



March 31, 2016

INF-NE-2016-5-00998

City of De Pere
Attn: Karen Heyrman
925 S. Sixth St
De Pere, WI 54115
[sent electronically]

RE: Request for Navigability Determination for Mud Creek, located in the City of De Pere, Brown County

Dear Ms. Heyrman:

I visited this site with you today. The waterway was inundated with water and the majority of the site along the waterway was flooded outside of the banks and far enough into the farm field to make access to the waterway channel impractical. The waterway at the outlet of the retention pond has a channel approximately 1.5ft in depth and 6ft wide which was full of water. While I did not have a small watercraft at the site visit, the waterway could have easily floated a small watercraft in the channel. A "desktop review" was completed and emailed to you on January 19, 2016 indicating the map documentation provides evidence the waterway likely meets the navigability determination. Today's field visit confirms what the map data demonstrates. In Wisconsin, the Supreme Court has defined a navigable waterway as one which has a defined bed and banks and carries enough water to float a canoe or other watercraft during the spring high water periods. Based on this definition and the conditions observed at your site, the stream on your property has been determined to be navigable/public.

Chapter 30, Wis. Stats., permits are needed for work in and near this waterway. Information on these regulations and application materials are available on the DNR web site at <http://dnr.wi.gov/topic/Waterways/>. Specifically, the City will need to obtain a Ch 30 culvert crossing permit for a new culvert crossing of the navigable waterway. You can find more information on culverts at the Department's website http://dnr.wi.gov/topic/Waterways/water_levels_crossings/culverts.html. When the City is ready to submit an application, please use the online application system "Water Permits" found at <http://dnr.wi.gov/permits/water/>. Click on "Waterway and wetland" (the hyperlink at the bottom of the webpage) and then scroll through the alphabetical listing to find "Culvert – with professionally engineered design". The link to the right is used to begin the General Permit (GP) application process.

If the culvert crossing is for a public City roadway, your DNR contact and permit review person is Jim Doperalski, Environmental Analysis & Review Specialist. If the culvert crossing is for a private roadway/development, then I will be your contact and permit review person. Certain activities may also require permits from Brown County and/or Army Corps of Engineers and you should contact those agencies before beginning any construction at this site.

We are committed to service excellence.

Visit our survey at <http://dnr.wi.gov/customersurvey> to evaluate how I did.

If you have any questions about your permit, please call me at (920) 662-5466 or you can reach me by email at Crystal.VonHoldt@wisconsin.gov.

Sincerely,



Crystal von Holdt
Water Management Specialist

Email cc: Jessica Kempke, Project Manager, U.S. Army Corps of Engineers
Matt Heyroth, Brown County Zoning Administrator
Jim Doperalski, WDNR Env. Analysis & Review Specialist
Cara Kamke, WDNR Conservation Warden

Navigability Determination

Date: 03/31/2016	Investigator: Crystal von Holdt	Docket #: INF-NE-2016-5-00998
Requestor: City of De Pere Karen Heyrman	Property Owner (local address & contact info): 925 S. Sixth St De Pere, WI 54115 (920) 339-4072	
Location of stream segment or waterbody (attach map): NW1/4-SE1/4 S32, T23N, R20E		
County: Brown	Waterway Name (If applicable): Mud Creek	
Town, Village, City: City of De Pere		
Defined bed and bank: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Bed type: Channelized <input type="checkbox"/> Natural <input checked="" type="checkbox"/> Unknown <input type="checkbox"/>	
Bed width at top of banks (ft): 6	Bank height (ft): 1.5	
Bed width at OHWM (ft):	Water depth at OHWM (ft):	Current water depth (ft): 1.5
Agricultural ditch: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Stream history: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	
Was the waterway navigated? Yes <input type="checkbox"/> No <input type="checkbox"/>	Approximate survey length:	
Watercraft type/size (Example: 12 foot canoe with 4" draft):		
Navigable: <input checked="" type="checkbox"/> Non-navigable: <input type="checkbox"/>		
Documentation used to determine waterway history: Old public survey maps from 1844. USGS topo maps. Air photo review.		
Hydrologic condition of the waterway (low or high water, recent heavy rainfall, etc.) Recent light drizzle/rainfall, blizzard on 03/23/16 provided about 8-10 inches of snow that melted over 3/26 and 3/17.		
Physical characteristics of the waterway (land use, culverts, springs, tile lines, etc.) Waterway runs through two farm fields and is located with City property (industrial/business park). Pre-existing retention pond at the upstream end discharges to waterway channel. Old farm culvert crossing downstream of pond has approx. 12" culvert pipe (undersized).		
Biological characteristics of the waterway (vegetation, fish, bugs, wildlife, etc.) Phragmites lined banks.		
Additional notes: Did not physically float the waterway but I could have easily put in two kayaks (or more) side-by-side. Waterway was carrying so much water it was up and out of the banks and flooding far into the farm field. I could not approach the true channel to get measurements due to out-of-banks conditions (so could also not observe OHWM).		

