

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

SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): 1/26/2016

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Chicago District, Village of Algonquin DPW - Terrace Hill Phase 1 Roadway Rehabilitation, LRC-2015-700

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Study Areas 1 (8.5 acres) and 2 (0.5 acres) located south of Algonquin Road and west of Randal Road in Algonquin, McHenry County, IL

State: **Illinois** County/parish/borough: **Will** City: **Algonquin**
Center coordinates of site (lat/long in degree decimal format): **Study Area 1 Lat. 42.164642°N, Long. -88.348429°W**
Study Area 2 Lat. 42.172998°N, Long. -88.345866°W
Universal Transverse Mercator: **Zone 16**

Name of nearest waterbody: **Woods Creek**

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: **Fox River**

Name of watershed or Hydrologic Unit Code (HUC): **Upper Fox (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: **1/26/2016**

Field Determination. Date(s): **12/10/2015**

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. [Required]

Waters subject to the ebb and flow of the tide.

Waters are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.

Explain: Defined in People of State of Ill. ex rel. Scott v. Hoffman, No. P-CIV-76-45, slip op. at 7 (S.D.Ill. Jan. 20, 1979).

B. CWA SECTION 404 DETERMINATION OF JURISDICTION.

There **are and are not** "waters of the U.S." within Clean Water Act (CWA) jurisdiction (as defined by 33 CFR part 328) in the review area. [Required]

1. Waters of the U.S.

a. Indicate presence of waters of U.S. in review area (check all that apply):¹

TNWs, including territorial seas

Wetlands adjacent to TNWs

Relatively permanent waters² (RPWs) that flow directly or indirectly into TNWs (Woods Creek, identified as Water of the U.S. 2 on the map)

Wetlands directly abutting RPWs that flow directly or indirectly into TNWs (identified as Wetlands 1, 2 and 8 on the map)

b. Identify (estimate) size of waters of the U.S. in the review area:

Non-wetland waters: 591 linear feet; 10 width (ft)

Wetlands: Wetland 1 is 0.34 acres; Wetland 2 is 0.147; Wetland 8 is 0.101.

c. Limits (boundaries) of jurisdiction based on: **Northcentral and Northeast Supplement**

Elevation of established OHWM (if known): .

2. Non-regulated waters/wetlands (check if applicable):³

Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional. Explain: **Naturalized Detention Basins/Wetlands 3, 4, 5, 6, and 7 are detention basins that were constructed for purpose of reducing the peak discharge of stormwater. While the soils are mapped as predominantly hydric, a review of aerial photos dated 1988 to 2005 reveals that prior to the construction of these basins, the area consisted of agricultural fields. The aerial views are of good quality and show that none of these basins were constructed in wetlands. These basins are therefore not jurisdictional because they were created in upland and are still functioning as stormwater detention basins.**

¹ Boxes checked below shall be supported by completing the appropriate sections in Section III below.

² For purposes of this form, an RPW is defined as a tributary that is not a TNW and that typically flows year-round or has continuous flow at least "seasonally" (e.g., typically 3 months).

³ Supporting documentation is presented in Section III.F.

SECTION III: CWA ANALYSIS

A. TNWs AND WETLANDS ADJACENT TO TNWs

The agencies will assert jurisdiction over TNWs and wetlands adjacent to TNWs. If the aquatic resource is a TNW, complete Section III.A.1 and Section III.D.1. only; if the aquatic resource is a wetland adjacent to a TNW, complete Sections III.A.1 and 2 and Section III.D.1.; otherwise, see Section III.B below.

1. TNW

Identify TNW: **Pick List**.

Summarize rationale supporting determination: As defined in People of State of Ill. ex rel. Scott v. Hoffman, No. P-CIV-76-45, slip op. at 7 (S.D.Ill. Jan. 20, 1979).

2. Wetland adjacent to TNW

Summarize rationale supporting conclusion that wetland is "adjacent": .

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

1. TNWs and Adjacent Wetlands. Check all that apply and provide size estimates in review area:

- TNWs: linear feet width (ft), Or, acres.
- Wetlands adjacent to TNWs: acres.

