberdeen, SD 57401	Mark Peterson, Region Engineer Department of Transportation P.O. Box 1767 Aberdeen, SD 57402-1767

Bidders will be required to fill out the blank spaces in the proposal form correctly. The bidder must fill in a unit price for each bid item shown on the proposal form. Bidders will also be required to carry out extensions and determine the "Total or Gross Sum Bid" as indicated in the proposal. The total of any proposal, as determined by the bidder, will be used only for a comparison when bids are publicly opened and read, and any errors noted in extensions or totals will be corrected to determine the "Total or Gross Sum Bid" of any proposal.

Failure to properly carry out any of the above requirements is deemed as sufficient reason to reject any proposal.

BONDING & INSURANCE:

A **bid bond** will not be required.

A **performance bond** will not be required.

MISCELLANEOUS:

Any person engaged in highway construction work in the State of South Dakota must obtain a motor fuel highway contractor tax license.

The Department of Transportation in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d to 2000d-4 and Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of the Department of Transportation issued pursuant to such Act, hereby notifies all bidders that it will affirmatively insure that in any contract entered into pursuant to this advertisement, minority business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, religion, national origin, sex, age or disability in consideration for an award.

The Contractor, by signing and submitting a bid or proposal, agrees to provide services in compliance with the Americans with Disabilities Act of 1990.

The Department of Transportation reserves the right to reject any and all bids.

Sincerely,

DEPARTMENT OF TRANSPORTATION

Mark Peterson
Aberdeen Region Engineer

cc:
C. Bennett
[M. Brey](#)
File

NOTICE TO ALL BIDDERS

TO REPORT BID RIGGING ACTIVITIES, CALL: 1-800-424-9071

THE U.S. DEPARTMENT OF TRANSPORTATION (DOT) OPERATES THE ABOVE TOLL-FREE "HOTLINE" MONDAY THROUGH FRIDAY, 8:00 A.M. TO 5:00 P.M., EASTERN TIME. ANYONE WITH KNOWLEDGE OF POSSIBLE BID RIGGING, BIDDER COLLUSION, OR OTHER FRAUDULENT ACTIVITIES SHOULD USE THE "HOTLINE" TO REPORT SUCH ACTIVITIES.

THE "HOTLINE" IS PART OF THE DOT'S CONTINUING EFFORT TO IDENTIFY AND INVESTIGATE HIGHWAY CONSTRUCTION CONTRACT FRAUD AND ABUSE AND IS OPERATED UNDER THE DIRECTION OF THE DOT INSPECTOR GENERAL.

ALL INFORMATION WILL BE TREATED CONFIDENTIALLY AND CALLER ANONYMITY WILL BE RESPECTED.

* * * *

**SOUTH DAKOTA DEPARTMENT OF TRANSPORTATION
CONTRACT PROPOSAL**

DOT-123
February 2021
1 of 2

CODE	PROJECT			MAINT UNIT	CONTROL REFERENCE	AFE	FUNCTION	BEGIN MRM	END MRM
	PRE	ROUTE	AGR						
		000i		171			17QV	2305	
		000i		172			17QW	2305	

CITY AND/OR COUNTY: Deuel, Moody & Roberts BUDGET SOURCE: FY25 Contract Maintenance

REGION MATERIALS CERTIFICATION REQUIRED: YES NO WIP #: _____
 CERTIFIED INSPECTORS/TESTERS REQUIRED: YES NO
 TO BE INSTALLED ON CM&P: YES NO

TYPE, PURPOSE AND LOCATION OF WORK: Control undesirable vegetation at the 5 Pollinator Habitat locations
 located in the Rest Areas along I-29, per the attached 11 page specification document.

ESTIMATE OF QUANTITIES AND COST for 000i-171, PCN 17QV

BID ITEM NUMBER	ITEM	QUANTITY	UNIT	UNIT PRICE	AMOUNT
009E0197	Mobilization 1 (Hidewood NB & SB)	7	Each		
009E0198	Mobilization 2 (Ward)	7	Each		
910E0030	Round Up	30	OZ		
910E0050	Plateau	270	OZ		
910E0085	Milestone	100	OZ		
910E0112	Arsenal	5	OZ		
910E0197	Surfactant	100	OZ		
910E0335	Method 240SL	40	OZ		
910E1050	ATV/Sprayer	40	Hour		
910E1060	Labor	50	Hour		
TOTAL					

ESTIMATE OF QUANTITIES AND COST for 000i-172, PCN 17QW

BID ITEM NUMBER	ITEM	QUANTITY	UNIT	UNIT PRICE	AMOUNT
009E0199	Mobilization 3 (Glacial Lakes & Wilmot)	7	Each		
910E0030	Round Up	20	OZ		
910E0050	Plateau	130	OZ		
910E0085	Milestone	100	OZ		
910E0112	Arsenal	5	OZ		
910E0197	Surfactant	100	OZ		
910E0335	Method 240SL	40	OZ		
910E1050	ATV/Sprayer	30	Hour		
910E1060	Labor	40	Hour		
TOTAL					
TOTAL FOR BOTH PROJECTS					

**SOUTH DAKOTA DEPARTMENT OF TRANSPORTATION
CONTRACT PROPOSAL**

DOT-123
February 2021
2 of 2

CODE	PROJECT			MAINT UNIT	CONTROL REFERENCE	AFE	FUNCTION	BEGIN MRM	END MRM
	PRE	ROUTE	AGR						
		000i		171		17QV	2305		
		000i		172		17QW	2305		

CONTRACTOR'S PROPOSAL STATEMENT

The undersigned agrees to offer the labor and material in the quantities, at the unit price, for the purpose, in the place, and in accordance with attached provisions. The Contractor will provide services in compliance with the Americans with Disabilities Act of 1990 and any amendments.

SUBSTANTIAL COMPLETION DATE N/A **PROPOSED START DATE** _____
FIELD WORK COMPLETION DATE November 21, 2025 **SIGNATURE** _____
SUBSCRIBED AND SWORN TO BEFORE ME THE _____ **PRINTED NAME** _____
 DAY OF _____, 20__ **COMPANY** _____
NOTARY _____ **STR. ADDRESS** _____
 My Commission Expires: _____ **CITY, STATE, ZIP** _____
 _____ **PHONE NUMBER** _____
DATE _____ **(SEAL)** _____ **FEDERAL TAX ID NUMBER** _____

TO BE FILLED OUT BY STATE PERSONNEL:

The parties agree that the Department of Transportation may execute this contract by electronic signature.

