

ORDER OF THE STATE OF WISCONSIN NATURAL RESOURCES BOARD
REPEALING, AND REPEALING AND RECREATING RULES

The Wisconsin Natural Resources Board adopts an order to **repeal** ch. NR 15; and to **repeal and recreate** ch. NR 11 relating to closed areas and refuges.

WM-24-18

Analysis Prepared by the Department of Natural Resources

1. Statute Interpreted: Section 29.014 (1) of the Wisconsin Statute directs the department to establish and maintain any bag limits and conditions governing the taking of fish and game that will conserve the fish and game supply and ensure the citizens of this state continued opportunities for good fishing and hunting. Also, s.29.091 (1) prohibits people from hunting or possessing a loaded firearm or an unstrung or encased bow or crossbow on any wildlife refuge.

2. Statutory Authority: Statutes that authorize the promulgation of this rule order include sections 29.014, 29.091 (1), 23.09 (2) (b), 23.11 and 29.053 (2), Wis. Stats.

3. Explanation of Agency Authority: Section 29.014 (1) of the Wisconsin Statutes provides that the department shall establish and maintain open and closed seasons for fish and game and any bag limits, size limits, rest days and conditions for taking fish and game.

Section 23.11 confers the department general powers and duties to take general care, protection, and supervision of state lands. In addition, s. 29.053 (2) grants the department the ability to exercise its authority under s. 29.014 to establish open and closed seasons to the state as a whole, or for any specified county or part of a county. Finally, s. 29.03(2) (b) grants the department the authority to designate areas as game refuges.

4. Related Statutes or Rules: This rule is related to currently active department rule WM-10-18.

5. Plain Language Analysis:

SECTION 1 updates the closed area designations in Chapter NR 11 and refuge designations in Chapter NR 15. It also moves the wildlife refuge designations from Chapter NR 15 into Chapter NR 11. This section reduces the number of available refuge and closed area designations, updates all refuge and closed area maps, removes Department properties that no longer ecologically justify remaining a refuge and removes land that is not owned or managed by the Department as refuges.

SECTION 2 repeals chapter NR 15 which has been incorporated into NR 11.

6. Summary of, and Comparison with, Existing or Proposed Federal Statutes and Regulations:

States possess inherent authority to manage the wildlife resources located within their boundaries, except insofar as preempted by federal treaties and laws, including regulations established in the Federal Register. None of these rule changes violate or conflict with the provisions established in the Federal Code of Regulations.

7. Comparison with Similar Rules in Adjacent States: These proposed rule changes do not represent significant policy changes and do not differ significantly from surrounding states. All surrounding states have regulations and rules in place for the management and recreational use of wild game and furbearer

species that are established based on needs that are unique to that state's resources and public desires.

8. Summary of Factual Data and Analytical Methodologies Used and How Any Related Findings Support the Regulatory Approach Chosen: Current rules establish properties as closed areas and wildlife refuges. These designations restrict the public's ability to access these properties for activities during specific dates. Many of the current closed area and refuge definitions are decades old. During that time wildlife use of the property has changed. This proposed rule will update the closed area and refuge designations of all currently designated properties so that the designations reflect the current property use.

9. Analysis and Supporting Documents Used to Determine the Effect on Small Business or in Preparation of an Economic Impact Report: These rules, and the legislation which grants the department rule-making authority, do not have fiscal effects on the private sector or small businesses. No costs to the private sector or small businesses are associated with compliance to these rules.

10. Effect on Small Business (initial regulatory flexibility analysis): These rules are applicable to individual sportspersons and impose no compliance or reporting requirements for small businesses, and no design standards are contained in the rule.

11. Agency Contact Person: Scott Karel, 101 South Webster Str., PO BOX 7921, Madison, WI 53707-7921. (608) 267-2452, scottr.karel@wisconsin.gov.

12. Place where comments are to be submitted and deadline for submission:

Written comments may be submitted at the public hearings, by regular mail, fax or email to:

Scott Karel

Department of Natural Resources

P.O. Box 7921

Madison, WI 53707

Scottr.karel@wisconsin.gov

608-267-2452

608-267-7857 (fax)

Written comments may also be submitted to the Department at DNRAAdministrativeRulesComments@wisconsin.gov.

The deadline for written comments was August 2, 2019.

SECTION 1. ch. NR 11 is repealed and recreated to read:

Subchapter I- General Regulations

NR 11.01 Exceptions to closed areas and refuges.

(1) Nothing in this chapter shall prohibit the department or its fully authorized agents, the armed forces of the national guard or of the United States, or any peace officers or any person summoned by a peace officer to assist the officer in making an arrest or in preserving the peace

from entering and being on any of the below described refuges or closed areas in the performance of official duties.

(2) Nothing in this chapter shall prohibit or hinder the department and its employees, duly authorized agents, or contractors from entering and being on any of the below described refuges or closed areas in the performance of their official duties relating to wildlife management.

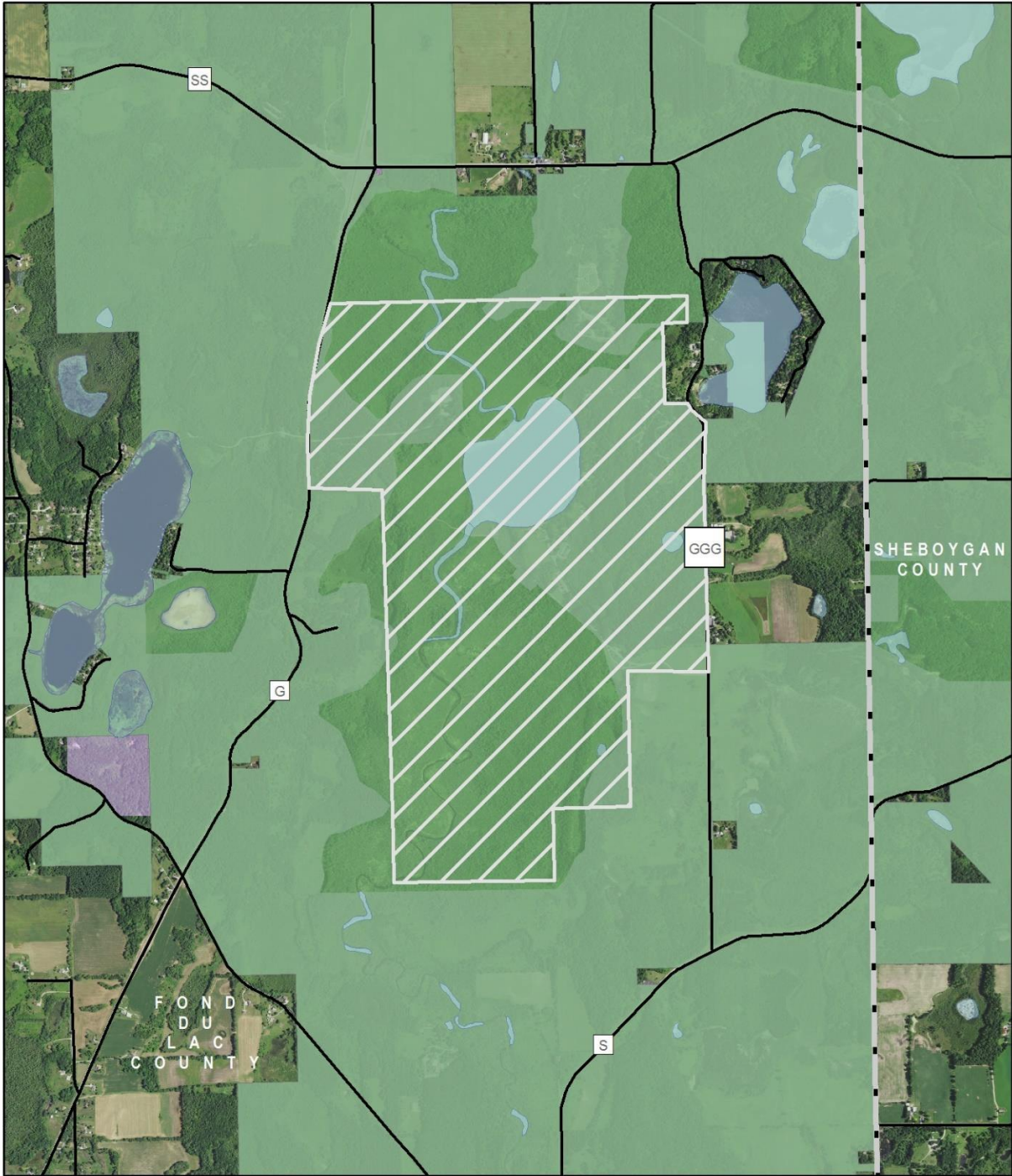
(3) Nothing in this chapter shall prohibit individuals who are participating in a department-approved learn to hunt from hunting within the boundaries of properties identified as a closed area or refuge.

Subchapter II- Game Refuges

NR 11.02 Year-round game refuge. A year-round game refuge is created in the following areas. No person may hunt or trap upon such areas or have in possession or under control any firearm as defined in s. 167.31 (1)(c) Wis. Stats., unless the firearm is unloaded and enclosed within a carrying case, crossbow unless it is unloaded and enclosed within a carrying case, or any bow unless it is unstrung or enclosed within a carrying case. This restriction does not apply to a handgun possessed by a person who is authorized by law to possess a concealed handgun in Wisconsin.

(1) FOND DU LAC COUNTY, *Mauthe Lake*.

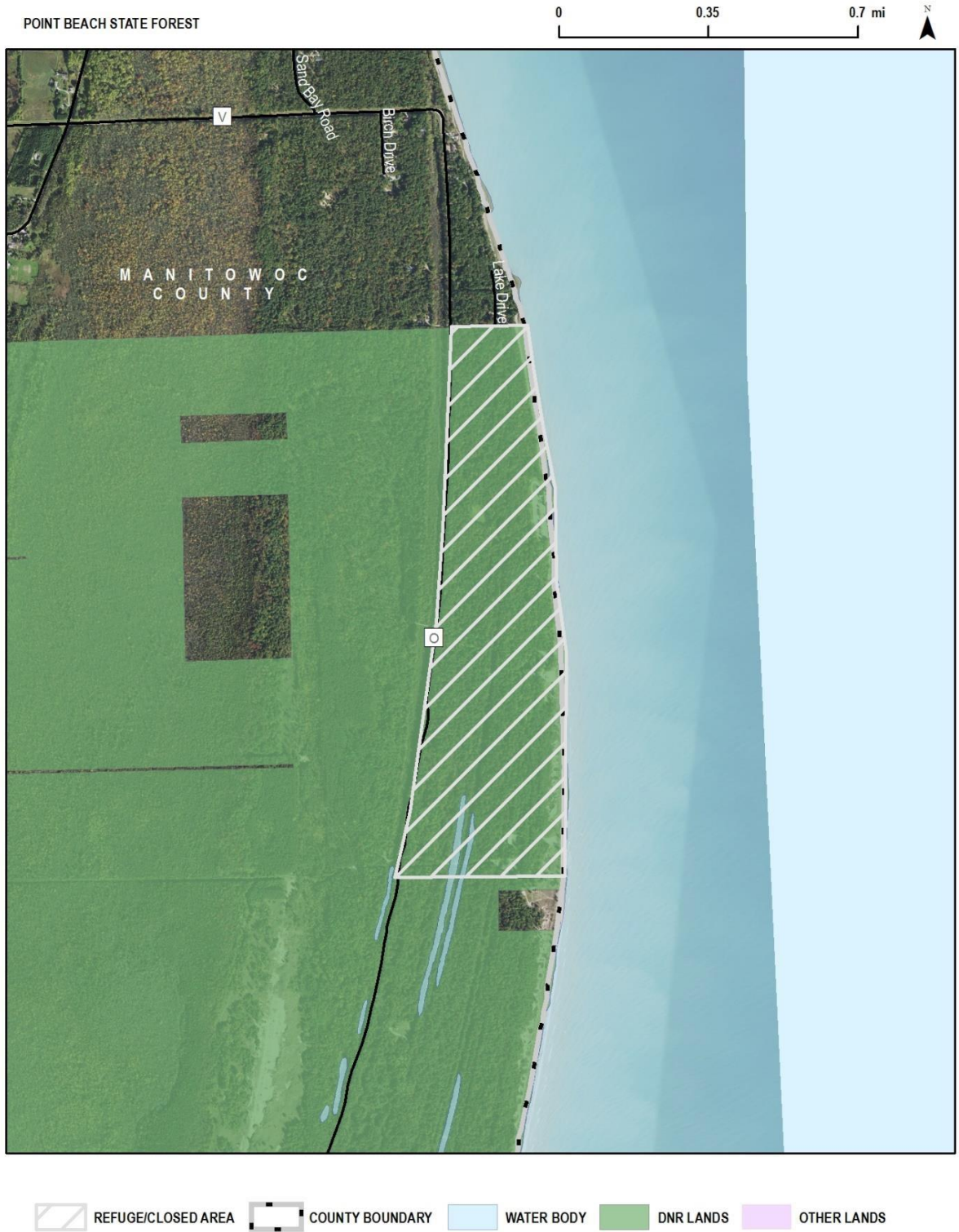
MAUTHE LAKE



(2) GREEN LAKE COUNTY. *Rogers Memorial.*



(3) MANITOWOC COUNTY, *Point Beach*.



(4) SHEBOYGAN COUNTY, Cedar Grove.



(5) WALWORTH COUNTY, *Peterkin Pond*.



(6) WAUKESHA COUNTY, *Scuppernong Springs Nature Area*.



(7) WINNEBAGO COUNTY, *Picnic Point*.

