



JUNCTION
BETWEEN
CH30/NR340 &
CH295/NR135 FOR
RECLAMATION

OCTOBER 30, 2025

AGENDA AND GOALS FOR TODAY

- INTRODUCTIONS
- REVIEW JURISDICTIONS BETWEEN RECLAMATION AUTHORITIES
 - WHAT IS A POND?
 - EXAMPLE SCENARIOS
 - WHEN TO APPLY FOR A CH. 30 PERMIT
 - PERMIT LIFESPANS, PROCESS AND FINANCIAL ASSURANCE
- TIMELINE – HOW DID WE GET HERE?
 - ENGAGEMENT EFFORTS
- COORDINATION, CONSISTENCY AND COMMUNICATION
- RESOURCES AVAILABLE
- QUESTIONS?



WATERWAYS & WETLANDS WATER MANAGEMENT SPECIALIST (WMS) MINING EXPERT LANE LOVELAND

November 2021 – New WW Position –
Waterways Mining Expert

Promote consistency across the state

Collaboration with regulatory partners (WI
Counties/Regional Planning Commissions)

Seek increased future efficiencies





INTEGRATION SERVICES – NONMETALLIC MINE RECLAMATION COORDINATOR

ROBERTA WALLS

- STATEWIDE RECLAMATION COORDINATOR SINCE 2018
- OVERSIGHT TO COUNTY AND LOCAL RECLAMATION AUTHORITIES (RA)
- CONDUCT AUDITS FOR UNIFORM STATEWIDE ADMINISTRATION OF NR135
- TRAINING TO NEW RA STAFF

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NONMETALLIC MINE RECLAMATION JURISDICTION AUTHORITY

Wis Stats Ch. 295
NR135 Wis. Adm. Code

County/Municipality
Administered

Exempt if Ch 30 waterway
authority exists
(in part or in whole)

Wis Stats Ch. 30

DNR Administered

NR340 Wis Adm. Code
Applies to Chapter 30
NMM permits.

CHAPTER 30 COVERS MANY DIFFERENT ACTIVITIES. A FEW MINING RELATED EXAMPLES INCLUDE:

Creation of a pond within 500 feet of, or connected to, a navigable water under s. 30.19(1g)(a) and (am), Wis. Stats.

Changing the course or straightening a navigable stream under s. 30.195, Wis. Stats.

Dredging or the removal of material from the bed of a navigable stream or lake under s. 30.20, Wis. Stats;



WATERWAY JURISDICTION DETERMINATIONS

- WDNR
- KEYWORD - NAVIGABILITY



WATERWAY JURISDICTION DETERMINATIONS

DNR AND LOCAL GOVERNMENT JURISDICTION

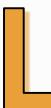
Navigable Waterway - A navigable waterway is defined through case law as any waterway that has a defined bed and bank, and on which it is possible to float a canoe or small watercraft on a recurring basis.

Ordinary High Water Mark - The Ordinary High Water Mark (OHWM) is defined through case law as the point on the bank or shore of a waterway up to which the presence and action of the water is so continuous as to leave a distinct mark either by erosion, destruction of terrestrial vegetation or other easily recognized characteristic.

DNR Jurisdiction (Below the OHWM) - The DNR Waterways Program, under the public trust doctrine and state statute, has jurisdiction over permitting for projects that propose impacts in navigable waterways below the OHWM. This includes pier placement, shoreline erosion control structures, dredging, and other projects.

Local Government Jurisdiction (Above the OHWM) - Local governments, including counties, cities, villages, and towns make their own navigability and ordinary high water mark determinations to implement their shoreland zoning ordinances. For projects with proposed impacts above the OHWM, contact your [local zoning office \[exit DNR\]](#) to determine if a permit application is necessary.

- See the [Navigability Factsheet \[PDF\]](#) to learn how to identify navigable waterways.
- See the [OHWM Factsheet \[PDF\]](#) to learn how to locate the OHWM on a waterway.
- See a [DNR recorded training video for Waterway Determinations](#).
- See [Waterways Permitting Process](#) to review waterways permit options.

