

STATE OF WISCONSIN DEPARTMENT OF NATURAL RESOURCES

NOTICE OF FINAL DETERMINATION TO REISSUE A WISCONSIN POLLUTANT DISCHARGE
ELIMINATION SYSTEM (WPDES) GENERAL PERMIT No. WI- 0049344-05-0

General Permit Name: DEWATERING OPERATIONS (NO. WI-0049344-05-0)

Receiving Water and Location: Surface waters and groundwaters in the state of Wisconsin.

Brief Description of Facilities Covered under General Permit: This general permit is applicable to discharges from the dewatering operations, including pumping or draining water from construction trenches or pits, dewatering well systems and other similar wastewaters that are discharged directly to surface waters or indirectly to groundwaters via seepage in the state of Wisconsin.

Permit Drafter's Name, Address, Phone and Email: Trevor J. Moen, DNR, 101 S. Webster St., PO Box 7921, Madison, WI 53707-7921 phone: (608)266-3906 or email: Trevor.Moen@Wisconsin.gov.

Date Permit Signed/Issued: June 29, 2018

Date of Effectiveness: September 1, 2018

Date of Expiration: August 31, 2023

Following the public notice period, the Department has made a final determination to reissue the Dewatering Operations WPDES General Permit. The information from the WPDES permit file, comments received on the proposed permit and applicable Wis. Adm. Codes were used as a basis for this final determination.

The Department has the authority to issue, modify, suspend, revoke and reissue or terminate WPDES permits and to establish effluent limitations and permit conditions under ch. 283, Wis. Stats.

Any minor corrections to typographical errors, updating page numbers and headers/footers, adding and updating the Table of Contents and titles, correcting formatting, renumbering headings, and web links are not included in this summary document. The following is a summary of significant comments and any significant changes which have been made in the terms and conditions set forth in the draft permit:

Changes Initiated by the Department:

- The effective date has been changed from July 1st, 2018 to September 1st, 2018 to facilitate reapplication from existing permittees and to avoid time when they will be operating without permit coverage.
- WPDES Permit Program Background, General Permit Objective, and General Permit Summary sections in the permit on page i were moved to the permit fact sheet. These sections are not permit requirements.
- Under Section 1.2 of the permit, reference to permit equivalency have been removed for sites under the direction and supervision of the Wisconsin Department of Transportation.
- Throughout the permit working days has been changed to business days to match the definition in ch. NR 200, Wis. Adm. Code.
- Language in Sections 2.2 and 2.3 have been changed to concisely reflect requirements for incomplete NOIs and granting coverage
- Section 2.5 was moved to a note under Section 2.3 as this is not a permit requirement.
- Sections 9.2.5 and 9.2.6 have been removed from the permit as they not permit requirements.
- Section 9.3.2 has been removed as this requirement is not applicable to general permits.
- Section 11 has been moved to the Appendix A as definitions are not permit requirements.

Comments Received from the Applicant, Individuals or Groups

The Department received comments from Li Ling from Oneok, listed below, on the draft permit.

Oneok Comment #1:

Under section 2.4: "For groundwater discharge only, does the permittee need to report the time of the discharge?"

Department Response:

No, the permittee does not need to report the discharge duration. This language has been moved from Section 2.4 and the department created Section 4.5. Section 4.5 reads as follows:

4.5 Seven (7)-Day Discharge Notification

Permittees that have statewide or municipal-wide coverage for temporary discharges under this permit, the permittee shall notify the department at least seven (7) calendar days prior to the discharge to the waters of state. Permittees with coverage at one or multiple facilities with continuous/recurring discharges at a single site do not need to notify the department prior to discharge to the waters of the state. The method of notification (phone message, email, letter, etc.) will be a process agreed upon by the permittee and the department. The notification shall include a description of their discharge strategies and discharge location. The best management practice plan shall contain a description of this seven-day discharge notification and the agreed upon method of notification. On a case-by-case basis the department may by letter require the permittee to submit additional information regarding a wastewater discharge which is covered by a general permit. The permittee shall also notify the department seven (7) calendar days after discontinuing the discharge.

Section 2.4 has also been removed as this section may be confusing to applicants. The department intends for the permittee to indicate the type of coverage as a part of the notice of intent process.

Oneok Comment #2:

Under Section 3.1: “Does wastewater here mean groundwater? This permit only allows the discharge of groundwater correct?”

Department Response:

This general permit allows dewatering operation discharges to surface water and/or groundwater of the state of Wisconsin if permittees meet the applicability of general permit and comply with its requirements.

Oneok Comment #3:

Under Section 4.1: “If the discharge is longer than one day, is a daily inspection required or a one-time inspection?”

Department Response:

The visual inspection is a daily requirement. If the discharge continues behind a week, the permittee shall conduct follow-up visual inspections on a weekly basis.

The department has updated Sections 4.1 as follows: “The permittee shall conduct daily visual inspections and record observations of the discharge and all systems of treatment and control which are installed or used by the permittee prior to discharge to surface waters or groundwater in a visual inspection log.”

Oneok Comment #4:

Under Section 5.2: “The previous permit didn't require a BMP plan submittal, and the facility will have continued coverage under this new permit. Is the facility required to submit a BMP plan after the new permit is issued? If so, is a new NOI is needed?”

Department Response:

The department requires that all existing facilities covered under the permit reapply for permit coverage by submitting a new Notice of Intent” with a BMP plan. The BMP plan shall be submitted with the NOI or within sixty (60) calendar days after the date of reissuance of this general permit. This extended time permit will give existing permittees more time to prepare a BMP plan.

