

Stormwater Ponds: Waterway & Wetland Permitting

Sonya Ponzi – WDNR Water Management Specialist

Waterway Jurisdiction

- Navigable waterways
 - Ordinary high water mark
- Public trust doctrine
- Ponds (wet ponds):
 - S. 30.19, Wisconsin Statute
 - Chapter NR 343 Wisconsin Administrative Code
- Offline ponds versus online ponds



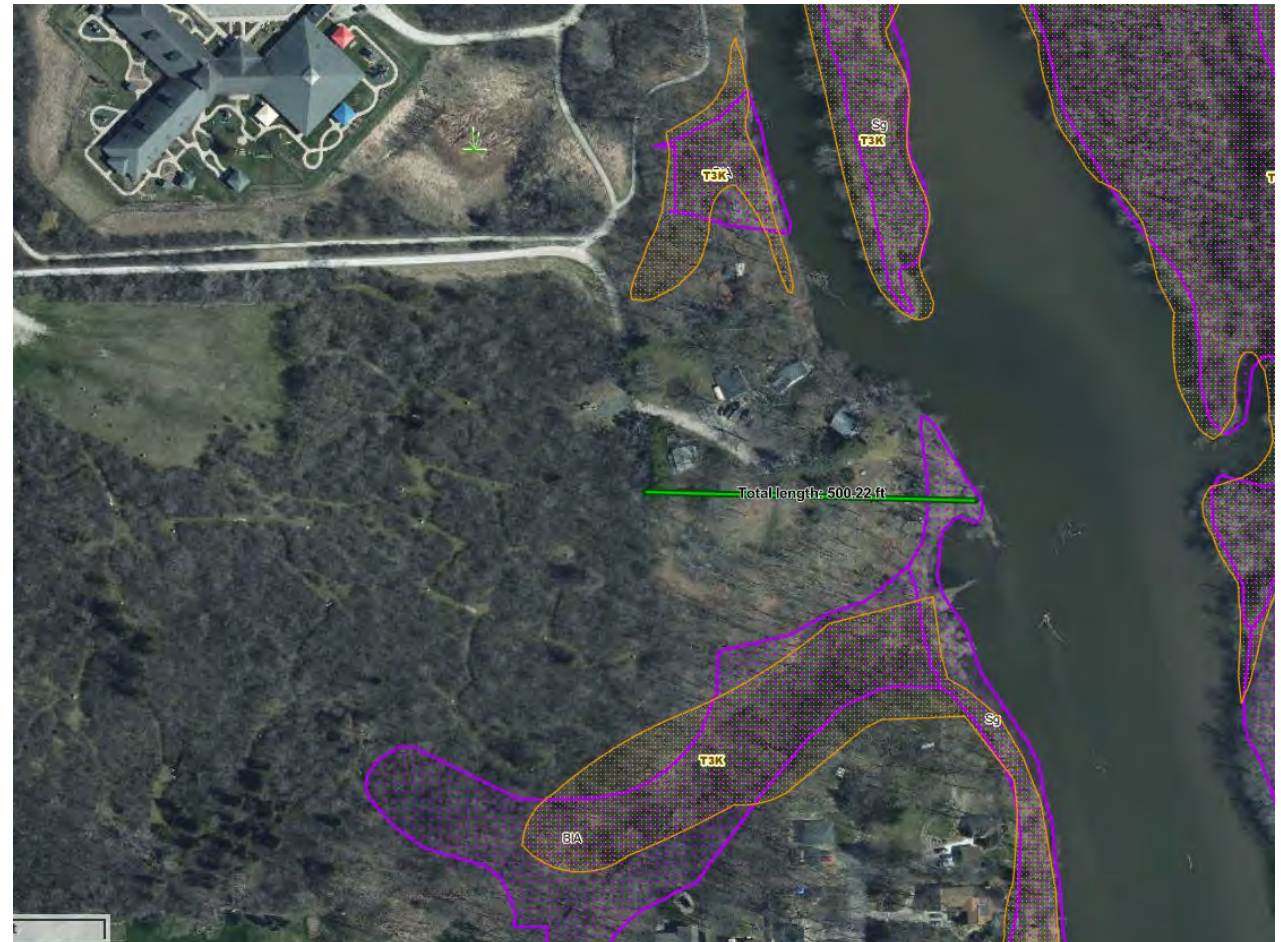
Wetland Jurisdiction



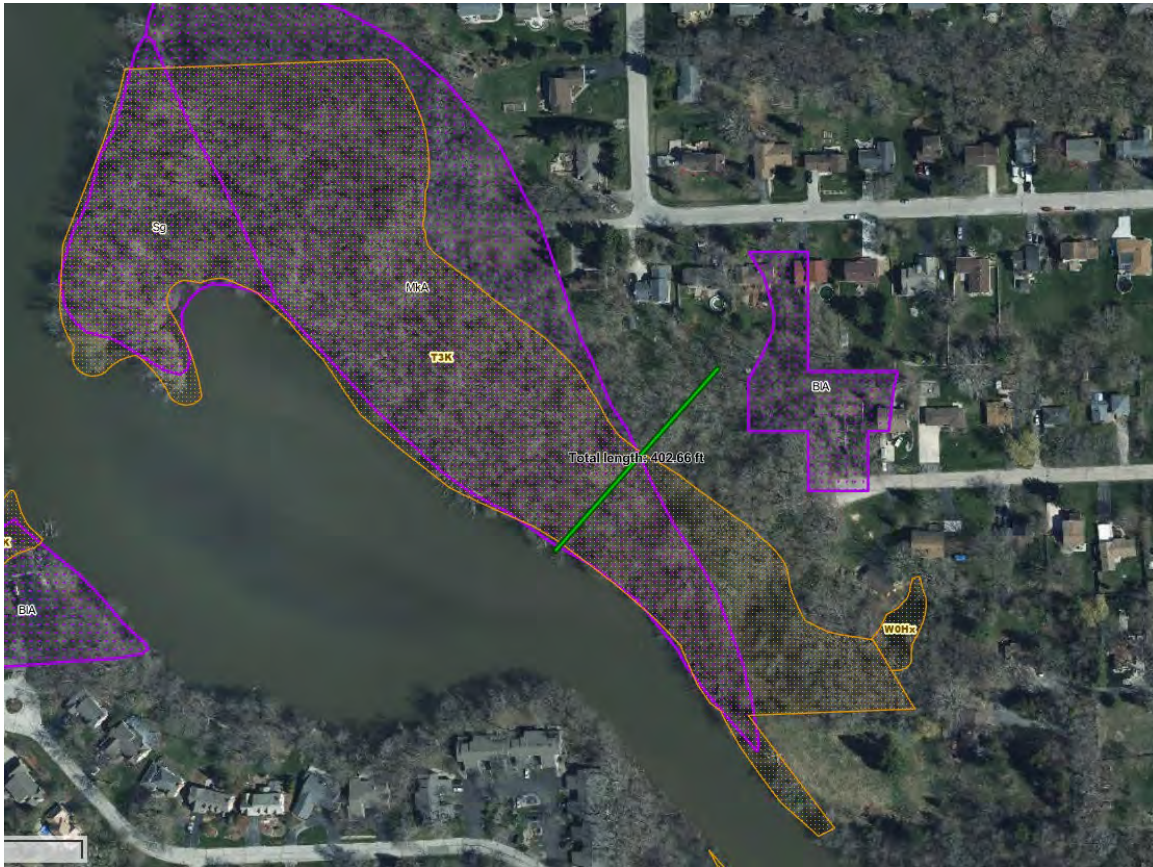
- Wetlands are defined in statute (s. 23.32(1), Wis. Stats.):
 - “an area where water is at, near or above the land surface long enough to be capable of supporting aquatic or hydrophytic vegetation and which has soils indicative of wet conditions”
- S. 281.36, Wisconsin Statute & Ch. NR 103, Wis. Adm. Code
 - Discharge of fill to wetlands is regulated activity
 - Projects must avoid and minimize impacts to the greatest extent practicable

New Pond Construction

- Will the pond be constructed within 500 feet of the ordinary high water mark of a navigable waterway?
 - No
 - Will the pond be constructed in uplands?
 - Yes
- ❖ No permit required