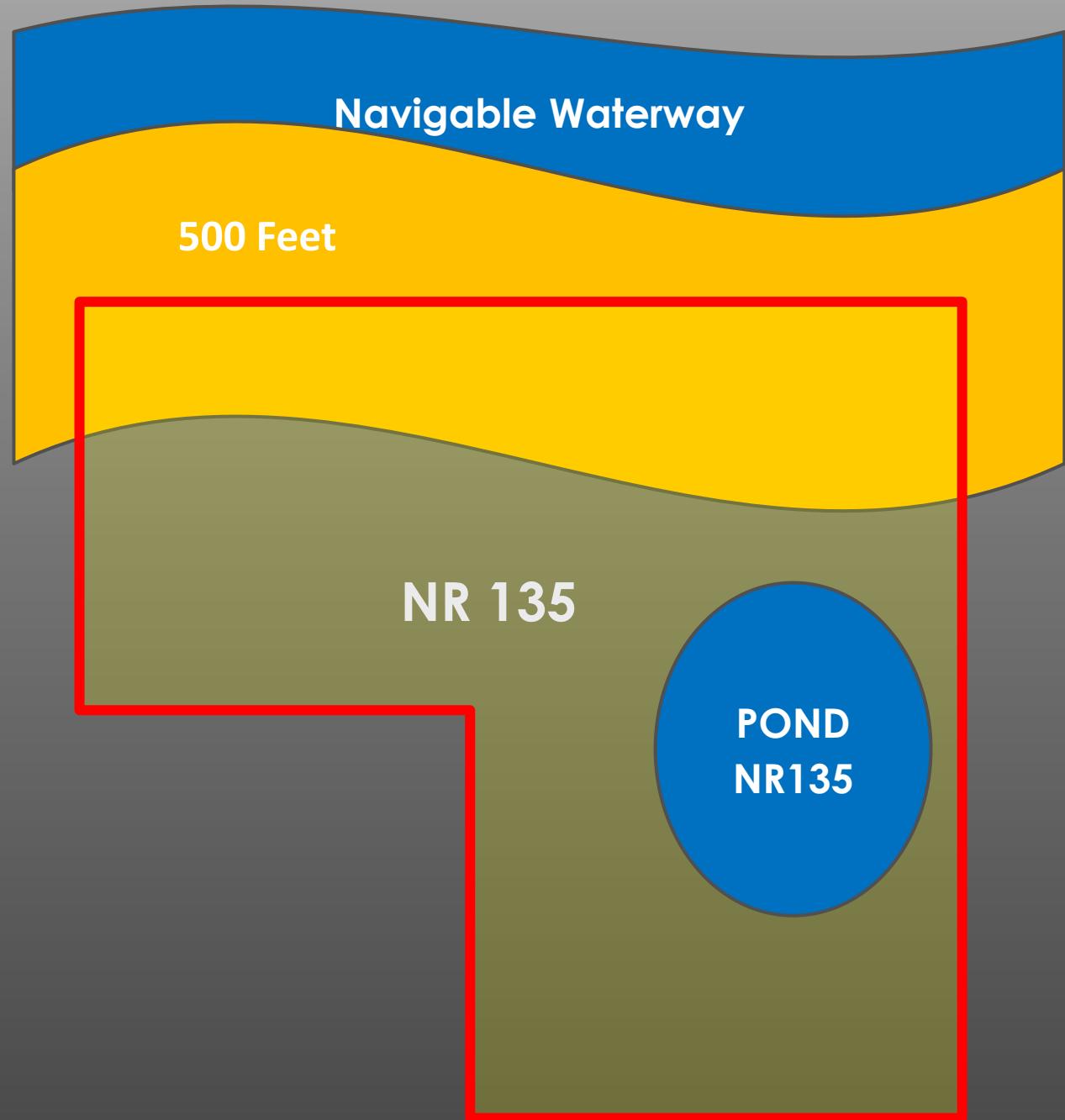




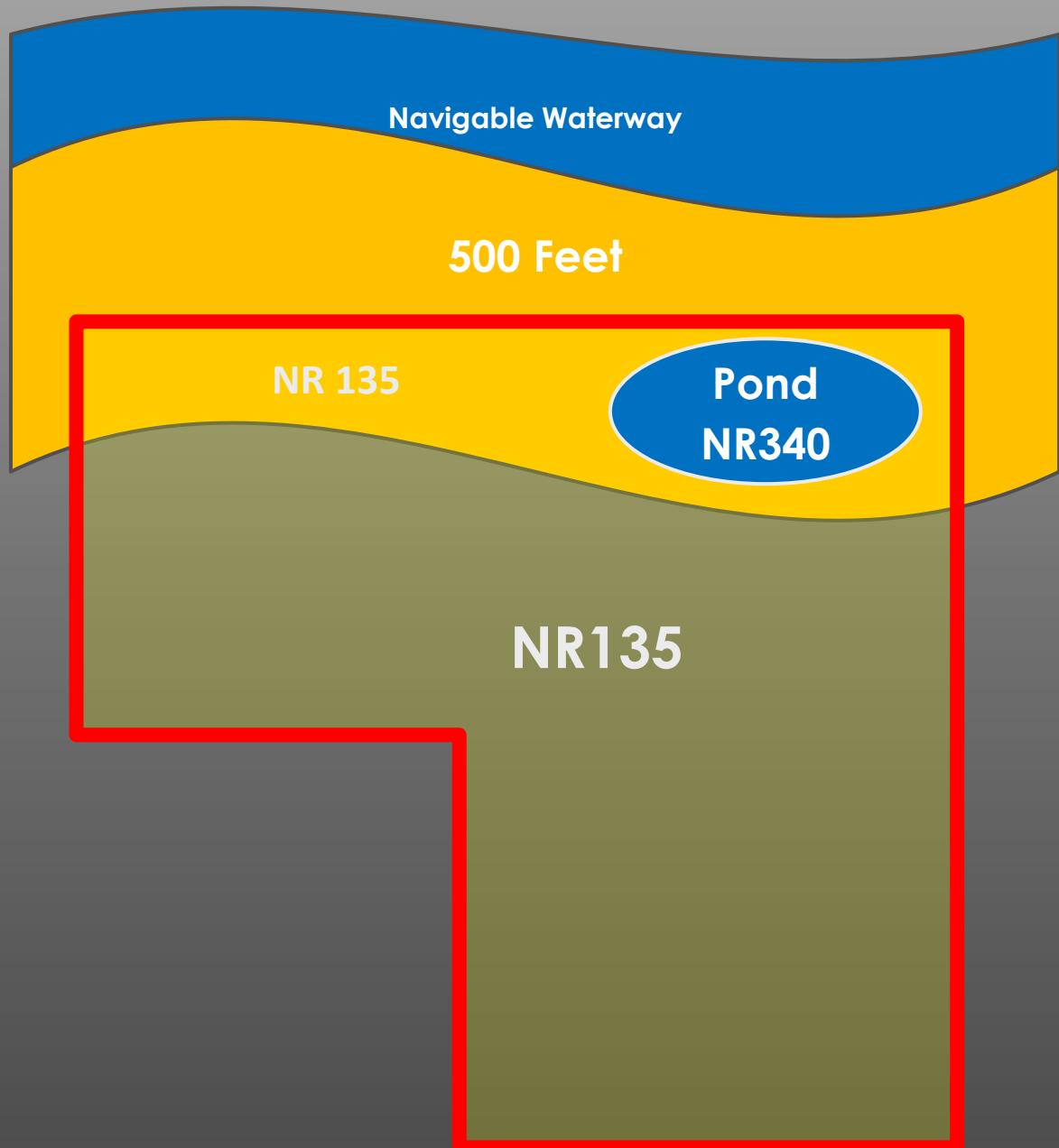
WHAT IS A POND?