2. RPWs that flow directly or indirectly into TNWs.

Tributaries of TNWs where tributaries typically flow year-round are jurisdictional. Provide data and rationale indicating that tributary is perennial: **Water of the U.S. 2 (Woods Creek) is represented as a solid blue line stream on the McHenry County Wetland Inventory Map and on the websoil survey map. While the 1992 USGS quadrangle represents that segment as an intermittent stream, since the time that map was developed, the land surrounding the stream has been significantly developed and multiple stormwater detention basins not discharge into the creek. A review of aerial photos dated from 2002 to the present and taken at different times during the year show that water is consistently present within the channel.**

Tributaries of TNW where tributaries have continuous flow "seasonally" (e.g., typically three months each year) are jurisdictional. Data supporting this conclusion is provided at Section III.B. Provide rationale indicating that tributary flows seasonally: .

Provide estimates for jurisdictional waters in the review area (check all that apply):

- Tributary waters: linear feet width (ft).
- Other non-wetland waters: acres.

Identify type(s) of waters: .

4. Wetlands directly abutting an RPW that flow directly or indirectly into TNWs.

Wetlands directly abut RPW and thus are jurisdictional as adjacent wetlands.

Wetlands directly abutting an RPW where tributaries typically flow year-round. Provide data and rationale indicating that tributary is perennial in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting an RPW: **Wetlands 1, 2 and 8 extend all the way to the channel of Woods Creek. Wetland 1 continues north outside of the review area and touches Woods Creek; Wetland 2 is a riverine wetland located along the channel of Woods Creek; Wetland 8 continues off side to the west and touches Woods Creek.**

Wetlands directly abutting an RPW where tributaries typically flow "seasonally." Provide data indicating that tributary is seasonal in Section III.B and rationale in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting an RPW: .

Provide acreage estimates for jurisdictional wetlands in the review area: **0.588 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: **Wetland Delineation Report dated August 20, 2015 and prepared by Christopher B. Burke Engineering, Ltd.**

Data sheets prepared/submitted by or on behalf of the applicant/consultant.

Office concurs with data sheets/delineation report. : **Wetland Delineation Report dated August 20, 2015 and prepared by Christopher B. Burke Engineering, Ltd.**

Office does not concur with data sheets/delineation report.

Data sheets prepared by the Corps: .