March 31 @ 10am → meet @ end of Fortune Ave.

Sec 32

SOUTHWEST PART VILLAGE OF LAWRENCE

ASHWAUBENON

T.22-23N.-R.19-20E.

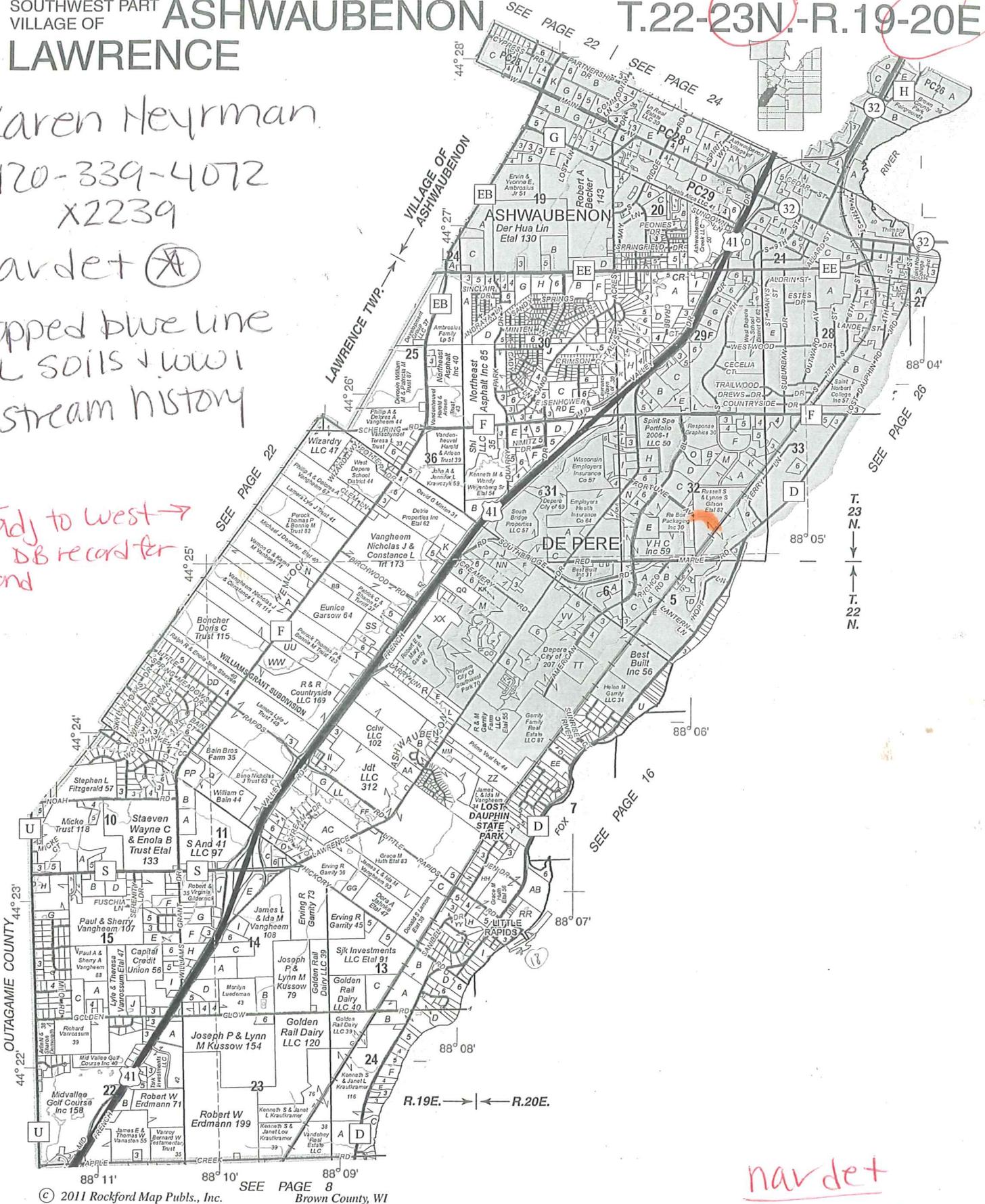
Karen Heyrman

920-339-4072
x2239

⊗ nardet ⊗

- mapped blue line
- WL soils ↓ WW1
Y = stream history

FYL
adj to west →
no DB recorder
pond