- 30.19(1b)(a) – “Artificial Water body” Definition means a body of water that does not have a history of being a lake or stream or of being part of a lake or stream. Basically – any body of water that was not there before
- 30.19 – ENLARGEMENT AND PROTECTION OF WATERWAYS

Example # 1 NR135



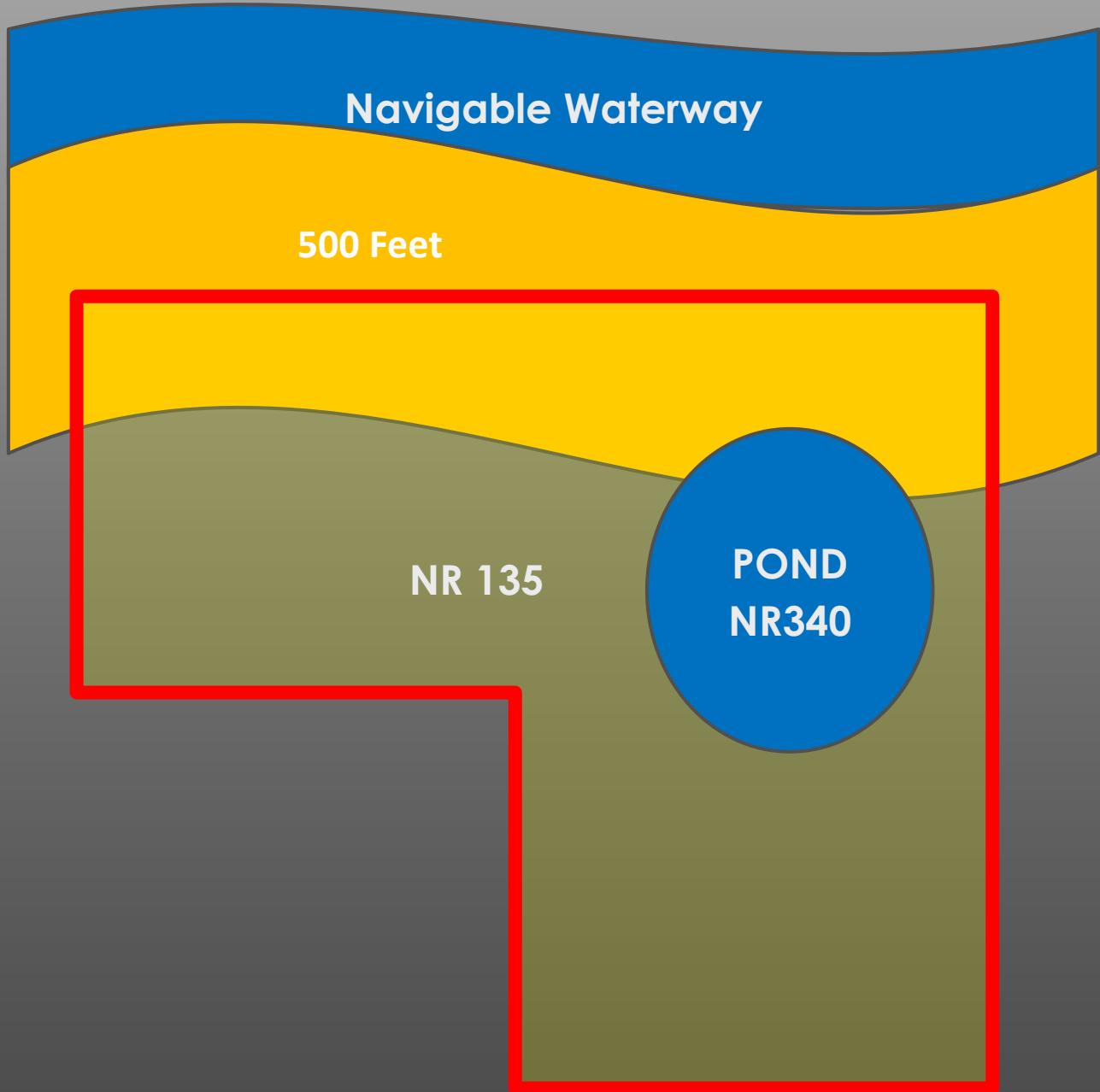
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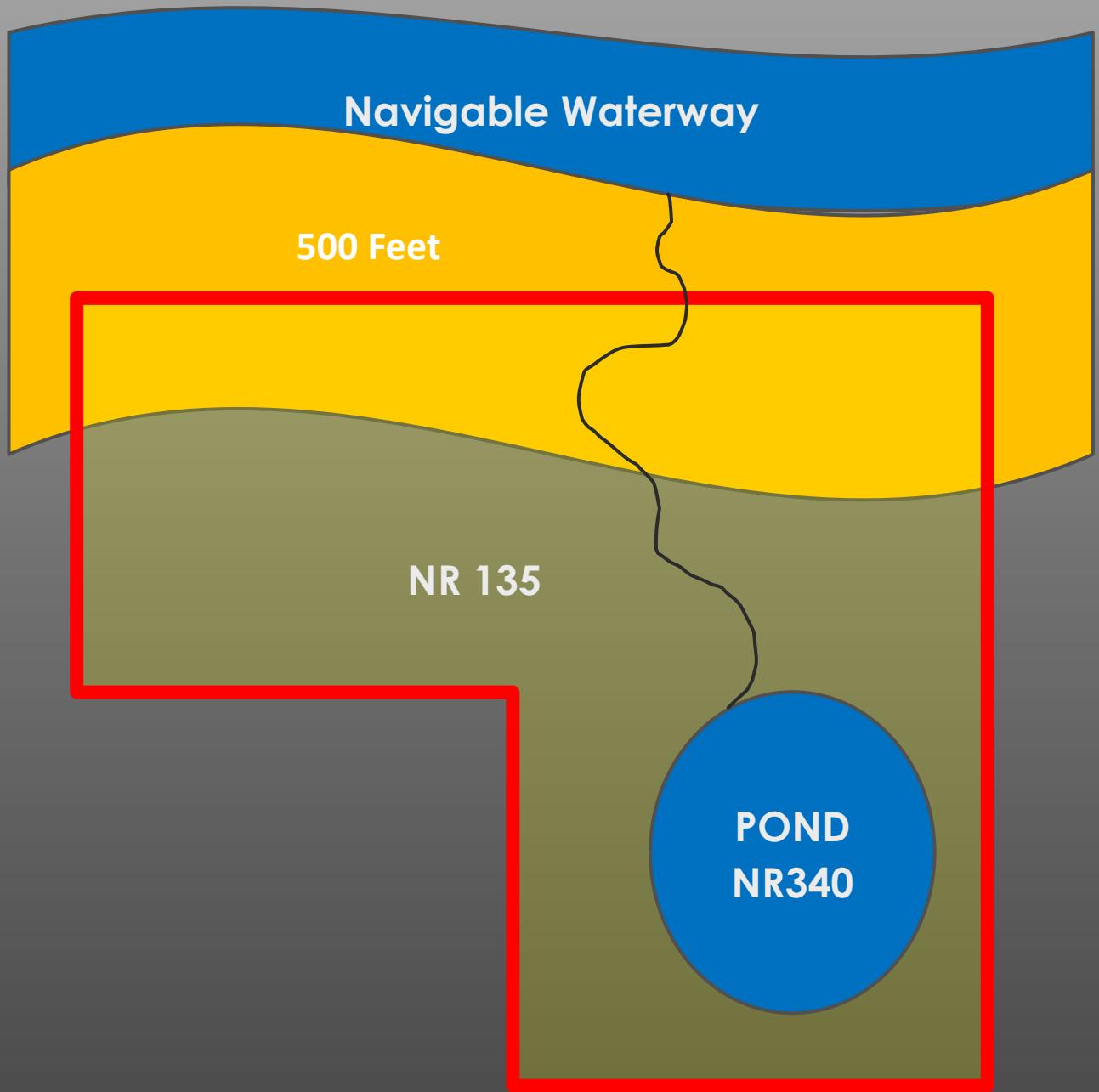
Example # 2
Ch. 30/NR340

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Example # 3 ?



Example # 4 ?



WHEN TO APPLY FOR A CH. 30 PERMIT?

QUESTIONS TO ASK:

- WILL MINING INTEND TO CREATE A POND?
- WHEN WILL POND BE CREATED?
- IS WATER PERSISTENT? (IN GROUNDWATER?)
- ARE YOU DEWATERING?

CONSIDERATIONS:

- EVENTUALLY THERE WILL BE A POND, BUT MAYBE NOT REACHING GROUNDWATER TABLE FOR 10-20 YEARS.
- CH 30 PERMIT LIFESPAN (8-YEAR MAX)
- SUPPLY AND DEMAND (CESSATION, PROJECT NEEDS ETC.)

CONCLUSION – A SITE MAY BE PERMITTED UNDER NR135 (COUNTY RECLAMATION PERMIT) UNTIL READY TO OBTAIN A CH 30 RECLAMATION PERMIT.