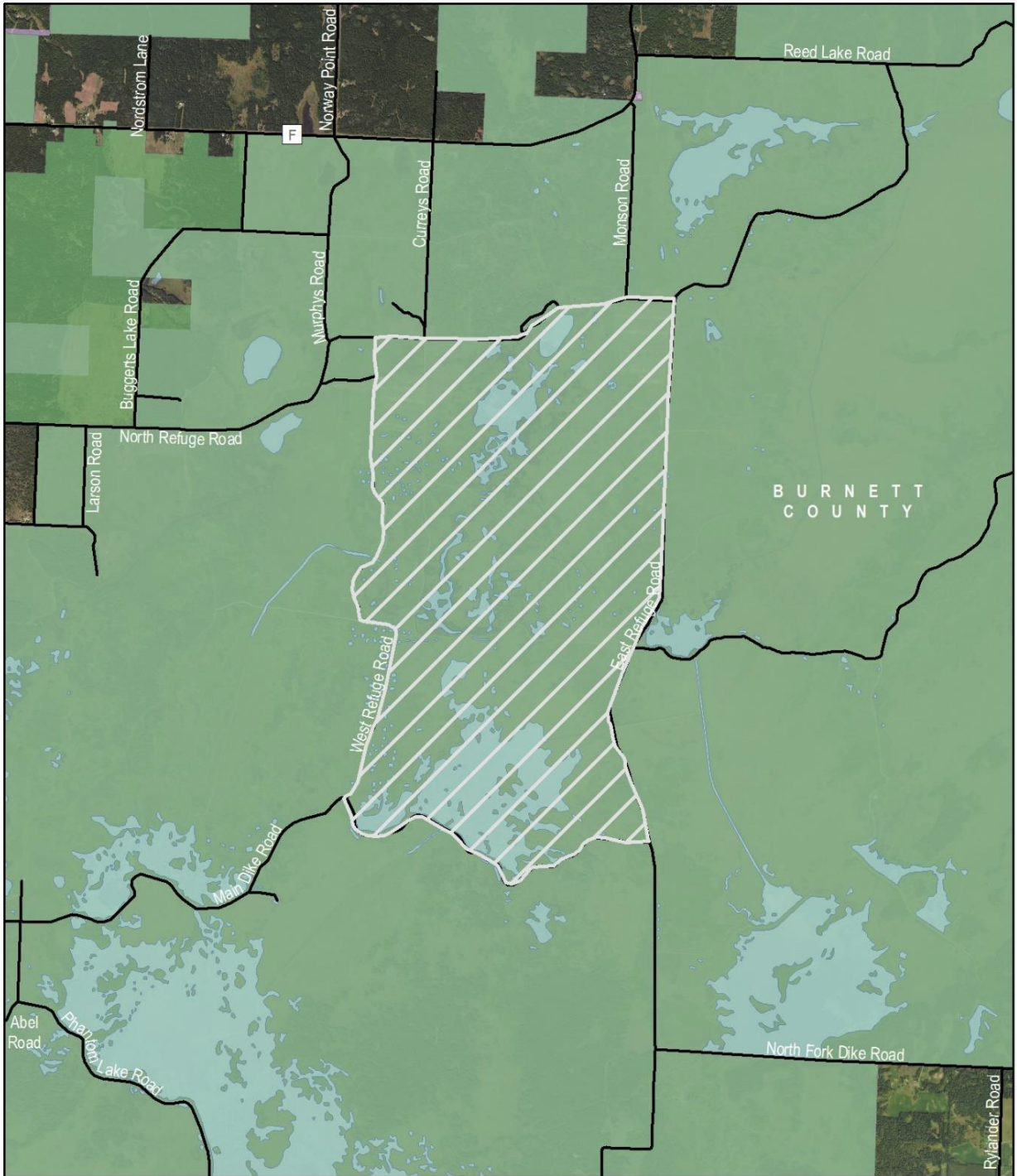
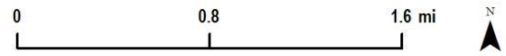


NR 11.03 Year-round no entry wildlife refuge. A year-round wildlife refuge is established in the following areas. No person may enter such areas for any reason except for the retrieval of legally killed or crippled game in posted retrieval zones.

Note: Public entry to waters within the boundary of a refuge is not prohibited when such waters may be accessed without entry on to the refuge land.

- (1) BURNETT COUNTY, *Crex Meadows*.

CREX MEADOWS



(2) ROCK COUNTY, *Lawrence Prairie*.



NR 11.04 No entry wildlife refuge (September 1-December 31). A wildlife refuge is established from September 1 to December 31 annually in the following areas. No person may hunt lands and waters within the boundary of the refuge or enter the land within the refuge boundary for any reason except for the retrieval of legally killed or crippled game in posted retrieval zones.

Note: Public entry to waters within the boundary of a refuge is not prohibited when such waters may be accessed without entry on to the refuge land.

(1) ADAMSCOUNTY, AmeyPond.

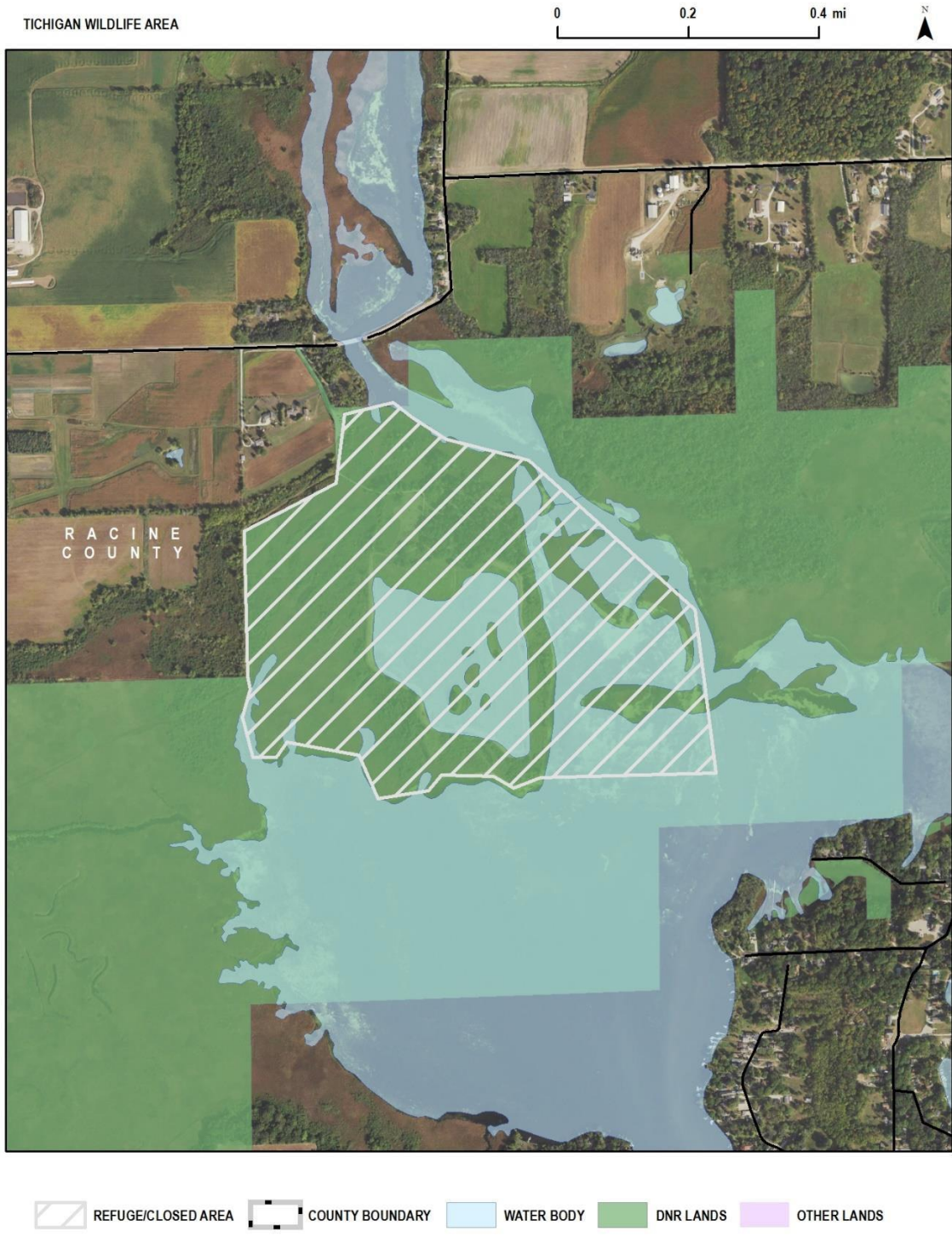
AMEY POND

0 0.25 0.5 mi



 REFUGE/CLOSED AREA  COUNTY BOUNDARY  WATER BODY  DNR LANDS  OTHER LANDS

(2) RACINE COUNTY, *Tichigan*.



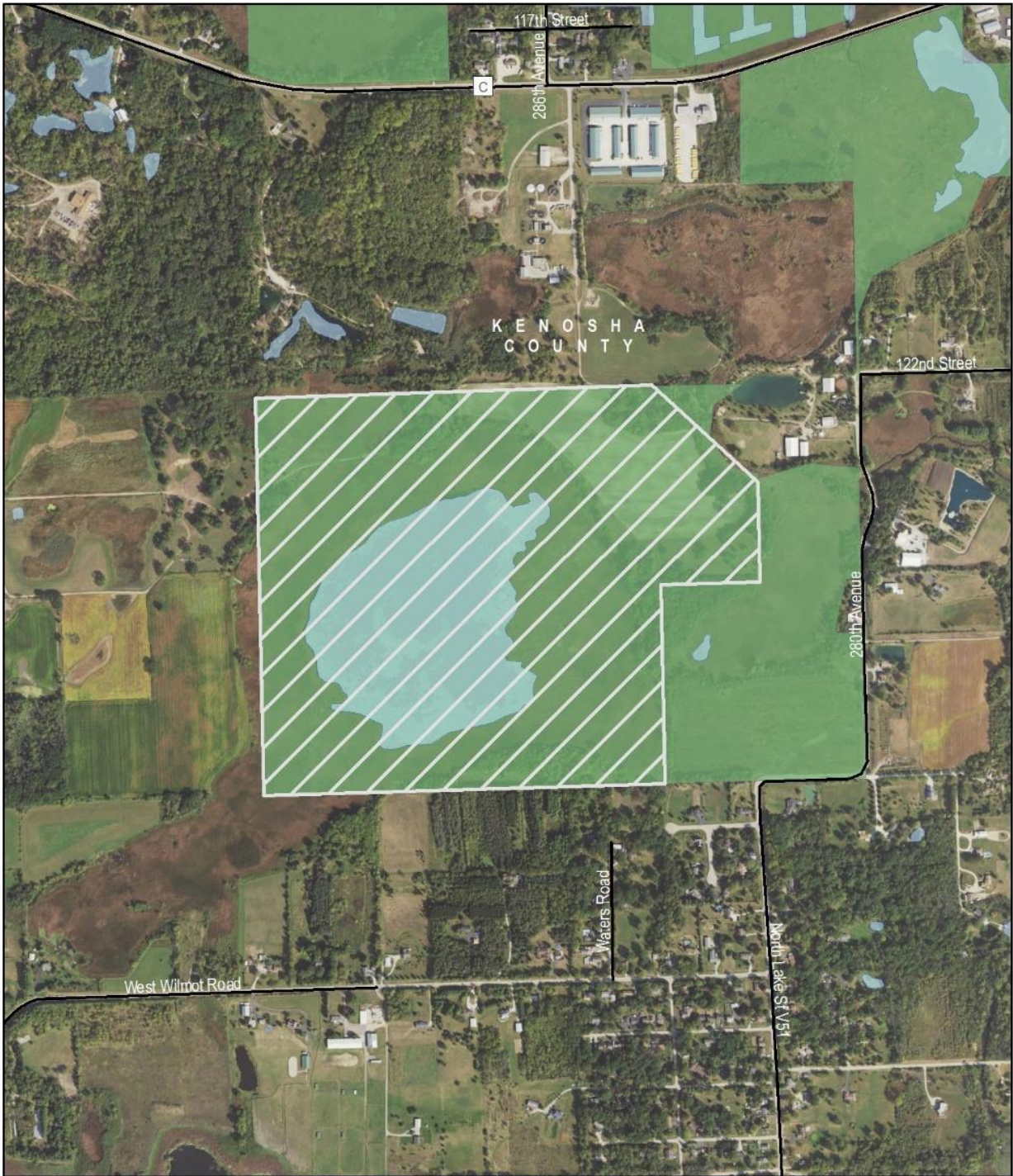
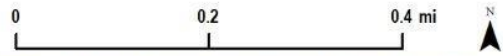
NR 11.05 No entry wildlife refuge except gun deer and muzzleloader deer

(September 1-December 31). A wildlife refuge is established from September 1 to December 31 annually in the following areas. No person may hunt lands and waters within the boundary of the refuge or enter the land within the refuge boundary for any reason except to hunt deer during the open gun and muzzleloader seasons established in s. NR 10.01 (3) (e) and (es) and except for the retrieval of legally killed or crippled game in posted retrieval zones.

Note: Public entry to waters within the boundary of a refuge is not prohibited when such waters may be accessed without entry on to the refuge land.

(1) KENOSHA, *Peat Lake*.

PEAT LAKE




 REFUGE/CLOSED AREA

COUNTY BOUNDARY

 WATER BODY

 DNR LANDS

 OTHER LANDS

(2) KENOSHA COUNTY, *Richard Bong Wildlife Area*.



(3) RACINE COUNTY, Dover.



(4) WAUKESHA, Big Muskego Lake.



NR 11.06 No entry wildlife refuge except trapping, gun deer and muzzleloader deer (September 1-December 31). A wildlife refuge is established from September 1 to December 31 annually in the following areas. No person may hunt lands and waters within the boundary of the refuge or enter the land within the refuge boundary for any reason except to trap, hunt deer during the open gun and muzzleloader seasons established in s. NR 10.01 (3) (e) and (es), or except for the retrieval of legally killed or crippled game in posted retrieval zones.

Note: Public entry to waters within the boundary of a refuge is not prohibited when such waters may be accessed without entry on to the refuge land.

(1) BROWN COUNTY, Sensiba.

SENSIBA

0 0.2 0.4 mi



(2) JEFFERSON COUNTY, Prince's Point.

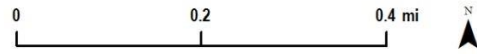


(3) OCONTO COUNTY, *Oconto Marsh*.



(4) ONEIDA COUNTY, Thunder Wildlife Area.