nardet
INF-2016-5-
00998

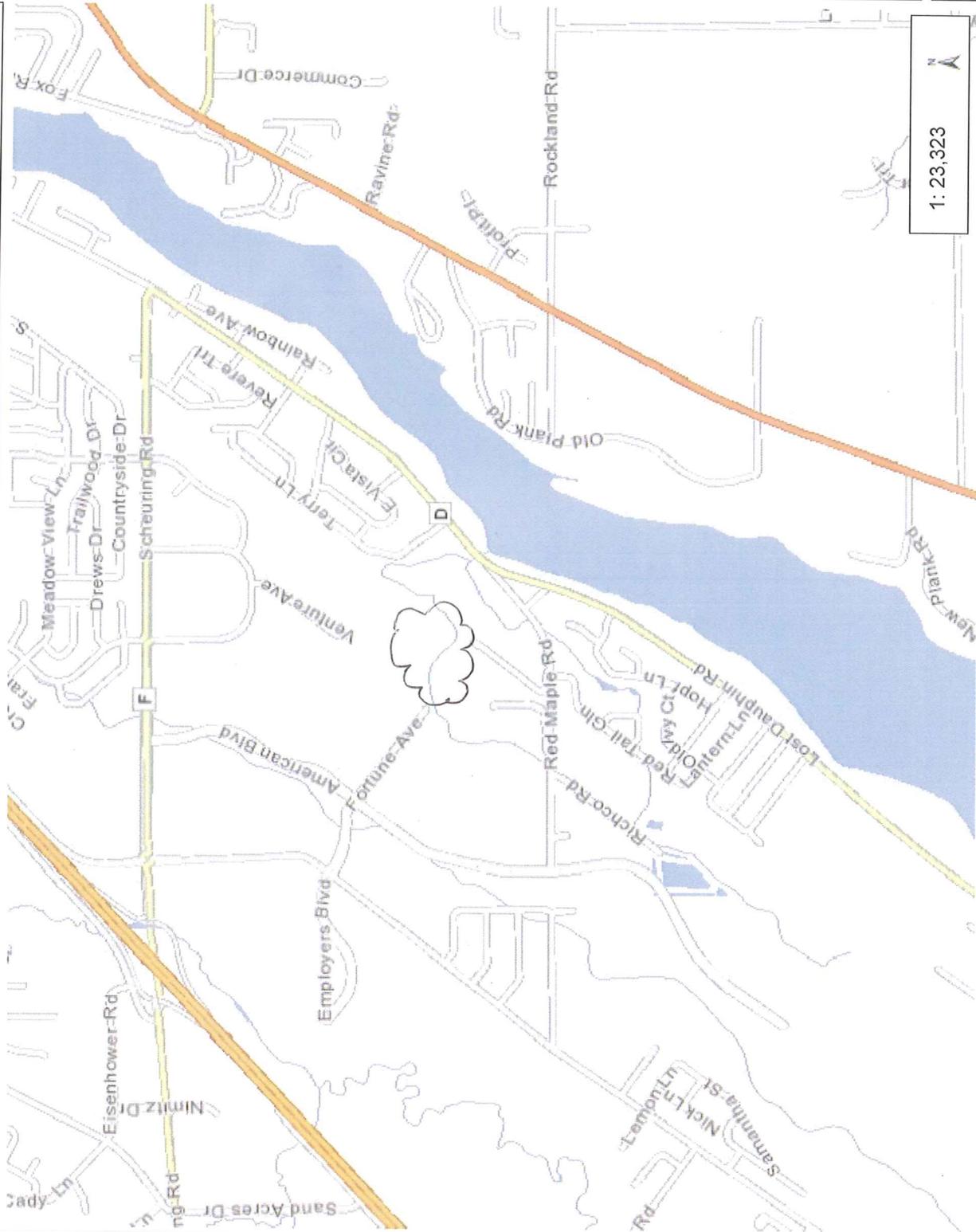


Venture/Fortune Ave - nav det needed



Legend

- Major Roads**
 - Interstates (thick orange line)
 - US Highways (orange line)
 - State Highways (yellow line)
- Rivers and Streams**
 - Open Water (blue area)
 - Airports (grey area)