NR135 Reclamation



NR340 Reclamation



Changing Conditions



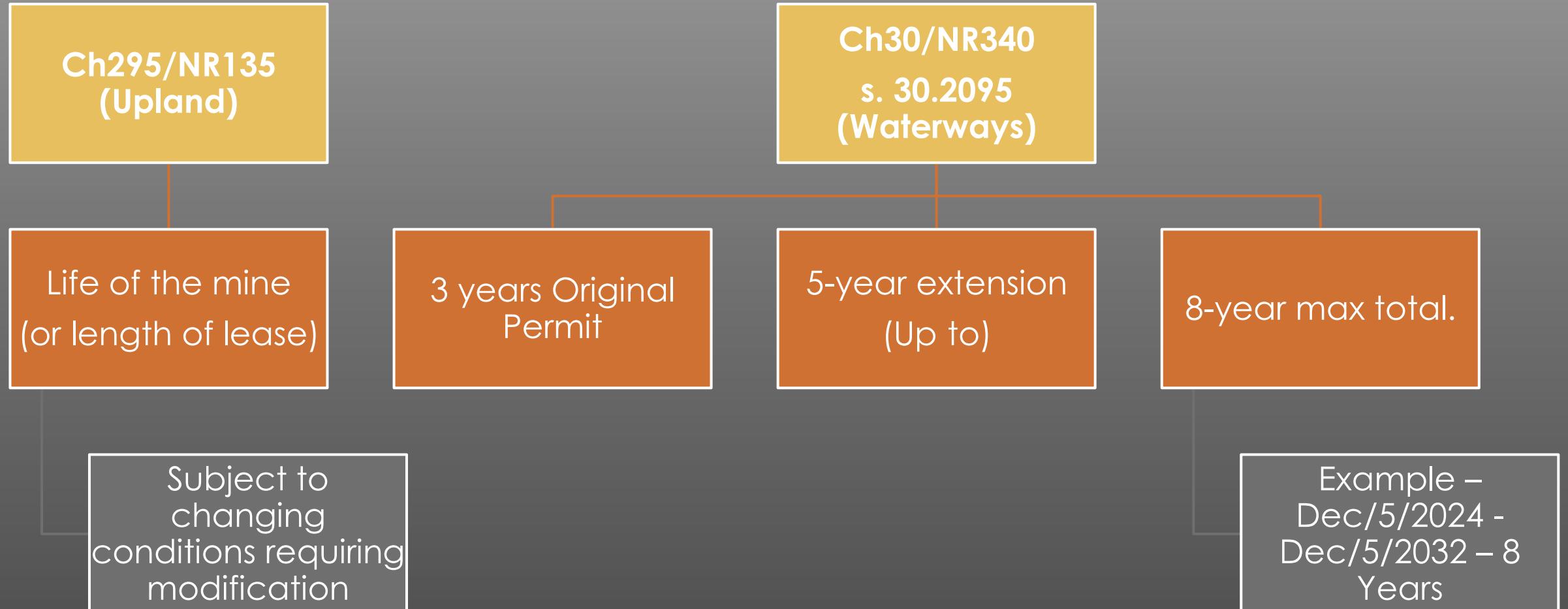
NR135/NR340 Split Jurisdiction



**COLORS OF
RECLAMATION**

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PERMIT LIFESPANS



NR135 VS NR340 FINANCIAL ASSURANCE

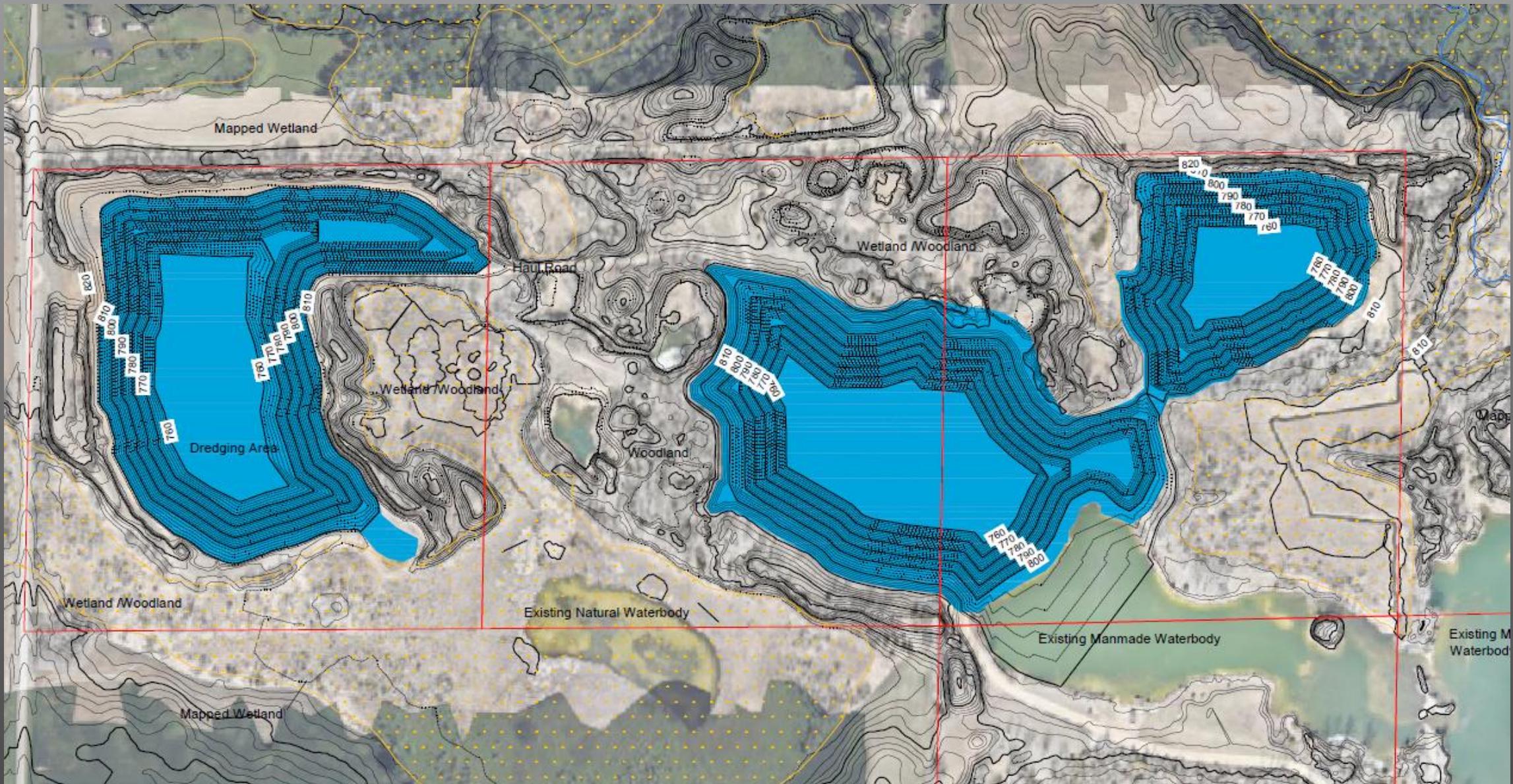
	NR135	NR340
Amount	<p>RA determined. Based on actual cost of the RA to hire a contractor to reclaim the site to the approved plan given the current site conditions.</p>	<p>The larger of \$2000/acre or \$0.25/cu yd (adjusted from 1989 dollars). Example: \$2,000/acre in 1989 equates to \$5091/acre in 2024 (US Inflation Calculator)</p>
Held By	<p>RA Reviewed periodically to address changing conditions and costs.</p>	<p>DNR Reviewed upon renewal or when modifications/expansions</p>