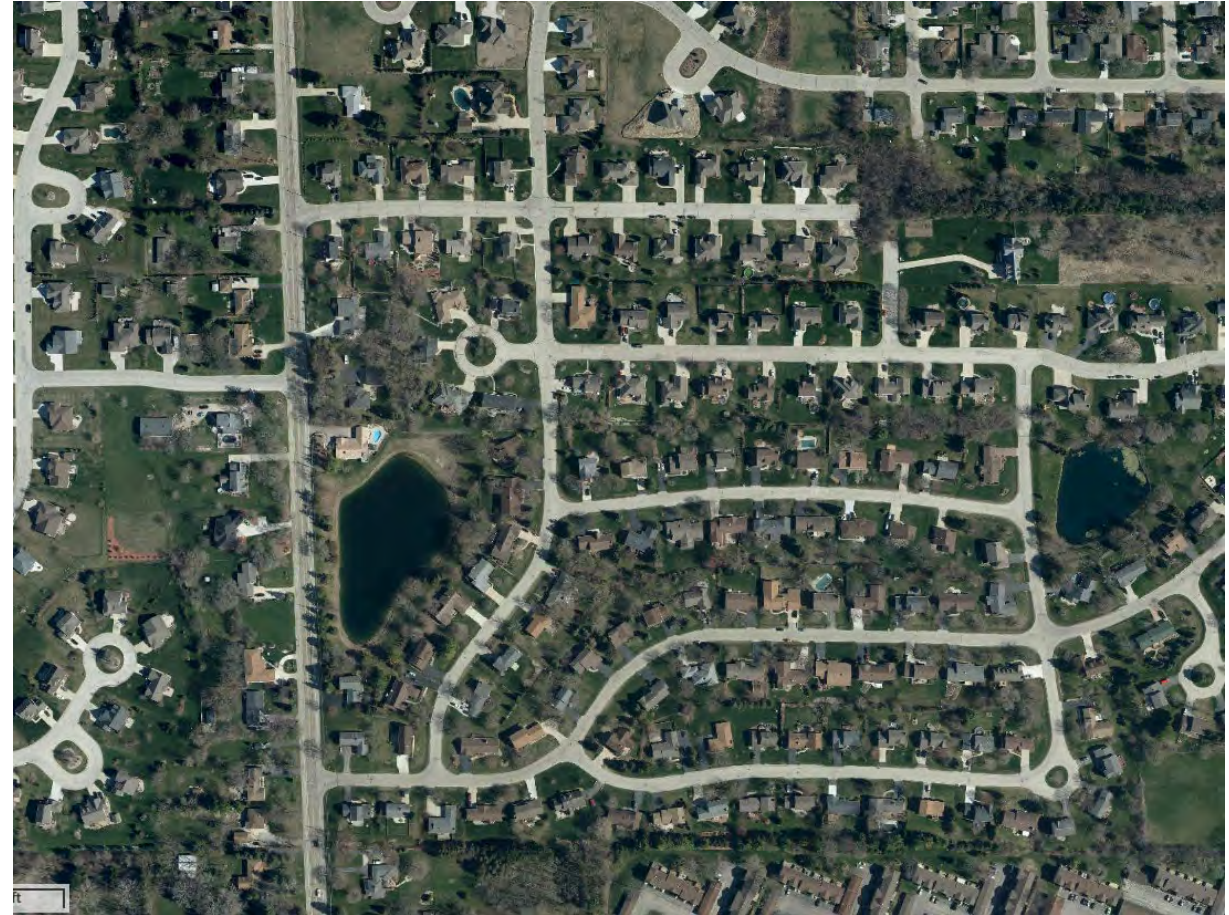
New Pond Construction



- Will the pond be constructed within 500 feet of the ordinary high water mark of a navigable waterway?
 - Yes
- Will the pond be constructed in uplands?
 - Yes
- ❖ **Waterway permit required**
- ❖ **Stormwater ponds should not be constructed in wetlands**

Existing Pond Dredging

- Is the existing pond within 500 feet of the ordinary high water mark of a navigable waterway?
 - No
 - Is the existing pond located in or near wetlands?
 - No
- ❖ **No waterway or wetland permit required**