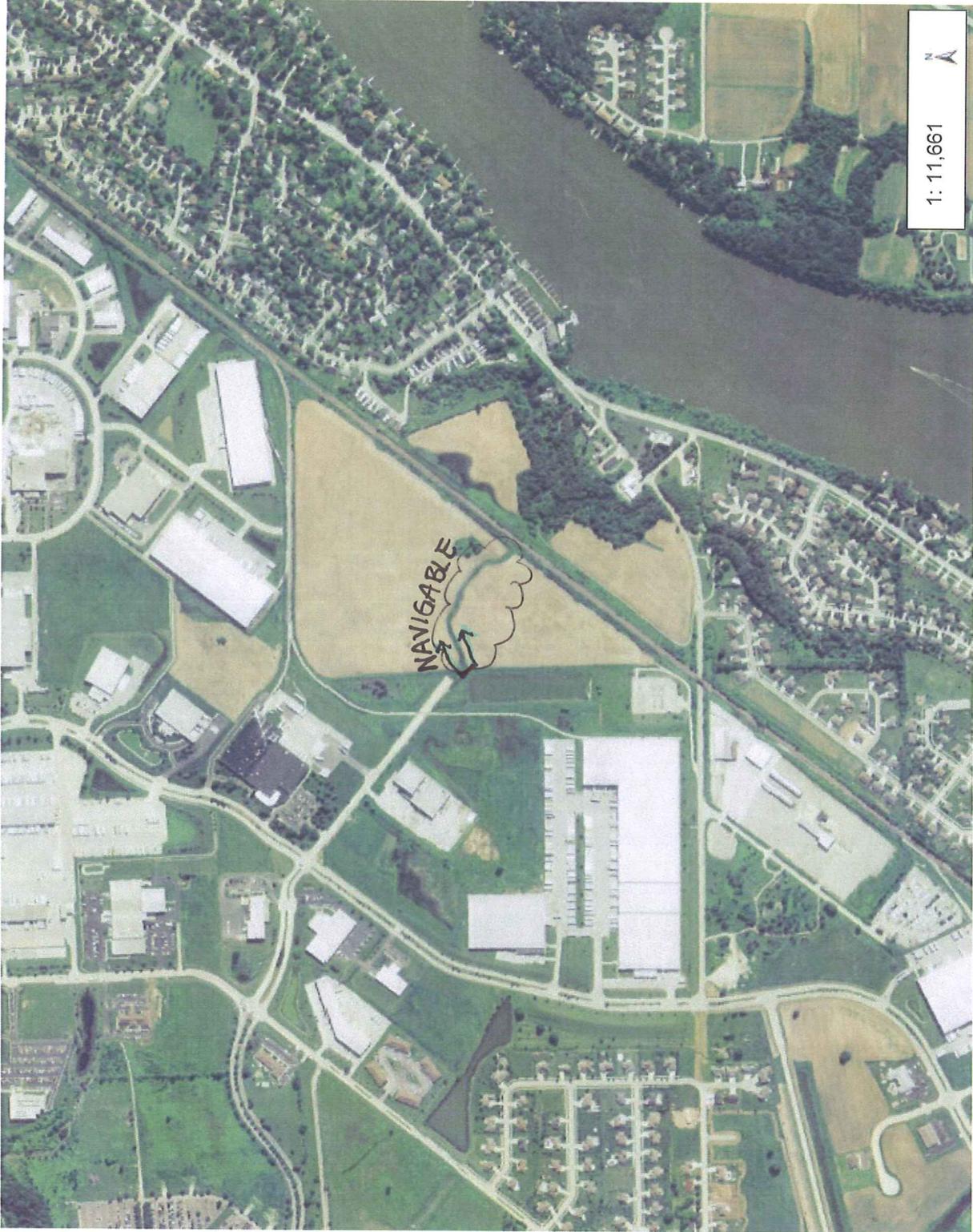
1:23,323

Notes

DISCLAIMER: The information shown on these maps has been obtained from various sources, and are of varying age, reliability and resolution. These maps are not intended to be used for navigation, nor are these maps an authoritative source of information about legal land ownership or public access. No warranty, expressed or implied, is made regarding accuracy, applicability for a particular use, completeness, or legality of the information depicted on this map. For more information, see the DNR Legal Notices web page: <http://dnr.wi.gov/org/legal/>



2013 aerial



1: 11,661



0.4

NAD_1983_HARN_Wisconsin_TM
© Latitude Geographics Group Ltd.

