

State of Wisconsin
DEPARTMENT OF NATURAL RESOURCES
141 NW Barstow, Room 180
Waukesha, WI 53188

Tony Evers, Governor
Preston D. Cole, Secretary
Telephone 608-266-2621
Toll Free 1-888-936-7463
TTY Access via relay - 711



August 21, 2020

IP-SE-2018-68-N04503, N04505, N04506

Dan Duchniak
Waukesha Water Utility
115 Delafield Street
Waukesha, WI 53188

Dear Mr. Duchniak:

Re: Amendment to Great Water Alliance-Great Lakes Water Supply Program Waterway and Wetland Permit

The Department of Natural Resources (department) has reviewed your request to amend permit IP-SE-2018-68-N04503, N04505, N04506 which authorizes the wetland and waterway impacts of the Great Lakes Water Supply Program. The amendment specifically requests additional temporary wetland impact to facilitate a shift in alignment along the return flow system.

Your request to authorize additional temporary wetland impact is approved with certain conditions and limitations. Attached is the permit amendment containing new conditions, along with a copy of your original permit which is still in effect unless otherwise noted.

Please note the original permit requires the submittal and approval of a stream crossing plan for the utility crossings of the waterways (open cut trench crossings), the construction plans for the outfall structure on the Root River, as well as the final wetland and waterway restoration plans. These submittals have not yet been submitted to the department.

If you have any questions about this permit amendment, please call me at (262) 574-2153 or email Geri.Radermacher@wisconsin.gov.

Sincerely,

Geri Radermacher
Water Management Specialist

cc: Marie Kopka, U.S. Army Corps of Engineers
Stacy Schumacher, Public Service Commission

PERMIT AMENDMENT

Waukesha Water Utility is hereby granted under 401 CWA, Section 30.025, 30.12, 30.20, 281.36, Wisconsin Statutes, an amendment to permit number IP-SE-2018-68-N04503, N04505, N04506, which authorized wetland fill, a structure on the bed of a waterway and dredging waterways. The project is located in Section 13, Town 06 North, Range 19 East, Sections 2, 3, 12-20, 27, 29, 32-34 Township 06 North, Range 20 East, and Sections 7 and 18, Town 06 North, Range 21 East, (all in the City of New Berlin, Waukesha County, and Sections 9, 13-16, Town 06 North, Range 19 East, (all in the City of Waukesha, Waukesha County), and Sections 32-34, Town 6 North Range 20 East, and Sections 2, 3, 11, 13, 14, 24, 25, Town 05 North, Range 20 East, and Section 30, Town 05 North, Range 21 East, (all in the City of Muskego, Waukesha County), and Sections 9 and 13-16, Town 06 North, Range 19 East, and Section 9, Town 6 North Range 19 East, (all in the Town of Waukesha, Waukesha County), and Sections 13, 24, 25, Town 05 North, Range 20 East, and Sections 21, 22, 26-30 and 35, (all in the City of Franklin, Milwaukee County), and Sections 8 and 16-18, Town 06 North, Range 21 East, (all in the City of Greenfield, Milwaukee County), and Sections 8, 9, 15-17, (all in the City of Milwaukee, Milwaukee County), and Section 12, Town 06 North, Range 20 East, and Sections 7-9 and 15-18, (all in the City of West Allis, Milwaukee County). This is an approved amendment to increase the amount of temporary wetland impact by .13 acres. The applicant is bound by the conditions of the original permit and by any conditions of this amendment.