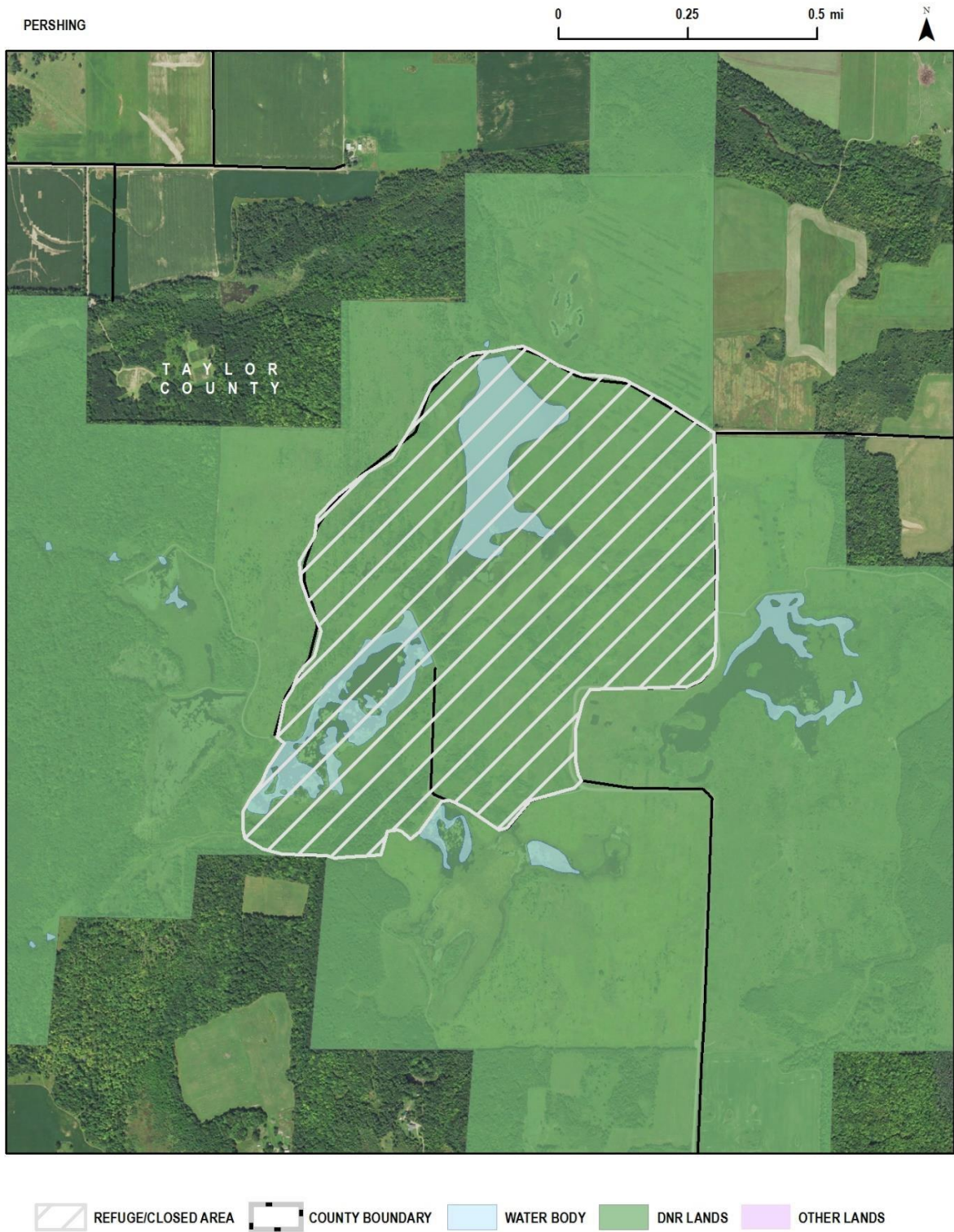
THUNDER LAKE WA (RICE LAKE REFUGE)



(5) PIERCE COUNTY, Pierce County Islands.



(6) TAYLOR COUNTY, *Pershing*.



(7) VILAS COUNTY, *Powell Marsh*



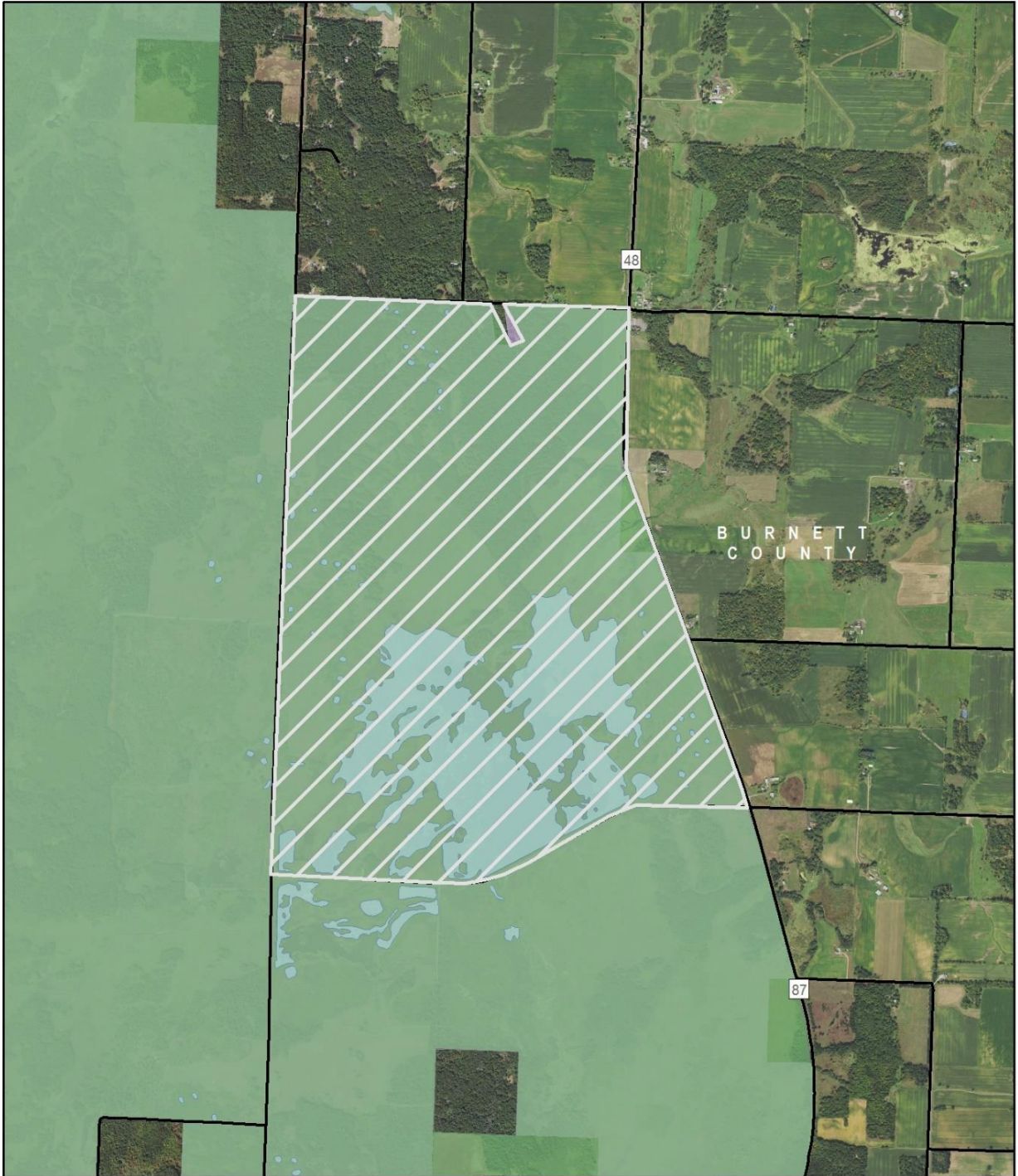
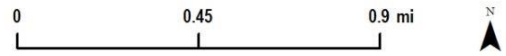
NR 11.07 No entry wildlife refuge except gun deer and muzzleloader deer

(September 1-November 30). A wildlife refuge is established from September 1 to November 30 annually in the following areas. No person may hunt lands and waters within the boundary of the refuge or enter the land within the refuge boundary for any reason except to hunt deer during the open gun and muzzleloader seasons established in s. NR 10.01 (3) (e) and (es), and except for the retrieval of legally killed or crippled game in posted retrieval zones.

Note: Public entry to waters within the boundary of a refuge is not prohibited when such waters may be accessed without entry on to the refuge land.

- (1) BURNETT COUNTY, *Fish Lake*.

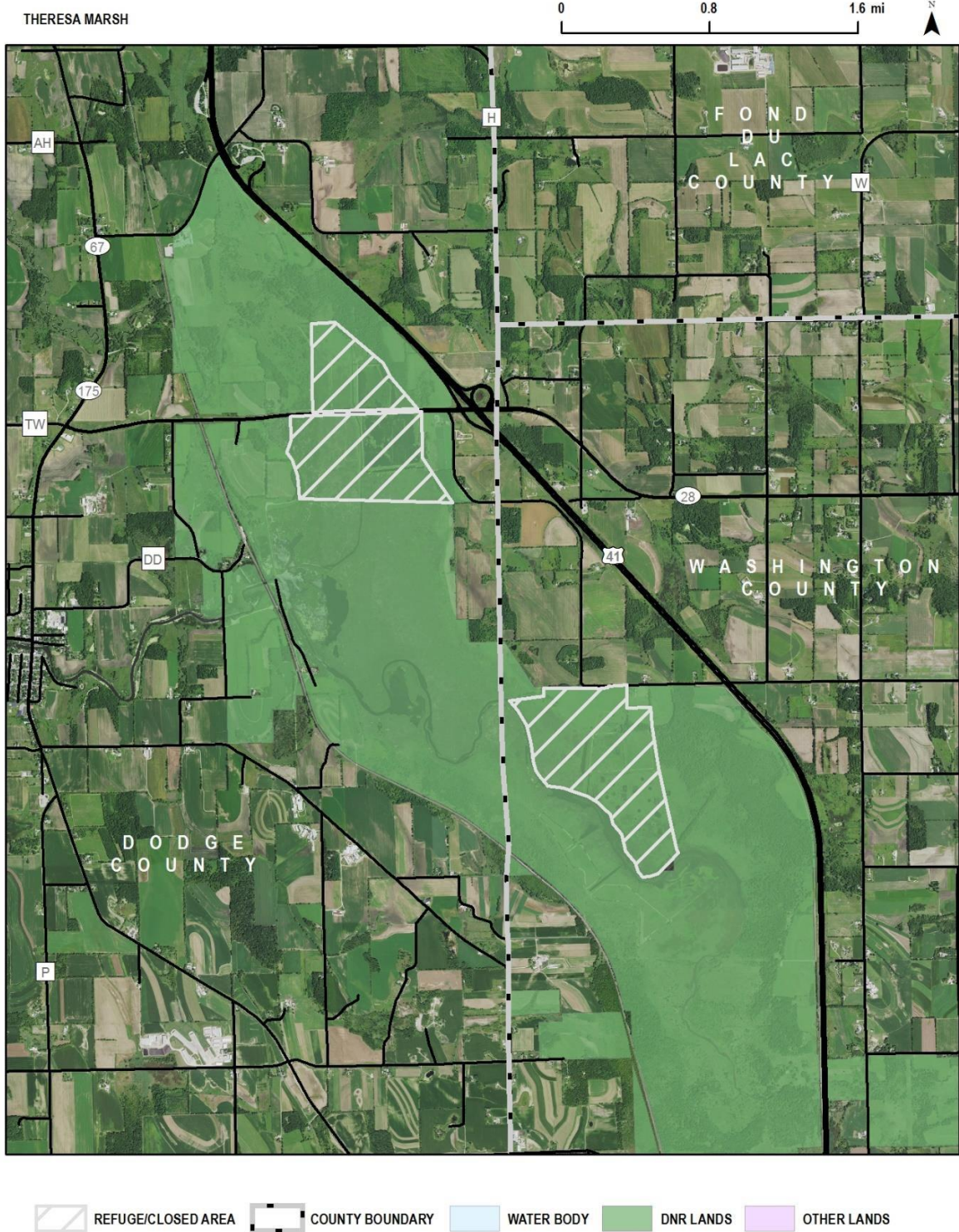
FISH LAKE WILDLIFE AREA



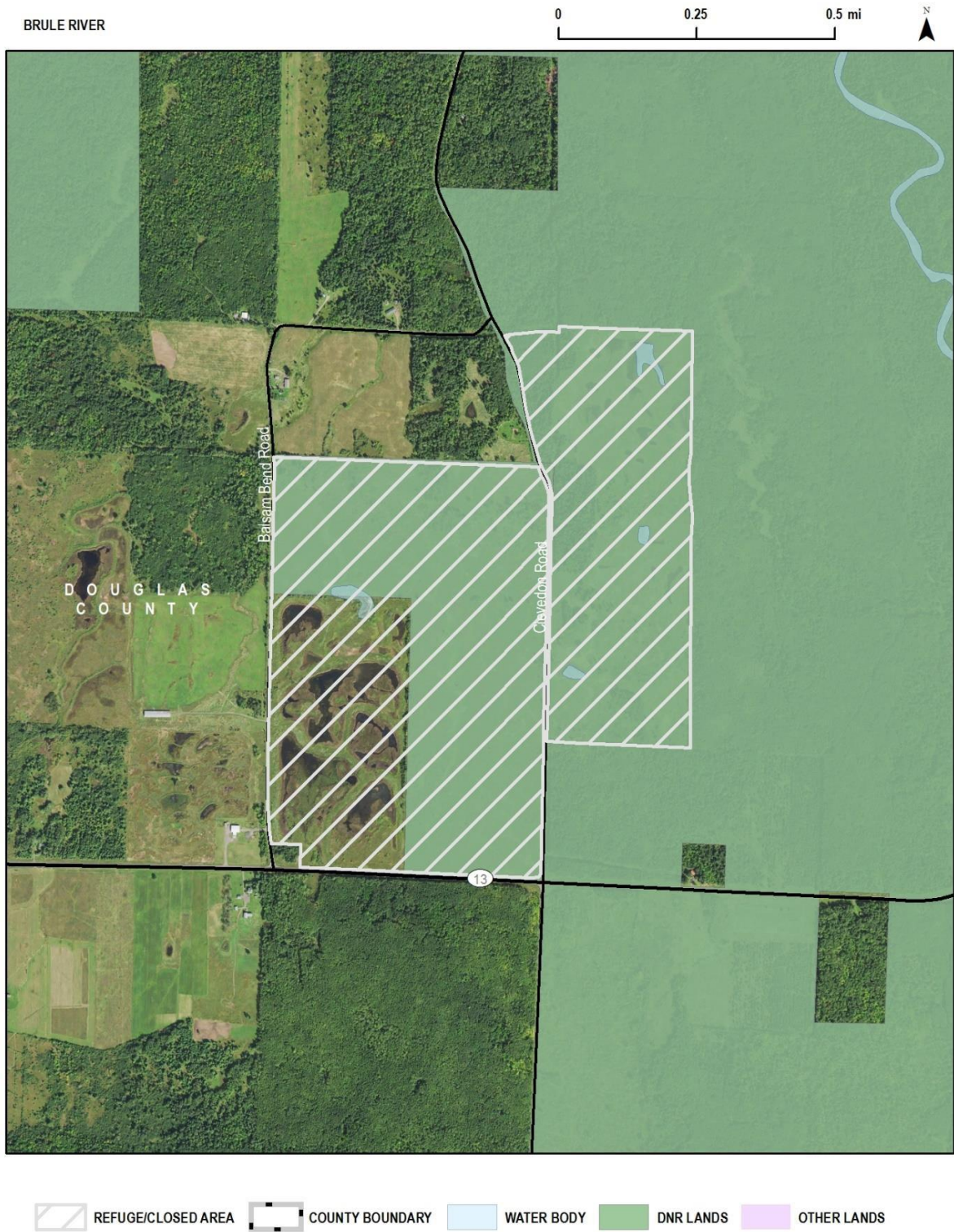
(2) COLUMBIA COUNTY, *Mud Lake*.



