

APPROVED JURISDICTIONAL DETERMINATION FORM
U.S. Army Corps of Engineers

This form should be completed by following the instructions provided in Section IV of the JD Form Instructional Guidebook.

SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): April 20, 2018

B. ST PAUL, MN DISTRICT OFFICE, FILE NAME, AND NUMBER: Village of Sussex, Good Hope Road reconstruction, 2018-00730-MHK (Ditch A, Ditch H/I)

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: WI County/parish/borough: Waukesha City: Sussex

Center coordinates of site (lat/long in degree decimal format): Lat. 43.148323° N, Long. -88.216439° E.

Universal Transverse Mercator: Zone 16 (X 401088.368749, Y 4778004.137126)

Name of nearest waterbody: tributary to the Fox River

Name of watershed or Hydrologic Unit Code (HUC): Upper Mississippi Region (07120006)

☒ Check if map/diagram of review area and/or potential jurisdictional areas is/are available upon request.

☐ Check if other sites (e.g., offsite mitigation sites, disposal sites, etc...) are associated with this action and are recorded on a different JD form.

D. REVIEW PERFORMED FOR SITE EVALUATION (CHECK ALL THAT APPLY):

☒ Office (Desk) Determination. Date: April 19, 2018

☐ Field Determination. Date(s):

SECTION II: SUMMARY OF FINDINGS

A. RHA SECTION 10 DETERMINATION OF JURISDICTION.

There are no “*navigable waters of the U.S.*” within Rivers and Harbors Act (RHA) jurisdiction (as defined by 33 CFR part 329) in the review area.

B. CWA SECTION 404 DETERMINATION OF JURISDICTION.

There are no “*waters of the U.S.*” within Clean Water Act (CWA) jurisdiction (as defined by 33 CFR part 328) in the review area.

1. **Waters of the U.S.:** N/A

2. **Non-regulated waters/wetlands (check if applicable):**¹

- ☒ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional. Explain: **The review area contains two roadside ditches (Ditch A and Ditch H/I) as shown on the enclosed figures labeled MVP-2018-00730-MHK Page 1 through 2. (Note that Ditch A contains an aquatic resource identified as Wetland A while Ditch H/I contains aquatic resources identified as Wetland H and I in the delineation report.) Per review of the Thompson & Associates Wetland Delineation Report and aerial photos, both roadside ditches were constructed wholly in uplands and drain only uplands. Site photos in the delineation report and Google Earth Street View indicate that these ditches do not have a relatively permanent flow of water. These ditches are not waters of the U.S. The determination of no jurisdiction is in accordance with the 2008 Rapanos Guidance.**

SECTION III: CWA ANALYSIS

A. TNWs AND WETLANDS ADJACENT TO TNWs: N/A

B. CHARACTERISTICS OF TRIBUTARY (THAT IS NOT A TNW) AND ITS ADJACENT WETLANDS (IF ANY): N/A

C. SIGNIFICANT NEXUS DETERMINATION: N/A

D. DETERMINATIONS OF JURISDICTIONAL FINDINGS. THE SUBJECT WATERS/WETLANDS ARE (CHECK ALL THAT APPLY): N/A

E. ISOLATED [INTERSTATE OR INTRA-STATE] WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE, INCLUDING ANY SUCH WATERS (CHECK ALL THAT APPLY): N/A

¹ Supporting documentation is presented in Section III.F.

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS (CHECK ALL THAT APPLY):

- ☐ If potential wetlands were assessed within the review area, these areas did not meet the criteria in the 1987 Corps of Engineers Wetland Delineation Manual and/or appropriate Regional Supplements.
- ☐ Review area included isolated waters with no substantial nexus to interstate (or foreign) commerce.
 - ☐ Prior to the Jan 2001 Supreme Court decision in "SWANCC," the review area would have been regulated based solely on the "Migratory Bird Rule" (MBR).
- ☐ Waters do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction. Explain:
- ☒ Other (explain, if not covered above): **Ditch A (approximately 0.01 acre in size) and Ditch H/I (approximately 0.32 acre in size) are not waters of the U.S. pursuant to the 2008 Rapanos Guidance.**

Provide acreage estimates for non-jurisdictional waters in the review area, where the sole potential basis of jurisdiction is the MBR factors (i.e., presence of migratory birds, presence of endangered species, use of water for irrigated agriculture), using best professional judgment (check all that apply):

- ☐ Non-wetland waters (i.e., rivers, streams): linear feet width (ft).
- ☐ Lakes/ponds: acres.
- ☐ Other non-wetland waters: acres. List type of aquatic resource: .
- ☐ Wetlands: acres.