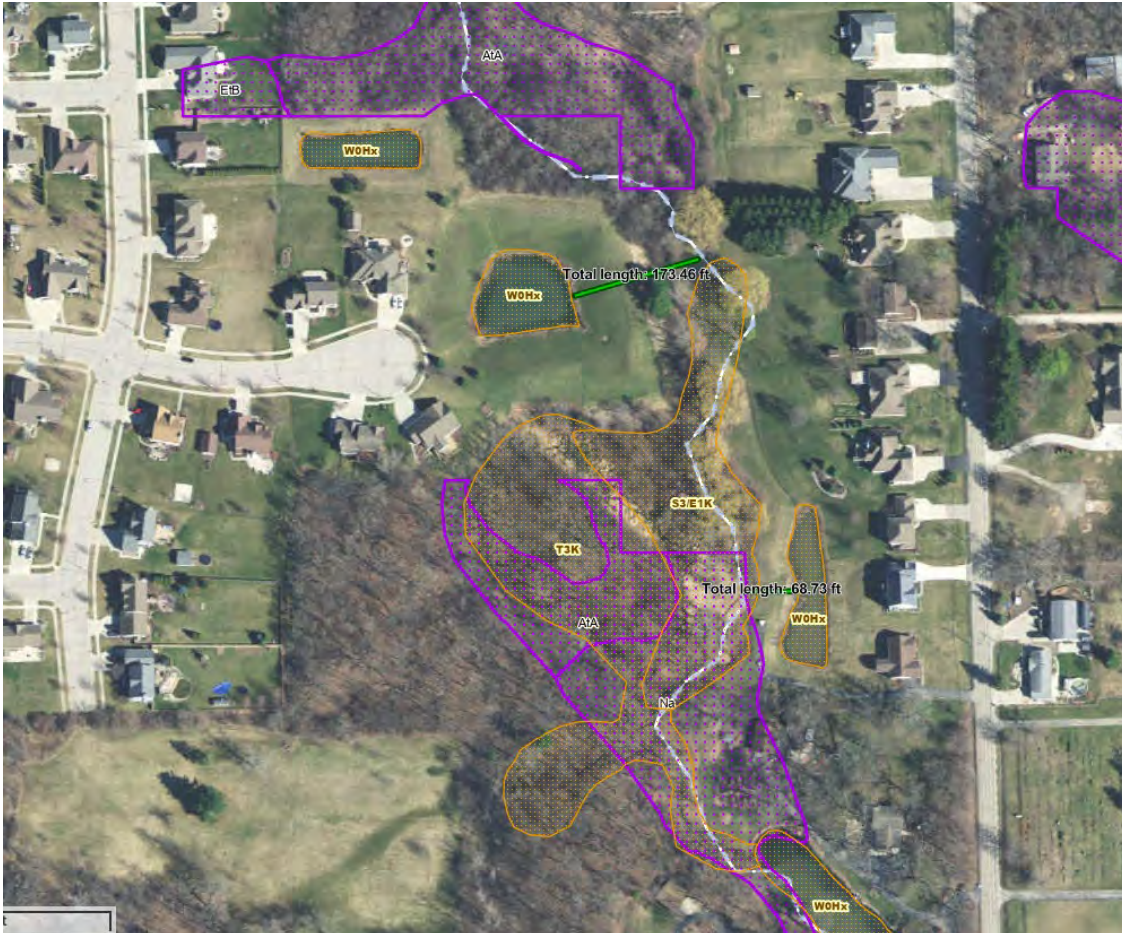


Existing Offline Pond Maintenance

- Is the existing pond within 500 feet of the ordinary high water mark of a navigable waterway?
 - Yes
 - Was the existing pond historically permitted?
 - Yes
 - Are you dredging to maintain the originally permitted dimensions?
 - Yes
- ❖ No permit required



Existing Offline Pond Maintenance



- Is the existing pond within 500 feet of the ordinary high water mark of a navigable waterway?
 - Yes
 - Was the existing pond historically permitted?
 - No
 - Are you dredging to maintain the original dimensions?
 - Yes
- ❖ **Waterway permit required**