DISCLAIMER: The information shown on these maps has been obtained from various sources, and are of varying age, reliability and resolution. These maps are not intended to be used for navigation, nor are these maps an authoritative source of information about legal land ownership or public access. No warranty, expressed or implied, is made regarding accuracy, applicability for a particular use, completeness, or legality of the information depicted on this map. For more information, see the DNR Legal Notices web page: <http://dnr.wi.gov/org/legal/>



Legend

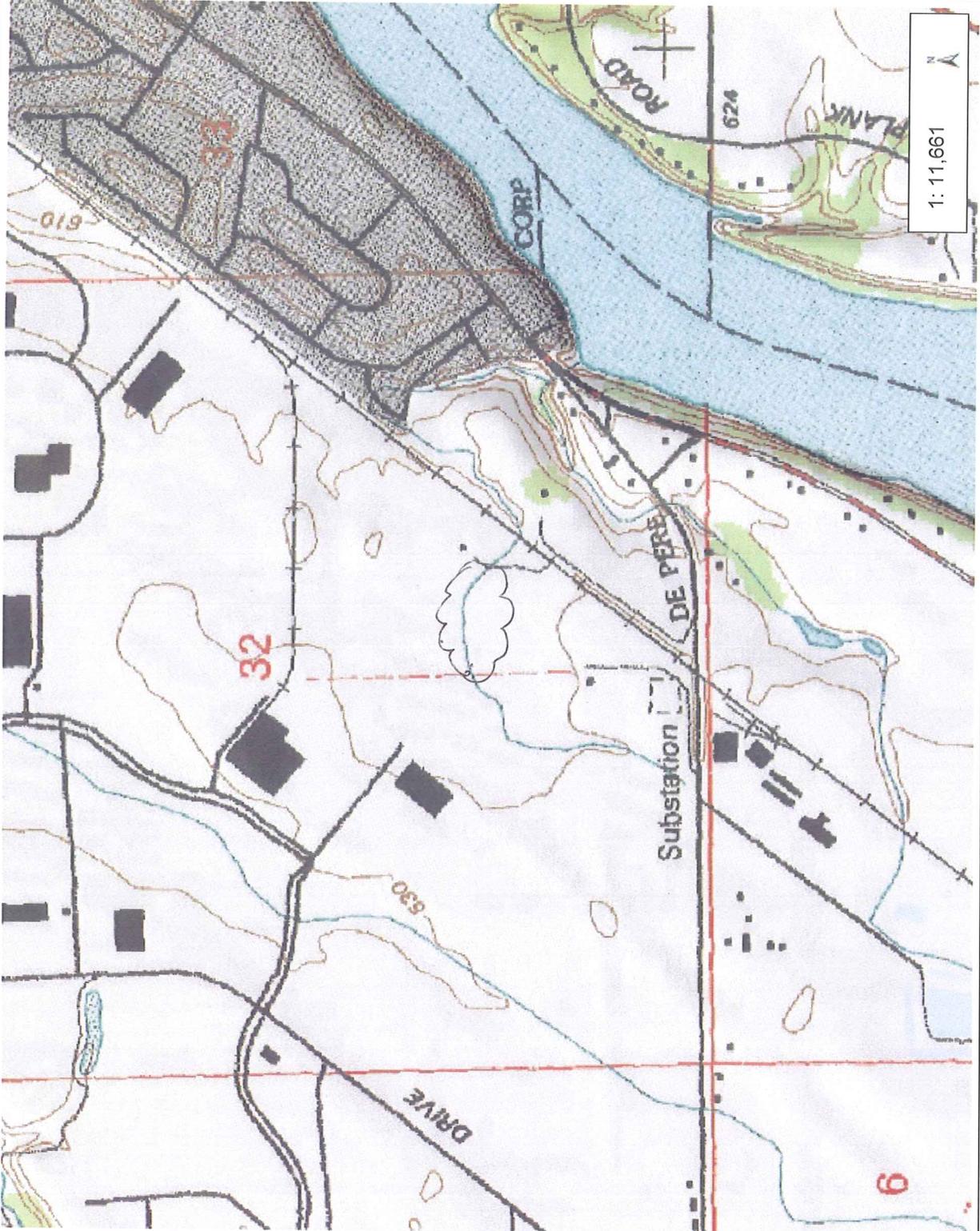
Notes

CVH
3-31-16

SECRET



topo



1: 11,661



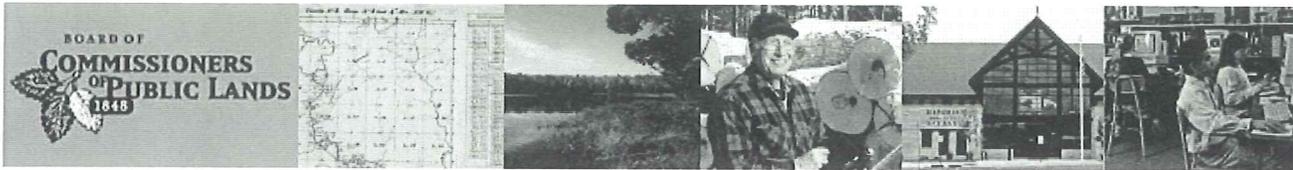
DISCLAIMER: The information shown on these maps has been obtained from various sources, and are of varying age, reliability and resolution. These maps are not intended to be used for navigation, nor are these maps an authoritative source of information about legal land ownership or public access. No warranty, expressed or implied, is made regarding accuracy, applicability for a particular use, completeness, or legality of the information depicted on this map. For more information, see the DNR Legal Notices web page: <http://dnr.wi.gov/legal/>

NAD_1983_HARN_Wisconsin_TM
© Latitude Geographics Group Ltd.

