

MEMORANDUM OF UNDERSTANDING

BETWEEN THE WISCONSIN DEPARTMENT OF NATURAL RESOURCES, THE UNITED STATES FISH AND WILDLIFE SERVICE, THE NATURAL RESOURCES CONSERVATION SERVICE AND THE UNITED STATES ARMY CORPS OF ENGINEERS (Revisions October 20, 2011)

I. PURPOSE

THIS MEMORANDUM OF UNDERSTANDING (MOU) is entered into by and among the Wisconsin Department of Natural Resources (WDNR), the United States Fish and Wildlife Service (FWS), the United States Department of Agriculture Natural Resources Conservation Service (NRCS), and the United States Army Corps of Engineers, St. Paul District Regulatory Branch (ACOE) to improve cooperation between the agencies. As such, this MOU is not intended to create any right or benefit, substantive or procedural, enforceable at law by any party against the United States, its agencies, its officers, or any person. This MOU has been developed to coordinate the four agency programs for the purposes of: (1) facilitating the restoration of wetlands; (2) managing wetlands to protect diversity of species, wildlife health and ecological integrity; (3) protecting public rights in navigable waters, including navigation, fisheries, wildlife, water quality and quantity; (4) protecting life, health and property from flood and dam hazards; (5) streamlining regulatory processes for wetland restoration and enhancement activities, including eliminating duplication of professional staff effort; and (6) tracking wetland acres gains through voluntary wetland conservation projects. The signatories intend to conduct the activities contemplated in this MOU in accordance with existing authorities (see Section IV below). If any provisions of this MOU are determined to be inconsistent with existing laws or regulations or directives governing the signatories, then the provisions of this MOU not affected by a finding of inconsistency shall remain in full force and effect. This MOU may be modified as necessary, by mutual agreement of all parties, by a written amendment signed and dated by an authorized representative of each party.

Background: WDNR, FWS, NRCS, and ACOE recognize that Wisconsin has lost an estimated 50% of its historic wetland acreage, and that the restoration of wetlands in the state would benefit fish, wildlife, water quality, flood control, biodiversity and natural scenic beauty. The four agencies have various responsibilities for regulating, protecting, managing and restoring wetlands and serve as members of the Wisconsin Wetland Team whose collective vision is to reverse the loss of wetlands in Wisconsin. WDNR has responsibility for fish and wildlife management and trust responsibility for public rights in navigable waters. FWS has trust responsibility for federally listed threatened and endangered species and migratory birds. NRCS has responsibility for wildlife habitat restoration and water quality improvement on agricultural lands. ACOE has responsibility to regulate most activities within Federally navigable waters, as well as discharges of dredged and fill materials into waters of the United States. In fulfillment of these responsibilities, the federal agencies, through programs they administer such as the Wetlands Reserve Program (NRCS) and Partners for Fish and Wildlife Program (FWS) are restoring wetlands in the state.

II. ALLOCATION OF RESPONSIBILITIES

PURSUANT TO the terms and conditions in this MOU, the agencies (subject to the availability of resources, and in accordance with applicable laws, regulations, and policies) will seek to fulfill the following responsibilities.

All Agencies will:

- A1. Foster an atmosphere of cooperation among NRCS and FWS Wetland Restoration Biologists, ACOE Project Managers and WDNR Staff through participation in site visits, reviews of preliminary or concept plans for restoration projects throughout Wisconsin and assistance with determinations related to general permit eligibility standards as requested following the initial consultation.
- B1. Appoint a staff person to serve on the Interagency Wetland Conservation Team as the lead agency representative to act as the liaison between the agencies regarding wetland conservation projects to discuss and resolve MOU, permitting or tracking related issues.
- C1. Hold an annual meeting of the Interagency Wetland Conservation Team to review data related to the permit compliance and performance of the MOU process to determine if improvements and/or training are needed.
- D1. Participate in annual local and state level coordination and training sessions when offered by any of the agencies, including presenting projections for the number, types, and locations of projects for the next year and data on the performance of the MOU process and new technological or regulatory methods. Each agency will invite the other agencies to attend and present at annual meetings or conferences as needed.
- E1. Wetland restoration projects subject to this MOU shall follow all applicable federal and state laws and procedures for required federal Section 404 Clean Water Act (CWA) permits and state waterway and wetland permits. Reference Appendix A and Appendix B for an overview of the state and federal permit mechanisms for wetland conservation projects.
- F1. Utilize and apply the definitions for the terms outlined in Appendix D.
- G1. Pursue federal and state policy changes to fully develop the wetland restoration potential of the programs available (subject to the availability of resources, and in accordance with applicable laws, regulations, and policies).