AMENDED PERMIT CONDITIONS

1. All original permit conditions remain in effect, except where modified by the amended permit conditions below.
2. Condition #27 of the original permit has been modified to read, "No wetlands may be disturbed beyond the area specifically authorized in this permit. Wetland impacts are identified in the attached Wetland/Waterway Impact Location Table 1, dated August 19, 2020 (attached)"

FINDINGS OF FACT

1. On June 12, 2020, Waukesha Water Utility (WWU) filed a request with the Department for an amendment of a permit which authorizes wetland fill, structure on the bed of a waterway and dredging waterways, in order to construct the infrastructure associated with the water supply and return systems of the Great Water Alliance Program, under 401 CWA, Section 30.025, 30.12, 30.20 281.36, Wisconsin Statutes
2. The project is located in Section 13, Town 06 North, Range 19 East, Sections 2, 3, 12-20, 27, 29, 32-34 Township 06 North, Range 20 East, and Sections 7 and 18, Town 06 North, Range 21 East, (all in the City of New Berlin, Waukesha County, and Sections 9, 13-16, Town 06 North, Range 19 East, (all in the City of Waukesha, Waukesha County), and Sections 32-34, Town 6 North Range 20 East, and Sections 2, 3, 11, 13, 14, 24, 25, Town 05 North, Range 20 East, and Section 30, Town 05 North,

Range 21 East, (all in the City of Muskego, Waukesha County), and Sections 9 and 13-16, Town 06 North, Range 19 East, and Section 9, Town 6 North Range 19 East, (all in the Town of Waukesha, Waukesha County), and Sections 13, 24, 25, Town 05 North, Range 20 East, and Sections 21, 22, 26-30 and 35, (all in the City of Franklin, Milwaukee County), and Sections 8 and 16-18, Town 06 North, Range 21 East, (all in the City of Greenfield, Milwaukee County), and Sections 8, 9, 15-17, (all in the City of Milwaukee, Milwaukee County), and Section 12, Town 06 North, Range 20 East, and Sections 7-9 and 15-18, (all in the City of West Allis, Milwaukee County).

3. Waukesha Water Utility was granted permit IP-SE-2018-68-N04503, N04505, N04506 to construct the Great Water Alliance Program (Program) which brings water from Lake Michigan to the City of Waukesha and returns water back to the Root River. The applicant's stated purpose of the program is to provide a long-term, safe and sustainable water supply for the City of Waukesha. The Program includes a Water Supply System and a Return Flow System. The Water Supply System requires pipelines and facilities capable of conveying Lake Michigan potable water from Milwaukee to Waukesha. The Return Flow System requires piping and facilities capable of returning treated effluent from the Waukesha Clean Water Plant to the Root River, a tributary to Lake Michigan.
4. Waukesha Water Utility filed a request to amend the original permit on June 12, 2020 to modify the alignment of the Return Flow Pipeline from the north side of STH100/Ryan Road to the south side of STH 100/Ryan Road resulting in an additional 0.13 acres of temporary wetland impact.
5. The project directly impacts 8.042 acres of wetland, of which .002 acres is permanent wetland fill and 8.04 acres is temporary wetland impacts. The Water Supply System impacts 1.09 acres of wetland and the Return Flow System Impacts 6.95 acres of wetland, of which 6.01 acres are associated with the Return Flow Pipeline and 0.94 acres are associated with the Return Facilities and Outfall Site.
1. The Department has determined that the proposed amendment to the permit will not affect the Findings of Fact and Conclusions of Law of the original permit. A copy of the original permit is attached to this amendment.

CONCLUSIONS OF LAW

1. The Department has authority under 401 CWA, Sections 30.20, 30.12. 281.36 Wisconsin Statutes and the foregoing Findings of Fact, to issue an order granting the permit amendment requested.
2. The Department has complied with Section 1.11, Wisconsin Statutes and NR 150, Wisconsin Administrative Code.

Dated at Waukesha Service Center, Wisconsin on 08/21/2020.

STATE OF WISCONSIN DEPARTMENT OF NATURAL RESOURCES
For the Secretary



By _____

Geri Radermacher
Water Management Specialist

Table 1 DNR Wetland/Waterway Impact Location Table - Revised August 19, 2020

Supplement Document to WDNR Form 3500-53. Check all that apply.

Note: Any revisions to this table must be agreed upon by all parties before filing.