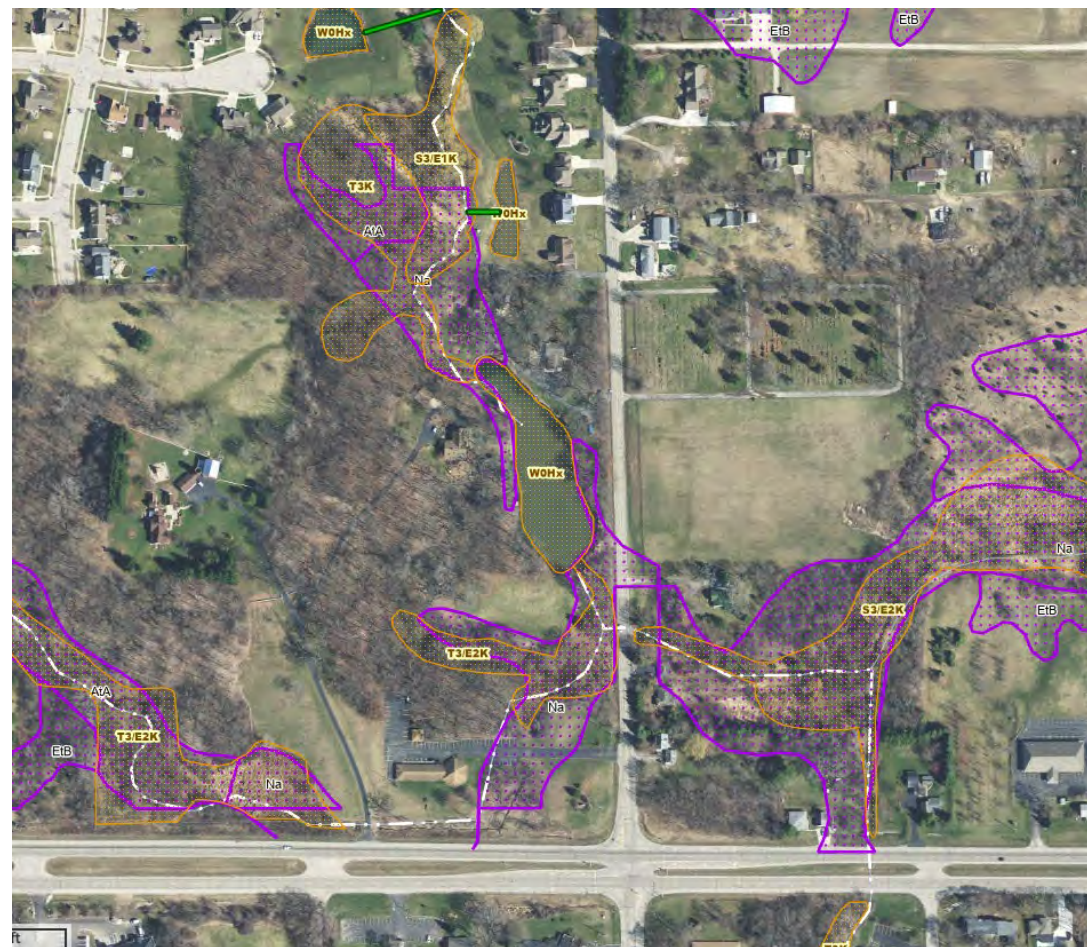
Offline Pond Enlargement

- Is the existing pond within 500 feet of the ordinary high water mark of a navigable waterway?
 - Yes
 - Will the enlargement impact wetlands?
 - No
 - Was the existing pond historically permitted?
 - Yes
 - Are you dredging to maintain the originally permitted dimensions?
 - No
- ❖ **Waterway permit required**