Release	<p>Operator notifies County/Municipality – partial or full RA determines compliance within 60 days Financial assurance released with Certificate of Completion</p>	<p>Operator notifies DNR – full completion Final inspection no earlier than a year or later than 2 years after completion of reclamation.</p>

WHAT ABOUT SITES THAT NOW NEED TO CHANGE PERMITS?

Sites that were previously permitted under NR 135 now MAY require some, or all, of the site be permitted under Ch. 30/NR 340.

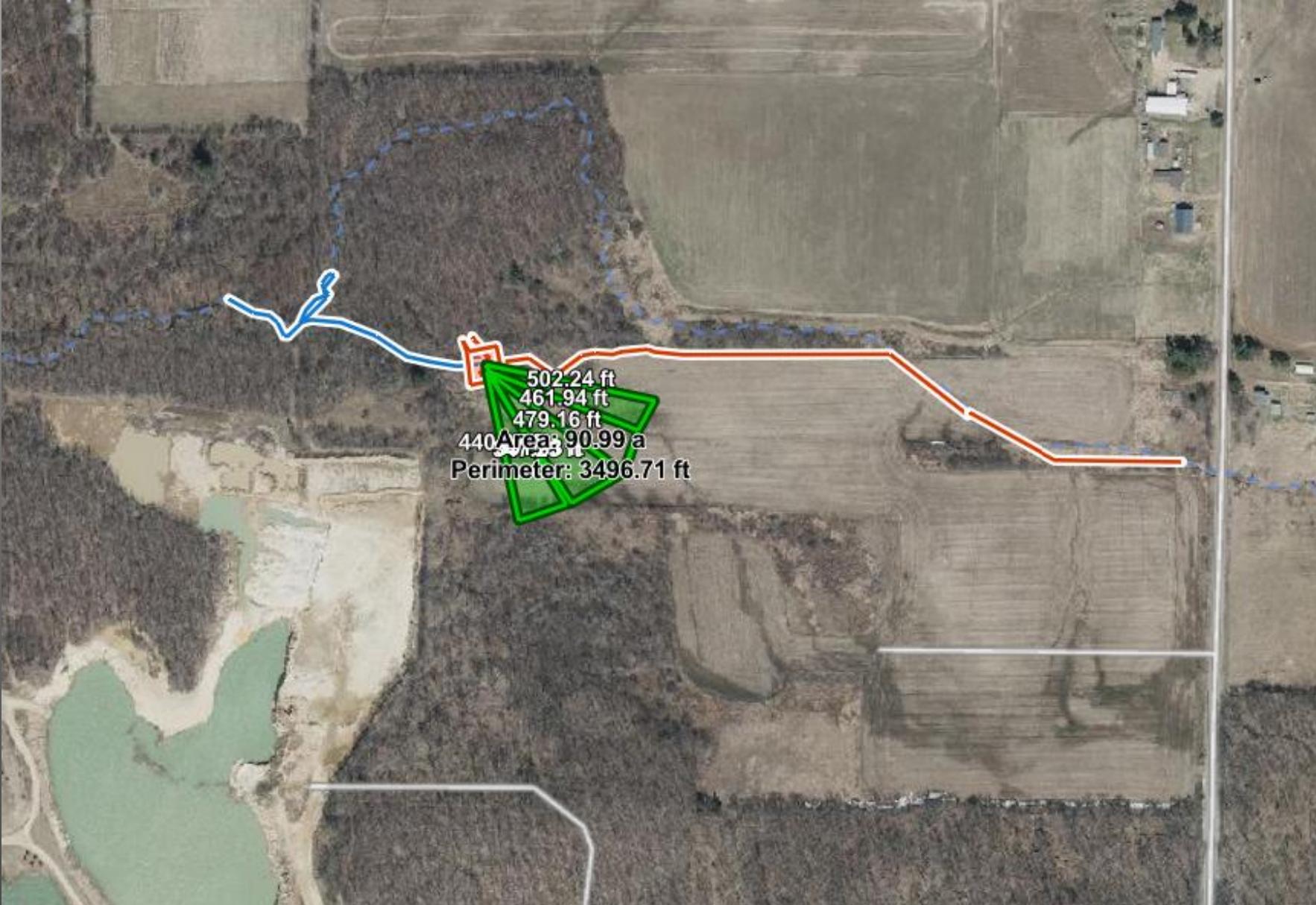
Sites that were previously permitted under Ch. 30 entirely, may now only cover the pond area when new Ch. 30 Permits are required.