RECOMMENDED FOR APPROVAL:

_____	_____	CONSTRUCTION & MAINTENANCE ENGINEER	_____	DATE
AREA / REGION / OPS ENGINEER	DATE	_____	DIRECTOR OF OPERATIONS	_____
_____	_____	_____	INTERNAL SERVICES / AUDITS	_____

ACCEPTED BY SOUTH DAKOTA DEPARTMENT OF TRANSPORTATION

NAME _____	TITLE _____	DATE _____
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IF FEDERAL FUNDS WILL BE EXPENDED UNDER THIS AGREEMENT, ACCEPTANCE BY PROJECT DEVELOPMENT IS REQUIRED

_____	_____
PROJECT DEVELOPMENT ENGINEER	DATE

REV. 10/11/24

INDEX OF SPECIAL PROVISIONS

PROJECT(S): 000i-171, 000i-172 PCN i7QV, i7QW

COUNTY(IES): Deuel, Moody, Roberts

TYPE OF WORK: POLLINATOR HABITAT MAINTENANCE

THE FOLLOWING ITEMS ARE INCLUDED IN THIS PROPOSAL FORM:

Plans for Project – Sheets 1-11

Special Provision for Acknowledgement and Certification Regarding Article 3, Section 12 of the South Dakota Constitution, dated 8/24/23.

Special Provision for Buy America, dated 5/1/24..

Special Provision for Liability Insurance, dated 4/21/22.

Special Provision for Responsibility for Damage Claims, dated 4/21/22.

* * * *

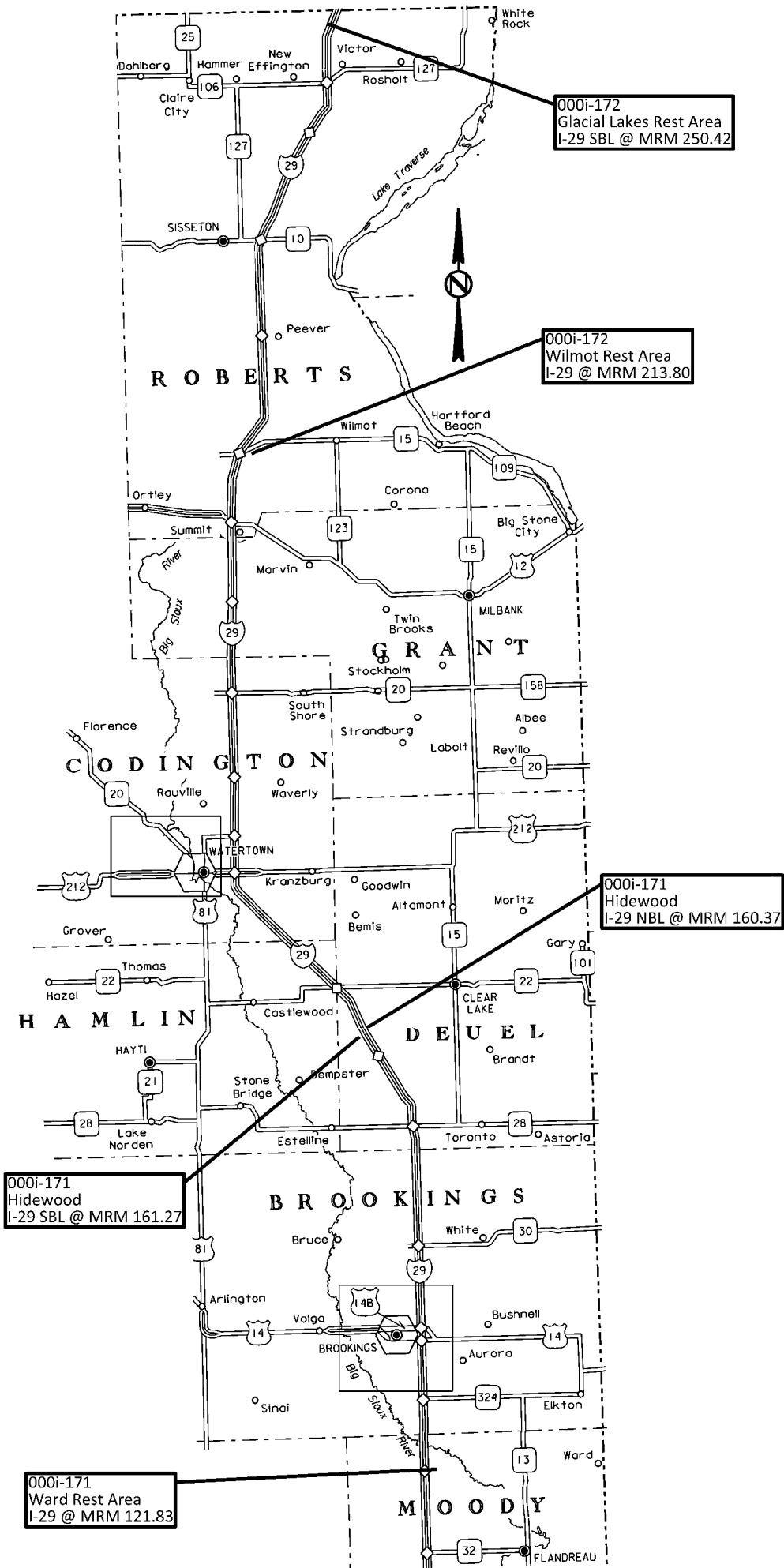


TABLE OF INFORMATIONAL QUANTITIES FOR POLLINATOR HABITAT VEGETATION CONTROL

000i-171, PCN i7QV, Deuel & Moody Counties, Hidewood NB & SB and Ward Rest Areas Estimate of Quantities

BID ITEM NUMBER	ITEM	QUANTITY	UNIT
009E0197	Mobilization 1	7	Each
009E0198	Mobilization 2	7	Each
910E0030	Round Up	30	Oz
910E0050	Plateau	270	Oz
910E0085	Milestone	100	Oz
910E0112	Arsenal	5	Oz
910E0197	Surfactant	100	Oz
910E0335	Method 240SL	40	Oz
910E1050	ATV/Sprayer	40	Hour
910E1060	Labor	50	Hour

000i-172, PCN i7QW, Roberts County, Wilmot and Glacial Lakes Rest Areas Estimate of Quantities

BID ITEM NUMBER	ITEM	QUANTITY	UNIT
009E0199	Mobilization 3	7	Each
910E0030	Round Up	20	Oz
910E0050	Plateau	180	Oz
910E0085	Milestone	100	Oz
910E0112	Arsenal	5	Oz
910E0197	Surfactant	100	Oz
910E0335	Method 240SL	40	Oz
910E1050	ATV/Sprayer	30	Hour
910E1060	Labor	40	Hour

Pollinator Habitat Maintenance Specifications

Scope of Work

The work will consist of controlling undesirable vegetation at 5 locations along I-29. The 5 locations are Interstate Rest Areas. Refer to title sheet for the 5 locations. Pollinator Habitat was planted at these 5 locations in 2018 and vegetation control via the application of herbicides is required to control undesirable vegetation.

Herbicides application may be required several times during the growing season.

- An early season application of Plateau prior to May 15 will be required at the Glacial Lakes and Wilmot Rest Areas. This application will generally be along the perimeters of the pollinator habitat area, around shelter belts, and other locations noted on the spring herbicide application maps.
- An early season application of Plateau prior to May 1 will be required at the Hidewood Northbound Rest Area, Hidewood Southbound Rest Area, and Ward Rest Area. This application will generally be along the perimeters of the pollinator habitat area, around shelter belts, and other locations noted on the spring herbicide application maps.
- Application of herbicides can be anticipated to be required to control weeds throughout the growing season.