The department updated Section 5.2 as follows:

“Applicants shall submit a complete BMP plan with the submittal of the NOI or within sixty (60) calendar days from the date of reissuance of this general permit to the department for approval. If an applicant applies for coverage during the term of this general permit (prior to the expiration date), the permittee shall submit the BMP plan with the NOI. The department coverage letter will explicitly indicate the approval of the BMP plan. Applicants applying for statewide coverage for temporary discharges, municipal-wide coverage for temporary discharges, or entities with coverage at multiple facilities with continuous/recurring discharges at a single site are only required to prepare and

submit one BMP plan to the department for approval. Permittees shall notify the department when the BMP plan is amended to determine if the amendment requires department approval.”

The department updated the table in Section 9 as well.

Oneok Comment #5:

Under Section 6.2.2: “Does this mean 5 calendar days?”

Department Response:

No, the sentence under Section 6.2.2 was changed as follows:
“The permittee shall, no later than five business days...”

Oneok Comment #6:

Under Section 7.1: “Is an annual report required if no discharge in the previous year? If so, is there a DNR preferred language?”

Department Response:

The department has removed Section 7 from the permit. Originally, Section 7.1 was added to track permittees with statewide or municipal-wide coverage. However, this tracking is satisfied by the newly added Section 4.5, which requires that permittees with statewide or municipal-wide coverage to notify the department prior to discharge to the waters of the state and after discontinuing discharge. Section 7.2 was duplicative of Section 8.3.4. Therefore, Section 7.2 was removed from the permit.

Oneok Comment #7:

Under Section 9.1.1: “Can this be 5 business days?”

Department Response:

The written report describing the noncompliance shall be submitted to the department within 5 days after the permittee becomes aware of the noncompliance. The 5-days are calendar days. Noncompliance should be reported to the department as soon as the permittee becomes aware of the noncompliance.

The Department received comments from Kathryn Miller from Flint Hills Resources, listed below, on the draft permit.

Flint Hills Comment #1:

On Section 2.3: This permit section does not include a timeframe for the agency to review the applicant’s request for coverage and provide a coverage letter authorizing discharge. FHR suggests a timeline for agency review be included within which agency review and issuance of the approval cover letter or denial of discharge authorization will take place. The procedure should also provide that automatic coverage be granted for determinations that exceed this timeline. Providing a timeline for review allows industry the ability to benchmark project timelines and prevents the agency from denying or delaying permit coverage without a formal application review.

Department Response:

In accordance with 40 CFR 122.28(b)(iv), general permits shall specify whether a discharger is authorized to discharge in accordance with the permit either upon receipt of the notice of intent by the Director, after a waiting period specified in the general permit, on a date specified in the general permit, or upon receipt of notification of inclusion by the Director. The department has elected to convey coverage via the permittee’s receipt of notification of inclusion under this general permit which means the receipt of a coverage letter by the permittee that authorizes the discharge under the general permit. However, the department has a policy to review and issue a coverage letter within 30 business days, but 14 business days or less is a typical review period.

Flint Hills Comment #2:

On Section 2.4: The Department’s intent behind the requirement for permittees to provide notification prior to discharge activities is ambiguous. To the extent prior notification is necessary, notification should only be used as a means to notify the Department of the location of discharge activities just prior to commencement of the permitted activity. The notification requirement should not be used to add additional conditions to, or an opportunity to deny

the discharge activity, as authorization to discharge would have already be granted to the permittee through the permit process.

Department Response:

See the department response to Oneok Comment #1 above.

Flint Hills Comment #3:

On Section 4.4: Per Permit Section 4.1.3, treatment is only required if water proposed for discharge does not pass the visual inspection of Sections 4.1.1 or 4.1.2. FHR interprets the treatment control requirements of Section 4.4 to only be required if water proposed for discharge does not pass the visual inspection of Sections 4.1.1 or 4.1.2. If treatment is required for all discharges, the permit requirement would be impractical and burdensome for permittees, particularly those requesting statewide coverage. For example, pipeline integrity dig projects are often located in remote areas and project locations vary frequently. Requiring treatment equipment for water that does not exhibit indicators of contamination increases costs associated with equipment rental and equipment mobilization/demobilization and increases project delays for no added benefit. FHR suggests the permit be updated to clearly reflect the intent of this requirement and correct the inconsistent language between the two permit sections.

Department Response:

The department agrees that treatment is only required if water proposed for discharge does not pass the visual inspection of Sections 4.1.1 or 4.1.2. Sections 4.1.3 and 4.3 are revised as follows:

4.1.3 Discharge Inconsistencies

If the permittee observes any of the parameters stated in Sections 4.1.1 or 4.1.2 that result in an inconsistency with the discharge requirements in Section 3, the permittee shall not discharge until the inconsistency is corrected. If treatment is necessary to correct the discharge inconsistency, the permittee shall follow the requirements in Section 4.4.

4.4 Treatment Control Practices

If treatment is necessary to correct the discharge inconsistency per Section 4.1.3, the permittee shall implement treatment practices that will control the effluent quality prior to discharge to surface waters or groundwater. At a minimum, the treatment practices shall be rated to remove total suspended solids to a level at or below 40 mg/L in the discharge to surface waters. If oil and grease is present in the dewatering water, the treatment practices shall be rated to remove oil and grease to a level at or below 15 mg/L in the discharge to surface waters or groundwater. The permittee may consider the use of the following treatment controls:

- Simple gravity settling equipment (e.g. baffled clarifiers or temporary settling basins);
- Simple filtration equipment (e.g. dewatering bags, filter socks, or multi-bag filters);
- Oil and grease removal devices (e.g. oil water separator or cartridge filter); and
- Other treatment control practices consistent with the storm water construction technical standard for dewatering (Code No. 1061)

The Department received comments from Sara Ploetz from Enbridge Energy LP, listed below, on the draft permit.