EXAMPLE #1 – GREEN LAKE CO.

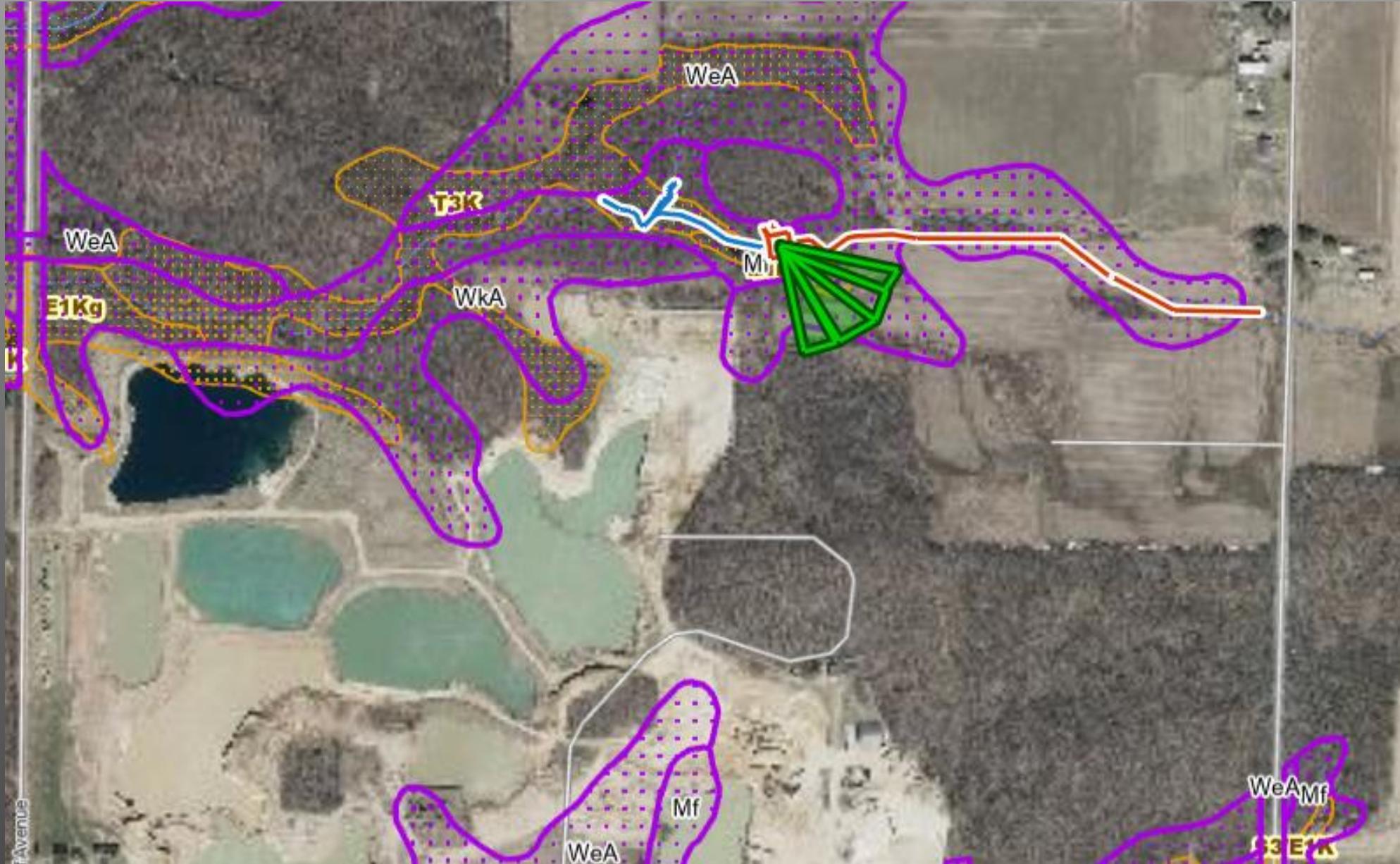


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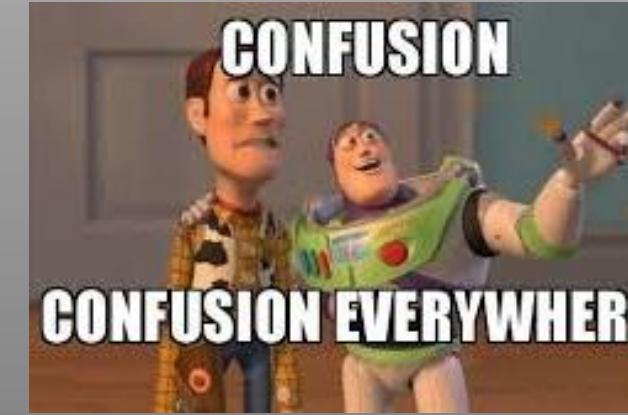
EXAMPLE #2 – CLARK CO. - NAVIGABILITY NUANCES



EXAMPLE #2 – CONTINUED... WETLANDS



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WE ARE AWARE THIS NEWS HAS BEEN A TRANSITION AND OF THE CHALLENGES THESE INTERPRETATIONS CREATE.

WE ARE ALWAYS LOOKING INTO BETTER WAYS TO ADDRESS THESE CHALLENGES UNINTENDED CONSEQUENCES OF LEGISLATIVE CHANGES FROM 2011 ACT 167:

- DOING OUR BEST TO WORK WITH THE LAWS THAT ARE IN PLACE.
- THIS IS THE REALITY OF THE SITUATION, AND WE ARE BEING OPEN AND HONEST ABOUT THAT.
- CURRENT ONGOING DISCUSSIONS WITH AGGREGATE PRODUCERS OF WI (APW)

WHY DOES IT MATTER? (NR135 OR CH. 30?)

A FEW THINGS CH. 30 MAY LOOK AT:

1) WATER QUALITY

- POTENTIAL CONNECTIONS TO WATERWAYS
- POND IS CONSIDERED AN ENLARGEMENT OF A WATERWAY (ENVIRONMENTALLY SENSITIVE AREAS) – WETLANDS/FLOODPLAIN

2) FLOODPLAIN

- POTENTIAL FUTURE FISH ENTRAPMENT - PUBLIC ACCESS?
- STOCKPILING

3) OPERATIONAL CONTROLS

- NR 340.05 - OPERATION SCHEDULE
- MINING METHODS, LOADING, TRANSPORTATION, ETC.



HOW DID WE GET HERE? TIMELINE



Pre- 2011 – Ch. 30/NR340 had the ability to cover entire site (grading authority)

2011 Act 167 – Grading Authority exempt for NMM Ch. 30/ NR340 when a stormwater permit OR shoreland zoning permit is issued.

2014 – 2014 – WDNR Guidance Document (PUB-W 1689-2014): “Applicability of Ch. NR135 and Ch. 30/NR340 Wis. Adm. Codes to Non-Metallic Mine Sites.”

2011-2021 – Period of transition



November 2021 – WDNR Waterways hires WMS Mining Expert to bring waterway consistency across the state.