NRCS, FWS and WDNR Wetland Restorationists will:

- A2. Receive training on the Wisconsin NRCS Field Office Technical Guide Standard Practices of 657 – Wetland Restoration, 638 – Water Sediment Control Basin, 410 – Grade Stabilization Structure and 378 – Pond found at <http://efotg.sc.egov.usda.gov/treemenuFS.aspx>.
- B2. Review project eligibility for the appropriate federal Section 404 Clean Water Act (CWA) permit and state waterway and wetland permit as outlined in Appendix A and Appendix B and apply for the required permits as required.
- C2. Note: For WDNR sponsored wetland conservation projects the project manager will follow the same procedures for the appropriate state permit processes listed in Appendix A to ensure compliance with applicable state laws for all internal manual code approvals.
- D2. Seek initial consultation from the appropriate agency (through the WDNR WMS or ACOE project manager) as outlined in Appendix C for projects that require individual permits or if assistance is needed to determine the appropriate permit to apply for or other uncertainties.
- E2. Obtain legally binding wetland conservation agreements with landowners for projects carried out on private lands that also grant NRCS, FWS or WDNR the authority to serve as the landowner's agent for purposes of applying for required permits.
- F2. Certify project meets all associated eligibility standards (state and federal) and is in compliance with all terms and conditions of the permit if applying for a general permit. Apply for a higher level permit (WDNR - individual permit; ACOE - letter of permission or individual

permit) if project does not meet the eligibility standards or others terms and conditions of the available general permits.

- G2. Submit a complete permit notification or application package as outlined in the applicable permit instructions to the appropriate WDNR office designated for the county where the project is located. WDNR will provide the ACOE with a copy of the submitted notification/application package. It is recommended that you also provide a copy to the designated ACOE office since you are ultimately responsible for obtaining all the required permits.
- H2. Respond to requests for additional information from the WDNR within 15 business days (responses to requests from the ACOE should not exceed 30 days).
- I2. Provide project participants and landowners a copy of both state and federal permit eligibility standards, requirements, terms and conditions (to include project-specific authorization information if available), including all contractors who are involved with the construction or maintenance of the project.
- J2. Supervise all phases of the project to ensure project is carried out in compliance with the terms and conditions of the applicable state and federal permits.
- K2. If applicable, inform project participant of their responsibilities of owning a small dam by providing them a copy of the DNR's Fact Sheet "Owning a Dam in Wisconsin - Responsibility of a Landowner" at <http://dnr.wi.gov/org/water/wm/dsfm/dams/documents/OwningADam.pdf> or other mechanism approved by the Interagency Wetland Conservation Team.
- L2. Maintain records in corresponding project files at locations as certified and respond to DNR, ACOE or public inquiries and open records requests, to the extent possible under the Freedom of Information Act, for documents that verify projects meets the terms and conditions of the approved permit that are the basis on which permit approvals are made.
- M2. Certify conservation project will not result in adverse impacts to adjacent natural resources or properties that are outside the project boundaries. For example, project activities that result in water impoundment cannot flood or impede drainage of the adjacent properties.
- N2. Take corrective action immediately to remedy any non-compliance with the terms and conditions of the permits and/or unintended adverse impacts to natural resources, properties or persons to minimize harm.
- O2. Report to designated DNR Wetlands Program staff the number of voluntary wetland acres re-established, enhanced and created through wetland conservation projects.

WDNR and ACOE Permit Reviewers will:

- A3. Prioritize and expedite initial consultation requests and permit applications or notifications from NRCS, FWS, and WDNR for proposed wetland conservation projects by responding in a timely manner consistent with federal and state law and as outlined in the terms and conditions of the applicable permit.
- B3. Respond by telephone or email to the initial consultation request within 15 business days including: (1) whether a reporting federal or state permit is required and the type (i.e. general permit, reporting, letter of permission (ACOE only), or individual permit); (2) likely outcome (i.e. concerns related to public rights, etc.) to the extent known; and (3) dates available for joint follow-up inspection if needed. If the joint follow-up inspection indicates no federal or state permits are needed, provide written confirmation (email or letter) within 15 business days of the inspection.