Table with columns: RESOURCE (Route/Segment/Contract, Wetland Type or Waterway Name, Feature Unique ID, Permit Required), CONSTRUCTION METHOD/ACTIVITY (Waterway Impact Activity, Wetland Impact Activity, Bridge, HDD/J&B, Plow), LOCATION (County, Municipality, QQ, Q, Section, Township), RESOURCE IMPACT (ASNRI, Temporary Fill, Permanent Fill, Conversion), and DNR DOCKET. Rows include various projects from R01 to R25, detailing wetland types, construction methods, and impact areas.

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December 13, 2019

IP-SE-2018-68-N04503, N04505, N04506

Dan Duchniak
Waukesha Water Utility
115 Delafield Street
Waukesha, WI 53188

Dear Mr. Duchniak:

The Department of Natural Resources (department) has completed review of the waterway and wetland permit applications for the proposed Great Water Alliance-Great Lakes Water Supply Program (project). The project requires authorization to impact wetland, to dredge waterways and to install an outfall structure on the bed of the Root River. The waterway and wetland permit applications are approved.

Attached is the permit. The permit contains conditions that must be followed to avoid and minimize wetland impacts and to protect public interests in navigable waterways. Please read the permit conditions carefully so you are fully aware of the permit requirements.

Please note the permit requires the submittal and approval of a stream crossing plan for the utility crossings of the waterways (open cut trench crossings), the construction plans for the outfall structure on the Root River, as well as the final wetland and waterway restoration plans.

If you have any questions about your permit, please call me at (262) 574-2153 or email Geri.Radermacher@wisconsin.gov.

Sincerely,

A handwritten signature in cursive script that reads 'Geri Radermacher'.

Geri Radermacher
Water Management Specialist

cc: Marie Kopka, U.S. Army Corps of Engineers
Adam Ingwell, Public Service Commission

**STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES**

**Wetland and Waterway Individual Permit
IP-SE-2018-68-N04503, N04505, N04506**

Waukesha Water Utility is hereby granted under 401 CWA, Section 30.025, 30.12, 30.20 281.36, Wisconsin Statutes, a permit for wetland fill, a structure on the bed of a waterway and dredging waterways, in order to construct the infrastructure associated with the water supply and return systems, located in Section 13, Town 06 North, Range 19 East, Sections 2, 3, 12-20, 27, 29, 32-34 Township 06 North, Range 20 East, and Sections 7 and 18, Town 06 North, Range 21 East, (all in the City of New Berlin, Waukesha County, and Sections 9, 13-16, Town 06 North, Range 19 East, (all in the City of Waukesha, Waukesha County), and Sections 32-34, Town 6 North Range 20 East, and Sections 2, 3, 11, 13, 14, 24, 25, Town 05 North, Range 20 East, and Section 30, Town 05 North, Range 21 East, (all in the City of Muskego, Waukesha County), and Sections 9 and 13-16, Town 06 North, Range 19 East, and Section 9, Town 6 North Range 19 East, (all in the Town of Waukesha, Waukesha County), and Sections 13, 24, 25, Town 05 North, Range 20 East, and Sections 21, 22, 26-30 and 35, (all in the City of Franklin, Milwaukee County), and Sections 8 and 16-18, Town 06 North, Range 21 East, (all in the City of Greenfield, Milwaukee County), and Sections 8, 9, 15-17, (all in the City of Milwaukee, Milwaukee County), and Section 12, Town 06 North, Range 20 East, and Sections 7-9 and 15-18, (all in the City of West Allis, Milwaukee County), subject to the following conditions:

PERMIT

General Conditions

1. You must notify Geri Radermacher at phone (262) 574-2153 or email Geri.Radermacher@wisconsin.gov before starting the project construction and again not more than 5 days after the discharge is complete.
2. Within one week of completion, you must submit a series of photographs to the department showing all work authorized by this permit. The photographs must be clear, labeled with the wetland/waterway feature identifier, and must show each permitted activity and appropriate restoration.
3. You shall complete the wetland impact, waterway crossings and outfall structure installation and restoration on or before 12/13/2022. You may submit a written request for an extension prior to the expiration date of the permit. Your request shall identify the requested extension date and the reason for the extension. A permit extension may be granted, for good cause, by the department. You may not begin or continue construction after the original permit expiration date unless the department grants a new permit or permit extension in writing.
4. This permit authorizes the activities in waterways and wetlands listed in the Wetland/Waterway Impact Location Table 1, dated June 28, 2019 (attached) and reflected in the submitted Wetland Impact Exhibit, dated June 3, 2019. This permit does not authorize any work other than what you specifically describe in your application and plans and as modified by the conditions of this permit. If you wish to alter the permit conditions, you must first obtain written approval of the department.
5. You are responsible for obtaining any federal, state or local permit or approval that may be required before starting your project.

6. Upon reasonable notice, you shall allow access to your project site during reasonable hours to any department employee who is investigating the project's construction, operation, maintenance or permit compliance.
7. The department may modify or revoke this permit if the project is not completed according to the terms of the permit, or if the department determines the activity results in significant adverse impact to wetland functional values, in significant adverse impact to water quality, or in other significant adverse environmental consequences.
8. A copy of this permit must be posted on the project web site for at least five days prior to construction and remain posted until at least five days after construction and restoration work have ended. A copy of this permit and approved construction plan must be available at all project field offices and construction sites until the project is complete. All employees, consultants, and contractors who are working on the project must be made aware of the permit, its conditions, and its location. All appropriate managers and supervisors in charge of, or working on construction or compliance, be provided with copies of the permit.
9. Your acceptance of this permit and efforts to begin work on this project signify that you have read, understood and agreed to follow all conditions of this permit.
10. You, your agent, and any involved contractors or consultants may be considered a party to the violation pursuant to Section 281.36 (13), Wis. Stats. and Section 30.292, Wis. Stats., for any violations of Section 281.36 and Chapter 30, Wis. Stats., or violations of this permit.
11. You assume all responsibility and liability for any direct or indirect damage caused or resulting from the project and hold the State of Wisconsin, and its employees, harmless.
12. Spills of hazardous or toxic materials that pose a threat to human health, safety or the environment must be cleaned up to the extent practicable. All spills should be reported immediately to the department using the 24-hour toll free hot line, 1-800-943-0003. For more information, please visit the spills program web page: www.dnr.state.wi.us/org/aw/rr/spills/index.htm.
13. You shall update the Endangered Resources Review(s) for this project within one year of the start of construction and comply with all required actions within the review letter.
14. All equipment used for the project including but not limited to vehicles, construction machinery, barges, boats, hoses, sheet pile and pumps shall be de-contaminated for invasive and exotic viruses and species prior to use and after use.

The following steps must be taken *every time* you move your equipment to avoid transporting invasive and exotic viruses and species. To the extent practicable, equipment and gear used on infested waters shall not be used on other non-infested waters.

1. **Inspect and remove** aquatic plants, animals, and mud from your equipment.
2. **Drain all water** from your equipment that comes in contact with infested waters, including but not limited to tracked vehicles, barges, boats, hoses, sheet pile and pumps.
3. **Dispose** of aquatic plants, animals in the trash. Never release or transfer aquatic plants, animals or water from one waterbody to another.

4. **Wash your equipment** with hot (>140° F) and/or high-pressure water,

- OR -

Allow your equipment to **dry thoroughly for 5 days**.