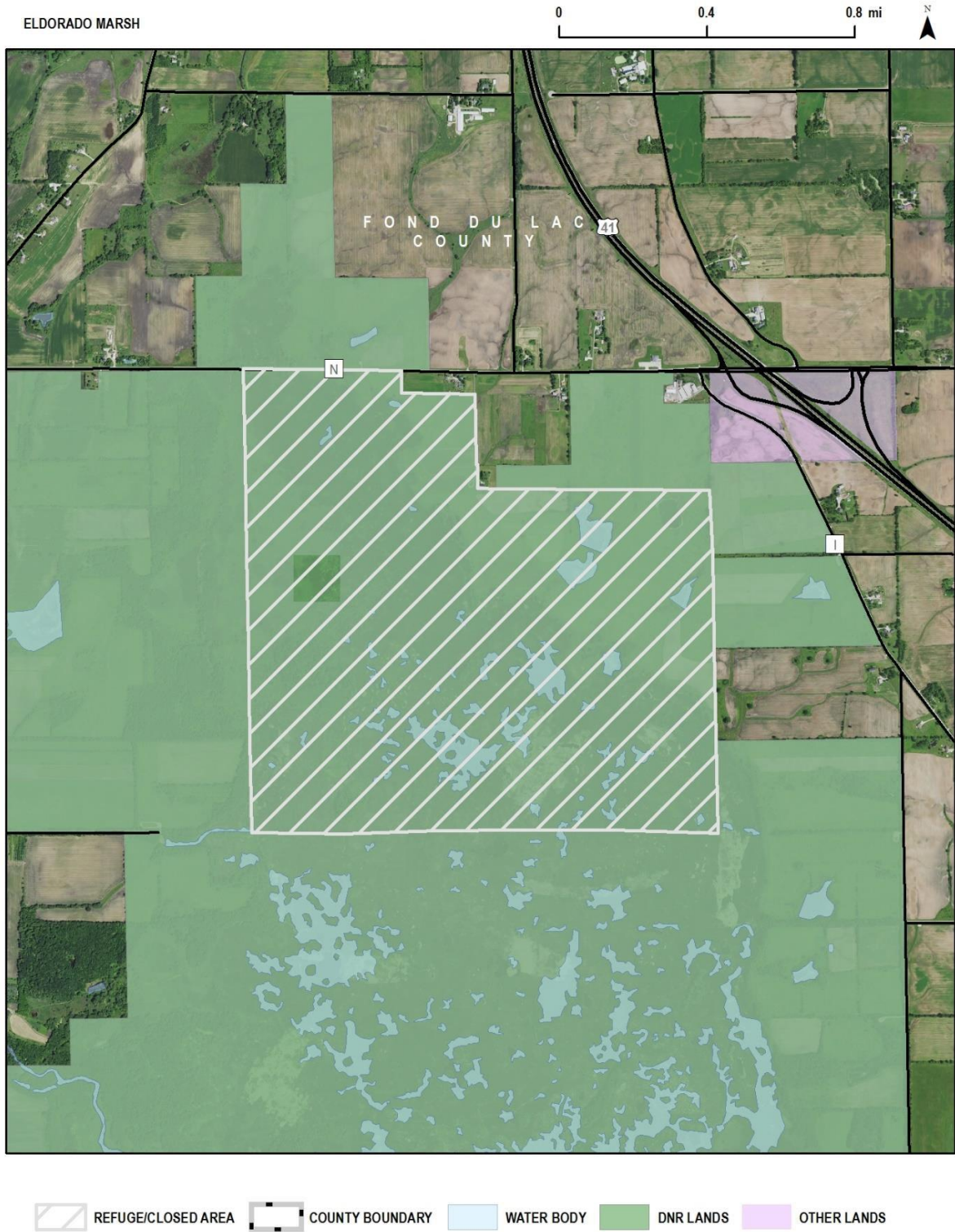
(3) DODGE AND WASHINGTON COUNTIES, *Theresa Marsh*.



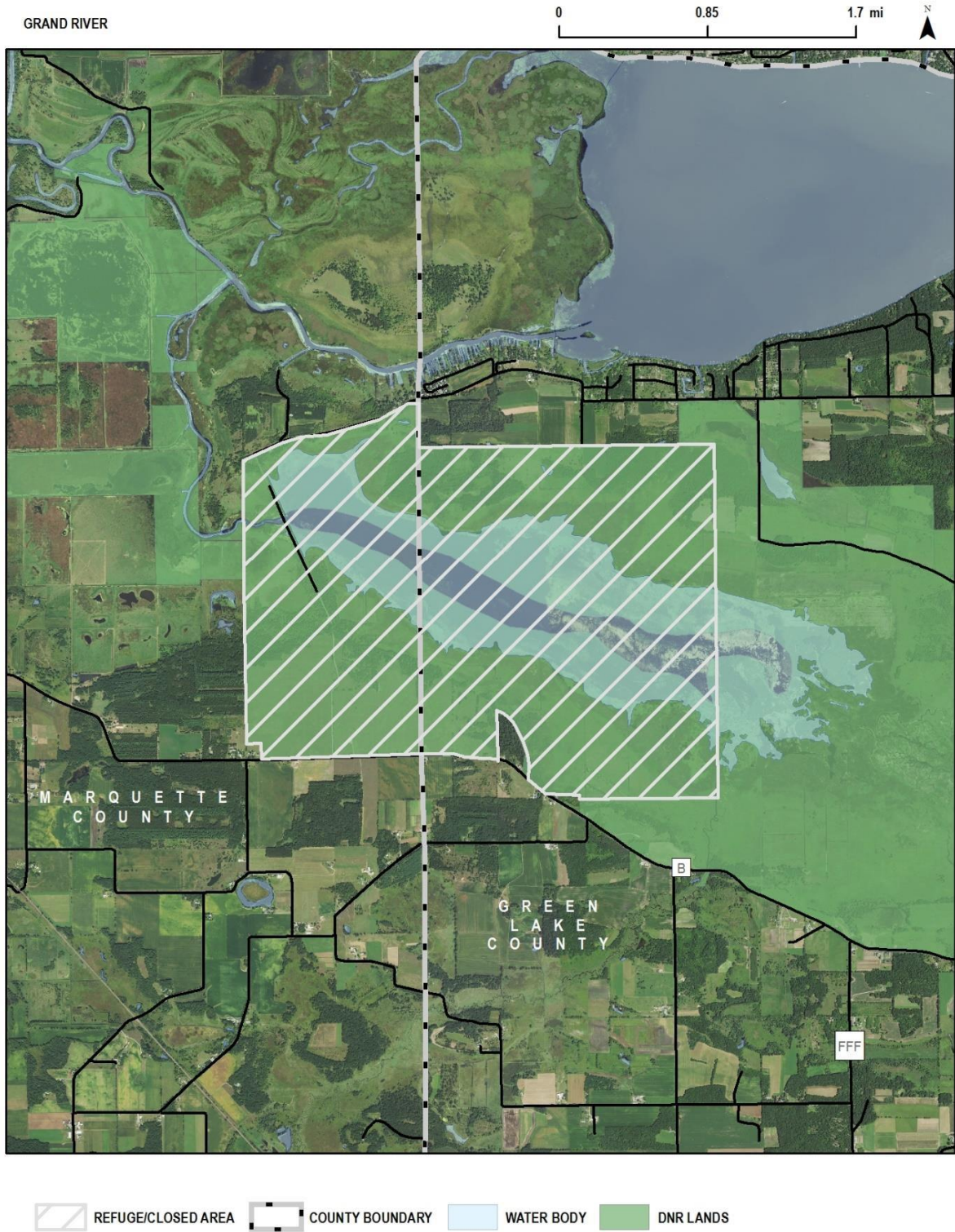
(4) DOUGLAS COUNTY, *Brule River*.



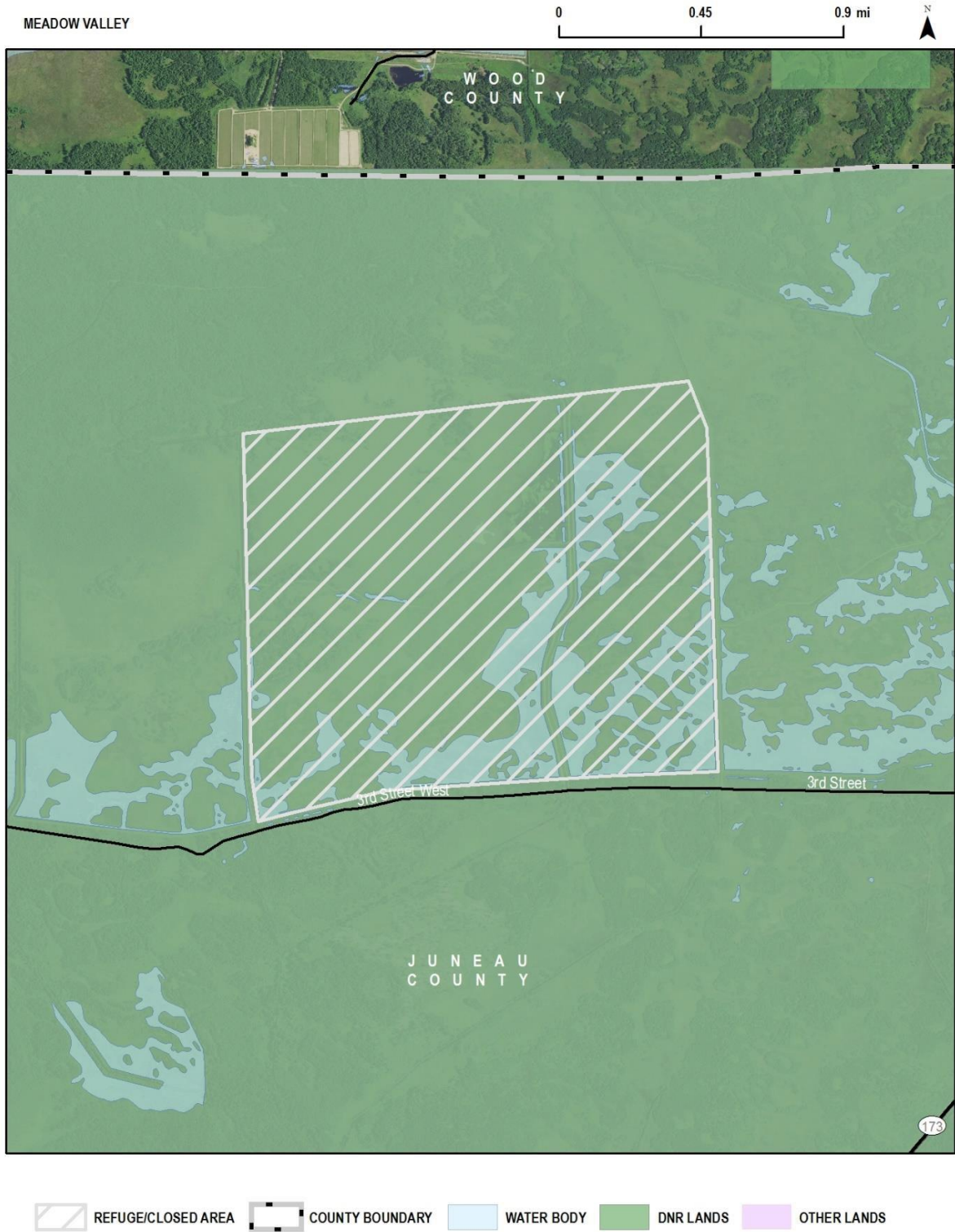
(5) FOND DU LAC COUNTY, *Eldorado*.