Enbridge Comment #1:

Draft permit text currently states, "This means that permittees do not need to reapply for permit coverage each time a discharge from dewatering operations occur. However, permittees must notify the department via phone, email, or fax when they propose to discharge to the waters of the state. The department may require the permittee to submit additional information regarding the wastewater discharge." It is requested that a clarifying statement be added to the end of the end stating, "Permittees with statewide coverage, or coverage for multiple facilities, are only required to prepared and submit one Best Management Practice (BMP) Plan for WDNR approval." Requiring a separate BMP Plan for multiple facilities of the same type, managed by the same entity, would be overly burdensome to permittees and WDNR staff with statewide coverage or coverage for multiple facilities.

Department Response:

The department agrees with Enbridge's comment. The department revised Section 5.2 as follows:

5.2 Submittal of the BMP Plan

Applicants shall submit a complete BMP plan with the submittal of the NOI or within sixty (60) calendar days from the date of reissuance of this general permit to the department for approval. If an applicant applies for coverage during the term of this general permit (prior to the expiration date), the permittee shall submit the BMP plan with the NOI. The department coverage letter will explicitly indicate the approval of the BMP plan. Applicants applying for statewide coverage for temporary discharges, municipal-wide coverage for temporary discharges, or entities with coverage at multiple facilities with continuous/recurring discharges at a single site are only required to prepare and submit one BMP plan to the department for approval. Permittees shall notify the department when the BMP plan is amended to determine if the amendment requires department approval.

Section 2.4 has been removed as this section may be confusing to applicants. The department intends for the permittee to indicate the type of coverage as a part of the notice of intent process.

Enbridge Comment #2:

Discharge requirements are included for surface water in Section 3.1 and groundwater in Section 3.2. However, Section V.5. of the Notice of Intent form seems to differentiate between discharges to wetlands and discharges to surface waters. It is requested that a clarifying note be added to Section 3.1, Surface Water Discharge Requirements, indicating the section is also applicable to discharges to wetlands.

Department Response:

Depending upon the type of wetlands, the discharge may be considered to surface water or groundwater. The department revised Section 3.1 and 3.2 to include discharges to wetlands as follow as:

3.1 Surface Water Discharge Requirements

For surface water discharges, the discharger shall meet the following requirements. Surface water discharge means any discernible, confined and discrete conveyance system including but not limited to any pipe, ditch, channel, tunnel, conduit, swale, or storm sewer that will carry wastewater to surface water within the state of Wisconsin. This section also applicable to discharges to wetlands with a hydrological connection to surface waters.

3.2 Groundwater Discharge Requirements

For groundwater discharges, the discharger shall meet the following requirements. Groundwater discharge means any wastewater (treated or untreated) that is allowed to infiltrate or seep into the soil from a permeable surface that may impact groundwater quality. This section also applicable to discharges to wetlands with a hydrological connection to groundwater only.

Enbridge Comment #3:

Draft permit text states, "The water may not be discharged during any rainfall events that cause runoff from the site into surface waters." It is requested that the statement be modified to state, "The water may not be discharged during any rainfall events that cause runoff from the site into surface waters unless the infiltration area is located such that runoff from the area cannot enter a surface water".

Department Response:

The department agrees with Enbridge's comment and revised Section 3.2.4 as follows:

3.2.4 Rainfall Events

The water may not be discharged during any rainfall events that cause runoff from the site into surface waters except if the infiltration area is located such that runoff from the area cannot enter a surface water.

Enbridge Comment #4:

Draft permit text states, "Winter operation may be allowed as long as the soil surface remains unfrozen. Since infiltration decreases in the winter, the department may require storage during cold weather." On-site storage of water during freezing conditions is infeasible at many facilities where permanent surface storage does not exist. As

such, it is requested that the statement be modified to say the department may require storage during cold weather “when feasible”. Further, many remote sites require dewatering activities during the winter season. It is requested that clarifying language be added to state that discharges to groundwater may be allowed during frozen conditions provided infiltration is adequate to prevent long term ponding or pooling of water.

Department Response:

The department agrees with recommended changes and revised Section 3.2.7 as follows:

3.2.7 Winter Operations

Discharges to groundwater may be allowed during frozen conditions provided infiltration is adequate to prevent long term ponding or pooling of water. Since infiltration decreases in the winter, the department may require storage during cold weather when feasible.

Enbridge Comment #5:

There is currently no specified frequency for visual inspections in the permit. It is requested that a minimum visual inspection frequency of once per discharge event be added to Section 4.1 of the permit.

Department Response:

See the department’s response to Oneok Comment #3.

Enbridge Comment #6:

Draft text currently reads, “Provide secondary containment of equipment to prevent leaks or spills from pumping equipment.” In certain conditions, secondary containment may be infeasible for pumping equipment. To offer greater flexibility to permittees, it is requested that an option for either daily visual inspections for leakage or secondary containment be added in lieu of secondary containment.

Department Response:

The department agrees with the recommended changes and revised Section 4.2(1a) as follows:

“Provide daily visual inspections or secondary containment of equipment to prevent leaks or spills”

Enbridge Comment #7:

The draft permit language currently states that good housekeeping and maintenance activities for all discharges must include, “Manually cleaning or removing all visible debris, trash, or solids prior to discharge.” The Language as written is vague and could be interpreted to mean that no solids, including sediment (TSS) can be discharged. It is requested the permit language be modified to specify removal is required for floating/submerged solids, as opposed to just solids.