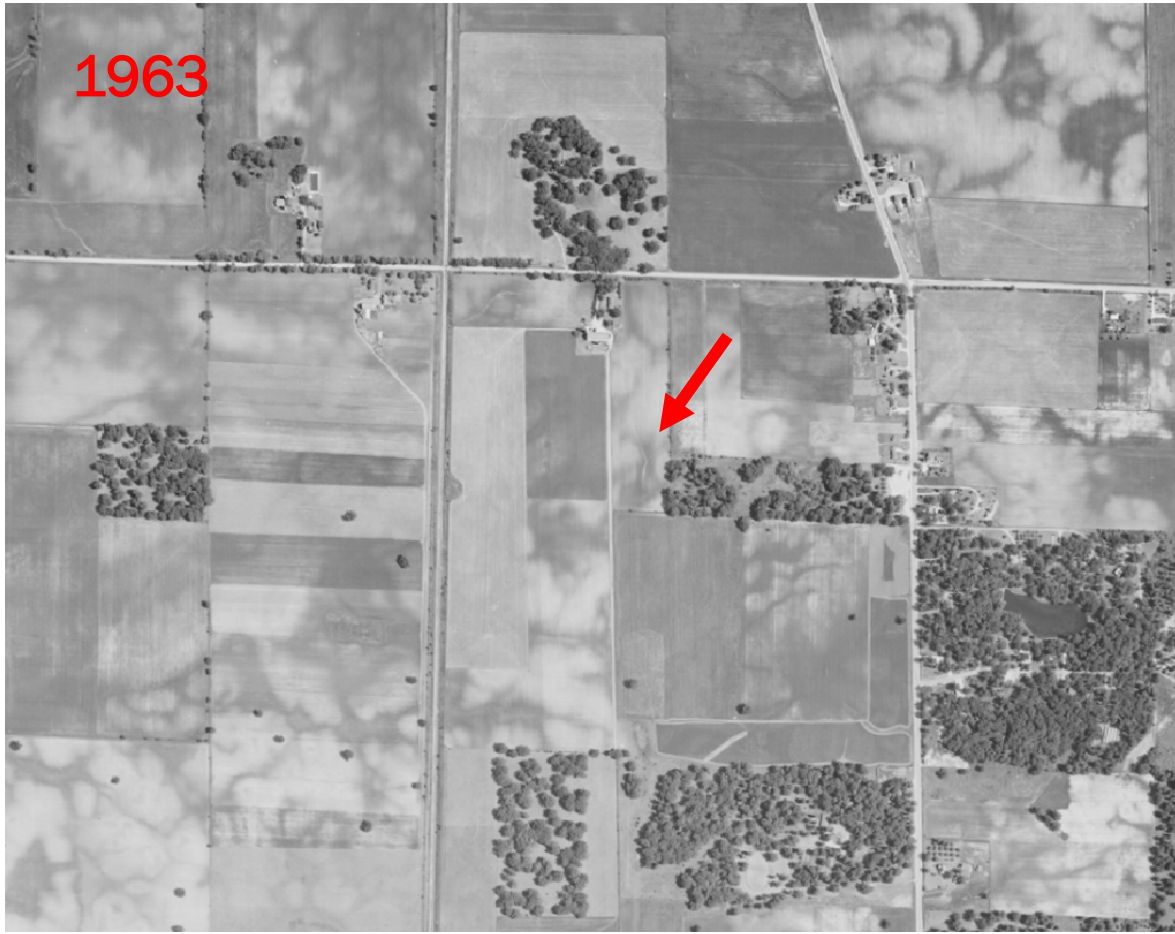


Online Pond Maintenance

- Is the existing pond within 500 feet of the ordinary high water mark of a navigable waterway?
 - Yes
- Is the existing pond “online”?
 - Yes
- Was the existing pond historically permitted?
 - Yes
- ❖ **Waterway (dredging) permit required**
- ❖ **New online ponds may not be approvable today**