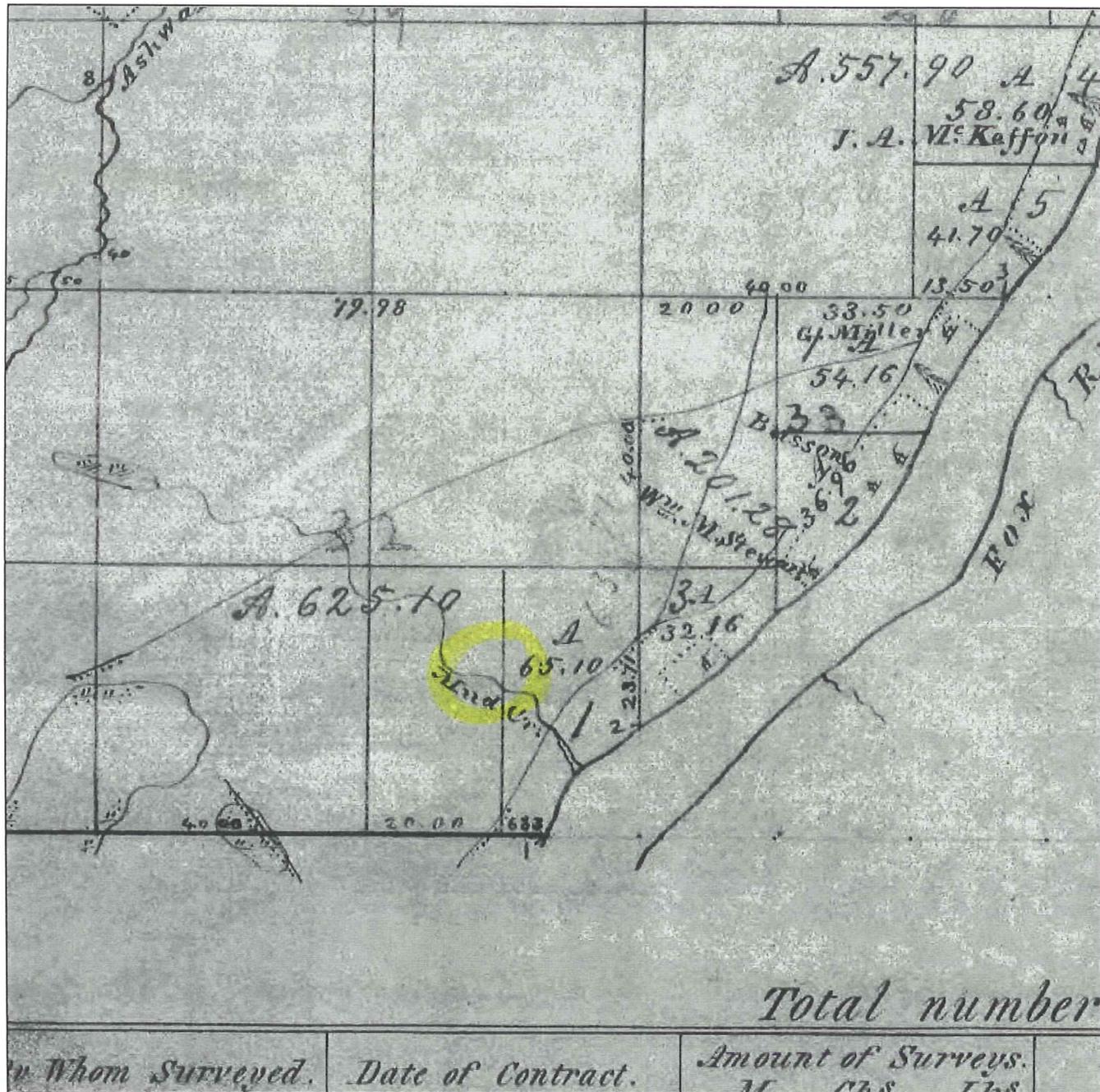


Legend

Notes



Plat Map for T23N R20E (original)



Von Holdt, Crystal L - DNR

From: Von Holdt, Crystal L - DNR
Sent: Tuesday, February 16, 2016 2:44 PM
To: Karen Heyrman
Subject: RE: Update: navigability determination

Hi Karen,

The navigability determination is just through me with the waterway program...so I've left Tom off since he's not involved with these determinations. Due to snow/ice cover, it's best to wait until closer to Spring to get more of the ground and banks exposed so that a field visit is productive. I've got it on my calendar for Thursday, March 31st at 10am to visit the Venture/Fortune site. Let's hope the snow is melting by then!

Will someone meet me at the site? Where is the best place to park/access the site?

Thanks!!

We are committed to service excellence.

Visit our survey at <http://dnr.wi.gov/customersurvey> to evaluate how I did.

Crystal von Holdt
Water Management Specialist – Water Division
Wisconsin Department of Natural Resources
2984 Shawano Avenue, Green Bay WI 54313-6727
Phone: (920) 662-5466
Crystal.vonHoldt@wi.gov



From: Karen Heyrman [mailto:kheyрман@mail.de-pere.org]
Sent: Friday, February 12, 2016 11:09 AM
To: Von Holdt, Crystal L - DNR
Cc: Nedland, Thomas S - DNR
Subject: RE: Update: navigability determination

Hi Crystal

The City would like to proceed with the navigability determination field review. Please let me know when this is scheduled so we can meet you on site.

Is there anything else that I need to provide to you or Tom?

Karen

Karen Heyrman, P.E.