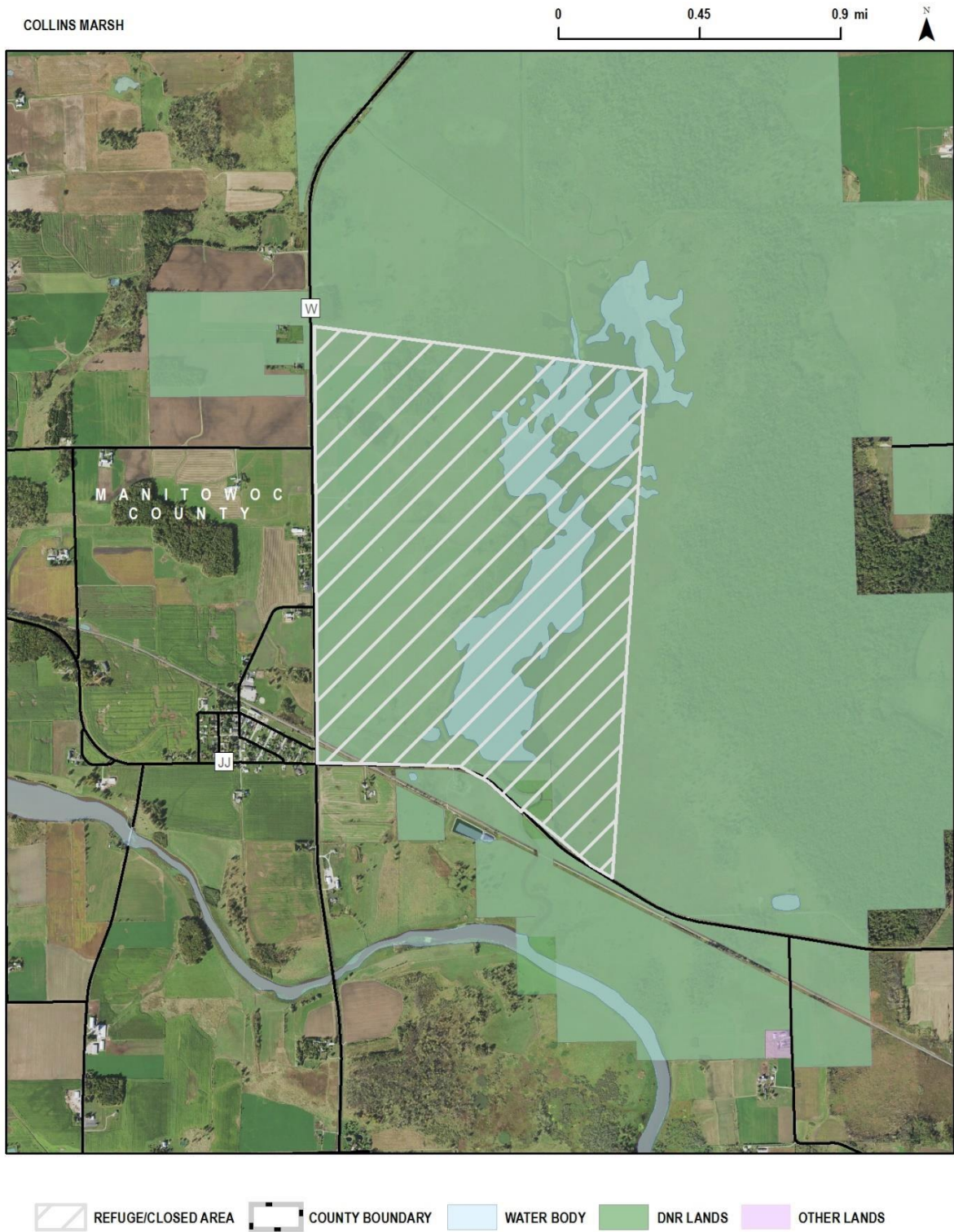
(6) GREEN LAKE AND MARQUETTE COUNTIES, *Grand River Marsh*.



(7) JUNEAU COUNTY, *Meadow Valley*.



(8) MANITOWOC COUNTY, *Collins Marsh*.

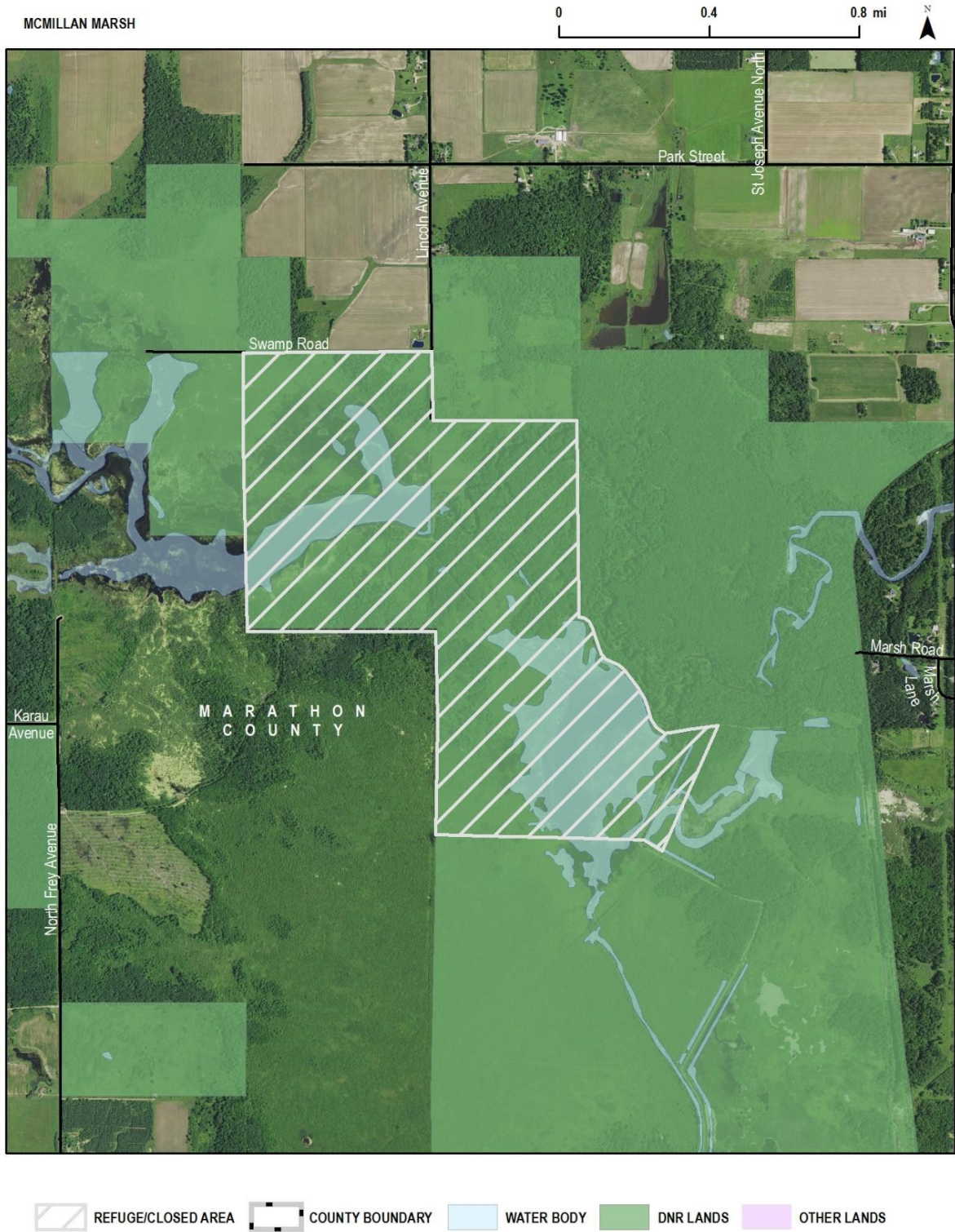


(9) MARATHON COUNTY.