Hand trimming (weed eating) may be required. Typically this work will be required along fence lines. The SDDOT Area Engineer or SDDOT Maintenance Supervisor will decide if hand trimming will be done by SDDOT forces or by the Contractor.

The SDDOT has retained the services of a Consulting Landscape Architect, who performs inspections of the 5 locations. The requirements for herbicide application and the type of application will be determined via these periodic inspections.

The periodic inspection reports will be furnished to the Contractor via email. The Contractor will be available to make a timely application of herbicides and the application will be completed within 10 calendar days of notification. If mowing is required before application of herbicide, the Contractor will be notified of when the mowing is anticipated to be completed. Mowing will be done by SDDOT forces. Maps, similar to the ones in Attachment A of the plans, will be prepared by the Consulting Landscape Architect following the inspections. These maps will indicate the 2025 Spring Maintenance that will be required.

The Contractor does hereby agree to furnish the necessary equipment, materials and labor to control the growth of undesirable vegetation. 4 types of herbicide application are required via this contract. Spot Hand Spraying, Spot Hand Wicking, Boom Spraying, and Boom Wicking may be required as part of this contract.

Herbicides

The following is the expected herbicides and the expected uses. This list should not be considered to include all uses for herbicide application.

Plateau herbicide is expected to be used at all 5 locations in the spring to control smooth brome grass and thistles and may be used again in the fall to control leafy spurge. Refer to Attachment A maps for 2025 spring Plateau herbicide application locations and rates.

Milestone herbicide is expected to be used in the fall to control weeds such as thistles.

Other herbicides have been included in the contract with small quantities to establish a contract unit price for these items, should their use be required on this contract.

The Contractor may use an approved equal to the brand names listed in the estimate of quantities. The approved equal must have the same active ingredients, and the labeled instructions must be followed.

Pollinator Habitat Maintenance Specifications

Spraying/Wicking

The spraying/wicking will consist of spot treatments and will be accomplished by using the herbicides specified on the contract with applicable rates as recommended by the manufacturer. If a herbicide is needed that is not on this contract, the type and price will be negotiated and added by Change Order, prior to use of the herbicide.

The Contractor agrees to indemnify, save, and hold harmless the Department and all its employees and agents, from any and all claims, demands, actions or cause of action of whatsoever nature or character arising out of, or by reason of, the execution of performance of the work provided for under the contract whether or not the Contractor itself is negligent or otherwise culpable. The Contractor further agrees to defend at its own sole cost and expense any action or proceeding commenced for the purpose of asserting any claim on whatsoever nature or character arising under this contract whether or not the Contractor is itself negligent or otherwise culpable. This section does not require the Contractor to be responsible for or defend against claims or damages arising solely from acts or omissions of the State, its officers or employees.

The spraying/wicking will be accomplished by personnel properly licensed by the South Dakota Department of Agriculture and Natural Resources.

The Contractor will advise the local Maintenance Supervisor of the intent to apply herbicides, 48 hours prior to doing so. The Maintenance Supervisor for the Ward and Hidewood Rest Areas is Calvin Esche (605-881-7163). The Maintenance Supervisor for the Wilmot and Glacial Lakes Rest Areas is Brian Chase (605-881-7183).

The Contractor will complete the attached daily form (DOT 820) "Contract Daily Pesticide Application Record" (Exhibit B), furnished by the Department, after each day of herbicide application. Each of the 5 locations will be separately tracked and documented.

The Contractor will provide the Area Engineer Matt Brey (Matt.Brey@state.sd.us) with a complete copy of the daily form (DOT 820) at the end of herbicide application.

The Contractor will submit an invoice for payment to the Area Engineer. The invoice will be accompanied by the completed original daily form(s) DOT 820. Separate invoices may be submitted for the various herbicide applications, if the Contractor desires to do so.

Equipment used for spraying/wicking will be equipped with a flashing amber light. The light will be turned on and used at all times during application operation. Application will not interfere with the day to day operations of the rest area.

Herbicides will be applied uniformly with properly calibrated equipment.

Measurement and Payment

The contract unit price will be nonnegotiable regardless of changes in contract quantity.

The Contractor will be paid by the contract item "Mobilization 1" each time the Contractor is called to complete work at the Hidewood Northbound and Hidewood Southbound Rest Area locations. This bid item will only be paid one time if work is required at the same time at both locations.

The Contractor will be paid by the contract item "Mobilization 2" each time the Contractor is called to complete work at the Ward Rest Area location.

The Contractor will be paid by the contract item "Mobilization 3" each time the Contractor is called to complete work at the Glacial Lakes and Wilmot Rest Area locations. This bid item will only be paid one time if work is required at the same time at both locations.

The Contractor will be paid by the contract item "ATV/Sprayer" when Boom Spraying and/or Wicking is required.

The Contract item "Labor" will be measured and paid for when doing hand trimming, hand spray/wicking and/or when operating motorized spraying equipment.

Pollinator Habitat Maintenance Specifications

Contractor Qualifications

The bidder on this contract will meet all the following minimum requirements:

1. Be a South Dakota Licensed Applicator.
2. Have at least 3 years of experience of native vegetation management or ecological restoration.
3. Have a degree in biology, ecology, conservation management, landscape architecture, or equivalent natural resource degree.

The bidder will submit this proof documentation with the bid. Failure to provide documentation or not meeting the aforementioned qualifications may be grounds for rejecting of bids.

The applicator must meet the above 3 requirements or be directly on site supervised by someone who meets the above 3 requirements.

"Contract" Daily Pesticide Application Record

Date: _____ Contact No: _____

Customer: _____

Contractor: _____

SPRAYING ON THIS DATE WAS ACCOMPLISHED ON: INDICATE WHICH DITCH

Highway No: _____ From MRM _____ To MRM _____ N S E W OR MEDIAN

Highway No: _____ From MRM _____ To MRM _____ N S E W OR MEDIAN

Highway No: _____ From MRM _____ To MRM _____ N S E W OR MEDIAN

Highway No.	Type of Pesticide	Amount Used	Cost/Unit	Cost
_____	_____	_____ X	_____ =	_____
_____	_____	_____ X	_____ =	_____
_____	_____	_____ X	_____ =	_____

Highway No.	Employee Name	Hours Worked	Rate	Cost
_____	_____	_____ X	_____ =	_____
_____	_____	_____ X	_____ =	_____
_____	_____	_____ X	_____ =	_____

Highway No.	Equipment	Miles or Hours Worked	Rate	Cost
_____	_____	_____ X	_____ =	_____
_____	_____	_____ X	_____ =	_____
_____	_____	_____ X	_____ =	_____
			Total Cost	= _____

Sprayer Operator Signature

D.O.A. License Number: _____

THIS FORM WILL BE COMPLETED IN TRIPLICATE. ONE COPY WILL BE FORWARDED TO THE LOCAL MAINTENANCE UNIT FOREMAN, ONE TO BE RETAINED ON FILE BY THE COUNTY, AND ONE (ORIGINAL) TO ACCOMPANY THE COUNTY'S INVOICE TO THE STATE FOR PAYMENT.

Agricultural interface

Tree shelter belt

Area 1A

Area 1

Area 4

Area 6

Area 5

Area 2

Plateau herbicide.