Erosion Control Conditions

15. Construction shall be accomplished in such a manner as to minimize erosion and siltation into surface waters. Erosion control measures (such as silt fence and straw bales) must meet or exceed the technical standards of ch. NR 151, Wis. Adm. Code. The technical standards are found at:
http://dnr.wi.gov/topic/stormwater/standards/const_standards.html.
16. Appropriate erosion control measures shall be in-place and effective during every phase of this project.
17. Erosion control measure shall be in place at the end of each working day.
18. Erosion control measures shall be inspected, and necessary repairs or maintenance performed after every rainfall exceeding ½ inch and at least once per week.
19. You shall maintain a log of the erosion control inspections, repairs made, and rain events. This log shall be made available to any department personnel upon request.
20. Any area where topsoil is exposed during construction shall be stabilized to prevent soil from being eroded and washed into a sensitive resource.
21. The removal of vegetative cover and exposure of bare ground shall be restricted to the minimum necessary for construction. Areas where soil is exposed must be protected from erosion by seeding and mulching, sodding, diversion of surface runoff, installation of straw bales or silt screens, construction of settling basins, or similar methods as soon as possible after removal of the original ground cover as described by the department's technical standards, or site-specific erosion control plan approved by department.
22. All erosion control matting used on this project shall be made from natural fiber only, without any synthetic mesh or netting.
23. Site stabilization between October 1 and April 15 requires seeding and mulching (with weed-free mulch or non-synthetic matting).
24. After the site is 70% stabilized, all temporary erosion control measures shall be removed and disposed of properly.
25. Any temporary erosion control devices, construction debris, or waste remaining after construction constitutes littering and may be enforced as determined necessary by the department.
26. All dewatering activities, including dredging, must comply with Technical Standard 1061
https://dnr.wi.gov/topic/stormWater/documents/Dewatering_1061.pdf .

Wetland Conditions

27. No wetlands may be disturbed beyond the area specifically authorized in this permit. Wetland impacts are identified in the attached Wetland/Waterway Impact Location Table 1, dated June 28, 2019.
28. All equipment used in wetlands shall work during frozen conditions, from construction mats, or be designed and properly sized to minimize the amount of disturbance to wetlands.
29. Wetland activities shall not result in topsoil/subsoil mixing.
30. All construction waste materials shall be removed from wetlands during restoration.
31. All vehicles and equipment used in wetlands shall be checked at least once per work day for fluid (e.g. fuel, oil, hydraulic, coolant, etc.) leaks. All leaks must be immediately corrected before the equipment is allowed back into operation.
32. All wetlands shall be restored to pre-existing conditions including the soil profile, elevations, vegetative cover and hydrology. You shall submit a final wetland restoration plan to the department. This plan shall be approved in writing prior to conducting any work in wetland.
33. Where permanent fill material is authorized, the project will be constructed in a manner that will maintain wetland hydrology in the remaining wetland complex.
34. Ground water barriers shall be installed within the trench as detailed in the application to prevent the pipeline from negatively impacting wetland hydrology.

Waterway Conditions

35. No waterways shall be disturbed beyond the areas specifically authorized in this permit.
36. You shall follow the prescribed waterway crossing method listed in attached Wetland/Waterway Impact Location Table 1, dated June 28, 2019. Any proposed changes to approved waterway crossings method shall be approved by the department.
37. Prior to conducting any stream dredging, you shall provide the department a stream crossing plan. The plan shall include site specific waterway details (width, bank slope and height, stream bed composition, flow data, etc) and crossing details (trench width and length, construction sequence and timing, restoration, stream bypass plan, erosion control plan, emergency action plan, etc). This plan shall be approved in writing by the department prior to conducting stream dredging.
38. Prior to installing the outfall structure, you shall provide the department an outfall structure construction plan. This plan shall include details on the construction sequence, timing, erosion and sediment control, work zone isolation, emergency action plan, etc. This plan shall be approved by the department in writing prior to initiating activities below the OHWM of the Root River.

39. The outfall structure and associated riprap shall confirm to the details provided in the application.
40. Work in waterways is prohibited between March 1st and June 15th of the calendar year unless approved by the department in writing.
41. You shall restore all disturbed waterways to pre-existing conditions. You shall provide the department a final waterway restoration plan for review and written approval prior to conducting any dredging and/or installing the outfall structure.
42. The streambed backfill material shall be consistent with the pre-existing and adjacent bed material. If the stream bed in the crossing location has a unique substrate feature, it shall be replaced (i.e. cobbles, boulders, riffles, etc).
43. For all dredged waterways, you shall provide the department with documentation post construction to document streambed and streambank elevations and slopes have not changed due to the construction of this project.
44. You shall not work in waterways during periods of high flows or high water levels.
45. Work within waterways shall be completed as quickly as possible to minimize potential resource impacts.
46. Installation of the pipeline and outfall structure shall be done in a manner which minimizes the removal of trees, shrubs and other shoreline and wetland vegetation.
47. Pump intakes and discharges shall prevent impacts to fisheries, wildlife, and their habitat.
48. Pump intakes and discharges shall be placed to avoid the disturbance and removal of bed material. Pump discharges shall have energy dissipation devices installed to prevent disturbance and scour of bed material.
49. No earthen coffer dams are allowed.