- C3. If the proposed project qualifies for coverage under WDNR General Permit, WRGP-2011-WI, found at <http://dnr.wi.gov/wetlands/restorationpermits.html> the WDNR Water Management Specialist will mail written confirmation within 15 calendar days after receipt of a complete application. For projects that qualify for the NR 353 General Permit, WDNR will mail notification within 30 days after receipt of a complete application. Individual permit reviews by the WDNR will require additional processing time and resource manager/engineer input; a public notice and 30-day comment period are required and WDNR will make a decision within 120 days of receipt of a complete application.
- D3. If the proposed project qualifies for an ACOE Reporting Regional General Permit, GP-002-WI or GP-001-WI (<http://www.mvp.usace.army.mil/regulatory/default.asp?pageid=6981>), the ACOE Project Manager will use best efforts to email or mail written confirmation within 45 days after receipt of a complete application (national standard is within 60 days). Higher level reviews (letters of permission or individual permits) will require additional processing time.
- E3. Conduct compliance visits of a select number of approved wetland conservation projects and notify the sponsor agency's project manager immediately if the project is not in compliance with the terms and conditions of the approved permit requesting corrective action.

III. PROCESS FOR COORDINATING DISAGREEMENTS

Whenever, during the term of this MOU, any disagreement or dispute arises between the parties as to the interpretation of this MOU, all such matters shall be resolved, whenever possible, by meeting and conferring. Before proceeding with the dispute resolution process, it is recommended that the agency staff involved contact their Interagency Wetland Conservation Team member to discuss and verify a potential dispute. Often times, there can be a simple misunderstanding of the process, which the Interagency Conservation Team members can clarify. If there is still disagreement, any individual staff member of any agency may request a meeting by giving notice to the other, in which case such other party shall make itself available within seven (7) business days thereafter (unless extenuating circumstances prohibit this). Notice shall be by telephone contact, email or fax and shall specify the issue to be discussed. At the meeting, the parties should discuss the factual information on which their concern is based as well as various options for resolution.

If the dispute is not resolved at this initial meeting, a second meeting shall be scheduled within seven (7) business days. The second meeting shall involve each agency's Interagency Wetland Conservation Team Member, the respective field staff from each agency leading the project and any other necessary resource managers or engineers. The participants in the initial meeting shall transmit factual information and notes from their initial discussion to their respective Interagency Wetland Conservation Team member and supervisors prior to the second meeting.

If the dispute is not resolved after the second meeting, agency Administration shall be briefed by the Interagency Conservation Team Member before a formal permit decision is made. If the proposed project is issued an individual permit or denial and the permit decision is not desirable there is the option to initiate a formal appeal of the permit.

Unless otherwise provided in this MOU, the parties shall continue to adhere to the tenets of the MOU during the pendency of any dispute resolution proceeding.

IV. AUTHORITIES

NRCS enters into this MOU under the following authorities: CFDA No.902, Soil and Water Domestic Allotment Act of 1936, as amended Public Law 74-46, 16 U.S.C. 590 a-f, CFDA No. 10.072 Wetlands Reserve Program, Food Security Act of 1985, Title Xii, Public Law 99-198, as amended; Food, Agriculture, Conservation, and Trade Act of 1990, Title XIV, Section 1237, Public Law 101-624, 104 Stat. 3584, 7 U.S.C. 3837, as amended; Federal Agriculture Improvement and Reform Act of 1996.

FWS enters into this MOU under the authorities of Section 1 of the Fish and Wildlife Coordination Act (48 Stat./401, as amended; 16 U.S.C. 661 et seq.) and Section 7 of the Fish and Wildlife Act of 1956, U.S.C. 742f(a)(4) and in accordance with policy set forth in 43 CFR Part 24.

ACOE enters into this MOU under the authorities of Section 404 of the Clean Water Act (33 U.S.C. 1344) and Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).

WDNR enters into this MOU under the authorities of Chapter 30, 31, and 281, Wisconsin Statutes.

V. GENERAL

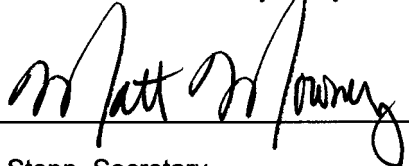
Nothing in this MOU is intended to increase, diminish, modify, or otherwise affect statutory or regulatory authority.