The application rate shall be 12 oz per acre with non-ionic surfactant as recommended by manufacturer.





Spray Area 10 acres

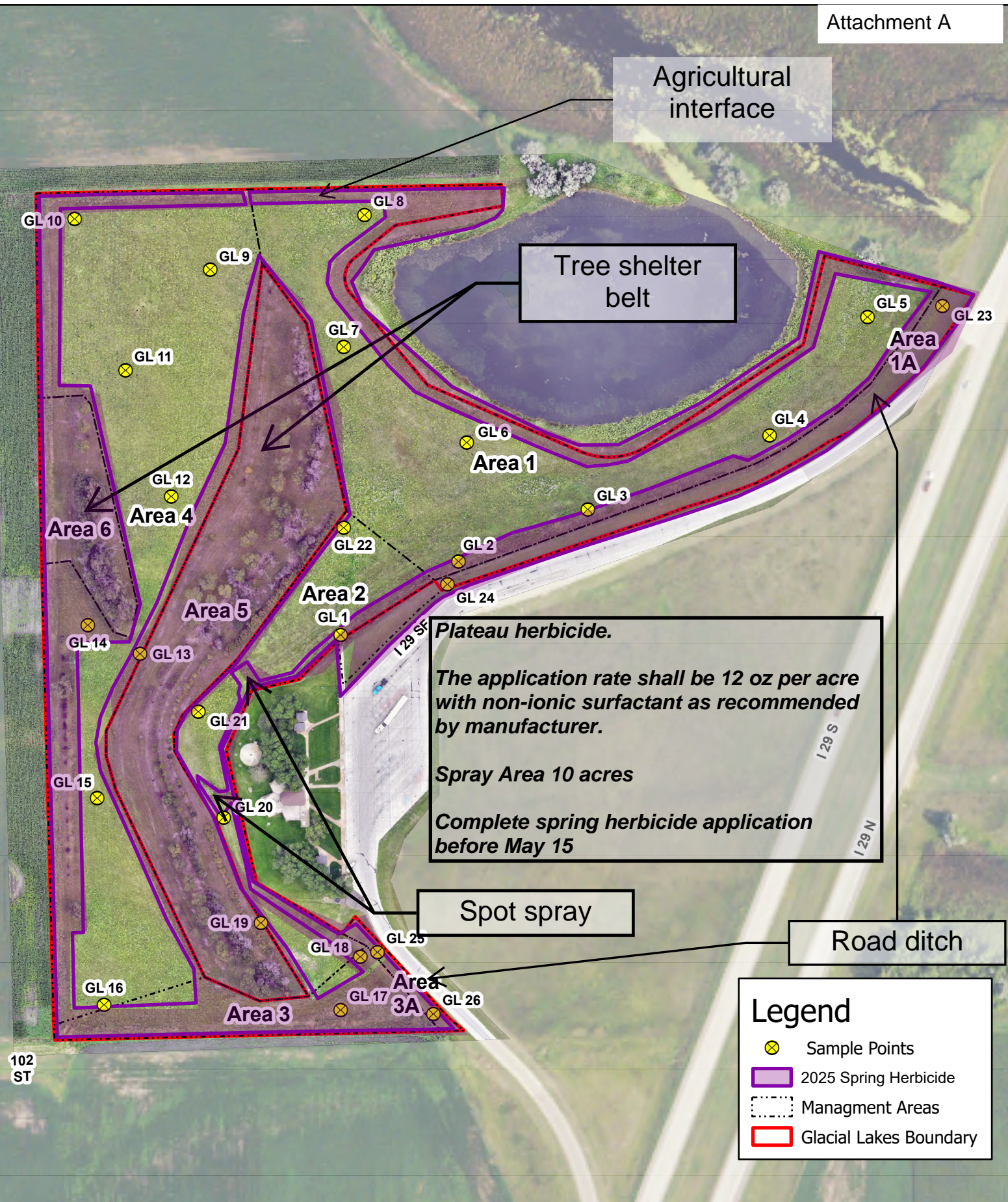
Complete spring herbicide application before May 15

Spot spray

Road ditch

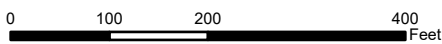

Legend

-  Sample Points
-  2025 Spring Herbicide
-  Managment Areas
-  Glacial Lakes Boundary




Convention Center Plaza
1410 West Russell Street
Sioux Falls, SD 57104-1328
Phone: (605) 331-2505
Fax: (605) 331-2602

Map 1B: Glacial Lakes Rest Area
2025 Spring Herbicide Application

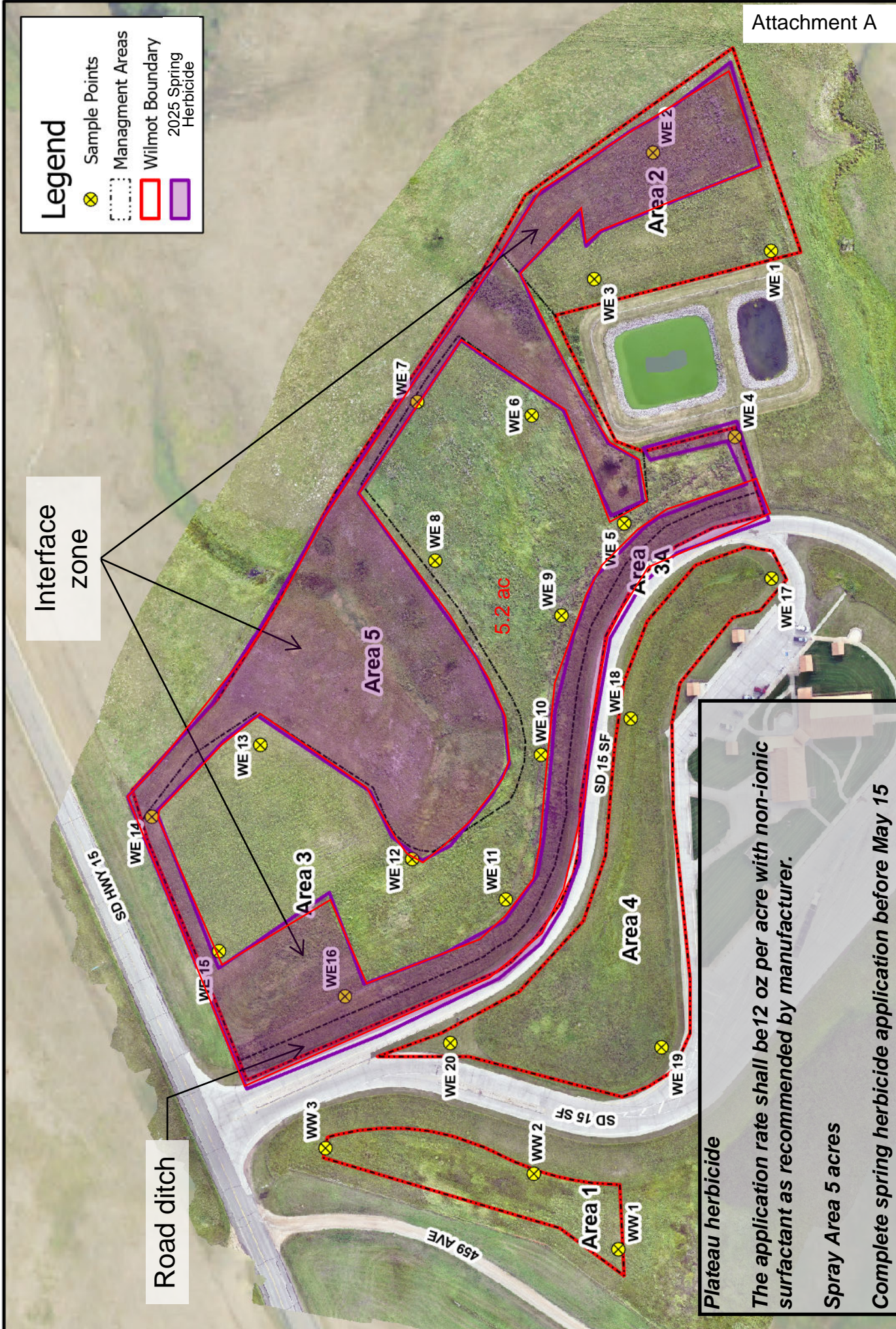
2024 Drone Imagery
Project: 24002338.01
Date: 11/15/2024
Created By: L. Rasmussen