COORDINATION & COMMUNICATION

- 92 NR135 RA's TOTAL
- 2 PLANNING COMMISSIONS
- PROPERTY OWNERS
- INTERNAL PROGRAMS
- EXTERNAL AGENCIES
- CONSULTANTS & MINING OPERATORS!



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ENGAGEMENT EFFORTS THUS FAR....



- NEW WATERWAYS WMS STATEWIDE MINING EXPERT (NOVEMBER 2021)
- ANNUAL NMAC MEETINGS
- WLWCA - NMM RECLAMATION JURISDICTIONS TRAINING – APRIL 2022
 - BIG OUTREACH TO ALL RA's (ZONING AND CONSERVATION STAFF)
- NMM PRE-APPLICATION MEETINGS WITH:
 - OPERATORS, COUNTY OFFICIALS (ZONING AND CONSERVATION), CONSULTANTS, AND PROPERTY OWNERS.
- CONTINUOUS COORDINATION WITH PLANNING COMMISSIONS.
 - SOME COUNTIES CONTRACT WITH PLANNING COMMISSIONS TO RUN THEIR NR135 NMM PROGRAMS.
- COUNTY AUDITS
- DECEMBER 2024 APW CONFERENCE!
- ONGOING APW MONTHLY DISCUSSIONS
- 2025 SPRING WCCA CONFERENCE!
- 2025 FALL WCCA CONFERENCE! ☺

KEY TAKEAWAY POINTS.....

- 1) Jurisdictions can be complex, nuanced, and dynamic. (Case by case basis with many factors involved). **WILL there be a pond within 500' of a navigable waterbody?**
- 2) **Communication and collaboration are key** between Counties, municipalities, operators, consultants, Planning Commissions, etc.
- 3) **We want to work with you!** We are here to help! Please Contact us! ☺

RESOURCES AVAILABLE

WI Land + Water (WLWCA) – Reclamation 101
Training – Recorded Presentation

2014 Guidance Document - **(PUB-W 1689-2014)**

DNR Website “Mining”

Roberta Walls – WDNR EA Integration Services

Erik Flesch – WDNR EA Integration Services

Lane Loveland – WDNR Waterways





QUESTIONS?

ARE YOU AWAKE?

THANK YOU FOR LISTENING.... ☺

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