

July 26, 2018

EXE-SE-2018-41-02403

Oak Creek Rawson Industrial, LLC.
Attention: Eric Ogden
100 S. Wacker Drive, Suite 950
Chicago, IL 60606

RE: Artificial Wetland Exemption Determination for 9 Separate Delineated Wetlands, located in the SE1/4 of the SW1/4 of Section 05, Township 05 North, Range 22 East, City of Oak Creek, Milwaukee County

Dear Mr. Ogden:

This letter is in response to your request for an artificial wetland exemption determination for the above-mentioned wetlands. The 9 separate wetlands are labelled as only 3 wetlands: W-1, W-2, W-3. Please see the enclosed artificial wetland figure for more detail or for clarification.

According to 281.36 (4n), State Statutes, a landscape feature where hydrophytic vegetation may be present as a result of human modification to the landscape or hydrology and for which no definitive evidence exists showing a prior wetland or stream history before August 1, 1991, may be exempt from state wetland regulations. The following types of artificial wetlands cannot be exempted from state wetland regulation: 1) a wetland that serves as a fish spawning area or that is passage to a fish spawning area and 2) a wetland created as a result of a wetland mitigation requirement. In addition, DNR must also consider whether the artificial wetland is providing significant flood protection to adjacent or downstream properties and infrastructure, and/or significant water quality functions to adjacent or downstream water bodies.

The Department reviewed the following materials to aid in our exemption determination:

- The request narrative
- Historic Maps, including the Original Land Survey Plat, Bordner Survey, multiple USGS topographic Quad map, and pertinent county soil mapping.
- Multiple aerial photographs, including the 1937/8 era photograph.
- Site photographs that show different angles and views of the wetlands in question

Below is a summary of our findings:

Request Narrative

According to the request narrative The Sigma Group, Inc. (Sigma) is submitting this Artificial Wetland Exemption Request, as a follow-up to a conference call held with DNR personnel. Based on that conversation, we concluded that on behalf of our client, Oak Creek Rawson Industrial, LLC (OCRI), that Sigma would submit a wetland exemption request to initiate the approval and associated remediation and redevelopment process associated with this property.

Historic Map Review

- Original Land Survey Plat. The original land survey indicates that there is not waterway or wetland history prior to manipulation of the site.
- Bordner Survey. Bordner surveys are not available for Milwaukee County
- USGS Topographic Quad map: The multiple USGS Quad maps indicate that historically there are not wetlands within the review area, but there are wetlands within the near vicinity.
- Soil Maps: The soil maps indicate moderately well drained soils, and somewhat poorly drained soils. The somewhat poorly drained soils have the potential for wetlands, and typically require some additional information or data collection.

Aerial Photograph Review

- 1937/38 era aerial photograph. The 1937 aerial photograph shows the area as part of what appears to be an agricultural field. There may be some wetness signatures within part of the northern wetland complexes, but there is not definitive evidence. Later aerial photographs indicate that these potential wetness signatures are filled as part of the larger development onsite by 1985 and prior to DNR wetland regulation. Therefore, any wetland history that may or may not have been present prior to 1985 has been removed/lost.
- Prior to 1991 the only noted wetness signature onsite has been associated with the southwestern stormwater conveyance ditch that was likely installed as a stormwater best management practice during initial construction or subsequent expansions onsite. This wetland feature has been in existence prior to 1991, but does not meet a listed exemption under State Administrative Code NR 103. Therefore, that wetland area can be considered for exempt status as well.
- After 1991, most the review area has been manipulated as part of the cleanup efforts taken place on this contaminated property. Soils and structures have been removed, graded, and/or capped as part of the cleanup efforts onsite that appear to have resulted in the creation of artificial wetlands.

Site Photographs

The site photographs show that the wetland areas identified as part of the exemption request to be landscape features where hydrophytic vegetation may be present as a result of human modification to the landscape or hydrology and for which no definitive evidence exists showing a prior wetland or stream history before August 1, 1991.

Conclusion:

- **Based upon the information provided above, all wetland areas identified on the enclosed artificial wetland figure lacked a wetland history prior to August 1, 1991 or are considered for exemption under NR 103 State Administrative Code. Therefore, these wetland areas fulfill all artificial wetland exemption standards, and are exempt from state wetland regulations.**

This letter describes DNR's decision regarding the jurisdictional status of all the wetlands identified onsite and is only valid for state jurisdictional purposes. For decisions regarding the federal jurisdictional status of the wetlands, you will need to contact the U.S. Army Corps of Engineers. The U.S. Army Corps of Engineers contact for Milwaukee County is April Marcangeli. April Marcangeli can be reached at (651) 290-5731 or by email at april.n.marcangeli@usace.army.mil.