Legend

- Sample Points
- Management Areas
- Wilmot Boundary
- 2025 Spring Herbicide

Interface Zone

Road ditch



Plateau herbicide

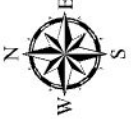
The application rate shall be 12 oz per acre with non-ionic surfactant as recommended by manufacturer.

Spray Area 5 acres

Complete spring herbicide application before May 15

Map 2B: Wilmot Rest Area

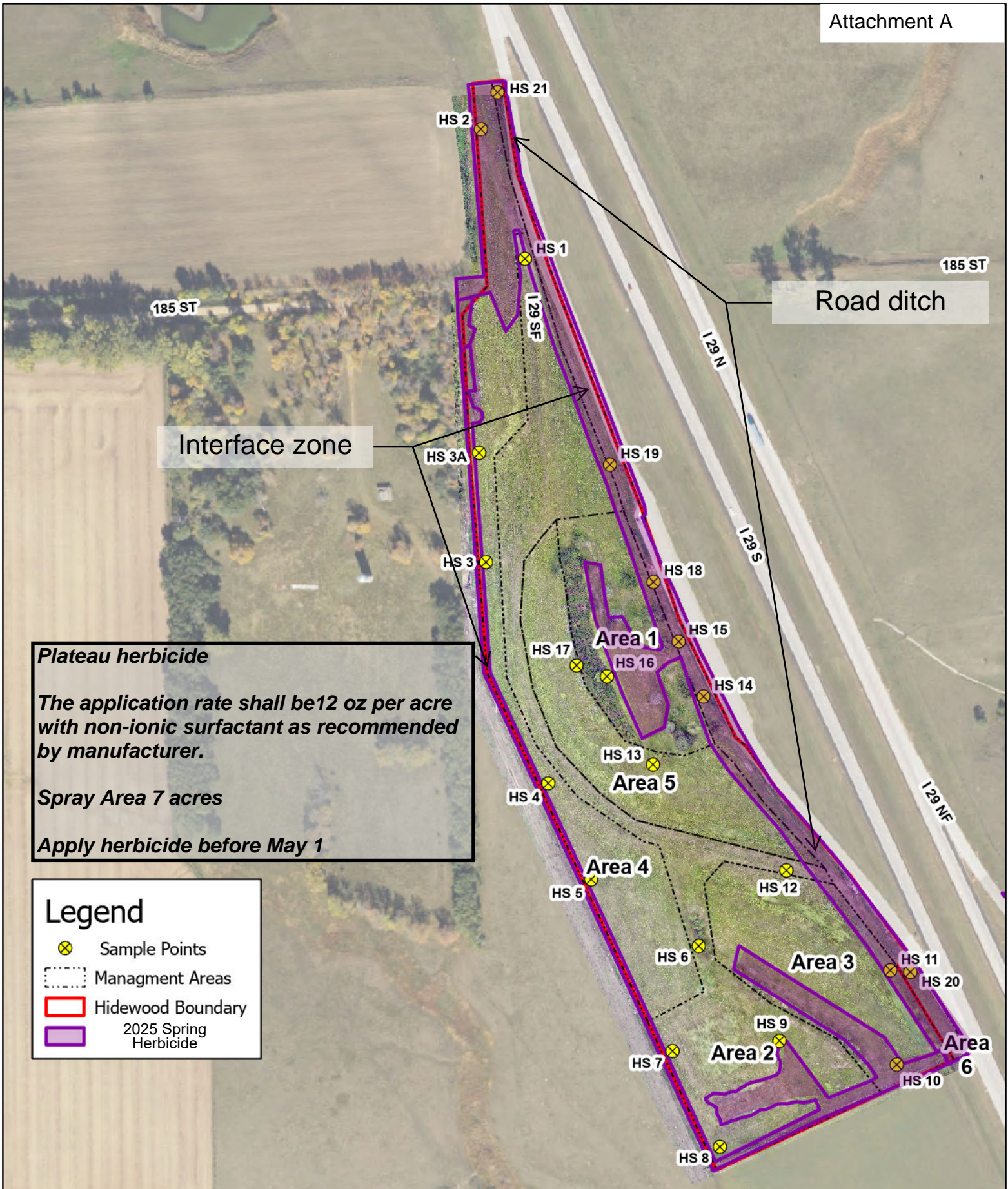
2025 Spring Herbicide Application



2024 Drone Imagery
 Project: 24002338.02
 Date: 11/19/2024
 Created By: L. Rasmussen

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 Fax: (605) 331-2602





Plateau herbicide

The application rate shall be 12 oz per acre with non-ionic surfactant as recommended by manufacturer.

Spray Area 7 acres

Apply herbicide before May 1

Legend


- ⊗ Sample Points
- Management Areas
- Hidewood Boundary
- 2025 Spring Herbicide



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Map 3B: Hidewood Southbound Rest Area
 2025 Spring Herbicide Application

