

Artificial Wetland Exemptions Requests



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Importance of Documentation

Artificial Wetland

a landscape feature where hydrophytic vegetation may be present as a result of human modifications to the landscape or hydrology and for which there is no prior wetland or stream history



Importance of Documentation

Sets limits and extent of state jurisdiction

NR 103.06(4) – Artificial Wetland Exemptions

A person who proposes a project that may affect an artificial wetland shall notify the department at least 15 working days prior to initiating the project...

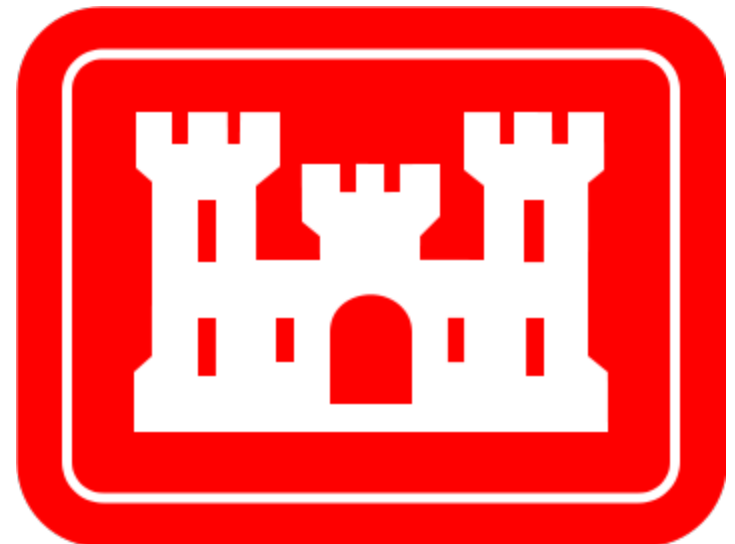
...the following artificial wetlands are exempt from the provisions of this chapter unless the department notifies the applicant... that the artificial wetland has significant functional values...



NR 103 Exemptions

Only applicable for state of Wisconsin decisions.


USACE has separate decision making process.





What Wetlands are Exempt under the Administrative Code?

- A narrowly defined set of artificial wetlands spelled out in NR 103.06 (4) of Wisconsin Administrative Code.



(4) EXEMPTIONS. A person who proposes a project that may affect an artificial wetland shall notify the department at least 15 working days prior to initiating the project. For purposes of this chapter, the following artificial wetlands are exempt from the provisions of this chapter unless the department notifies the applicant within 15 working days from when the department receives notice of the proposed project from the applicant that the artificial wetland has significant functional values or uses under s. [NR 103.03 \(1\) \(e\)](#), [\(f\)](#) or [\(g\)](#):

[NR 103.06\(4\)\(a\)](#) (a) Sedimentation and stormwater detention basins and associated conveyance features operated and maintained only for sediment detention and flood storage purposes;

[NR 103.06\(4\)\(b\)](#) (b) Active sewage lagoons, cooling ponds, waste disposal pits, fish rearing ponds and landscape ponds.

[NR 103.06\(4\)\(c\)](#) (c) Actively maintained farm drainage and roadside ditches.

[NR 103.06\(4\)\(d\)](#) (d) Artificial wetlands within active nonmetallic mining operations.



DNR Exemption Process

DNR process for determining exemptions

1. Is the feature “artificial” *(a landscape feature where hydrophytic vegetation may be present as a result of human modifications to the landscape or hydrology and for which there is no prior wetland or stream history)*
2. Does it meet one of the listed exemptions
3. Does it provide significant functional values related to
 - a) Aquatic organism habitat
 - b) Other wildlife habitat
 - c) Recreational, cultural, educational, scientific, or natural scenic beauty



Consultant Process

Provide agencies information showing:

1. Proof of Wetland's Artificial Nature (Soil Mapping, Bordner Survey, Original Land Surveys, Historic Air Photo Review, Wetland Delineation Report(s), Etc.)
2. Is the Area listed under NR 103.06 (4) for Consideration as an Artificial Wetland?
3. Information to Submit regarding the Wetland's Exempt Status (Construction plans, Maintenance plans, Prior permit approvals, Previous agency correspondence, Material records to "tell the story" of the site and/or wetland, Etc.)



Complications and Unique Scenarios

Common themes and/or information lacking within Artificial Wetland Exemption Requests

Department Thoughts

Audience Thoughts



Department Thoughts

- Documentation of “conveyance feature”
- What is active and actively maintained (better documentation or understanding of the landowners past interaction/history/maintenance of the area in question)
- Farm drainage ditch dimensions and records of installation/size (documenting that this is a farm drainage ditch and not a low spot, depressional area, or a vegetated buffer strip)
- Documenting removal of wetland history (tiling, filling, grading, etc. and associated dates, plans, maps, etc.)