FINDINGS OF FACT

1. Waukesha Water Utility (WWU) filed an application for a permit for wetland fill, structure on the bed of a waterway and dredging waterways, in order to construct the infrastructure associated with the water supply and return systems, in Section 13, Town 06 North, Range 19 East, Sections 2, 3, 12-20, 27, 29, 32-34 Township 06 North, Range 20 East, and Sections 7 and 18, Town 06 North, Range 21 East, (all in the City of New Berlin, Waukesha County, and Sections 9, 13-16, Town 06 North, Range 19 East, (all in the City of Waukesha, Waukesha County), and Sections 32-34, Town 6 North Range 20 East, and Sections 2, 3, 11, 13, 14, 24, 25, Town 05 North, Range 20 East, and Section 30, Town 05 North, Range 21 East, (all in the City of Muskego, Waukesha County), and Sections 9 and 13-16, Town 06 North, Range 19 East, and Section 9, Town 6 North Range 19 East, (all in the Town of Waukesha, Waukesha County), and Sections 13, 24, 25, Town 05 North, Range 20 East, and Sections 21, 22, 26-30 and 35, (all in the City of Franklin, Milwaukee County), and Sections 8 and 16-18, Town 06 North, Range 21 East, (all in the City of Greenfield, Milwaukee County), and Sections 8, 9, 15-17, (all in the City of Milwaukee, Milwaukee County), and Section 12, Town 06 North, Range 20 East, and Sections 7-9 and 15-18, (all in the City of West Allis, Milwaukee County).
2. The Great Lakes-St. Lawrence River Basin Water Resources Compact (Compact) approved a diversion of Lake Michigan water from the Great Lakes-St. Lawrence River Basin on June 21st, 2016. The approval required WWU to return a volume of water to Lake Michigan approximately equal to the volume of water withdrawn from Lake Michigan.
3. The project is the Great Water Alliance Program (Program) which brings water from Lake Michigan to the City of Waukesha and returns water back to the Root River. The applicant's stated purpose of the program is to provide a long-term, safe and sustainable water supply for the City of Waukesha. The Program includes a Water Supply System and a Return Flow System. The Water Supply System requires pipelines and facilities capable of conveying Lake Michigan potable water from Milwaukee to Waukesha. The Return Flow System requires piping and facilities capable of returning treated effluent from the Waukesha Clean Water Plant to the Root River, a tributary to Lake Michigan.
4. The project directly impacts 7.92 acres of wetland, of which .01 acres is permanent wetland fill and 7.91 acres is temporary wetland impacts. The Water Supply System impacts 1.09 acres of wetland and the Return Flow System Impacts 6.83 acres of wetland, of which 5.89 acres are associated with the Return Flow Pipeline and 0.94 acres are associated with the Return Facilities and Outfall Site.
5. No practicable alternative exists which would avoid impacts to wetlands, and the project will result in the least environmentally damaging practicable alternative taking into consideration practicable alternatives that avoid wetland impacts. Wetland impacts were avoided by siting the project outside of wetlands to the maximum extent practicable. Major above-ground infrastructure components were located in upland areas. Underground pipeline routes were primarily located along roadways and previously disturbed areas, impacting wetlands with pre-dominantly lower functional value. Larger wetland complexes were avoided to the maximum extent practicable and the horizontal directional drill construction method was utilized to avoid wetland impact. The department has determined the project meets the water quality standards found in NR 299.04, Wis. Admin. Code.