0 100 200 400 Feet



2024 Drone Imagery
 Project: 24002338.03
 Date: 11/20/2024
 Created By: L. Rasmussen

Legend

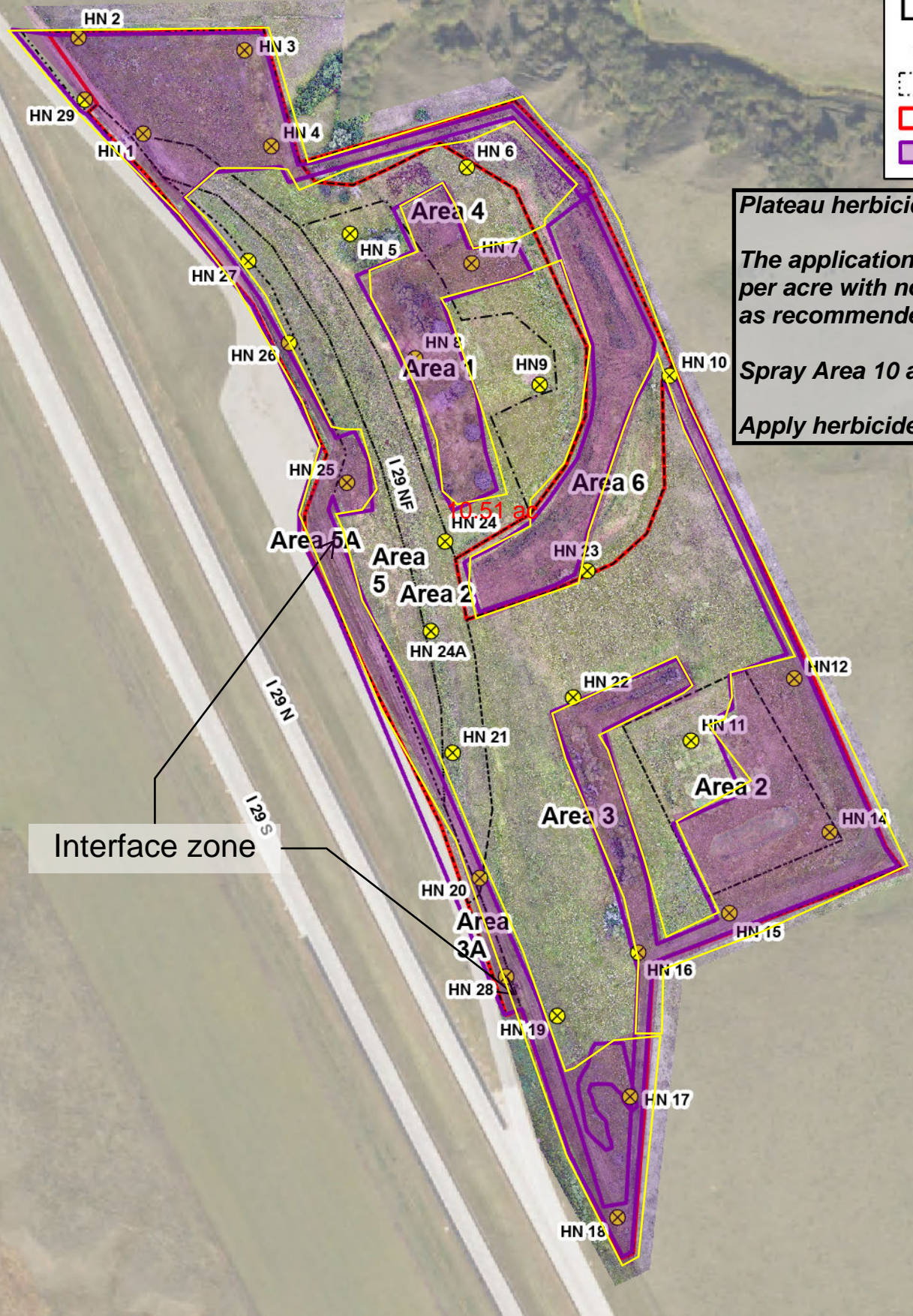
-  Sample Points
-  Management Areas
-  Hidewood Boundary
-  2025 Spring Herbicide

Plateau herbicide

The application rate shall be 12 oz per acre with non-ionic surfactant as recommended by manufacturer.

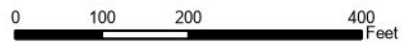
Spray Area 10 acres

Apply herbicide before May 1

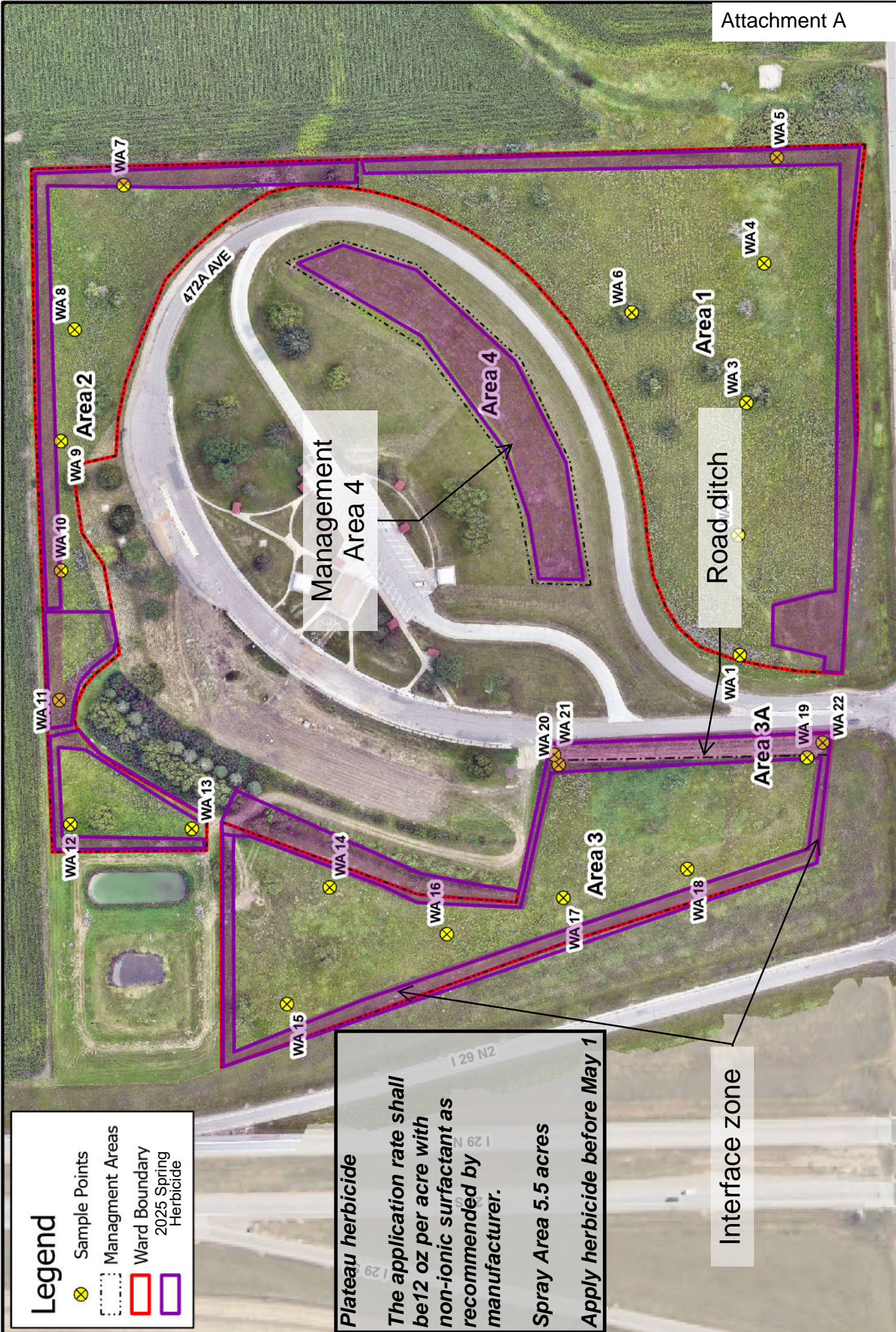


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 Fax: (605) 331-2602

Map 4B: Hidewood Northbound Rest Area
 2025 Spring Herbicide Application



2024 Drone Imagery
 Project: 24002338.04
 Date: 11/20/2024
 Created By: L. Rasmussen



Legend

- Sample Points
- Management Areas
- Ward Boundary
- 2025 Spring Herbicide

Plateau herbicide
 The application rate shall be 12 oz per acre with non-ionic surfactant as recommended by manufacturer.
 Spray Area 5.5 acres
 Apply herbicide before May 1