Audience Thoughts?

- What can we do to help tell the history/story of the area?
- What problems are you finding in discovery/documentation?



Final Department Thoughts

- The key seems to be making the case that, the area in question, does not have wetland history, backed up with documentation that the area meets a listed exemption in NR 103.06 (4).
- The case should be made that this wetland is artificial, and that it is listed under NR 103.06 (4) with proper documentation. The inability to build the case typically results in longer Department review time to process the exemption request.

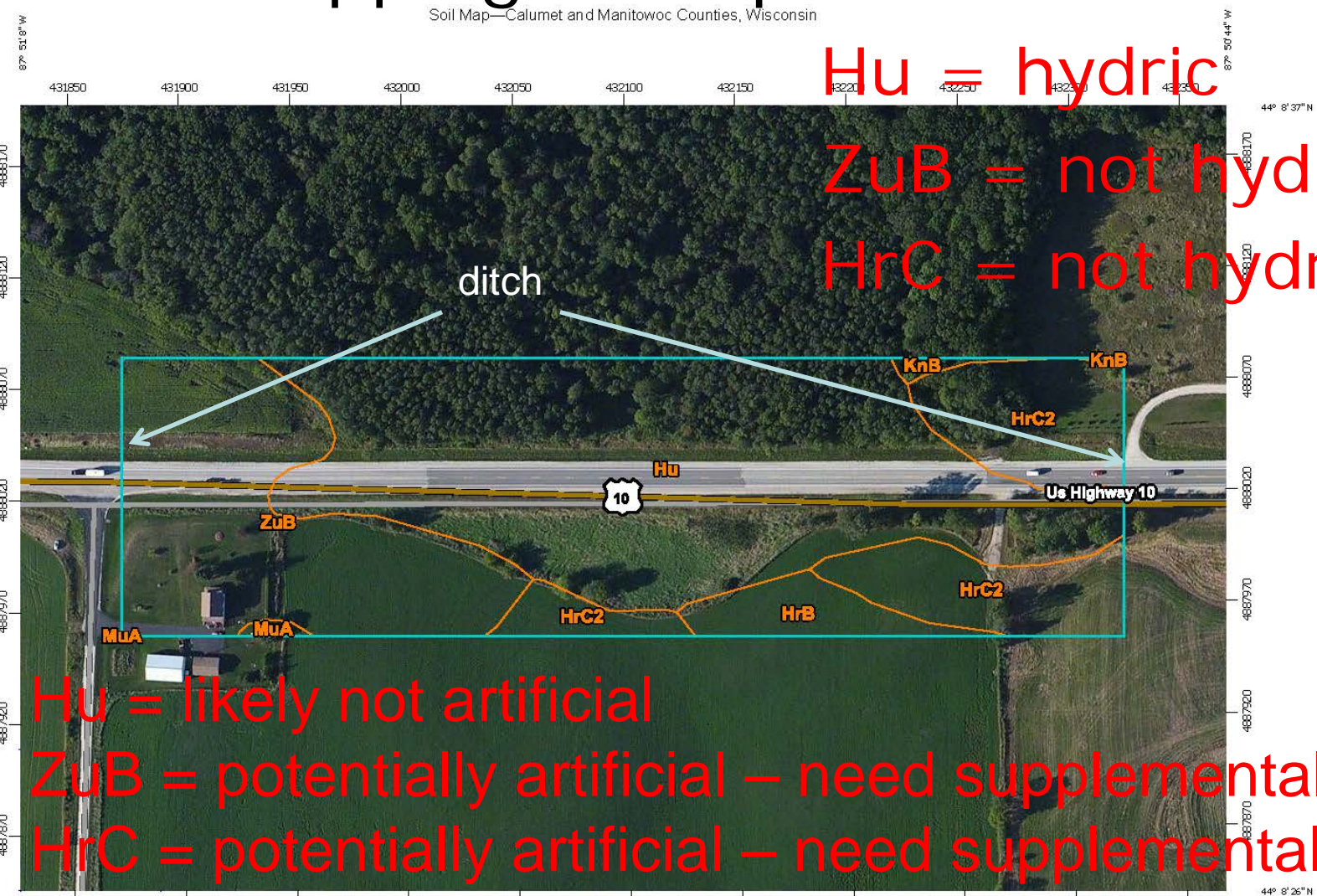


Wetland History Example?