Department Response:

The department agrees with the recommended changes and revised Section 4.2(1c) as follows:

“Manually cleaning or removing all visible debris, trash, or floating/submerged solids prior to discharge.”

Enbridge Comment #8:

The draft permit states, “If treatment equipment is used, removing any accumulated solids from the equipment to maintain the filtration/settling capacity of the equipment.” Since no frequency is specified, it is requested language be added to specify removal of accumulated solids should be done in accordance with manufacturer's recommendations or based upon best professional judgment. Current draft language is ambiguous and could lead to overly burdensome housekeeping practices.

Department Response:

The department agrees with the recommended changes and revised Section 4.2(2c) as follows:

“If settling equipment is used, remove any settled solids from the equipment in accordance with manufacturer's specifications.”

Enbridge Comment #9:

The draft permit states good housekeeping and maintenance activities for groundwater discharges must include, “Removing any accumulated solids from seepage areas to maintain the infiltrative capacity of the soils.” The current draft permit language is ambiguous and could lead to overly burdensome housekeeping practices. It is requested the language be modified to clarify accumulated solids should be removed when the depth is sufficient to impede infiltration.

Department Response:

The department agrees with the recommended changes and revised Section 4.2(3a) as follows:

“Remove accumulated solids from seepage areas when the depth of solids is significant enough to prevent infiltration into the soil at a rate sufficient to prevent long-term ponding or pooling.”

Enbridge Comment #10:

Current permit language states, “At a minimum, the treatment practices shall be rated to remove total suspended solids and turbidity to a level at or below 40 mg/L...” Turbidity should not be included in the statement as it is not measured in mg/L.

Department Response:

The department has removed turbidity from Section 4.4.

Enbridge Comment #11:

The draft permit language states, “Permittees shall develop a BMP plan for all discharges.” It is requested that a second, clarifying sentence be added to state, "Alternately, permittees with statewide coverage or coverage for multiple facilities may prepare one BMP Plan, which is applicable to all dewatering activities."

Department Response:

The department agrees with the recommended changes and revised Section 5.1 as follows:

5.1 Operate Consistent with an Approved BMP Plan

Permittees shall develop a BMP plan for their discharge(s) to the waters of the state. Alternatively, permittees with statewide coverage for temporary discharges, municipal-wide coverage for temporary discharges, or entities with coverage at multiple facilities with continuous/recurring discharges at a single site may prepare one BMP plan, which includes all applicable discharge types (i.e. groundwater, surface waters, and wetlands). The permittee shall operate consistent with a department approved BMP plan. A copy of the BMP plan shall be retained by the permittee and this plan shall be made available upon department inspection or submitted to the department upon request.

The department also revised Section 5.3 for the BMP plan to include content specific to all applicants, for one-time coverage for temporary discharges or continuous/recurring discharges at a single site, or for statewide/municipal-wide coverage for temporary discharges or entities with coverage at multiple facilities with continuous/recurring discharges at a single site. Section 5.3 was revised as follows:

5.3 BMP Plan Content

The BMP plan shall include at least the following information.

1. For all applicants:
 - Good housekeeping and maintenance procedures;
 - Description of erosion and sediment control practices;
 - Description of treatment control practices;
 - Site restoration procedures (if necessary);
 - Emergency response and preparation procedures;
 - Visual inspection procedures and an example log;

- Recordkeeping procedures;
 - Noncompliance reporting procedures;
 - Employee training procedures; and
 - Personnel contact information.
2. For one-time discharges or continuous/recurring discharges at a single site:
 - Attach a R&R site map with a brief description of field observations that will be performed.
 3. For statewide/municipal-wide coverage for temporary discharges or entities with coverage at multiple facilities with continuous/recurring discharges at a single site:
 - Discharge management procedures for discharges to groundwater, surface waters, and wetlands;
 - Contaminated groundwater screening procedures (statewide/municipal-wide coverage for temporary discharges only);
 - Identification procedures of wetlands and outstanding or exceptional resource waters;
 - Alternative discharge procedures for encountered outstanding or exceptional resource waters; and
 - Description of the seven-day discharge notification and the agreed upon method of notification (statewide/municipal-wide coverage for temporary discharges only).

Enbridge Comment #12:

To accommodate for discharges that may take place in remote areas away from permanent buildings or structures, it is requested the language regarding storage be revised to read, "When feasible, the permittee shall keep an official copy of the BMP plan at the discharge locations and provide access to the information contained in the BMP plan during discharge events."

Department Response:

The department has revised Section 5.4 to include access only to on-site personnel not discharge location. Permittees are not required to keep a copy of BMP plan at the discharge location just provide access to the plan at all times to on-site personnel involved with the discharge activities. Access could include a paper copy or electronic copy on a company website. The department revised Section 5.4 as follows:

5.4 BMP Plan Access

The permittee shall ensure that on-site personnel directly involved with discharge activities have access to the BMP plan at all times while at the discharge location(s).

Enbridge Comment #13:

Draft permit language currently states, "The permittee shall provide training to new employees and refresher training to existing employees on the BMP plan." It is requested the language be modified to specify employee training will be provided, "for employees directly involved with discharge activities." As written, the current language is ambiguous and could be overly burdensome for entities with large numbers of employees.

Department Response:

The department agrees with the recommended changes and revised Section 5.5 as follows:

5.5 BMP Plan Training

The permittee shall provide training to personnel directly involved with discharge activities on the BMP plan.

