



**DULUTH AIRPORT AUTHORITY**

# Stormwater Assessment Appeal

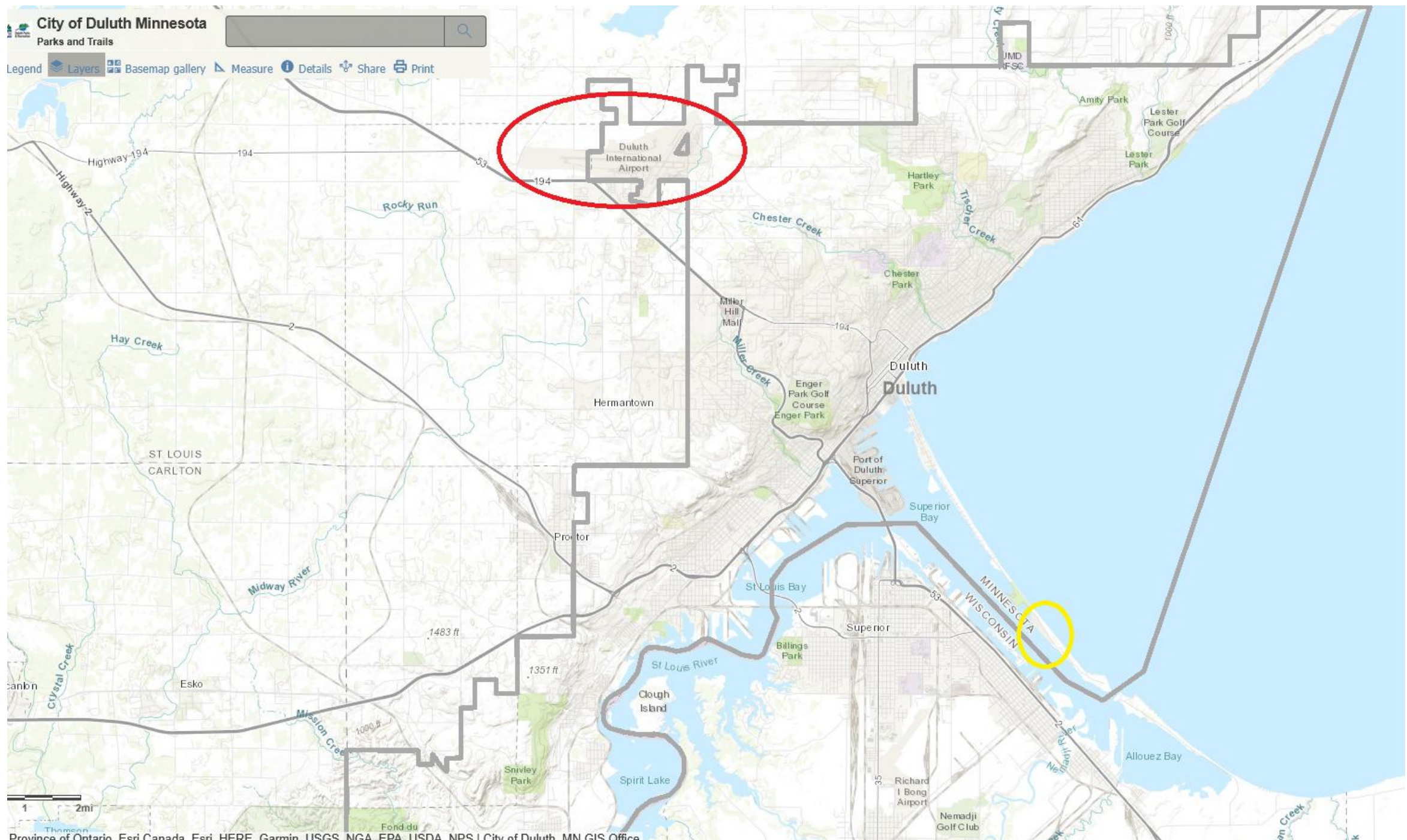
August 19, 2025

# DAA's Appeal Must Be Granted

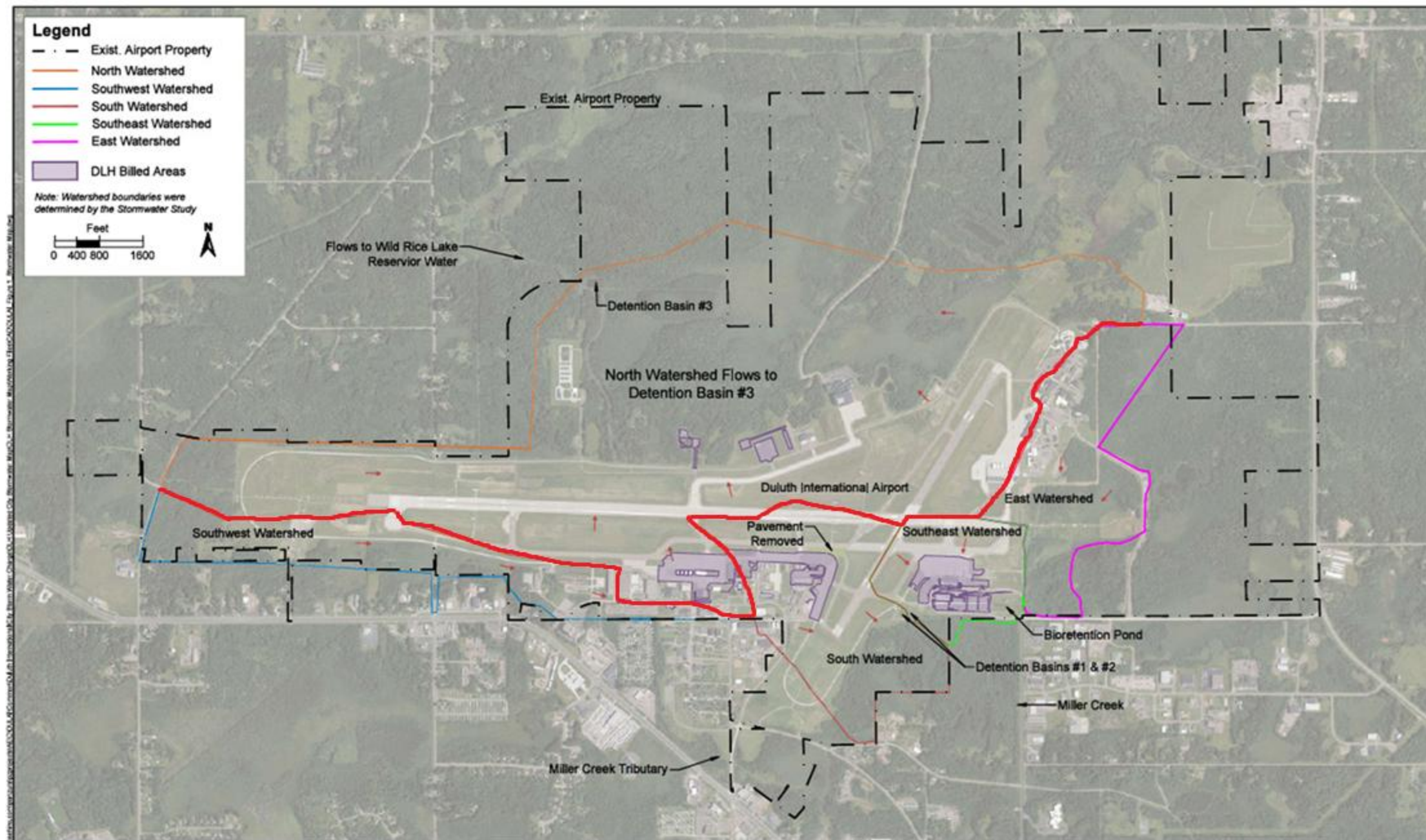
The stormwater runoff from much of DLH and all of Sky Harbor Airport “never enters any facility of the [City’s] stormwater drainage system.” City Code 43-67(a)(2).

Federal law prohibits the City from charging the airport fund for any expenses beyond the reasonable cost of services provided to the airport.

Stormwater charges are beyond the reasonable cost of stormwater services provided to Sky Harbor (DYT) and Duluth International (DLH).







# Stormwater Charges at DLH

As of December 2024, City assessed DAA 1,190 ERUs.

Per June 11, 2025, letter from J. Benning to DAA, two minor assessment reductions totaling 68.39 ERUs. Current assessment is approximately 1,122 ERUs.