If you have any questions about this determination, please contact me at (715) 839-1638 or email Travis.Holte@wisconsin.gov.

Sincerely,

A handwritten signature in black ink, appearing to read 'TH', written over a horizontal line.

Travis Holte
Wetland Exemption Specialist

Enclosures: Project Location Figure, Artificial Wetland Figure

CC (via email):

April Marcangeli, U.S. Army Corps of Engineers

Pete Wagner, City of Oak Creek

Linda Michalets & Margarete Brunette, WDNR Remediation and Redevelopment

Josh Weid & James Brodzeller, DNR Water Management Specialist

Joshua Neudorfer, The Sigma Group, Inc.

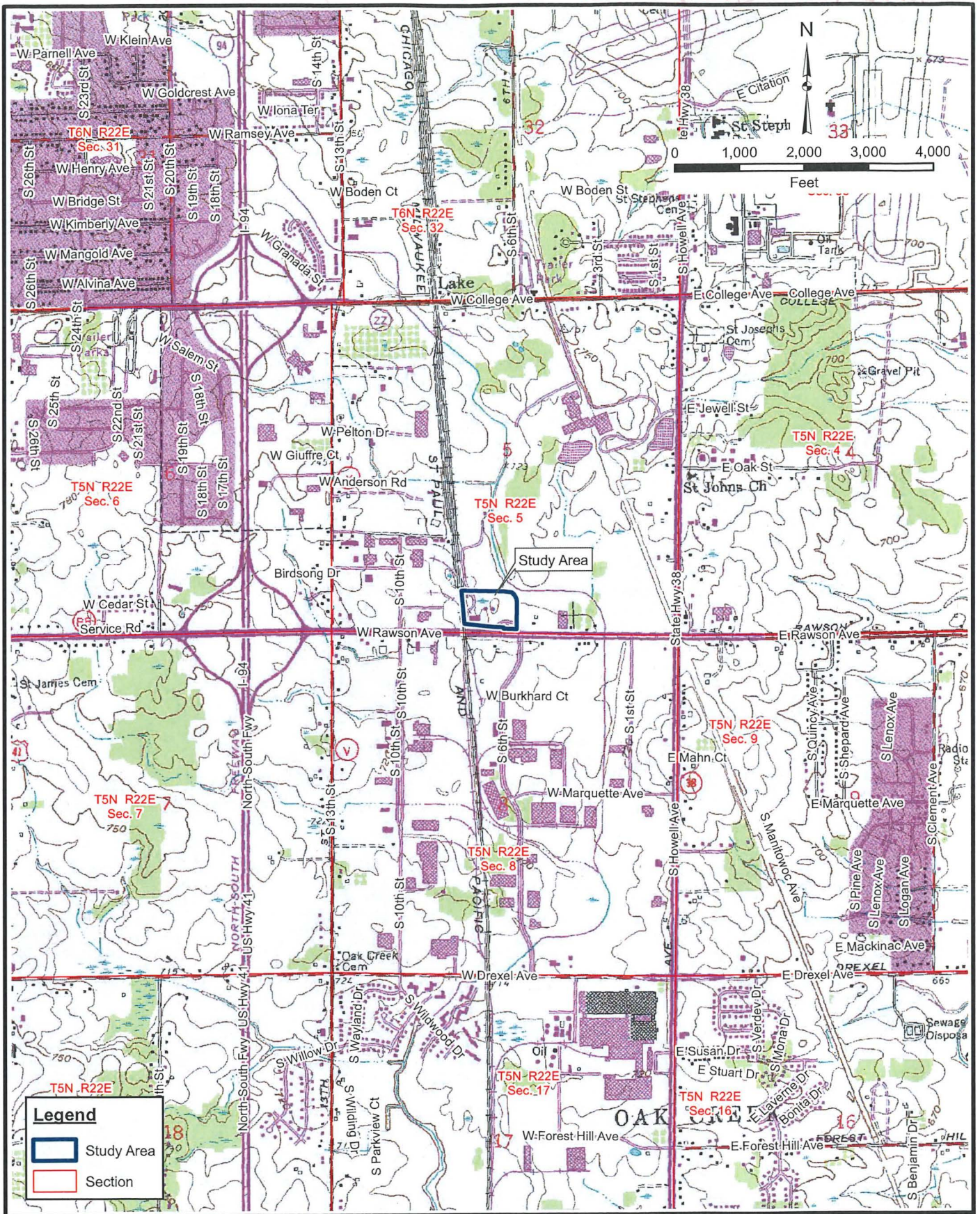


FIGURE 1
PROJECT LOCATION MAP

6th St. and Rawson Ave.
City of Oak Creek
Milwaukee County, Wisconsin

All wetlands identified within the study area have been found to be exempt from state wetland permit requirements 7/26/18
 7/21