Enbridge Comment #14:

Records for additive usage are required under Section 3.3.3 of the permit. Section 7.2 should also include reference to the additive usage records as required records for facilities.

Department Response:

Section 7.2 was removed in response to other comments. However, the department agrees with the recommended changes and revised Section 8.3.4 as follows:

8.3.4 Records Retention

The permittee shall retain records of all visual inspections logs, additive usage logs, monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by the permit, and records of all data used to complete the NOI for the permit for a period of at least 3 years from the date of the sample, measurement, report or application. All notice of intent information and other documents specified in the permit shall be retained for a minimum of 5 years.

The department has been removed Section 7 from the permit. Originally, Section 7.1 was added to track permittees with statewide or municipal-wide coverage. However, this tracking is satisfied by the newly added Section 4.5, which requires that permittees with statewide or municipal-wide coverage to notify the department prior to discharge to the waters of the state and after discontinuing discharge. Section 7.2 is duplicative of Section 8.3.4. Therefore, Section 7.2 was removed from the permit.

Enbridge Comment #15:

Section 8.1 states, "Permittees shall report, on the NOI, if the wastewater has a detectable pollutant of concern that discharges to an impaired surface water or a surface water with a State and EPA approved Total Maximum Daily Load (TMDL) allocation." This language implies there will be laboratory analysis of the dewatering discharge prior to submittal of the NOI; however, no laboratory analysis is required as part of the permit. It is suggested language be revised to state, "Permittees shall report, on the NOI, if the wastewater is suspected to contain a pollutant of concern..."

Department Response:

The department agrees with the recommended changes and revised Section 7.1 as follows:

7.1 Report Discharge to an Impaired Surface Water

Permittees shall report, on the NOI, if the wastewater is suspected to contain a pollutant of concern that discharges to an impaired surface water or a surface water with a State and EPA approved Total Daily Maximum Load (TMDL) allocation. The section 303(d) list of Wisconsin impaired surface water bodies may be obtained by contacting the department or by searching for the section 303(d) list on the department's Internet site. The department updates the section 303(d) list approximately every two years. The updated list is effective upon approval by EPA. The current link to the section 303(d) list is:

http://dnr.wi.gov/topic/impairedwaters/2016IR_IWLlist.html. State and Federal Approved TMDLs can be identified by contacting the department, or by searching for the State and Federal Approved TMDL list on the department Internet site. The current link to identify the list of State and Federal Approved Final TMDLs is: <http://dnr.wi.gov/topic/TMDLs/index.html>.

The Department received comments from Bruce Ramme from WE Energies and Wisconsin Public Service Corporation (WPS), listed below, on the draft permit.

WE and WPS Comment #1:

Section 2.1 of the proposed GP outlines the requirements for submittal of a Notice of Intent (NOI) for permittees seeking coverage under the general permit. The NOI form is designed towards facilities with a single or limited number of discharge locations. The proposed permit requires permittee's to submit a remediation and redevelopment (R&R) map to show the locations of proposed dewatering activities to allow the Department to evaluate whether a project will encounter contaminated groundwater. Our utility companies conduct work throughout Wisconsin and there are potentially hundreds or thousands of discharge locations in any given year. Therefore, it is not reasonable or practicable to provide a map of the R&R sites where dewatering operations could occur with an NOI.

A review of the R&R website for potential contamination sites should instead be part of best management practices (BMPs) to prevent the discharge of contaminated water. As stated in the draft permit, "checking the WRRD website and not finding an R&R site does not mean that the groundwater is not contaminated." Field observations of the water to be discharged and a general awareness of the land use in the area of the dewatering operations for the

potential to encounter contaminated ground are management practices that should be used to prevent the discharge of contaminated water.

The application form also asks for discharge characterization information, such as the type of wastewater to be discharged, discharge frequency, and average flow rates. For utilities, the discharge frequency and average flow rates cannot be determined or reasonably estimated as the volume of water discharged may vary by location, precipitation events, groundwater depth, etc. In lieu of providing discharge characterization information and a permit eligibility checklist, we suggest that the application form contain certification language indicating that the applicant's discharge meets the applicability criteria in Section 1.1 of the permit and the permittee will operate in accordance with the approved BMP plan.

Department Response:

The department agrees with the recommended changes and revised Section 2.1 and added Section 4.6 as follows:

2.1 Submittal of a Notice of Intent

The applicant must submit a complete electronic notice of intent (eNOI) under this general permit to the department at least thirty (30) business days before the expected start date of discharge. The applicant can access and submit the eNOI through the department water permit applications webpage: <http://dnr.wi.gov/permits/water/>. The eNOI can be found in Appendix B to this general permit.

Note: Applicants must have or create a Wisconsin Web Access Management System (WAMS) ID to access the eNOI. If the applicant already has a WAMS ID, then applicant does not need to recreate one and they may access the eNOI. Instructions and help with WAMS ID registration and filling out and submitting eNOIs can be found here: <http://dnr.wi.gov/permits/water/getStarted.html>.

4.6 Contaminated Groundwater Screening

The permittee shall screen the area of the dewatering operation for the potential to encounter contaminated groundwater. The permittee shall review the Wisconsin Remediation and Redevelopment Database (WRRD) webpage (<http://dnr.wi.gov/topic/Brownfields/wrrd.html>) for active and inactive contaminated sites near the facility site or proposed project area. Checking the WRRD website and not finding a contaminated site does not mean that the groundwater is not contaminated. The permittee shall perform field observations of the dewatering water to be discharged and have a general awareness of the land use and other indicators of contamination in the area (e.g. old gas stations, storage tanks, dump sites and other commercial/industrial land uses) to prevent the discharge of contaminated groundwater.