Interface zone

Map 5B: Ward Rest Area
 2025 Spring Herbicide Application



2024 Drone Imagery
 Project: 24002338.05
 Date: 11/19/2024
 Created By: L. Rasmussen

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 1410 West Russell Street
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 Phone: (605) 331-2505
 Fax: (605) 331-2602



**STATE OF SOUTH DAKOTA
DEPARTMENT OF TRANSPORTATION**

**SPECIAL PROVISION
FOR
ACKNOWLEDGEMENT AND CERTIFICATION REGARDING
ARTICLE 3, SECTION 12
OF THE SOUTH DAKOTA CONSTITUTION**

AUGUST 24, 2023

In accordance with the State of South Dakota Office of the Governor Executive Order 2023-13, the following will apply to all contracts:

The Contractor acknowledges and certifies that the following information is correct:

CERTIFICATION OF NO STATE LEGISLATOR INTEREST:

Contractor (i) understands neither a state legislator nor a business in which a state legislator has an ownership interest may be directly or indirectly interested in any contract with the State that was authorized by any law passed during the term for which that legislator was elected, or within one year thereafter, and (ii) has read South Dakota Constitution Article 3, Section 12 and has had the opportunity to seek independent legal advice on the applicability of that provision to this contract. By signing this contract, Contractor hereby certifies that this contract is not made in violation of the South Dakota Constitution Article 3, Section 12.

It is understood and agreed that, if this certification is false, such false certification will constitute grounds for the Department to terminate the contract.

The Contractor further agrees to provide immediate written notice to the Department if during the term of the contract it no longer complies with this certification and agrees such noncompliance may be grounds for contract termination.

* * * * *

**STATE OF SOUTH DAKOTA
DEPARTMENT OF TRANSPORTATION**

**SPECIAL PROVISION
FOR
BUY AMERICA**

MAY 1, 2024

Section 6.9 – Page 46 – Delete and replace with the following:

6.9 BUY AMERICA – Iron & steel, manufactured (composite) products, and construction materials must be produced in the United States in accordance with these Buy America requirements. Buy America preference applies to articles, materials, and supplies required to be consumed in, permanently incorporated into, or affixed to the completed project. Buy America preference does not apply to tools, equipment, and supplies such as temporary works and other temporary items brought to the project and removed at or before the final completion of the project. Temporary items are items that are not part of contract specifications, items that are not required in the design or final working drawings, and items that are removed or could be removed but allowed to remain in place if requested by the Contractor and approved by the Engineer.

A. Certification: The following category-based requirements will apply for each article, material, or supply.

- 1. Iron & Steel:** A statement will be included on the certification stating whether the iron or steel is of domestic or foreign origin. The Department will consider iron & steel that does not require separate certification in accordance with the Department’s Materials Manual as miscellaneous iron & steel. The Contractor will provide the Department a completed and signed Miscellaneous Materials Buy America Certificate stating the miscellaneous iron & steel required to be consumed in, permanently incorporated into, or affixed to the completed project complies with the Buy America requirements specified herein.
- 2. Manufactured (Composite) Products:** Due to an existing nationwide waiver, manufactured (composite) products currently have no specific requirements.
- 3. Construction Materials:** Construction materials and construction materials currently on the Department’s Approved Products List will be treated as “Tier 1” items in accordance with the Required Samples, Tests, and Certificates (RSTC) section of the Department’s Materials Manual. The

Contractor will provide the Department a completed and signed Miscellaneous Materials Buy America Certificate stating the construction materials required to be consumed in, permanently incorporated into, or affixed to the completed project complies with the Buy America requirements specified herein.

B. Determination of Material Category: The Department, in the Department's sole discretion, will classify an article, material, or supply into one of the following categories, (1) Iron & Steel, (2) Manufactured (Composite) Product, (3) Construction Material, or (4) Excluded Material. Articles, materials, and supplies will be considered to fall into only one single category of Buy America requirements. Some contract items are composed of multiple components that may fall into different categories. Individual components and composite items will be classified based on their nature when they arrive on the work site.

1. Iron & Steel: The Department will classify items wholly or predominantly composed of iron or steel or a combination of both as iron & steel.

Predominantly of iron or steel or a combination of both means that the cost of the iron and steel content exceeds 50% of the total cost of all its components. The cost of iron and steel is the cost of the iron or steel mill products (such as bar, billet, slab, wire, plate, or sheet), castings, or forgings utilized in the manufacture of the product and a good faith estimate of the cost of iron or steel components.

2. Manufactured (Composite) Products: The Department will classify items not specifically classified as iron & steel, construction materials, or excluded materials which are fabricated, combined, or manufactured through a manufacturing process into a commercially available composite item as manufactured (composite) products. The Department will classify items consisting of 2 or more of the listed construction materials combined through a manufacturing process as a manufactured (composite) product. The Department will classify items consisting of 1 of the listed construction materials combined with a material not listed through a manufacturing process as a manufactured (composite) product.

3. Construction Materials: The Department will classify only the materials specifically listed as construction materials as construction materials.

Minor additions of articles, materials, supplies, or binding agents to a construction material will not change the categorization of the construction material.

4. Excluded Materials: The Department will classify cement and cementitious materials; aggregates such as stone, sand, or gravel; and aggregate binding agents or additives as excluded materials.

C. Iron & Steel: Structural steel and other iron and steel products will be produced in the United States. To be considered produced in the United States, all manufacturing processes, from the initial melting stage through the application of coatings, must occur in the United States. The application of a coating is interpreted to mean all processes that protect or enhance the value of material or product to which it is applied; examples are epoxy coatings, galvanizing, and painting.

Buy America does not apply to iron ore, scrap, pig iron, and processed, pelletized, and reduced iron ore.

If iron ingots or steel billets produced in the United States are sent out of the country for a subsequent manufacturing process and then are brought back into the United States, the full value of the iron or steel as it reenters the country (including the original billet cost and any coatings) will be considered foreign.

If foreign iron or steel components are combined with other components into a fabricated or assembled manufactured (composite) product, the foreign iron or steel content of the manufactured (composite) product is not only the value of the foreign iron or steel components, but also the pro-rata value of the fabrication and assembly labor and overhead used in the combining the foreign iron or steel and other components into the finished manufactured (composite) product, including coatings.