6. The department has determined wetland impacts have been minimized to the extent practicable. Wetland impacts were minimized by siting the pipeline routes along previously disturbed road corridors, and by minimizing the trench width and minimizing overall construction limits in wetland. Wetland impact will also be minimized by utilizing construction matting in travel areas in wetland workspaces. Ground water barriers will be installed to prevent the pipeline from draining wetland area. Soils and hydrology will be restored to pre-existing conditions and vegetation will be allowed to restore to pre-existing conditions.
7. Most of the wetland impacts are proposed to emergent wetlands within existing ROW. These wetlands provided limited fish and wildlife value and limited floristic diversity. The primary functional value of these wetlands is water quality and stormwater conveyance. Impacts to the functional values of these wetlands is expected to be temporary as the active construction impact is brief and the herbaceous vegetation should restore within a growing season.
8. The proposed project, if constructed in accordance with this permit, will comply with Wisconsin's Endangered Species Law, 29.604, Wis. Stats.
9. The proposed project, if constructed in accordance with this permit, will not result in significant adverse impacts to wetland functional values, significant adverse impacts to water quality, or other significant adverse environmental consequences.
10. The project does not require compensatory wetland mitigation under 281.36(3n)(d)2 Wis. Stats.
11. The department has completed an investigation of the project site and has evaluated the project as described in the application and plans. The attached Wetland/Waterway Impact Location Table 1, dated June 28, 2019 and the submitted Wetland Impact Exhibit, dated June 3, 2019 specify the locations, regulated activities and general construction requirements for each waterway and wetland impact.
12. The project will include open cut (dredging) installation through three navigable waterways. The applicant will provide detailed plans for each waterway crossing for department approval to ensure impacts to the waterways are minimized.
13. The project will include the installation of one outfall structure on the bed of the Root River. The applicant will provide final detailed plans for the installation of this structure for department approval to ensure impacts to the waterway during construction are minimized.
14. The discharge water is regulated by the department's Wisconsin Pollutant Discharge Elimination System (WPDES) Program. The department has the authority to impose discharge limits for pollutants that have codified water quality standards or discharge limitation guidelines promulgated by rule.
15. The Root River, the unnamed tributaries to Muskego Creek and the unnamed tributary to the Root River are navigable waters (and no bulkhead exists at the project site.)
16. The proposed outfall structure will not materially obstruct navigation of the Root River.

17. The outfall structure and dredging will not be detrimental to the public interest in navigable waterways. Proper erosion and sediment control will be utilized during construction to minimize impacts to water quality. The dredging and outfall structure will not have a significant impact on fish and wildlife habitat and will not significantly impact the navigation of the waterways.
18. The outfall structure will not materially reduce the flood flow capacity of a waterway. The outfall structure will not restrict flow within the floodway of the Root River and will result in less than .01 inches of elevation increase. The flows calculated for the Flood Insurance Study are not expected to be affected by the addition of the return flow.
19. The activity will not cause environmental pollution as defined in s. 299.01(4) Wis. Stats.
20. No material injury will result to the riparian rights of any riparian owners of real property that abuts any water body that is affected by the activity.
21. The proposed project, if constructed in accordance with this permit will not adversely affect water quality, will not increase water pollution in surface waters and will not cause environmental pollution as defined in s. 283.01(6m), Wis. Stats.
22. The proposed project, if constructed in accordance with this permit, will comply with s. 157.70 Wis. Stats. and Section 106 of the National Historic Preservation Act, 36 C.F.R. Part 800.
23. The department participated in the Certificate of Authority (CA) process with the Public Service Commission (PSC), under PSC docket 6240-CW-117.
24. The department, pursuant to s. 1.11 Wis. Stats, and ch. NR 150, Wis. Admin. Code, has the responsibility to comply with Wisconsin Environmental Policy Act and the authority to determine its compliance with that Act.
25. A comprehensive summary of the environmental analysis completed for the project can be found in the WEPA Compliance Determination for the project dated December 13, 2019, which is archived here: <https://dnr.wi.gov/topic/EIA/Archive.html>. This document was prepared in accordance with NR 150, Wis. Admin. Code.
26. In July 2011, the department held informational meetings to accept public comments on the scope of the EIS. The department announced the availability of a draft EIS in June 2015. In August 2015, the department held informational hearings to receive public comments on the draft EIS. In January 2016, the department released a preliminary final EIS with a summary of comments received, and a response to comments. In June 2017, the department requested information from WWU necessary to complete the EIS process. In August 2019, the department announced the availability of an updated EIS and held an informational hearing to receive public comments. In December 2019, the department released a final EIS, including a summary of public comments and the department's response to comments.
27. The department considered the environmental analysis information and all public comments received during the NR 150 Wis. Admin. Code process.