Applicants applying for coverage for one-time discharges or continuous/recurring discharges at a single site, the applicant shall prepare and attach a remediation and redevelopment (R&R) site map to the best management practice (BMP) plan with a brief description of field observations that will be performed. Applicants applying for statewide or municipal-wide coverage for temporary discharges, the applicant shall include contaminated groundwater screening procedures that will be conducted for all projects in the BMP plan. The permittee shall contact the department prior to discharge if they have reason to believe that contaminated groundwater will be encountered during dewatering operations.

Note: Guidance on how to use and generate R&R site maps can be found here: <http://dnr.wi.gov/topic/Brownfields/rasm.html>.

The department has updated the NOI to indicate that the characterization section is only applicable to applicants applying for one-time discharge coverage or coverage for continuous/recurring discharges at a single site. Applicants applying for statewide or municipal-wide coverage for temporary discharges may skip this question.

WE and WPS Comment #2:

One of the changes from the current WPDES permit is that "Surface water and groundwater discharge monitoring and reporting requirements" have been removed from the previous permit. These requirements have been replaced with BMP requirements as they are necessary to achieve effluent limitations and standards and carry out the purpose and intent of the Clean Water Act. Additionally, the BMP requirements will help alleviate burdensome monitoring for permittees and minimize efforts of the department for these low risk discharges." We agree and support the Department's approach of utilizing BMPs for dewatering operations.

We do not agree, however, with condition 2.4 that states “permittees must notify the department via phone, email, or fax when they propose to discharge to the waters of the state. The department may require the permittee to submit additional information regarding the wastewater discharge.” Waters of the State are further defined in Condition 11.21 to include all surface and groundwater, except “those waters which are entirely confined and retained completely upon the property of a person.” Therefore, as currently defined, nearly all dewatering operation discharges would be classified as discharges to Waters of the State and would require notification to the Department. The volume of required reporting statewide could amount to hundreds, perhaps thousands, of locations per day during significant rainfall events during the summer when construction dewatering activity peaks. The time and cost to handle such reporting will result in lots of data collection, but will result in little, or no, value-added meaningful information. Such reporting would result in costs that chip away at one of the central benefits of a WPDES General Permit – namely, the time and cost efficiency of standardizing BMP requirements so that individual case-by-case reporting is not needed. Such a reporting requirement also will create compliance challenges as the need to report dewatering activities can be very difficult to predict for a variety of reasons. Consequently, if left unchanged, this draft GP will require the Department and permittees to be burdened with monitoring and reporting of potentially thousands of discharge events across the state during every significant rainfall event. We recommend that the notification requirement be removed from the permit.

Department Response:

Section 2.4 has been removed as this section may be confusing to applicants as to what coverage applies. However, the department did add Section 4.5 that requires permittees with statewide coverage or municipal-wide coverage for temporary discharges to notify the department at least seven (7) calendar days prior to the discharge to the waters of state. This notification will keep the department aware of discharge activities happening throughout state in case of need for inspection or complaints. Permittees with coverage at one or multiple facilities with continuous/recurring discharges at a single site do not need to notify the department prior to discharge to the waters of the state. Temporary dewatering discharges that are adequately covered under the Construction Site Stormwater Runoff WPDES General Permit (No. WI-S067831) do not need to notify the department as they are not applicable to the permit. Section 4.5 reads as follows:

4.5 Seven (7)-Day Discharge Notification

Permittees that have statewide or municipal-wide coverage for temporary discharges under this permit, the permittee shall notify the department at least seven (7) calendar days prior to the discharge to the waters of state. Permittees with coverage at one or multiple facilities with continuous/recurring discharges at a single site do not need to notify the department prior to discharge to the waters of the state. The method of notification (phone message, email, letter, etc.) will be a process agreed upon by the permittee and the department. The notification shall include a description of their discharge strategies and discharge location. The best management practice plan shall contain a description of this seven-day discharge notification and the agreed upon method of notification. On a case-by-case basis the department may by letter require the permittee to submit additional information regarding a wastewater discharge which is covered by a general permit. The permittee shall also notify the department seven (7) calendar days after discontinuing the discharge.

The department has removed Section 7 from the permit. Originally, Section 7.1 was added to track permittees with statewide or municipal-wide coverage. However, this tracking is satisfied by the newly added Section 4.5, which requires that permittees with statewide or municipal-wide coverage to notify the department prior to discharge to the waters of the state and after discontinuing discharge. Section 7.2 is duplicative of Section 8.3.4. Therefore, Section 7.2 was removed from the permit.

WE and WPS Comment #3:

Section 3.2 of the GP contains requirements for discharges to ground water. Some of the conditions in this section are overly restrictive and inconsistent with other permit requirements. For example, condition 3.2.4 would prevent the discharge from dewatering operations during rain events that cause runoff from the site into surface water. To be consistent with condition 3.1 of the permit, our recommendation is that there should be an exception to this when the discharge meets the section 3.1 requirements that allow direct discharge to surface water.