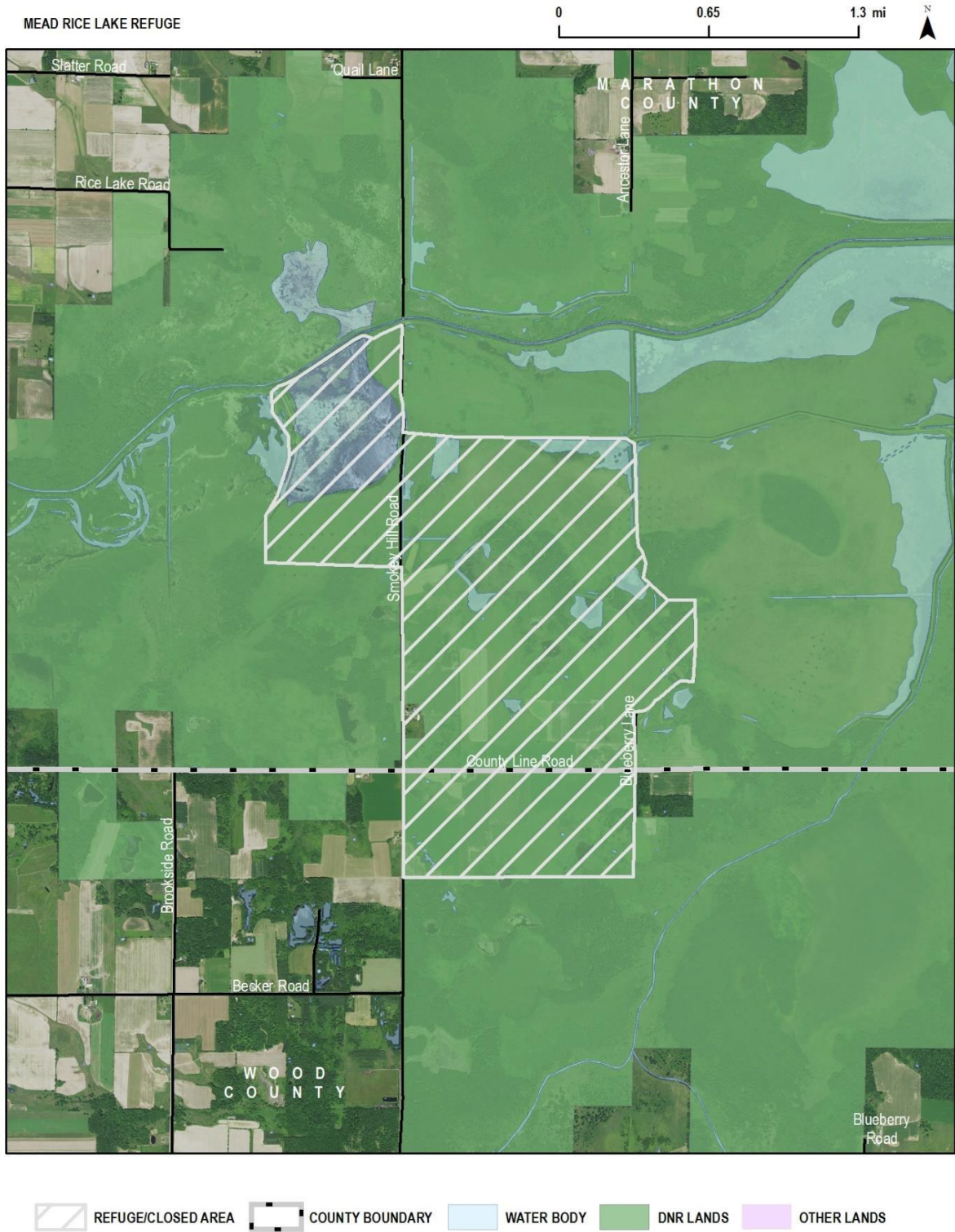
(a) *Honey Island Flowage.*



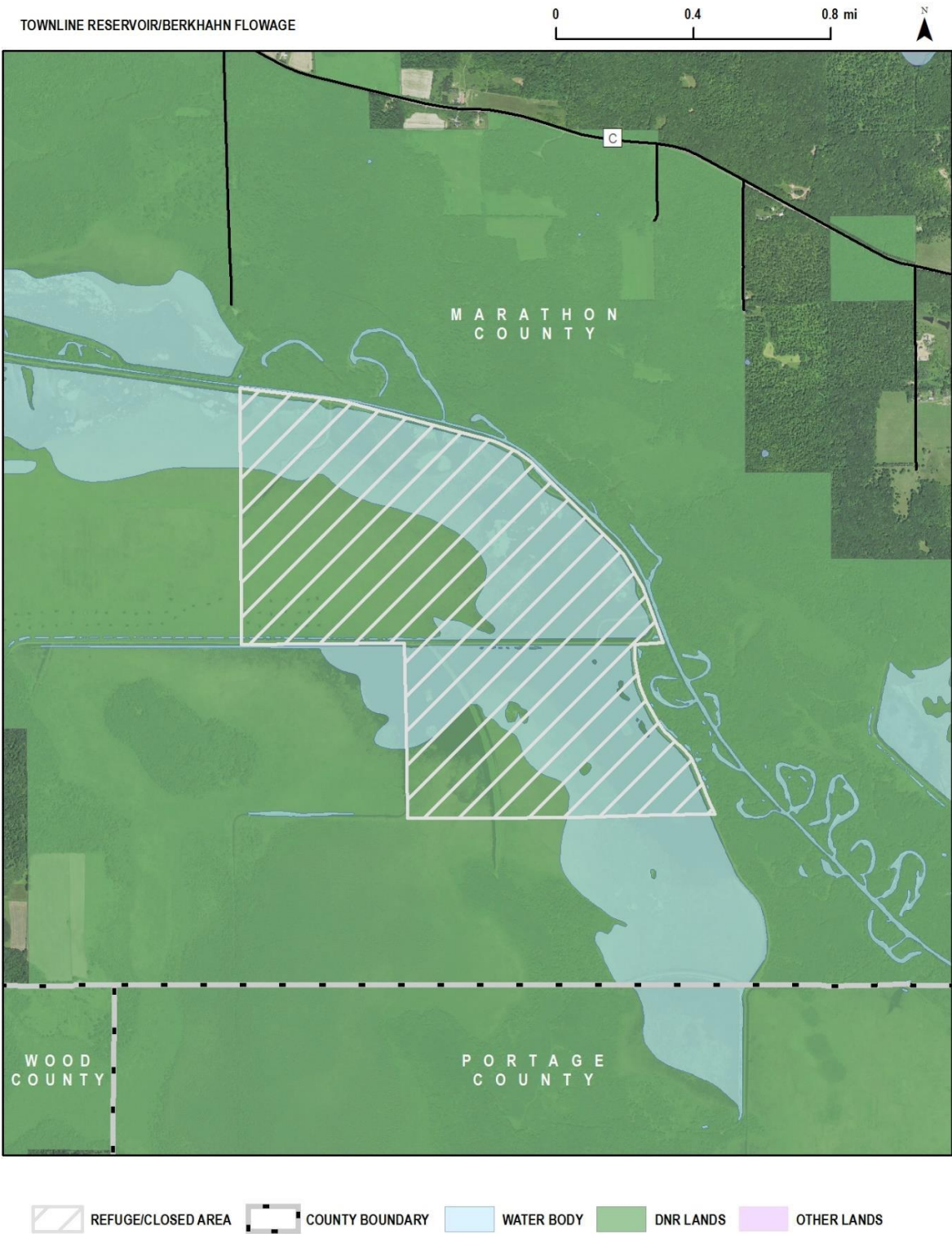
(b) *McMillan Marsh.*



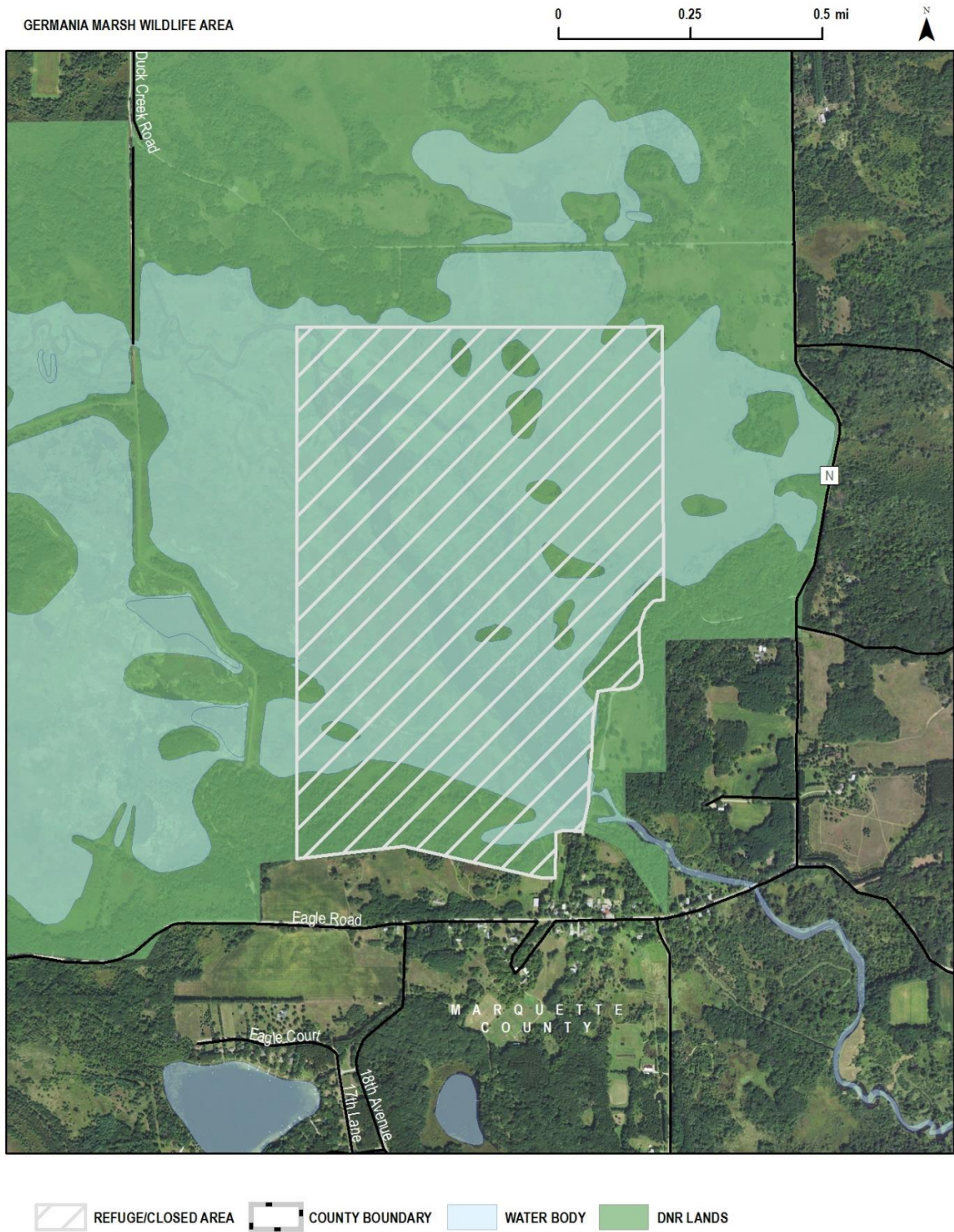
(c) Mead Wildlife Area.



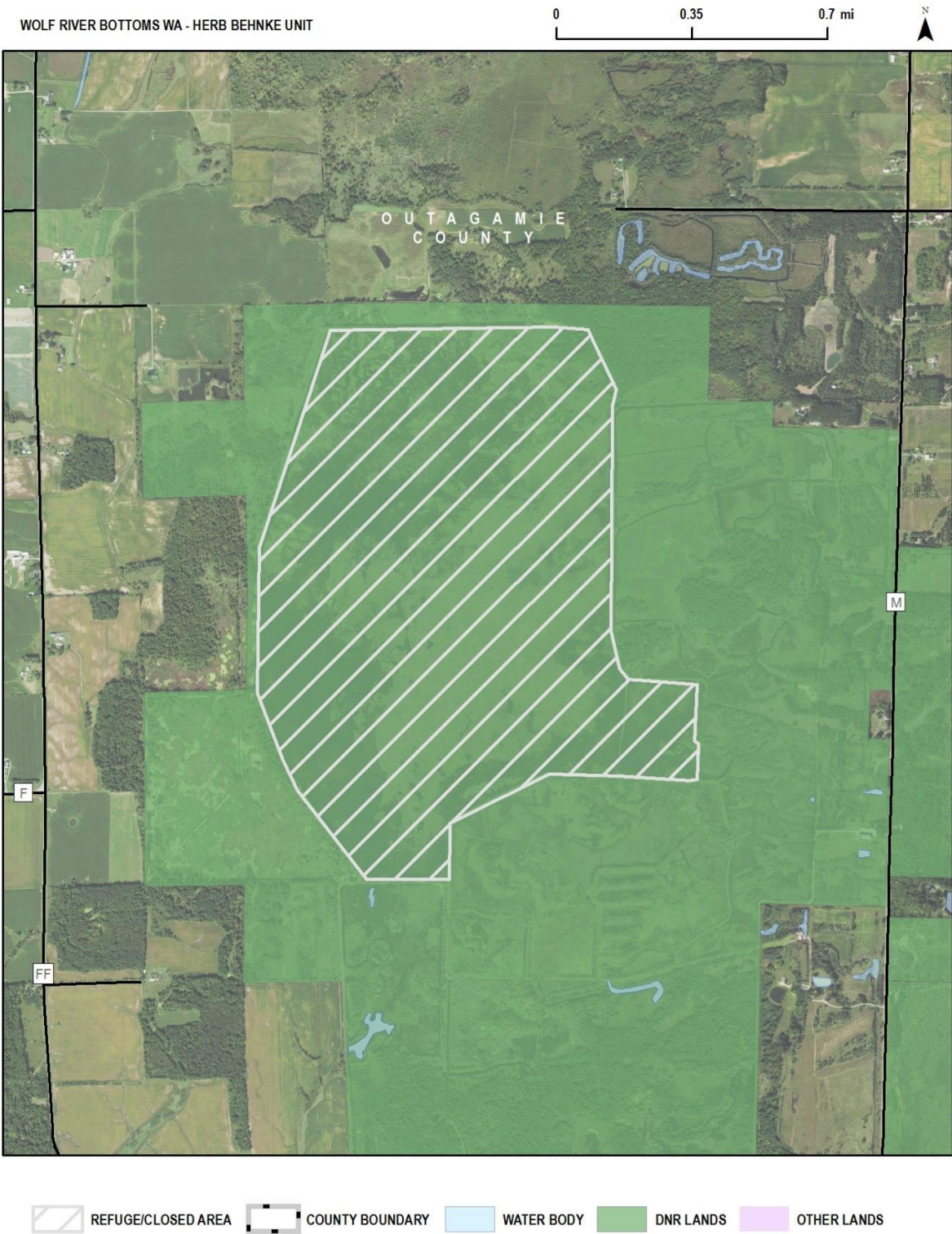
(d) *Townline/Berkhahn Flowage.*



(10) MARQUETTE COUNTY, *Germania*.



(11) OUTAGAMIE COUNTY, Wolf River Bottoms Wildlife Area- Herb Behnke Unit.



(12) SHEBOYGAN COUNTY, *Sheboygan Marsh*.

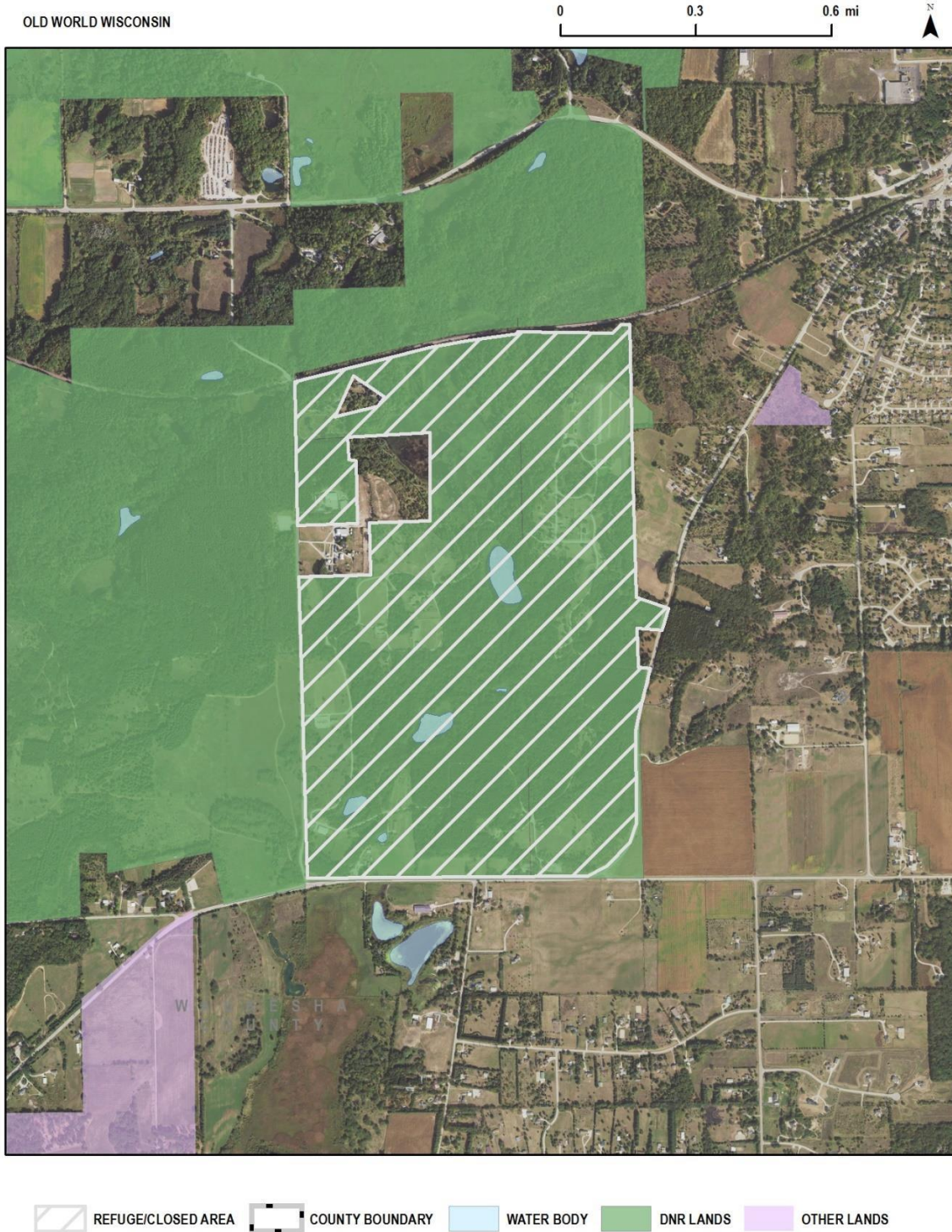


(13) WALWORTH COUNTY, *Turtle Valley*.

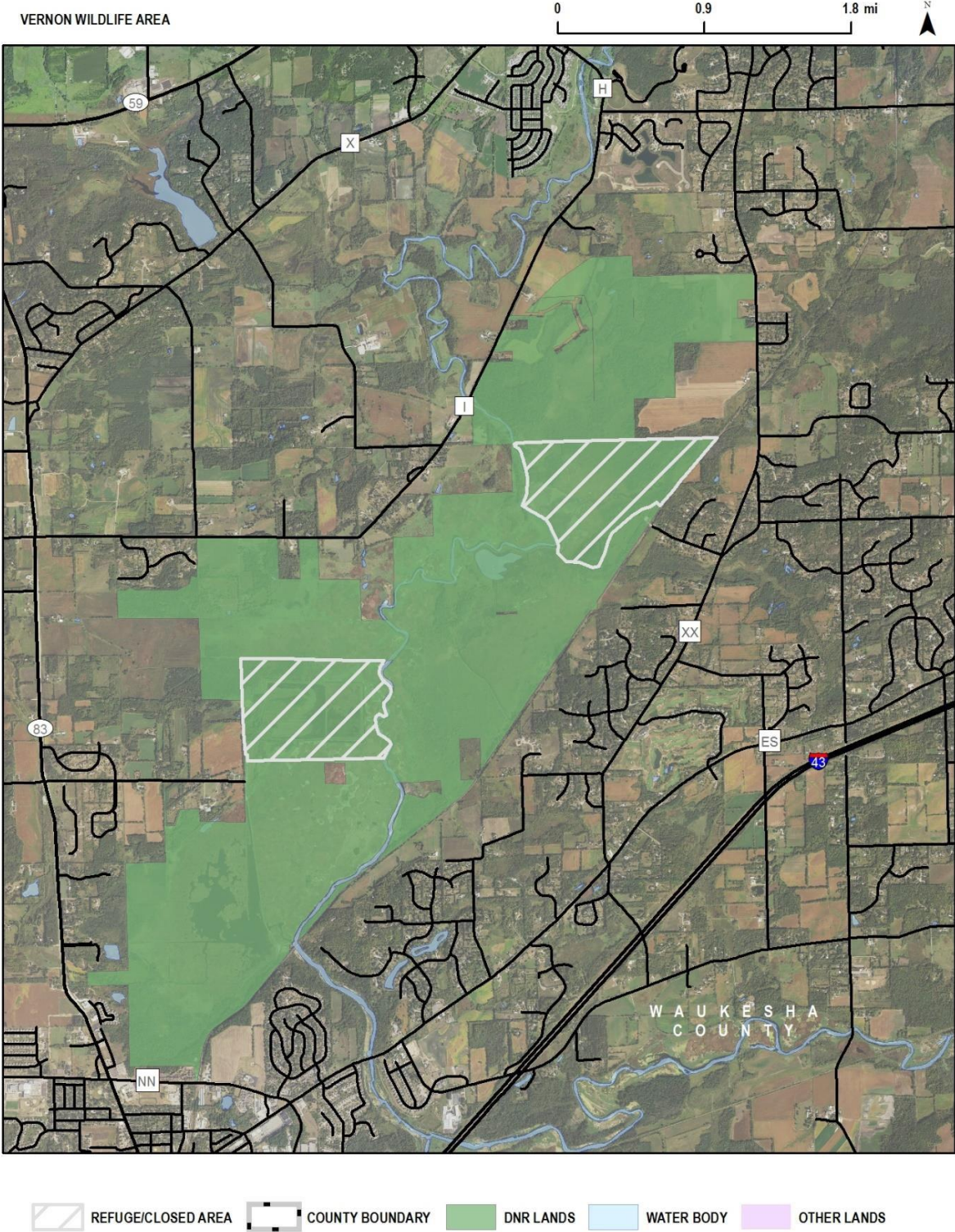


(14) WAUKESHA COUNTY.