D. Manufactured (Composite) Products: Iron and Steel components of manufactured (composite) products will comply with the Buy America requirements for iron & steel. Due to an existing nationwide waiver, manufactured (composite) products without iron and steel components currently have no specific requirements.

E. Construction Materials: Construction materials will be produced in the United States. Each construction material is followed by a standard for the material to be considered produced in the United States.

A construction material is an article, material, or supply that is one of the following:

1. Non-ferrous metals. All manufacturing processes, from initial smelting or melting through final shaping, coating, and assembly, occurred in the United States.
2. Plastic and polymer-based products including polyvinylchloride, composite building materials, and polymers used in fiber optic cables. All manufacturing processes, from initial combination of constituent plastic or

polymer-based inputs, or, where applicable, constituent composite materials, until the item is in its final form, occurred in the United States.

3. Glass including optic glass. All manufacturing processes, from initial batching and melting of raw materials through annealing, cooling, and cutting, occurred in the United States.
 4. Fiber optic cable including drop cable. All manufacturing processes, from the initial ribboning (if applicable), through buffering, fiber stranding and jacketing, occurred in the United States. All manufacturing processes also include the standards for glass and optical fiber, but not for non-ferrous metals, plastic and polymer-based products, or any others.
 5. Optical fiber. All manufacturing processes, from the initial preform fabrication stage through the completion of the draw, occurred in the United States.
 6. Lumber. All manufacturing processes, from initial debarking through treatment and planing, occurred in the United States.
 7. Engineered wood. All manufacturing processes from the initial combination of constituent materials until the wood product is in its final form, occurred in the United States.
 8. Drywall. All manufacturing processes, from initial blending of mined or synthetic gypsum plaster and additives through cutting and drying of sandwiched panels, occurred in the United States.
- F. Unavailability of Compliant Items:** If the Contractor discovers a Buy America compliant item or items does not exist or an item becomes unavailable, the Contractor will immediately notify the Department. The Contractor will furnish written documentation of the Contractor's complete efforts to obtain a compliant item. This documentation will include a complete contact log with dates and times of the Contractor's efforts to obtain a compliant item, the responses received, and any correspondence between the Contractor and potential suppliers of the item which demonstrate efforts to obtain a compliant item. If, based on review of the documentation provided, the Department determines all potential options to obtain a compliant item have been exhausted; the Department will determine the appropriate course of action.
- G. Non-Compliant Items:** If the Engineer, in the Engineer's sole discretion, determines an article, material, or supply provided to the project does not comply with these Buy America requirements but is available; the following will apply:

1. If the non-compliant item is not permanently incorporated into the completed work, the Contractor will not permanently incorporate the item and will replace the non-compliant item with an item that complies with the Buy America requirements specified herein at the Contractor's expense.
2. If the non-compliant item has been permanently incorporated into the completed project; the Engineer, in the Engineer's sole discretion, will determine if the non-compliant item must be removed and replaced including any completed work at the Contractor's expense or if the non-compliant item may remain in place in accordance with both of the following requirements:
 - a. Minor quantities of non-compliant iron & steel may be incorporated in the Department's sole discretion based on the Department's review of the Contractor's documented invoiced material costs, provided the invoiced material costs of all non-compliant iron & steel do not exceed 0.1% of the total contract amount or \$2,500, whichever is greater.
 - b. Minor quantities of non-compliant iron & steel and construction materials may be incorporated in the Department's sole discretion based on the Department's review of the Contractor's documented invoiced material costs, provided the total value of the non-compliant items does not exceed 5.0% of the total applicable costs for the project or \$1,000,000, whichever is less.

The total value of the non-compliant items will include non-compliant iron & steel and non-compliant construction materials. The total value of the non-compliant items will not include excluded materials, manufactured (composite) products, or other items within the scope of an existing Buy America waiver.

The total value of an item includes the cost of the material plus the cost of transportation to the project site, as evidenced by delivery receipt, but does not include the labor costs to assemble and install at the project site.

The total applicable project costs will be defined as the total value of materials used in the project that are subject to a domestic preference requirement, including the total value of any iron & steel, construction materials, manufactured (composite) products, and other items within the scope of an existing Buy America waiver. The total applicable project costs will not include excluded materials.

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**STATE OF SOUTH DAKOTA
DEPARTMENT OF TRANSPORTATION**

**SPECIAL PROVISION
FOR
LIABILITY INSURANCE**

APRIL 21, 2022

Section 7.15 – Page 50 – Delete and replace with the following:

7.15 LIABILITY INSURANCE - The Contractor will procure and maintain at the Contractor's expense, during duration of the contract, liability insurance with an insurance company authorized to do business in the state of South Dakota, for damages imposed by law. The insurance will cover all operations under the contract, whether performed by the Contractor or by subcontractors, and will name the State of South Dakota, the Department, and the Department's officers and employees as additional insureds, but liability coverage is limited to claims not barred by sovereign immunity. The State of South Dakota, the Department, and the Department's officers and employees do not hereby waive sovereign immunity for discretionary conduct as provided by law. Before commencing the work, the Contractor will furnish certificates of insurance, certifying that the policies will not be changed or cancelled until 30 calendar days' written notice has been given to the Department.

The certificates of insurance will provide evidence that the Contractor carries sufficient liability insurance to protect the public from injuries sustained by reason of pursuing the work, and that Workers' Compensation Insurance meets the requirements of the South Dakota Workers' Compensation Law.

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**STATE OF SOUTH DAKOTA
DEPARTMENT OF TRANSPORTATION**

**SPECIAL PROVISION
FOR
RESPONSIBILITY FOR DAMAGE CLAIMS**

APRIL 21, 2022

Section 7.14 – Page 50 – Delete and replace with the following:

7.14 RESPONSIBILITY FOR DAMAGE CLAIMS - The Contractor will indemnify the State of South Dakota, the Department, and the State's officers and employees, from all suits, actions, or claims of any character, including suits in which the State, Department, or the State's officers and employees are sued, brought because of any injuries or damages received or sustained by any person, persons, or property arising at least in part from the Contractor's operations; or on account of or in consequence of any neglect in safeguarding the work; or through use of unacceptable materials in constructing the work; or because of any act or omission, neglect, or misconduct of said Contractor; or because of any claims or amounts recovered from any infringements of patent, trademark, or copyright; or from any claims or amounts arising or recovered under the "Workers' Compensation Act", or any other law, ordinance, order, or decree. The Contractor's obligation to indemnify will include the payment of reasonable attorney fees and other costs of defense. So much of the money due the Contractor under and by virtue of the contract as may be considered necessary by the Department for such purpose may be retained for the use of the State; or in case no money is due, the Contractor's surety may be held until such suit or suits, action or actions, claim or claims for injuries or damages as aforesaid will have been settled and suitable evidence to that effect furnished to the Department. Money due the Contractor will not be withheld when the Contractor produces satisfactory written confirmation from the Contractor's insurer that adequate public liability insurance and property damage insurance providing coverage for such particular claims as may be made is in force, and the Contractor provides evidence the claim has been submitted to the Contractor's insurer. A copy of a certificate of insurance, without further confirmation of coverage for the particular claim being made, will not be sufficient to satisfy the requirement of written confirmation.

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