Condition 3.2.7 prohibits discharge from dewatering operations to the ground during winter operations. Utilities need to respond to customer demands year-round and cannot stop work because there are frozen ground conditions. In many cases, work is planned to occur during frozen ground conditions to mitigate construction impacts (e.g., impact to wetlands), which includes having limited dewatering activities. Storage of water in winter months may not

be feasible under certain conditions. Storing water in tanks or drums may result in damaged containers due to the freezing and expansion of water unless the storage containers are kept in a heated environment. In general, water discharged to surface soils is groundwater or stormwater with suspended solids (i.e., typically native soils) and may ultimately have an effect that is no different than melting snow and ice already on the ground during the winter months. Therefore, in-line with our above comment on condition 3.2.4, the WDNR should revise condition 3.2.7 to allow winter dewatering operations, provided the discharge meets the Section 3.1 surface water discharge requirements and the Section 4.3 Erosion and Sediment Control Practices. This would essentially make the proposed GP consistent with the requirements of section 3.1.6.16 of the NR 216 GP (WI-S067831-5).

Department Response:

If the permittee has reason to believe that a discharge during a rain event would cause runoff from the site into surface water then the permittee shall follow Section 3.1. If permittee is following Section 3.2 for groundwater discharge, the permittee can discharge during a rain event if the infiltration area is located such that runoff from the area cannot enter a surface water. It is either a surface water discharge or groundwater discharge not both. See the department's response to Enbridge Comment #3 and Enbridge Comment #4 above for revisions to Sections 3.2.4 and 3.2.7.

WE and WPS Comment #4:

The goal of the proposed WPDES permit is to institute BMPs to control or eliminate the discharges from dewatering operations to waters of the state. Section 4 outlines BMP requirements which are not consistent with erosion and sediment control requirements found in NR 216. Our recommendation is that BMP requirements of this GP be aligned with the NR 216 GP to promote consistency across Department programs that regulate storm water discharges and dewatering operations. Specifically, our recommendation is that section 4.0 of the draft GP be modified to allow facility owners to address site-specific conditions using BMPs in a manner consistent with NR 151 Wis. Admin. Code and the WDNR NR 216 program.

Section 4.2 requires specific housekeeping and maintenance practices that are not found in NR 216 or within the storm water construction site erosion and sediment control technical standards. Condition 4.2.1 requires providing secondary containment for equipment, maintaining vegetation, and manually cleaning or removing all visible debris, trash, or solids prior to discharge. The permit fact sheet indicates the housekeeping strategies listed are "based on common dewatering maintenance practices conducted at construction sites." Based on our construction site experience, these are not common dewatering maintenance practices. Moreover, NR 216 does not contain similar requirements to what has been proposed in section 4.2. The requirements in NR 216.27(3)(h)2 states that the stormwater pollution prevention plan shall contain "Good housekeeping measures, preventive maintenance measures, visual inspections, spill prevention and response measures and employee training and awareness." Therefore, to ensure this permit is consistent with the WDNR's construction site storm water program, we suggest that this section be modified to state that good housekeeping practices shall be identified and implemented as part of the approved BMP plan that meets the NR 216.27(3)(h)2 requirements.

Sections 4.3 and 4.4 (erosion and sediment control practices, treatment control practices) outline typical practices used at construction sites. We recommend that these sections refer to the technical standards and BMPs developed by the DNR to provide suggested practices to comply with NR 151, Wis. Admin. Code., for erosion and sediment control.

Section 4.4 should be modified to remove reference to the 40 mg/l total suspended solids (TSS) effluent limitation and the 15 mg/l oil and grease (O&G) effluent limitation. This section of the permit should only require the implementation of practices designed to remove TSS and O&G to the maximum extent practicable (MEP). Our recommendation is that this GP be revised to instead incorporate the NR 216 performance standard for construction site dewatering defined in NR 151.11(6m)(b). The relevant technical standard to meet the NR 151.11 performance standard is Dewatering Code No. 1061.

In conclusion, our experience with the treatment controls listed in 4.4 is that these cannot consistently attain compliance with the two numeric effluent limitations listed above. Moreover, this requirement is inconsistent with similar dewatering requirements in the NR 216 permit. Therefore, to establish a reasonable and equitable approach to dewatering practices at locations with excavations statewide, this section should exclude numeric effluent limitations and instead establish the NR 151.11(6m)(b) performance standard for dewatering discharges.

Department Response

Dewatering operations may occur outside of construction sites regulated under Chapter NR 216, Wis. Ad. Code. Also, the sediment performance standards under s. NR 151.11(6m)(b), Wis. Adm. Code, are not intended for dewatering activities but apply to storm water runoff from regulated construction sites. Furthermore, the construction site storm water permit issued under NR 216 covers dewatering activities that are typically infrequent, relatively low volume, and the result of a random precipitation event during regulated land disturbing construction activity. In certain situations, the approach of the dewatering general permit may be more appropriate for routine and planned dewatering operations with higher volumes or that occur on a more frequent basis. For example, high volume dewatering operation discharges (i.e. from high capacity well systems) require more control beyond the BMP approach provided for by the construction site storm water permit issued under Chapter NR 216 as these dewatering operations have greater potential to concentrate pollutants and cause erosion. Nevertheless, the department has written the dewatering general permit to allow permittees flexibility on permit requirements that may not be applicable to their discharge.

As for the reference to limits in the permit, if the discharge does not pass the visual inspection requirements in Section 4.1, then the discharge shall be treated. The threshold level provided for total suspended solids (TSS) of 40 mg/L is achievable by application of best practicable control technology currently available for these types of discharges. This established effluent level is based on the average of the best performance of typical treatment technologies used for TSS removal. This determination was based on best professional judgment in accordance with s. NR 220.21, Wis. Adm. Code. The threshold level for oil & grease of 15 mg/L is achievable by application of best practicable control technology currently available for these types of discharges. This established effluent level is based on the ability of simple oil/water separator equipment to easily remove oil and grease from the discharge to concentrations below 15 mg/l. This determination was based on best professional judgment in accordance with s. NR 220.21, Wis. Adm. Code. Treating the discharge to the numeric effluent limits will provide a level of protection of water quality standards and ground water standards. Therefore, effluent quality of 40 mg/L TSS and 15 mg/L O&G is expected to be attainable.