DNR Review Process- artificial

Soil Mapping Example

Soil Map—Calumet and Manitowoc Counties, Wisconsin



Hu = hydric

ZuB = not hydric

HrC = not hydric

Hu = likely not artificial

ZuB = potentially artificial – need supplemental info

HrC = potentially artificial – need supplemental info

DNR Review Process- artificial

Supplemental Information – Original Survey

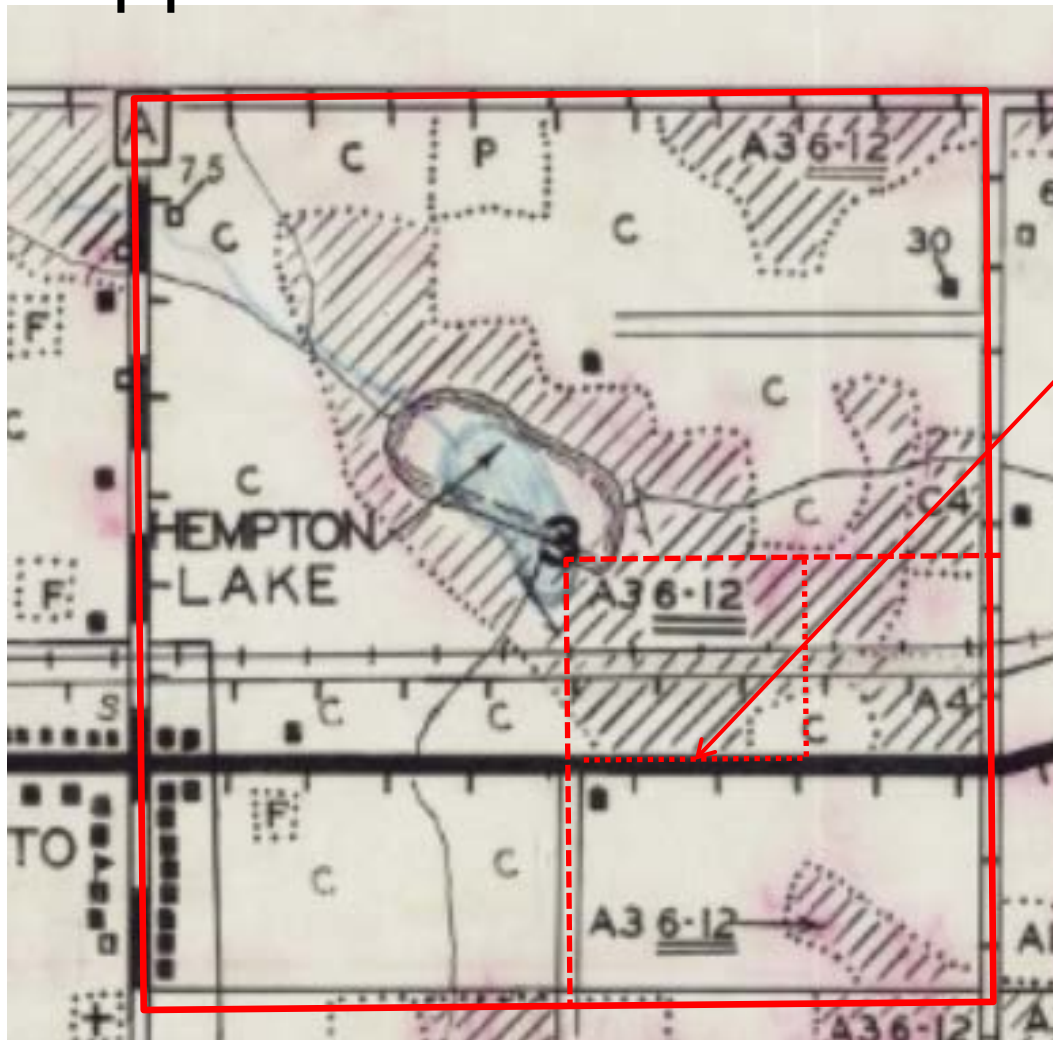


Not mapped as swamp or marsh on original land survey.

Does that mean area lacks wetland history?

DNR Review Process- artificial

Supplemental Information – Bordner Survey



Mapped as A3 6-12.