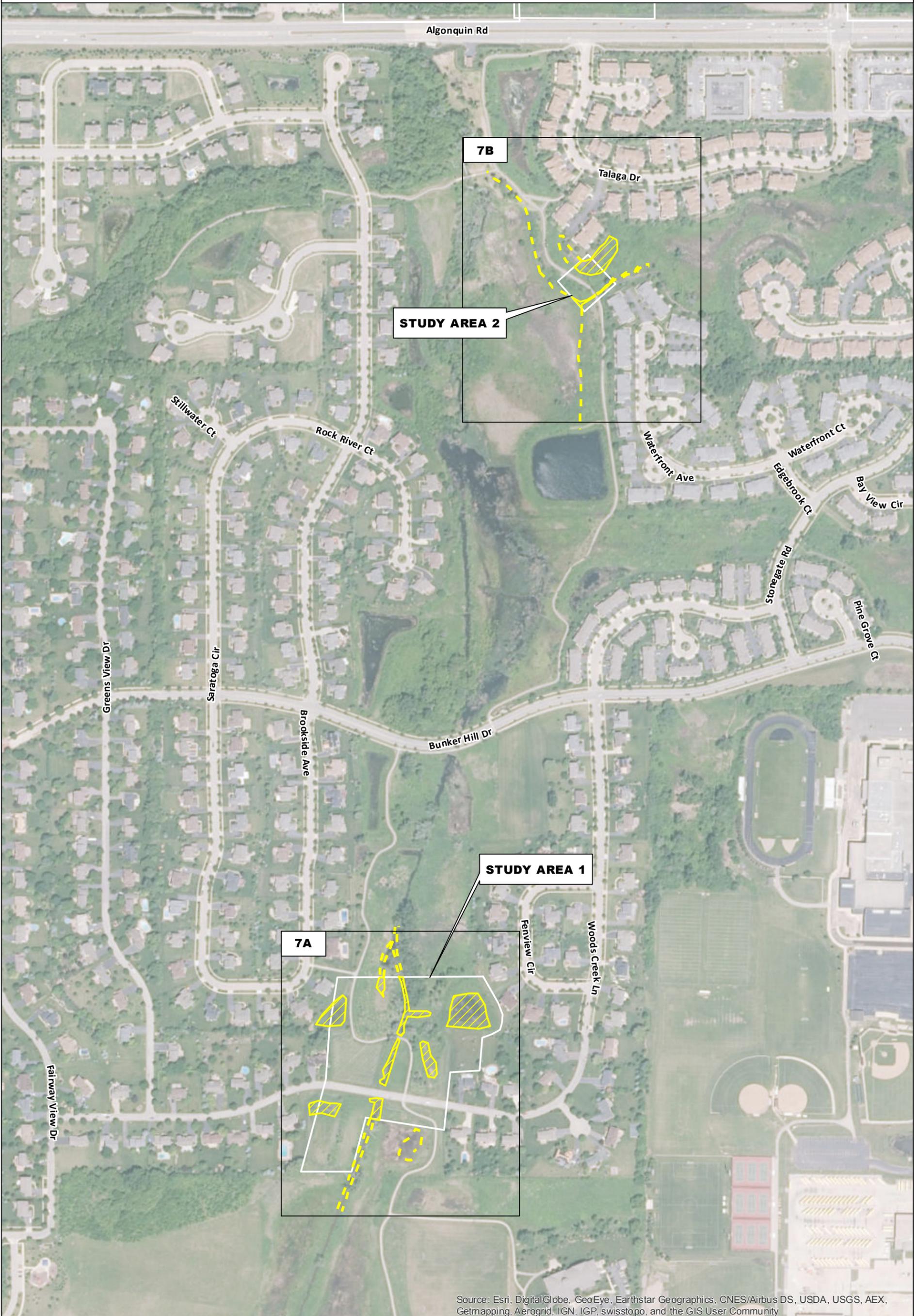
Corps navigable waters' study: .

U.S. Geological Survey Hydrologic Atlas: Pick List, .

- USGS NHD data.
- USGS 8 and 12 digit HUC maps.
- U.S. Geological Survey map(s). Cite scale & quad name: **Crystal Lake 7.5", 1992.**
- USDA Natural Resources Conservation Service Soil Survey. Citation: **NRCS Web Soil Survey.**
- National wetlands inventory map(s). Cite name: **Crystal Lake,**
- State/Local wetland inventory map(s): McHenry County ADID.**
- FEMA/FIRM maps: 07-0273.000 88.
- 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- Photographs: Aerial (Name & Date): **Aerial views obtained on Google Earth Pro and dated 1988-Present.**
or Other (Name & Date): **Pictures provided in the delineation report.**
- Previous determination(s). File no. and date of response letter:
- Applicable/supporting case law: People of State of Ill. ex rel. Scott v. Hoffman, No. P-CIV-76-45, (S.D.Ill. Jan. 20, 1979)
- Applicable/supporting scientific literature:
- Other information (please specify):