(a) *Old World Wisconsin.*



(b) *Vernon Wildlife Area.*



(15) WOOD COUNTY, *Wood County*.

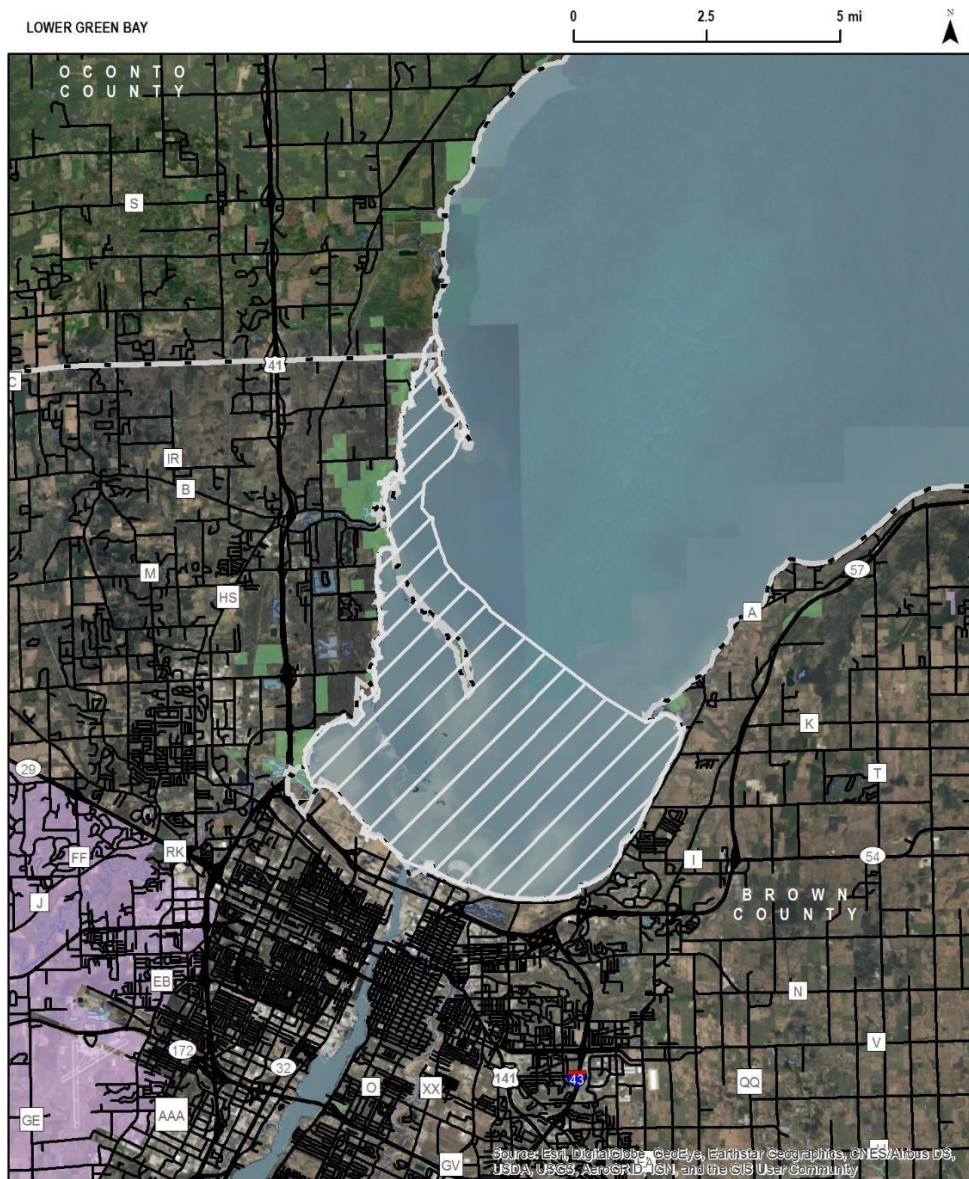
WOOD COUNTY WILDLIFE AREA



NR 11.08 No entry wildlife refuge, rookeries and special areas (April 1- August 24).

A wildlife refuge is established from April 1 through August 24 in the following areas when posted with department signs. No person may enter upon such area for any reason from April 1 through August 24.

(1) BROWN COUNTY, Lower Green Bay.



(2) DODGE COUNTY, *Horicon Marsh*.



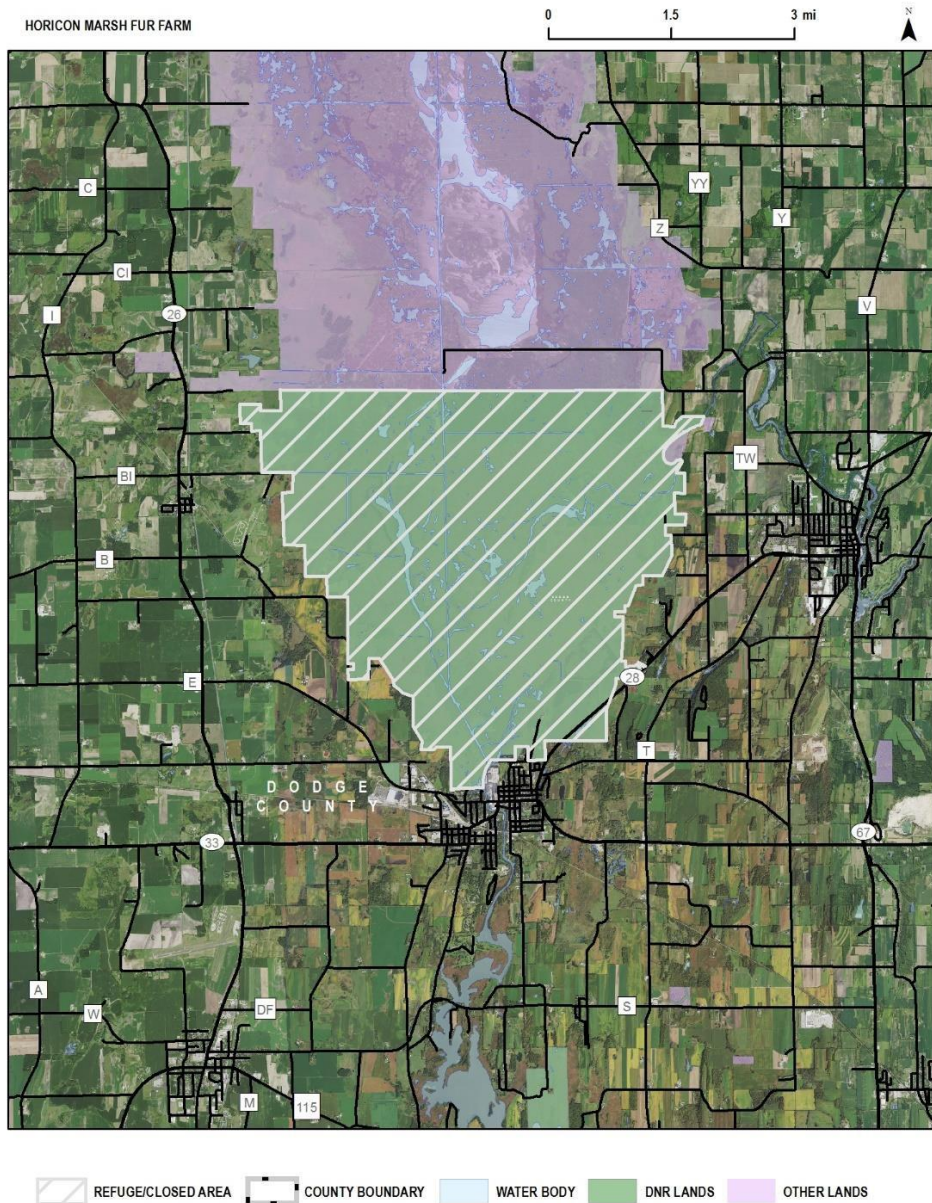
(3) DOUGLAS COUNTY, *Wisconsin Point Wildlife Area*.



(4) KENOSHA COUNTY, *Richard Bong Wildlife Area*.



NR 11.09 Horicon Marsh Fur Farm. A state fur farm to be known as the Horicon marsh fur farm is established on all of the state-owned land on the Horicon marsh wildlife area in Dodge County. No person may hunt or trap any furbearing animals on such area unless authorized by a valid department permit. Any violation of the permit shall be deemed to be a violation of this section.



NR 11.10 Ferry bluff state natural area (December 1-March 31). A wildlife refuge is established in the following area. No person may enter upon such area from December 1 through March 31 except for the retrieval of legally killed or crippled game.



Subchapter III- Closed Areas

NR 11.11 Waterfowl closed area; trapping and deer hunting permitted. A closed area is established in the following areas posted with department signs. Trapping of furbearing mammals is permitted during established seasons. No person may hunt any species of wild animal beginning on the first day of the open season for waterfowl established in s. NR 10.01 (b) and (g) and ending on the first Saturday in December, except that deer may be hunted during periods established in s. [NR 10.01 \(3\)](#) (e), (em), (ep), and (es). Legally killed or crippled game may be retrieved.

(1) ST. CROIX COUNTY, Oakridge Lake.

OAKRIDGE LAKE

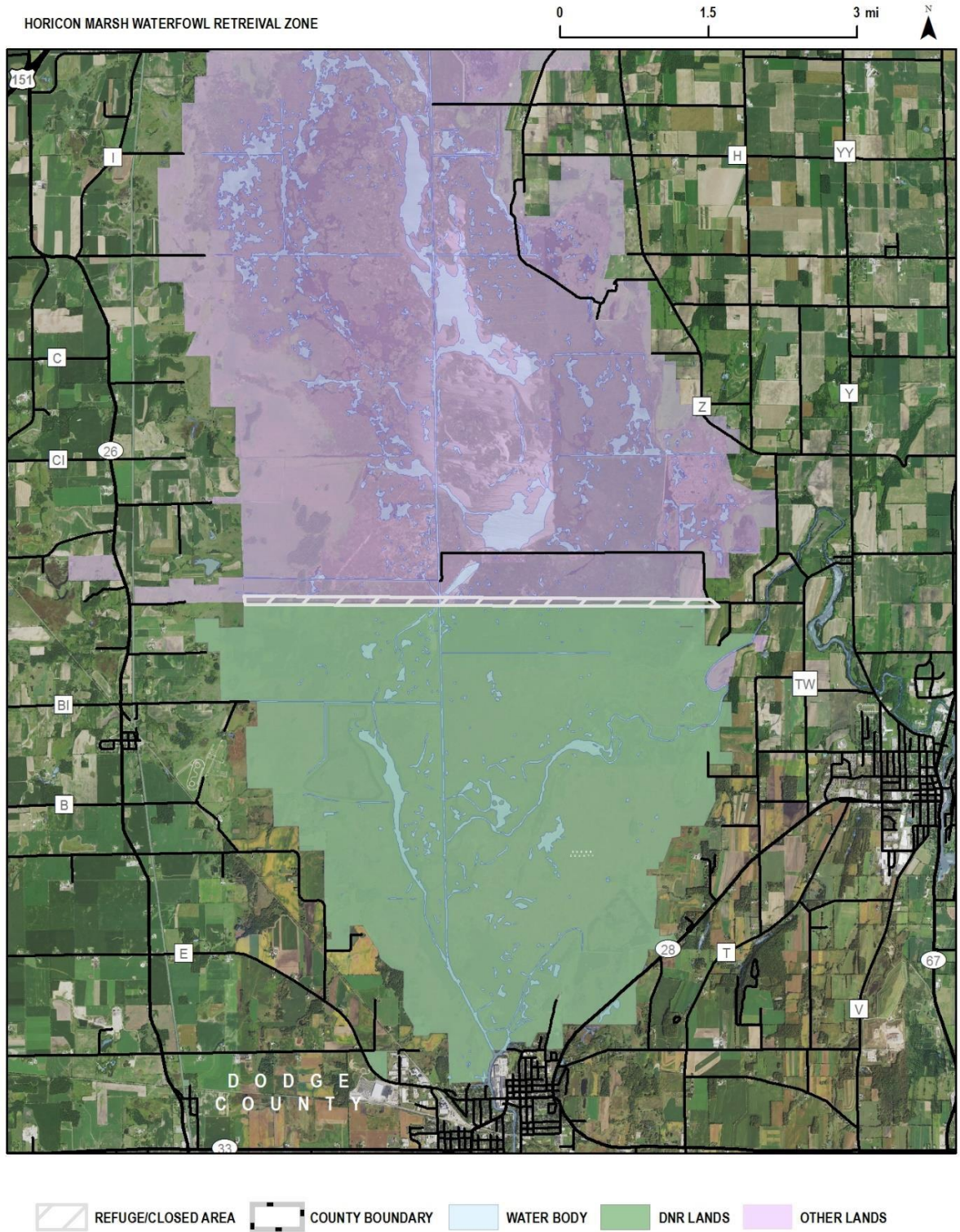


NR 11.12 Early waterfowl hunting season closed area. A closed season is established at the Mead wildlife area. No person may hunt waterfowl until the beginning of the duck season established in s. NR 10.01 (1) (b), except that hunting is allowed as established in s. NR 10.01 (1) (v).

NR 11.13 Mississippi river closed area. The Upper Mississippi River National Wildlife and Fish Refuge has established Closed Areas which are identified in 50 CFR § 32.42 and posted in the field with U.S. Fish and Wildlife Service signs. Migratory bird hunting is prohibited at all times within these areas. Other hunting and trapping is allowed the day after the close of the Wisconsin duck hunting season as established in s. NR 10.01 (1). Legally killed or crippled game may be retrieved from these areas provided there is no attempt to chase birds from the area.