Assistant City Engineer
City of De Pere
925 S. Sixth Street
De Pere, WI 54115

P 920-339-4072 ext. 2239
M 920-639-1019
F 920-339-4071

From: Von Holdt, Crystal L - DNR [<mailto:Crystal.VonHoldt@wisconsin.gov>]
Sent: Tuesday, January 19, 2016 12:12 PM
To: Karen Heyrman
Cc: Nedland, Thomas S - DNR
Subject: Update: navigability determination

Hi Karen,

I left you a voice mail earlier and let you know that it's on my "to-do" list for field work to check this waterway out for navigability. Once I started getting together the map information, I discovered that this waterway is mapped as a USGS "blue line" on the topo maps as well as being mapped on the old (mid-1800s) public land survey maps (meaning the waterway has "stream history" of being a stream and not an artificial waterway). With this information, it's typically a safe assumption to assume the waterway likely would meet the navigability definition if we were to wait and conduct a field review. However, you can decide that assuming it's navigable is reasonable and proceed with a Ch 30 permit for a waterway crossing to save time. If you want a field review, we will need to wait until ground conditions improve (less snow/ice cover). If the City would like to move forward with the assumption it's likely navigable, then a Ch 30 permit is needed for plans to construct a crossing of the waterway. Depending on if the City has plans to do the crossing or if the crossing will be left up to individual site developers, the applicant will need to be the landowner owning the banks where the crossing is planned.