B. ADDITIONAL COMMENTS TO SUPPORT JD:

- Areas are ditches (check all that apply):
 - Non-tidal drainage and irrigation ditches excavated on dry land (51 FR 41217, Nov. 13, 1986).
 - Ditches (including roadside ditches) excavated wholly in and draining only uplands and that do not carry a relatively permanent flow of water (USACE JD Form Instructional Guidebook 5/30/2007).
 - Ditches that do not have a relatively permanent flow into waters of the U.S. or between two (or more) waters of the U.S. (USACE JD Form Instructional Guidebook 5/30/2007).
- Area(s) are artificial waters created in upland or dry land:
 - Artificially irrigated areas which would revert to upland if the irrigation ceased (51 FR 41217, Nov. 13, 1986).
 - Artificial lakes or ponds created by excavating and/or diking dry land to collect and retain water and which are used exclusively for such purposes as stock watering, irrigation, settling basins, or rice growing (51 FR 41217, Nov. 13, 1986).
 - Artificial reflecting or swimming pools or other small ornamental bodies of water created by excavating and/or diking dry land to retain water for primarily aesthetic reasons (51 FR 41217, Nov. 13, 1986).
 - Waterfilled depressions created in dry land incidental to construction activity and pits excavated in dry land for the purpose of obtaining fill, sand, or gravel unless and until the construction or excavation operation is abandoned and the resulting body of water meets the definition of waters of the United States (51 FR 41217, Nov. 13, 1986).
 - Waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of the Clean Water Act (other than cooling ponds as defined in 40 CFR 423.11(m) which also meet criteria of this definition) (33 CFR 328.3 (a)).
- Area(s) are swales (USACE JD Form Instructional Guidebook 5/30/2007).
- Area(s) are erosional features (including gullies) (USACE JD Form Instructional Guidebook 5/30/2007).
- Area(s) are prior converted cropland (33 CFR 328.3(a)(8)).
- Area(s) are uplands.
- Other: **Naturalized Detention Basins/Wetlands 3, 4, 5, 6, and 7 are detention basins that were constructed for purpose of reducing the peak discharge of stormwater. While the soils are mapped as predominantly hydric, a review of aerial photos dated 1988 to 2005 reveals that prior to the construction of these basins, the area consisted of agricultural fields. The aerial views are of good quality and show that none of these basins were constructed in wetlands. These basins are therefore not jurisdictional because they were created in upland and are still functioning as stormwater detention basins.**



Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AEX, Getmapping, Aerogrid, IGN, IGP, swisstopo, and the GIS User Community

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|--|--|---------------------------|
| CLIENT: VILLAGE OF ALGONQUIN | TITLE: APPROXIMATE WETLAND DELINEATION | CBBEL # 07-0273.000 88 |
| | | DATE: 7/30/15 |
| CHRISTOPHER B. BURKE ENGINEERING, LTD. 9575 W. Higgins Road, Suite 600 · Rosemont, Illinois 60018 · (847) 823-0500 | DSGN. DWN. | SCALE: 1" = 350' |
| | CHKD. FILE NAME: | USER: PLOT DATE: |
| | KEK TDK | kkopija 8/12/2015 |
| | 070273.00088_AWD_INDEX | |
| | | EXH 7 |

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Legend

- APPROXIMATE OFF-SITE WETLAND
- WETLAND/NATURALIZED DETENTION BASIN



Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AEX, Getmapping, Aerogrid, IGN, IGP, swisstopo, and the GIS User Community

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CLIENT:
VILLAGE OF ALGONQUIN

TITLE:
APPROXIMATE WETLAND DELINEATION

CBBEL # 07-0273.00088
 DATE: 7/30/15

CBB **CHRISTOPHER B. BURKE ENGINEERING, LTD.**
 9575 W. Higgins Road, Suite 600 · Rosemont, Illinois 60018 · (847) 823-0500

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| DWN. | KEK | SCALE: | 1" = 125' |
| CHKD. | TDK | PLOT DATE: | 8/20/2015 |
| FILE NAME: | 070273.00088_AWD7A | | |

EXH 7A

Legend

- APPROXIMATE OFF-SITE WETLAND
- WETLAND/NATURALIZED DETENTION BASIN



Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AEX, Getmapping, Aerogrid, IGN, IGP, swisstopo, and the GIS User Community

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CLIENT:
VILLAGE OF ALGONQUIN

TITLE:
APPROXIMATE WETLAND DELINEATION

CBBEL # 07-0273.00088
DATE: 7/30/15

CBB **CHRISTOPHER B. BURKE ENGINEERING, LTD.**
9575 W. Higgins Road, Suite 600 · Rosemont, Illinois 60018 · (847) 823-0500

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|------------|--------------------|------------|-----------|
| DWN. | KEK | SCALE: | 1" = 125' |
| CHKD. | TDK | PLOT DATE: | 8/20/2015 |
| FILE NAME: | 070273.00088_AWD7B | | |

EXH 7B