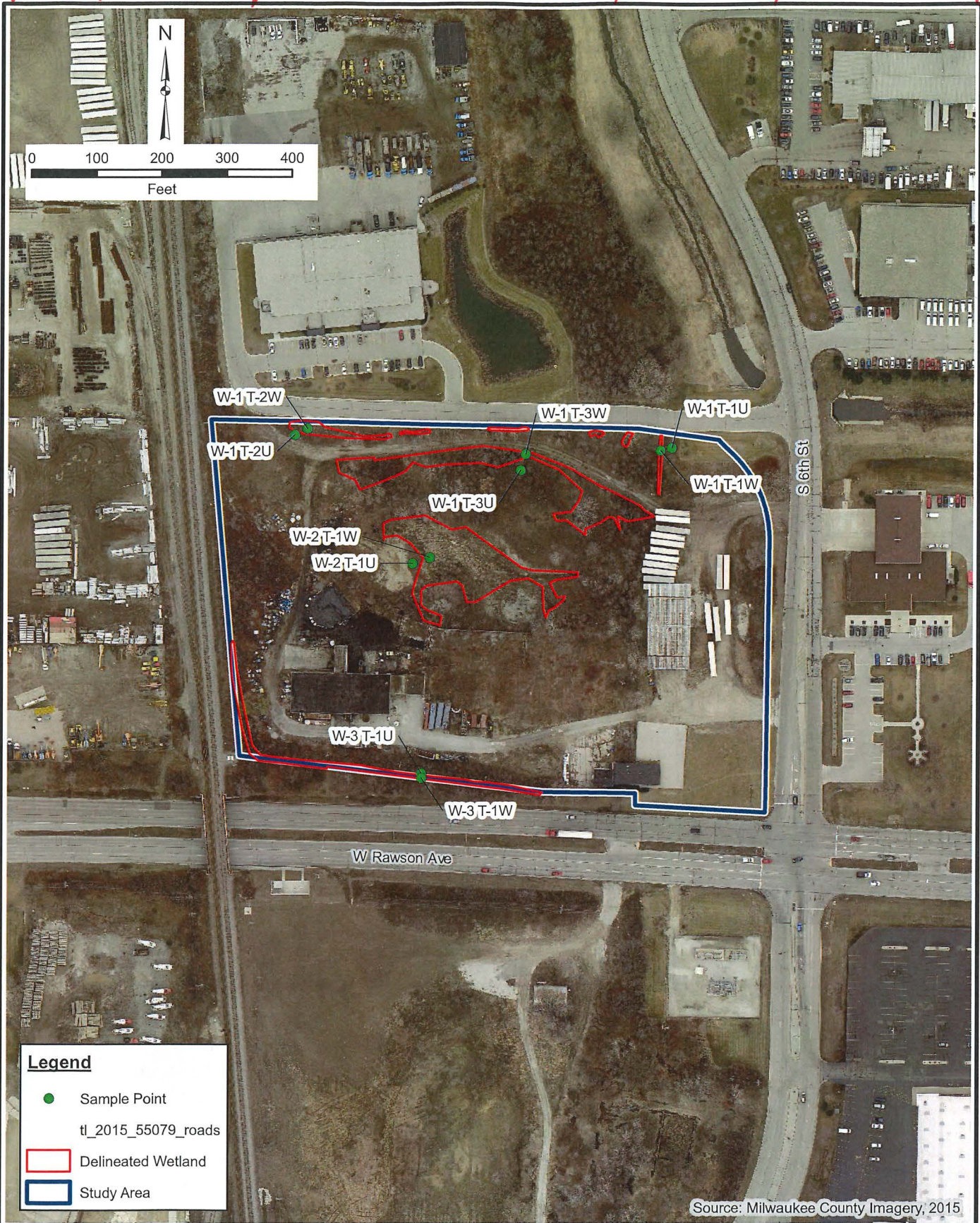


FIGURE 2
 STUDY AREA LIMITS

6th St. and Rawson Ave.
 City of Oak Creek
 Milwaukee County, Wisconsin