28. A Notice of Pending Application for the waterway and wetland permit application was published on the department's website on July 31, 2019.
29. A public informational hearing for the waterway and wetland permit application was held on August 20, 2019. Public comments were received on the application and were related to water quality and water quantity impacts to the Root River, water management and erosion control during construction, and impacts to wooded wetlands. The department considered public comment when making this decision.
30. The department and the applicant have completed all procedural requirements and the project as permitted will comply with all applicable requirements of 401 CWA, Sections 30.20, 30.12, 281.36, Wisconsin Statutes and Chapters NR 102, 103, 329 and 345 of the Wisconsin Administrative Code.

CONCLUSIONS OF LAW

1. The department has authority under the above indicated Statutes and Administrative Codes, to issue a permit for the construction and maintenance of this project.

NOTICE OF APPEAL RIGHTS

If you believe that you have a right to challenge this decision, you should know that the Wisconsin statutes and administrative rules establish time periods within which requests to review department decisions shall be filed. For judicial review of a decision pursuant to sections 227.52 and 227.53, Wis. Stats., you have 30 days after the decision is mailed, or otherwise served by the department, to file your petition with the appropriate circuit court and serve the petition on the department. Such a petition for judicial review shall name the department as the respondent.

To request a contested case hearing of any individual permit decision pursuant to section 30.209, Wis. Stats., you have 30 days after the decision is mailed, or otherwise served by the department, to serve a petition for hearing on the Secretary of the Department of Natural Resources, P.O. Box 7921, Madison, WI, 53707-7921. The petition shall be in writing, shall be dated and signed by the petitioner, and shall include as an attachment a copy of the decision for which administrative review is sought. If you are not the applicant, you must simultaneously provide a copy of the petition to the applicant. If you wish to request a stay of the project, you must provide information, as outlined below, to show that a stay is necessary to prevent significant adverse impacts or irreversible harm to the environment. If you are not the permit applicant, you must provide a copy of the petition to the permit applicant at the same time that you serve the petition on the Department.

The filing of a request for a contested case hearing is not a prerequisite for judicial review and does not extend the 30 day period for filing a petition for judicial review.

A request for contested case hearing must meet the requirements of s. 30.209, Wis. Stats., and sections NR 2.03, 2.05, and 310.18, Wis. Admin. Code, and if the petitioner is not the applicant the petition must include the following information:

1. A description of the objection that is sufficiently specific to allow the department to determine which provisions of this section may be violated if the proposed permit or contract is allowed to proceed.

2. A description of the facts supporting the petition that is sufficiently specific to determine how the petitioner believes the project, as proposed, may result in a violation of Chapter 30, Wis. Stats.
3. A commitment by the petitioner to appear at the administrative hearing and present information supporting the petitioner's objection.

If the petition contains a request for a stay of the project, the petition must also include information showing that a stay is necessary to prevent significant adverse impacts or irreversible harm to the environment.

Dated at Waukesha Service Center, Wisconsin on December 13, 2019

STATE OF WISCONSIN DEPARTMENT OF NATURAL RESOURCES

For the Secretary



By _____

Geri Radermacher

Water Management Specialist