Provide acreage estimates for non-jurisdictional waters in the review area that do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction (check all that apply):

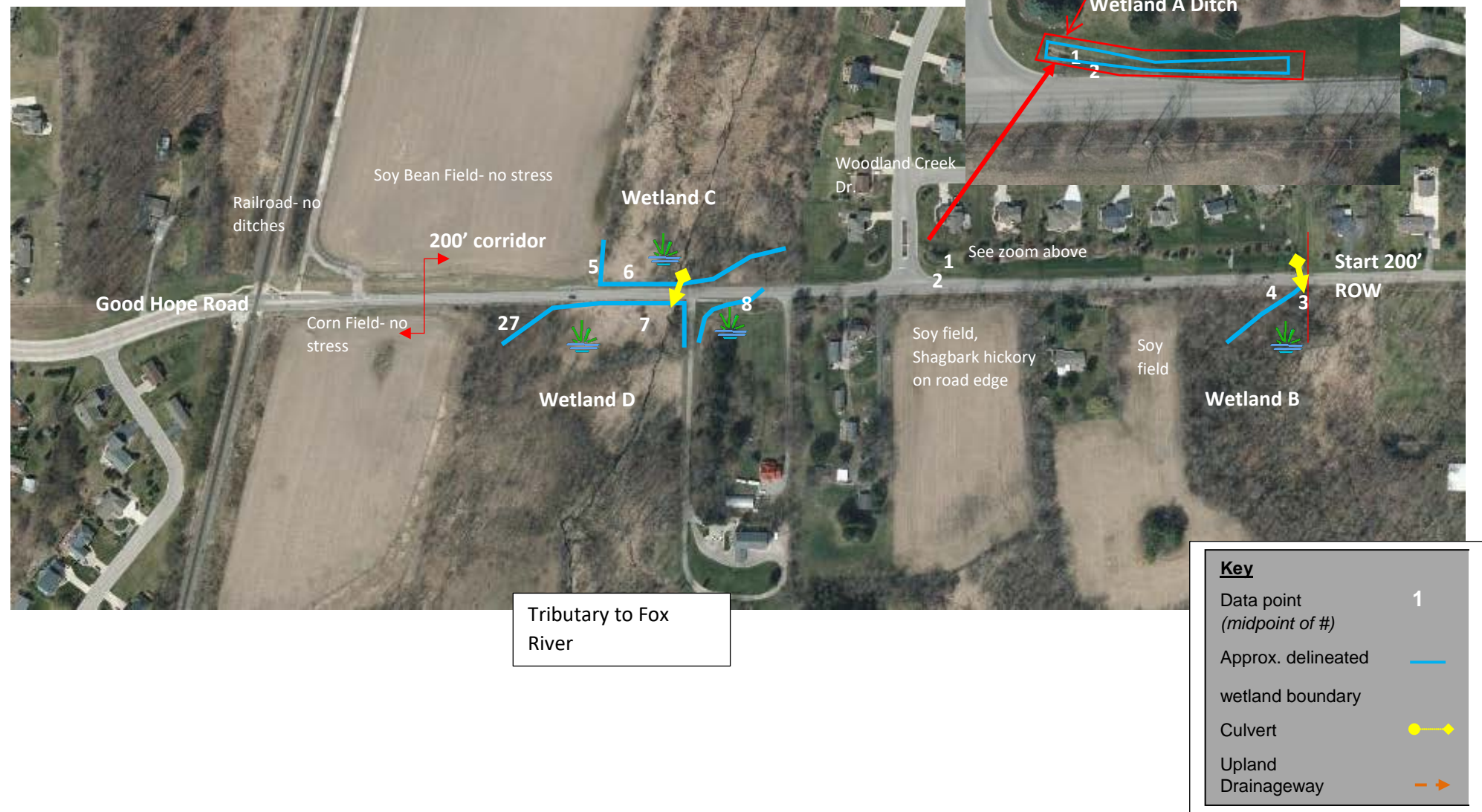
- ☐ Non-wetland waters (i.e., rivers, streams): linear feet, width (ft).
- ☐ Lakes/ponds: acres.
- ☐ Other non-wetland waters: acres. List type of aquatic resource: .
- ☐ Wetlands: acres.

SECTION IV: DATA SOURCES.

A. SUPPORTING DATA. Data reviewed for JD (check all that apply - checked items shall be included in case file and, where checked and requested, appropriately reference sources below):

- ☒ Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant: **Thompson & Associates wetland delineation report & addendum 2017**
- ☒ Data sheets prepared/submitted by or on behalf of the applicant/consultant.
 - ☐ Office concurs with data sheets/delineation report.
 - ☐ Office does not concur with data sheets/delineation report.
- ☐ Data sheets prepared by the Corps:
- ☐ Corps navigable waters' study:
- ☒ U.S. Geological Survey Hydrologic Atlas:
 - ☒ USGS NHD data.
 - ☐ USGS 8 and 12 digit HUC maps.
- ☒ U.S. Geological Survey map(s). Cite scale & quad name: **1:24K WI-Sussex**
- ☒ USDA Natural Resources Conservation Service Soil Survey. Citation: **Waukesha County**
- ☐ National wetlands inventory map(s). Cite name:
- ☒ State/Local wetland inventory map(s): **Wisconsin Wetland Inventory**
- ☐ FEMA/FIRM maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☒ Photographs: ☒ Aerial (Name & Date): **ground level photos and 2015 NAIP photos in 2017 delineation report**
or ☒ Other (Name & Date): **Google Earth Street View**
- ☐ Previous determination(s). File no. and date of response letter:
- ☐ Applicable/supporting case law:
- ☐ Applicable/supporting scientific literature:
- ☐ Other information (please specify):