WE and WPS Comment #5:

Condition 5.1 of the permit requires resubmittal of the BMP plan under certain situations, such as changes in BMPs or when there is a change in contact information found in the plan. We do not believe the plan needs to be resubmitted for approval when administrative changes to the plan occur. For instance, if a permittee modifies the plan to include BMPs approved pursuant to NR 216, additional approval from the Department is not warranted. An update to personnel contact information is not a material change to the plan which would affect dewatering operations. Unless the Department identifies deficiencies with a plan, permittees should maintain an up-to-date plan for Department review upon request.

As utilities that operate throughout the state, maintaining a copy of the plan at each discharge location is not practicable. In lieu of keeping a copy of the plan at the discharge location, a copy of the plan shall be maintained in a central location, such as a company intranet, and employees shall be trained on the BMP requirements on an annual basis.

Department Response:

Part 1: The department agrees; however, permittees shall notify the department when the BMP plan is amended to determine if the amendment requires department approval. The department has changed Sections 5.1 and 5.2 as follow as:

5.1 Operate Consistent with an Approved BMP Plan

Permittees shall develop a BMP plan for their discharge(s) to the waters of the state. Alternatively, permittees with statewide coverage for temporary discharges, municipal-wide coverage for temporary discharges, or entities with coverage at multiple facilities with continuous/recurring discharges at a single site may prepare one BMP plan, which includes all applicable discharge types (i.e. groundwater, surface waters, and wetlands). The permittee shall operate consistent with a department approved BMP plan. A copy of the BMP plan shall be retained by the permittee and this plan shall be made available upon department inspection or submitted to the department upon request.

5.2 Submittal of the BMP Plan

Applicants shall submit a complete BMP plan with the submittal of the NOI or within sixty (60) calendar days from the date of reissuance of this general permit to the department for approval. If an applicant applies for coverage during the term of this general permit (prior to the expiration date), the permittee shall submit the BMP plan with the NOI. The department coverage letter will explicitly indicate the approval of the BMP plan. Applicants applying for statewide coverage for temporary discharges, municipal-wide coverage for temporary discharges, or entities with coverage at multiple facilities with continuous/recurring discharges at a single site are only required to prepare and submit one BMP plan to the department for approval. Permittees shall notify the department when the BMP plan is amended to determine if the amendment requires department approval.

Part 2: See the department's response to Enbridge Comment #12 above.

Comments Received from EPA or Other Government Agencies

The Department received comments from EPA, listed below, on the draft permit.

EPA Comment #1:

Consider including the following language under Section 4.4 Treatment Control Process, which is analogous to language used regarding dewatering activities in the 2017 EPA issued Construction General Permit:

- a. Use an oil-water separator or suitable filtration device (such as a cartridge filter) that is designed to remove oil, grease, or other products if dewatering water is found to contain these materials;
- b. To the extent feasible, the use of vegetated, upland areas of the site to infiltrate dewatering water before discharge to surface water; and/or
- c. Replace and clean any filter media used in dewatering devices when the pressure differential equals or exceeds the manufacturer's specifications.

Department Response:

The department added the following to the list under Section 4.2(2) for surface water discharges:

"To the extent feasible, the use of vegetated, upland areas of the site to infiltrate dewatering water before discharge to surface water."

"If filtration equipment is used, replace and clean any filter media used in dewatering devices when the pressure differential equals or exceeds the manufacturer's specifications."

The department revised Section 4.4 to read:

4.4 Treatment Control Practices

If treatment is necessary to correct the discharge inconsistency per Section 4.1.3, the permittee shall implement treatment practices that will control the effluent quality prior to discharge to surface waters or groundwater. At a minimum, the treatment practices shall be rated to remove total suspended solids to a level at or below 40 mg/L in the discharge to surface waters. If oil and grease is present in the dewatering water, the treatment practices shall be rated to remove oil and grease to a level at or below 15 mg/L in the discharge to surface waters or groundwater. The permittee may consider the use of the following treatment controls:

- Simple gravity settling equipment (e.g. baffled clarifiers or temporary settling basins);
- Simple filtration equipment (e.g. dewatering bags, filter socks, or multi-bag filters);
- Oil and grease removal devices (e.g. oil water separator or cartridge filter); and
- Other treatment control practices consistent with the storm water construction technical standard for dewatering (Code No. 1061).

As provided by s. 283.63, Wis. Stats., and ch. 203, Wis. Adm. Code, persons desiring further adjudicative review of this final determination may request a public adjudicatory hearing. A request shall be made by filing a verified petition for review with the Secretary of the Department of Natural Resources within 60 days of the date the permit was signed (see permit signature date above). Further information regarding the conduct and nature of public adjudicatory hearings may be found by reviewing ch. NR 203, Wis. Adm. Code, s. 283.63, Wis. Stats., and other applicable law, including s. 227.42, Wis. Stats.

Information on file for this permit action, including the draft permit and fact sheet may be reviewed on the internet at the above web link or may be inspected and copied at the permit drafter's office during office hours. Information on this permit may also be obtained by calling the permit drafter or by writing to the Department. Reasonable costs (usually 20 cents per page) will be charged for copies of information in the file other than the public notice, permit and fact sheet. Pursuant to the Americans with Disabilities Act, reasonable accommodation, including the provision of informational material in an alternative format, will be made to qualified individuals upon request.