Assessment is for services *not* received by DAA: Assessment includes DLH surface area that *does not* discharge to City stormwater facilities.

DAA's data shows that the correct ERU value should be substantially less.

# Stormwater Charges at DYT

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- City provides *no* stormwater services at DYT
- All stormwater at DYT flows into Lake Superior
- City has assessed DAA 89.28 ERUs.
- Correct ERU value is 0





# City Code Specifically Allows Adjustments

- City Code Section 43-67(a)(2):

“Any person liable for the payment of stormwater utility fees on nonresidential property may...apply to the director for a utility fee adjustment if the person believes the utility fee to be incorrect. ... The director may grant an adjustment if it is found that...**[t]he stormwater runoff from the property never enters any facility of the stormwater drainage system.**”

# Federal law regulates the adjustment

State	City	Worksite	LocID	Grant Number	Sponsor
MN	Cloquet	Cloquet/Carlton County	COQ	3-27-0018-020-2022	County of Carlton
MN	Cloquet	Cloquet/Carlton County	COQ	3-27-0018-021-2022	County of Carlton
MN	Crookston	Crookston Municipal/Kirkwood Field	CKN	3-27-0019-017-2022	City of Crookston
MN	Detroit Lakes	Detroit Lakes/Wething Field	DTL	3-27-0021-020-2022	City of Detroit Lakes
MN	Detroit Lakes	Detroit Lakes/Wething Field	DTL	3-27-0021-021-2022	City of Detroit Lakes
MN	Dodge Center	Dodge Center	TOB	3-27-0022-016-2022	City of Dodge Center
MN	Duluth	Duluth International	DLH	3-27-0024-070-2022	City of Duluth
MN	Duluth	Duluth International	DLH	3-27-0024-071-2022	City of Duluth
MN	Duluth	Duluth International	DLH	3-27-0024-072-2022	City of Duluth
MN	Duluth	Duluth International	DLH	3-27-0024-074-2022	City of Duluth
MN	Duluth	Sky Harbor	DYT	3-27-0025-017-2022	City of Duluth
MN	Duluth	Sky Harbor	DYT	3-27-0025-018-2022	City of Duluth

Source: FAA AIP Grant Inventory (2022)

- The City is the federally recognized sponsor of both airports
- Sponsorship means the City must comply with federal law on the expenditure of airport revenue.



# Federal Law Limits Use of Airport Funds for the City Utility Assessments

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- Airport funds can be spent *only* on “capital or operating costs of the airport.”
- Sponsoring government services that do not provide a direct or indirect benefit to an airport are *not* permissible uses of airport revenue.
- For intra-sponsor transfers and assessments (as is the case here), the amount paid with airport revenue must *not* “exceed the value of services provided.”
- Different rules apply to third-party billings. Third-party utility bills are acceptable, even if some components are unrelated to the airport or do not provide benefits, so long as methodology is reasonable and non-discriminatory. City is *not* a third-party utility.
- Violations are serious – requirement to pay back six years of diverted revenue and potential additional penalties.

# The Assessments would Violate Federal Law

The stormwater at much of DLH and all of DYT does not flow to City systems.

The airports receive essentially no direct or indirect benefits from those services/systems.

The City has a legal obligation to ensure that airport revenue is not spent on services which do not provide value to the airports.

Under federal law, the City cannot impose – and DAA cannot pay – for any ERUs which do not reflect stormwater flowing to the City systems.

# The Director's Basis For Denial Is Incorrect

Director's denial relied on *Air Transportation Assoc. of Am. v. FAA*, but that case is distinguishable.

In the *ATAA* case, the challenged utility bill was imposed by a *non-sponsor*, third party, on an airport sponsor.

Here, since the City is the sponsor, the rules are different from those that applied in the *ATAA* case.

# Basis for Assessments under Federal Law

Airport funds may be used to pay the reasonable value of stormwater services provided to each airport.

The stormwater assessments are *not* reasonable in this context.

The City – as sponsor – faces federal liability for assessing fees in excess of reasonable value.

Liability can extend back 6 years.



# Conclusion: DAA Request

01

Discontinue all assessments for DYT.

02

Discontinue stormwater assessments for portions of DLH which do not discharge to City system.

03

Calculate stormwater fees which should not have been assessed from 2019 to the present.

04

Remit overpayments to DAA on a mutually agreeable timeline.