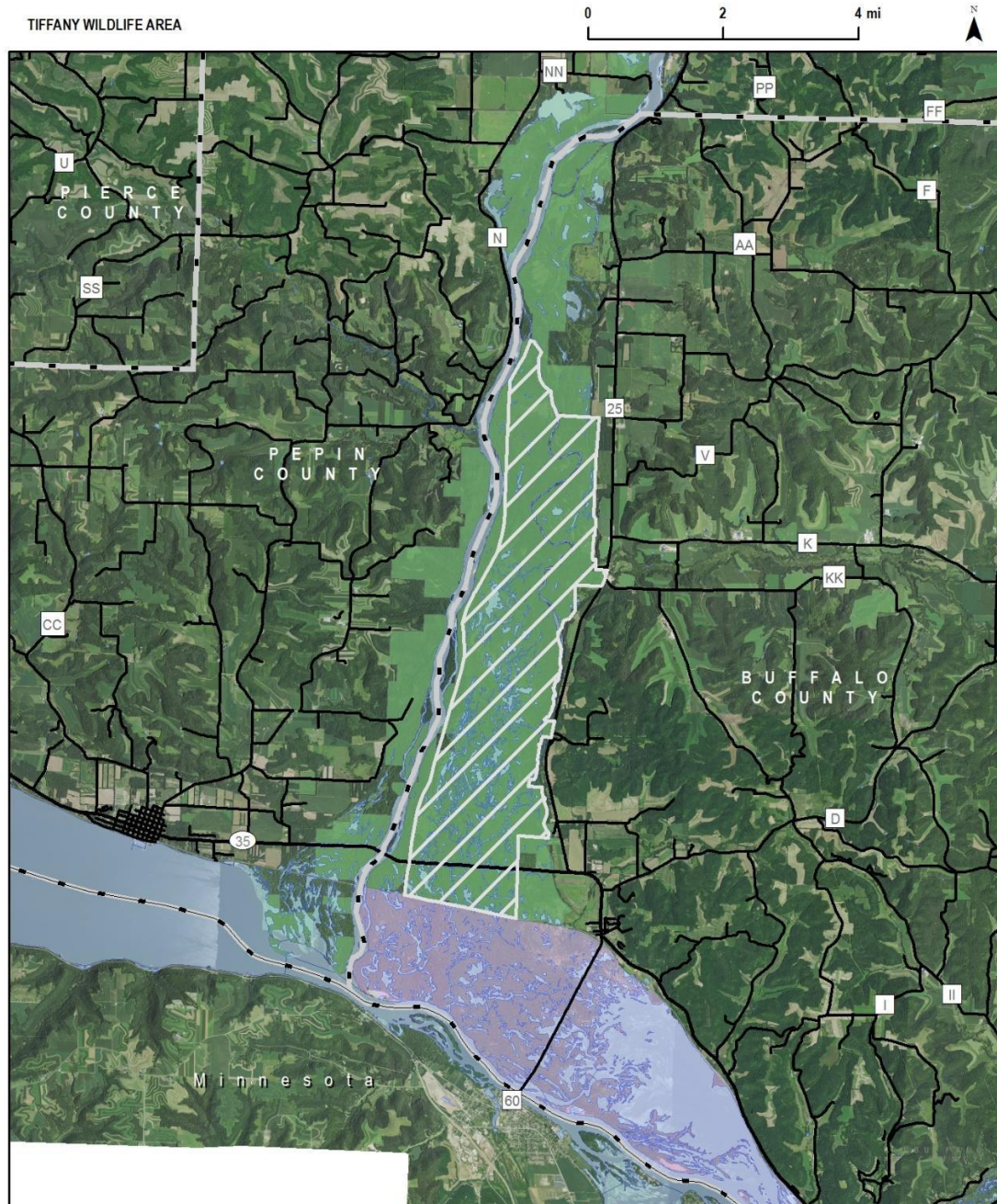
NR 11.14 Waterfowl closed area; retrieving permitted. A waterfowl closed area is established in the following areas. No person may hunt or trap any species of wild animal in such areas during the open seasons for waterfowl established in s. NR 10.01 (1), except that deer may be hunted during the periods established in s. NR 10.01 (3) (e). Legally killed or crippled waterfowl may be retrieved by dog or hand.

(1) DODGE COUNTY, *Horicon Marsh*.



NR 11.15 Beaver/ otter closed area (year-round). A year-round closed season is established in the following areas. No person may trap beaver or otter in any such areas at any time.

(2) BUFFALO COUNTY, *Tiffany wildlife area.*

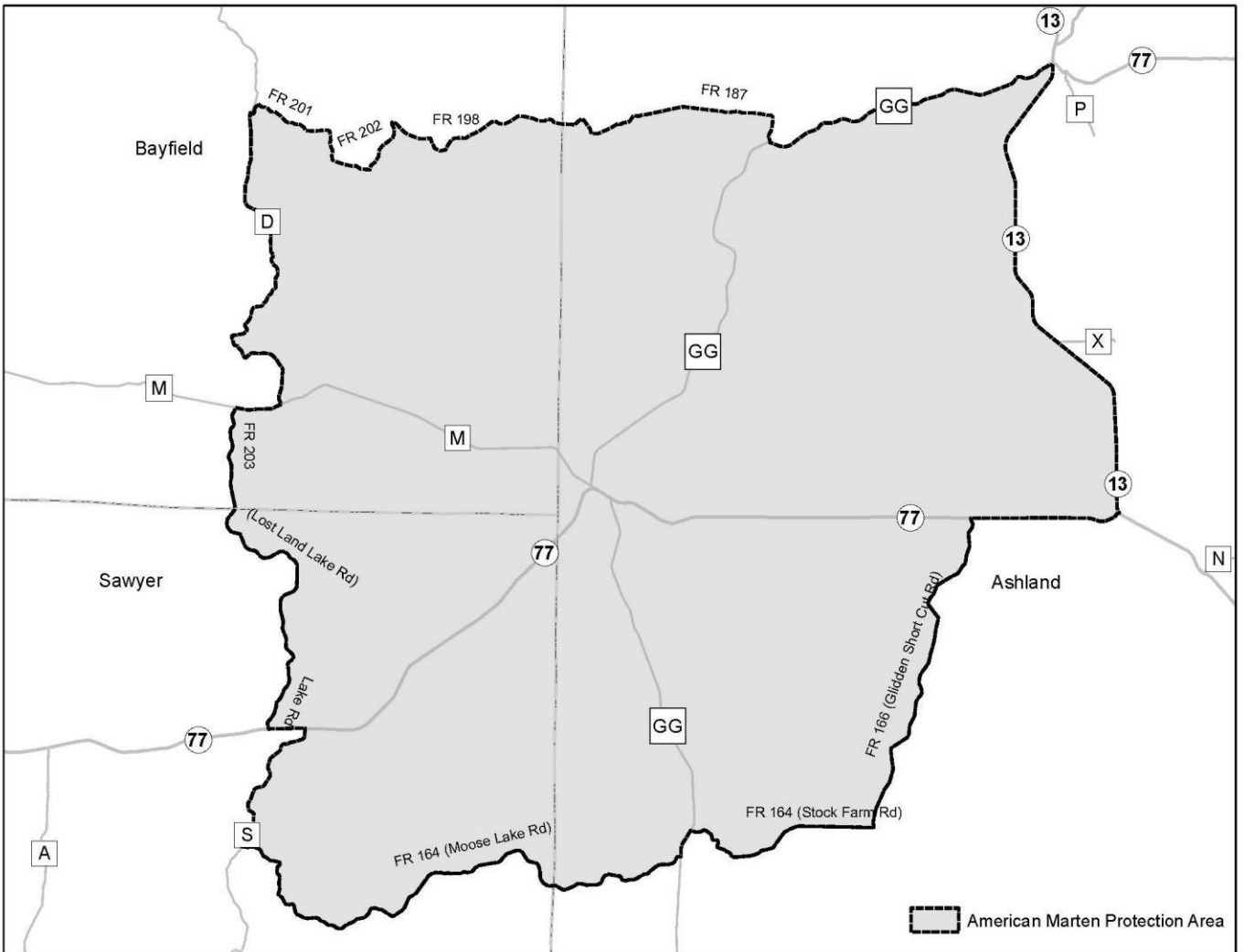


NR 11.16 Marten protection area.

(1) DEFINITIONS. In this section: “Pan tension” means the amount of weight that, when applied to the trap pan of a jawed trap, will result in activation of the trap.

(2) ESTABLISHMENT. No person may trap any species of wild animal in the following areas at any time unless trapping with the equipment identified in sub. (3):

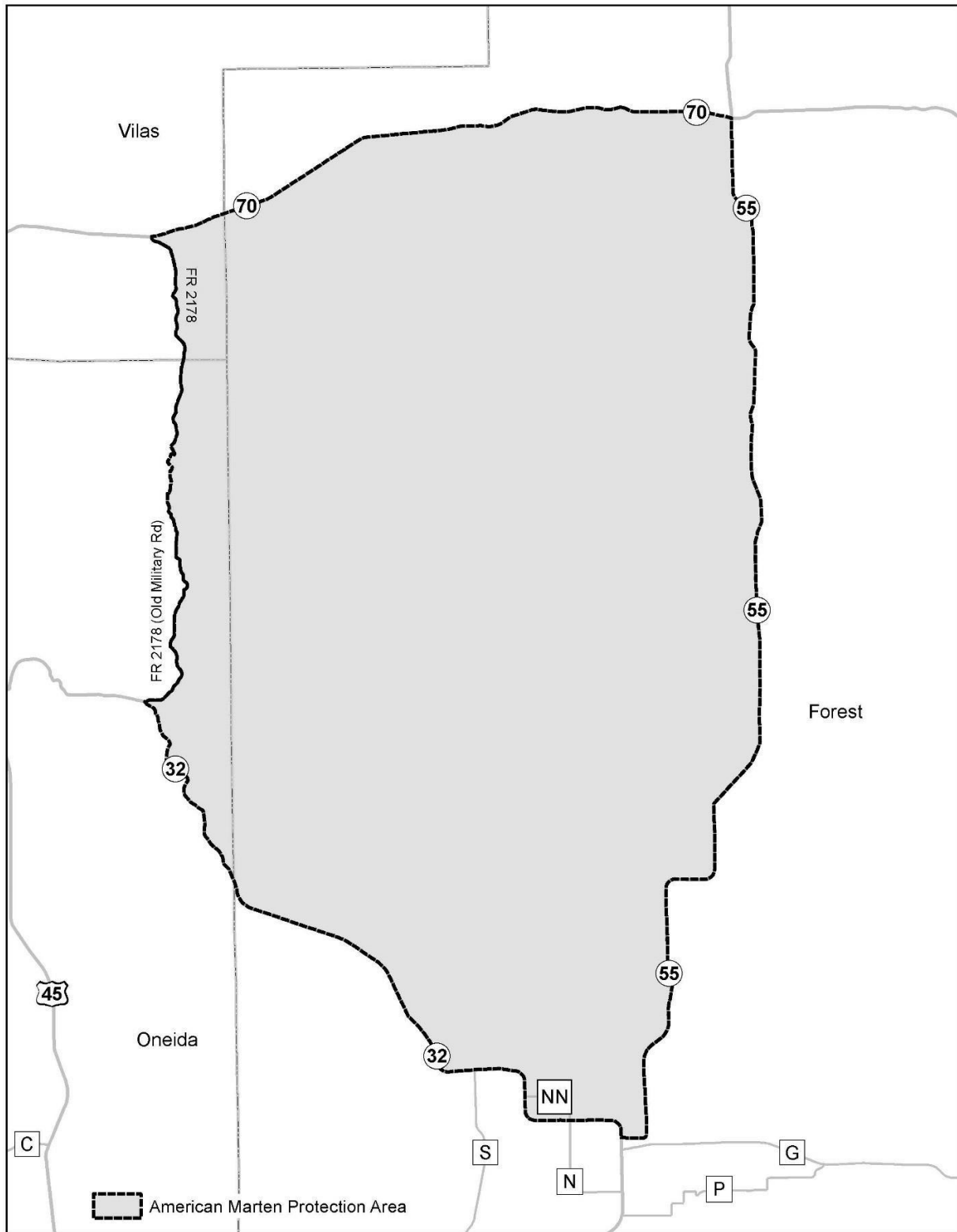
(a) Clam Lake Area (Ashland, Bayfield, and Sawyer Counties).



(b) Apostle Islands Area (Ashland and Bayfield Counties).



(c) Pine River Area (Forest, Oneida, and Vilas Counties)



- (3) AUTHORIZED EQUIPMENT IN A MARTEN PROTECTION AREA. The following traps may be used for trapping within a Marten protection area identified in sub. (2):
- (a) Cage or box traps or cable restraints in compliance with s. NR 10.13.
 - (b) Weasel boxes in compliance with s. NR 10.13 (3) (d).
 - (c) Within only those areas identified in s. NR 11.10 (2) (a) and (c), jawed traps placed as non-submersion sets provided that the pan tension of the device is set to no less than 4 lbs.

Note: Pan tension can be modified through the use of commercially adjustable pans, sheer pins, springs, spring steel, or foam.

- (d) Jawed traps, enclosed trigger traps, snares, or body-gripping traps as authorized under s. NR 10.13 being used as water sets during the open seasons established in s. NR 10.01 (4).

NR 11.17 Public lands closed area. Except as provided by s. 29.089, the department may establish temporary closed areas by posting signs within the exterior limits of department owned, managed, or leased lands for wildlife management purposes. No person may enter such area or hunt or trap any species of wild animals, except as authorized by department signs posted on the lands.

SECTION 2. ch. NR 15 is repealed.

SECTION 3. EFFECTIVE DATE. This rule takes effect on the first day of the month following publication in the Wisconsin Administrative Register as provided in s. 227.22 (2) (intro.), Stats.

SECTION 4. BOARD ADOPTION. This rule was approved and adopted by the State of Wisconsin Natural Resources Board on October 23, 2019.

Dated at Madison, Wisconsin _____.

STATE OF Wisconsin DNR

DEPARTMENT OF NATURAL RESOURCES

BY _____

Preston D. Cole, Secretary