If you decide to assume it's likely navigable, you should check with Tom to see what your next steps are for the wetland exemption request specifically for the wetland where a crossing is planned.

If you have questions or if this isn't clear, please let me know and we can talk. At this point, I'll wait for field review until I hear from you that the City wants a field review (rather than making an assumption based on map information).

Thanks!!

We are committed to service excellence.

Visit our survey at <http://dnr.wi.gov/customersurvey> to evaluate how I did.

Crystal von Holdt
Water Management Specialist – Water Division
Wisconsin Department of Natural Resources
2984 Shawano Avenue, Green Bay WI 54313-6727
Phone: (920) 662-5466
Crystal.vonHoldt@wi.gov



From: Nedland, Thomas S - DNR
Sent: Friday, January 15, 2016 1:03 PM
To: Karen Heyrman
Cc: Von Holdt, Crystal L - DNR
Subject: RE: artificial wetland determination

Hi Karen,

I spoke with Crystal this afternoon. Crystal and I are in agreement on the process we think you should follow. As a reminder, here is our suggestion:

1. Determine if the feature is a navigable waterway. If it is navigable, going through the exemption process probably won't be of much benefit.
 - I spoke with Crystal about potential permitting. I encourage you to talk with Crystal about potential permitting options after she completes a navigability determination.
2. If the feature is not navigable, then it may make sense to go through the exemption process. I have briefly looked at the site history, and due to the convoluted site history, I cannot give you a definitive answer regarding how the exemption determination will go. Let's cross that bridge if it is needed.
 - If we get to this point, please give me a call and we can discuss in more detail.

Thanks for contacting us about this project.

Sincerely,

Tom

We are committed to service excellence.

Visit our survey at <http://dnr.wi.gov/customersurvey> to evaluate how I did.

Thomas S Nedland, P.W.S.
Wetland Identification Coordinator
Wisconsin Department of Natural Resources
107 Sutliff Avenue, Rhinelander, WI 54501
Phone: 715-365-8955
Cell Phone: 920-286-3739
Email: Thomas.Nedland@Wisconsin.gov



From: Karen Heyrman [<mailto:kheyрман@mail.de-pere.org>]
Sent: Thursday, January 14, 2016 3:58 PM
To: Nedland, Thomas S - DNR
Subject: RE: artificial wetland determination

Thanks Tom

I appreciate your help.

Karen

From: Nedland, Thomas S - DNR [<mailto:Thomas.Nedland@wisconsin.gov>]
Sent: Thursday, January 14, 2016 3:49 PM
To: Karen Heyrman
Subject: RE: artificial wetland determination

Hi Karen,

Let me do a little more research on this one for you...I don't want you to go through the hassle if the waterway won't qualify...

Thanks,

Tom

We are committed to service excellence.

Visit our survey at <http://dnr.wi.gov/customersurvey> to evaluate how I did.

Thomas S Nedland, P.W.S.
Wetland Identification Coordinator
Wisconsin Department of Natural Resources
107 Sutliff Avenue, Rhinelander, WI 54501
Phone: 715-365-8955
Cell Phone: 920-286-3739
Email: Thomas.Nedland@Wisconsin.gov



From: Karen Heyrman [<mailto:kheyрман@mail.de-pere.org>]
Sent: Thursday, January 14, 2016 3:31 PM
To: Nedland, Thomas S - DNR
Subject: RE: artificial wetland determination

FYI

From: Karen Heyrman
Sent: Thursday, January 14, 2016 1:21 PM
To: 'thomas.nedland@wisconsin.gov'
Cc: Crystal.VonHoldt@wisconsin.gov
Subject: artificial wetland determination

Good afternoon

I left a message for you in December and thought you might be out for the holiday. Today when I phoned using the number on the wetland identification service flyer (920-303-5439) I get a message that this number has been disconnected or is no longer in service. I hope the e-mail is correct.

I would like to discuss, what I believe is an artificial wetland and exempt because it is an associated conveyance feature for a storm water detention basin.

Please contact me at your earliest convenience to discuss.

Karen

Karen Heyrman, P.E.
Assistant City Engineer
City of De Pere
925 S. Sixth Street

De Pere, WI 54115

P 920-339-4072 ext. 2239

M 920-639-1019

F 920-339-4071