B. ADDITIONAL COMMENTS TO SUPPORT JD:



Project Area outlined in red

Source: Waukesha County
GIS 2015 aerial

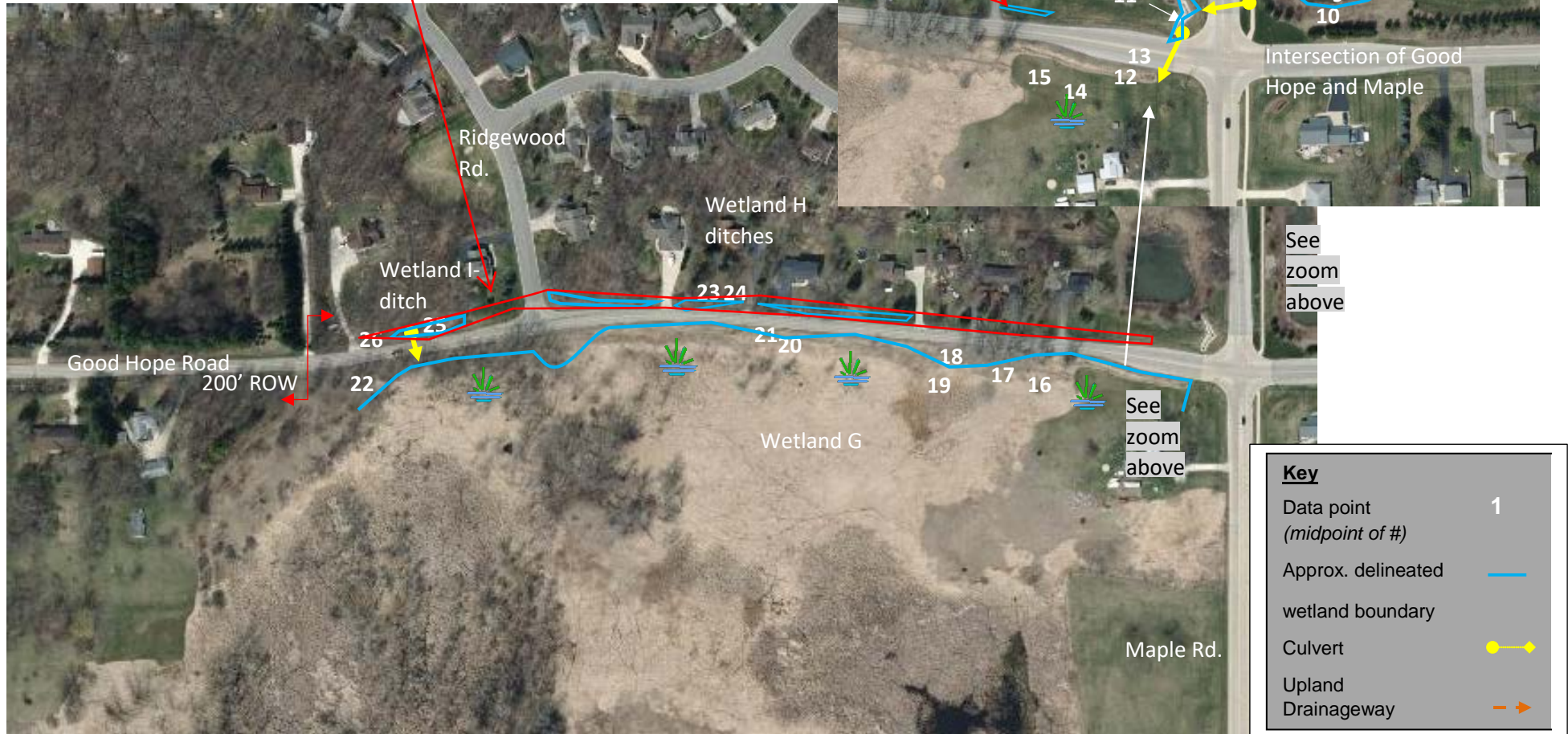


Good Hope Road Reconstruction Data Point Locations and Site Overview

Figure 6 East

note: this is also identified as Wetland H and is included within the Roadside ditch H/I review area

Roadside ditch H/I



Project Area outlined in red

Source: Waukesha County GIS
2015 aerial



Good Hope Road Reconstruction- 200' Road Corridor

Data Point Locations and Site Overview

Figure 6 West