Historical Ponds Constructed in Wetlands

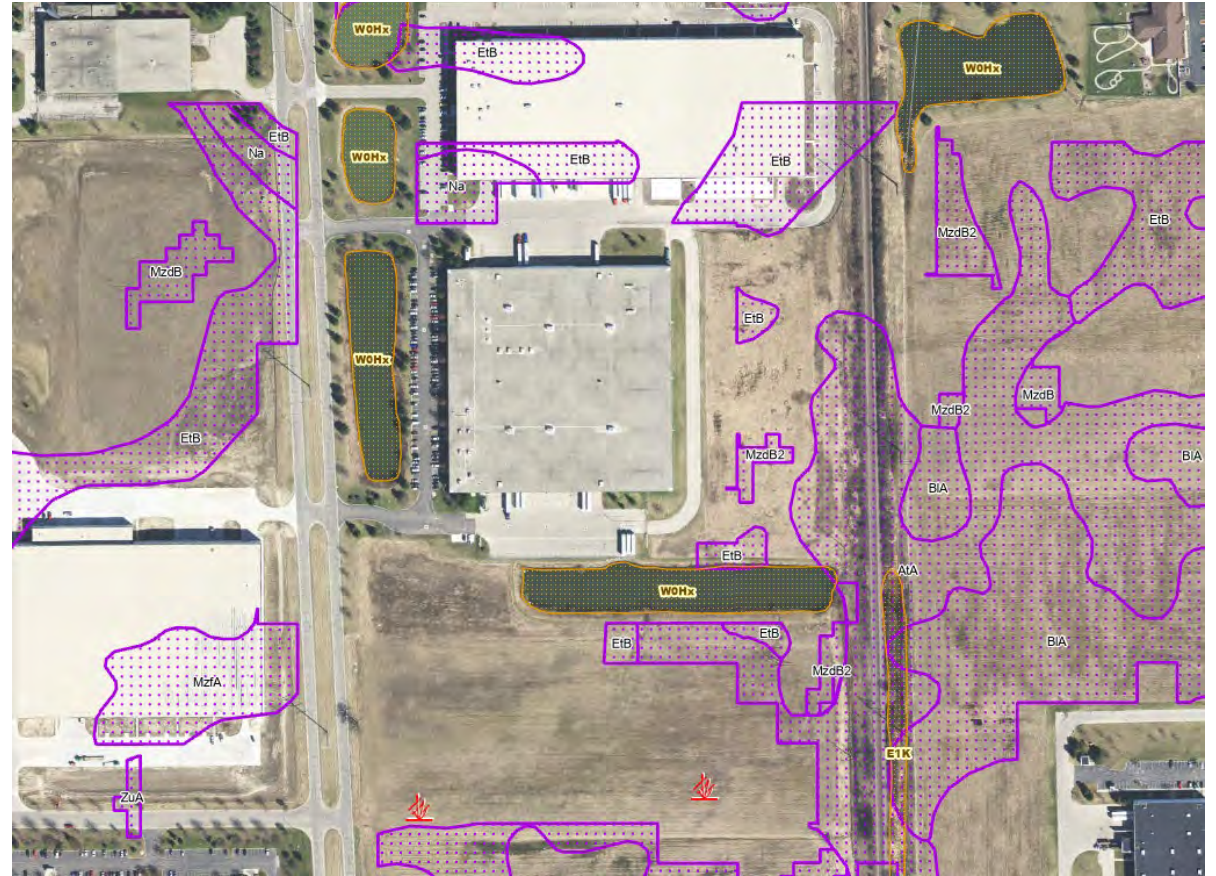


Existing Pond Maintenance

- Was the pond historically constructed in a wetland?
 - Yes
 - Was the pond historically permitted?
 - No
 - Are you dredging to maintain the original dimensions?
 - Yes
 - The stormwater pond is not considered a wetland and there is no discharge of fill material.
- ❖ No approvals required**

Existing Pond Enlargement

- Are you dredging to expand the footprint of the existing pond?
 - Yes
 - Are wetlands present in the area of the proposed expansion?
 - Yes
- ❖ **Wetland approvals required**



Spoils Disposal

- Where are you disposing the dredge material?
 - Landfill
 - Outside wetlands, waterways, floodplain
- Consider
 - Waste & Materials Mgmt. Program – end use self certification
 - ❖ <https://dnr.wisconsin.gov/topic/Waste/NR528.html>
 - Wastewater Program – dewatering discharges

Maintenance Authority

- I do not have any legal authority to require people maintain stormwater ponds.
- Municipalities may have legal authority to complete maintenance activities on behalf of a stormwater pond owner.
 - If a permit is required for the maintenance/dredging, the municipality may apply for the permit.
 - The municipality will need to provide documentation that they are legally allowed to maintain the privately owned stormwater pond.

DNR Pond Permit Information

- [Ponds and Fish and Wildlife Habitat Structures | Waterway protection | Wisconsin DNR](#)

Contact Us

- [Contact | Wisconsin DNR](#)
- [Waterway and Wetland Question and Complaint Form](#)

CONNECT WITH US

QUESTIONS?

Sonya Ponzi
Water Management Specialist
Sonya.Ponzi@Wisconsin.gov
608-598-0346



@WIDNR



@WI_DNR



/WIDNRTV



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