- Swamp Hardwoods
- 6-12 inch DBH
- Hatch = Lowland Forest

Represents landuse from 1938



DNR Review Process - artificial

Supplemental Information – Historic Aerials



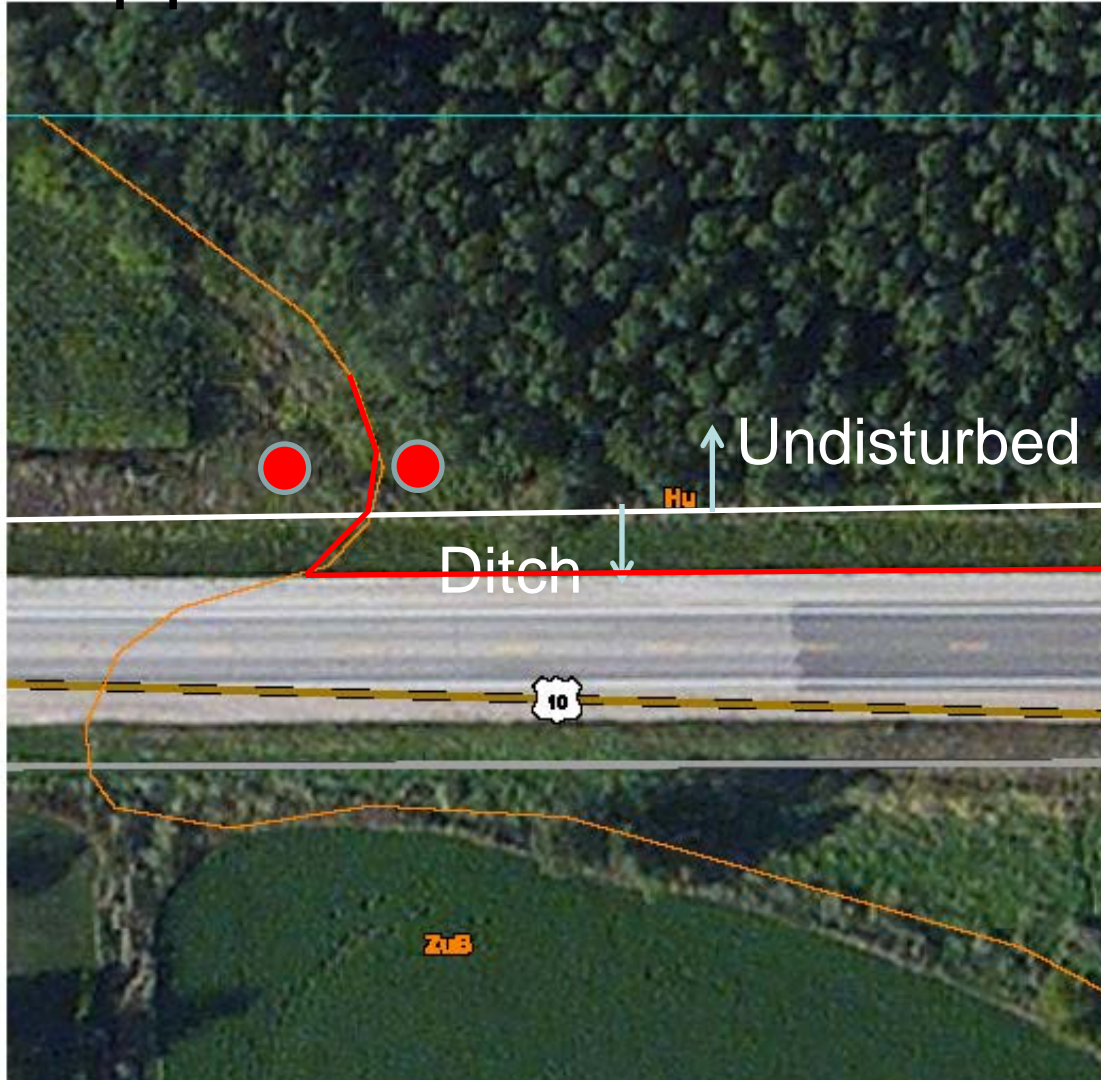
Represents conditions
from 1938

Verifies Bordner
Survey

Information to Submit - artificial

Soil Map—Calumet and Manitowoc Counties, Wisconsin
Map sheet 2 of 5

Supplemental Information – Field Data



Soil Profiles
helpful for
determining
wetland history

Example:
Assume muck in
wetland
Assume non-
hydic in upland



DNR Review Process - artificial

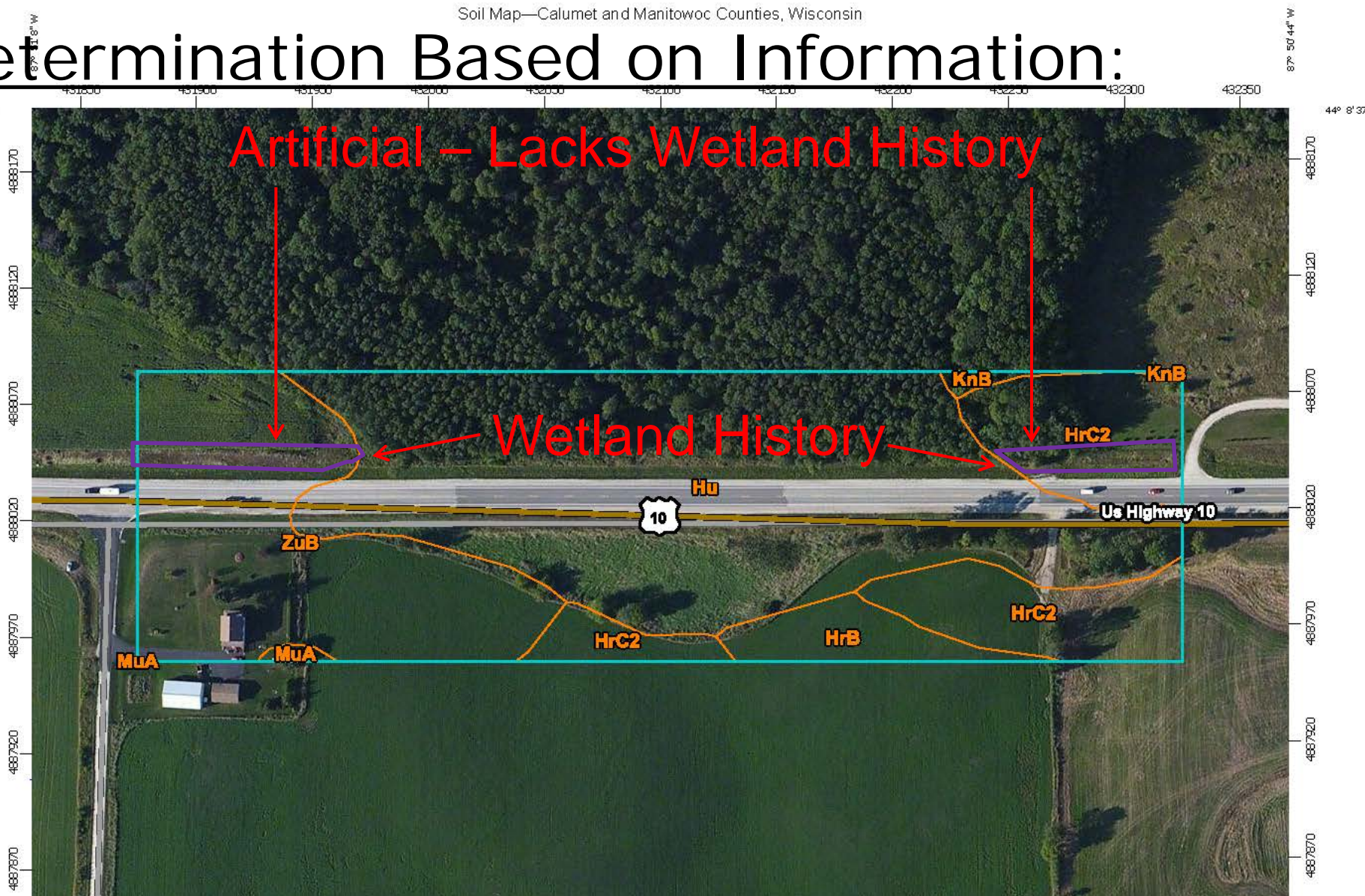
What is the preponderance of information:

1. Soil Mapping: shows a wetland history for part of area
2. Original Land Survey: Shows no indication of wetland history
3. Bordner Suvey: Shows a wetland history for part of area
4. Historic Aerial: Shows a wetland history for part of area
5. Field Data: Soil profiles show a wetland history for part of area

DNR Review Process- artificial

Soil Map—Calumet and Manitowoc Counties, Wisconsin

Determination Based on Information:





Common Resources

- County GIS Servers and Mapping Applications (great for aerial photo reviews)
- USDA Web Soil Survey (almost everyone is using this or something similar for submittal and wetland delineations)
- Wisconsin Public Land Survey Records:
<http://digicoll.library.wisc.edu/SurveyNotes/>
- Wisconsin Bordner Survey Maps:
<https://uwdc.library.wisc.edu/collections/econatres/wilandinv/>
- Wisconsin Historic Aerial Image Finder (great resource for 1937 or 1938 air photos): <http://maps.sco.wisc.edu/WHAIFinder/>
- USGS Earth Explorer (great resource for historic air photos):
<https://earthexplorer.usgs.gov/>