Activities conducted under this MOU will be in compliance with the nondiscrimination provisions as contained in the Titles VI and VIII of the Civil Rights Act of 1964, as amended, the Civil Rights Restoration Act of 1987 (Public Law 10-259) and other nondiscrimination statutes, namely Section 504 of the Rehabilitation Act of 1973, Title IX of the Education Amendments of 1972, the Age Discrimination Act of 1975, and American's with Disabilities Act of 1990. They will also be in accordance with regulations of the Secretary of Agriculture (7 CFR – 15, Subparts A and B) which provide that no person in the United States shall, on the grounds of race, color, national origin, gender, religion, age, disability, political beliefs, sexual orientation, and marital or family status be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving federal financial assistance from the Department of Agriculture or any agency thereof. Statements to this effect will be included in all publications, displays and other audio-visual materials.


VI. LIFE OF MOU

This MOU will become effective upon being completely executed by all parties and will remain in full force and effective until **November 1, 2016** unless extended, modified or revoked by agreement of all signatories, or revoked by any signatory alone upon 30 business days written notice. Modifications to this MOU may be made by mutual agreement and senior level approval by all signatories. Such modifications will take effect upon signature of the modified document by all signatories.

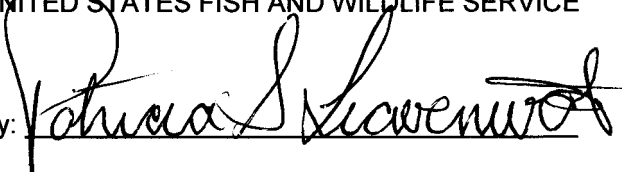
IN WITNESS WHEREOF, each party hereto has caused this MOU to be executed by an authorized official on the day and year set forth opposite their signature.

By:  Date: 12/20/11

 Cathy Stepp, Secretary
WISCONSIN DEPARTMENT OF NATURAL RESOURCES

By:  Date: 11/7/11

Kurt E. Waterstradt, Wisconsin Private Lands Coordinator
UNITED STATES FISH AND WILDLIFE SERVICE

By:  Date: 12-9-11

Patricia S. Leavenworth, State Conservationist
NATURAL RESOURCES CONSERVATION SERVICE

By:  Date: 10/26/11

Tamara Cameron, St. Paul District Regulatory Branch Chief
UNITED STATES ARMY CORPS OF ENGINEERS

Appendix A - State Wetland Conservation Activity Permits

The following outlines the four state permit mechanisms available for waterway and wetland permits implemented by the Wisconsin Department of Natural Resources:

1. **Wetland Restoration General Permit (WRGP-2011-WI)** is authorized under s. 30.2065, Wis. Statutes and applies to certain wetland restoration activities that are sponsored by the NRCS or FWS if the proposed activities meet all the terms and conditions outlined in the general permit WRGP-2011-WI. Wetland Restoration projects conducted by the WDNR will also follow this same process for manual code approval to ensure compliance with applicable state waterway and wetland laws.

It is the intention that WRGP-2011-WI will be applicable to the majority of wetland restoration projects sponsored by NRCS, FWS and DNR. It is recommended that the restoration project manager first determine if their proposed activities are eligible for WRGP-2011-WI by using the eligibility standards checklist and reviewing all other terms and conditions of the general permit found at <http://dnr.wi.gov/wetlands/permits>. If the project manager determines the project is eligible they will mail a complete notification package to DNR within 20 days prior to the project's start date certifying project is eligible. Project manager may proceed with project, unless notified by WDNR of GP ineligibility or a request for additional information, within 15 days after the designated DNR office receives a complete notification package.

Ineligible Projects include, but are not limited to the following activities: (1) in navigable waters with stream history; (2) in sedge meadows or forested wetlands; (3) that result in the construction of a large dam; (4) that result in a net loss of wetland acres; and (5) that result in adverse impacts to federal and state threatened or endangered resources, state archeological and historical sites, coldwater communities, fish passage to spawning grounds.

2. **Wetland Conservation General Permit (GP)** is authorized under s. NR 353.04 and NR 343.07, Wis. Admin. Code for certain wetland conservation activities that meet the eligibility standards and conditions. Wetland restoration projects that do not qualify for WRGP-2011-WI may still be able to qualify for this general permit. For example, projects that propose activities in navigable waters with stream history that will have no significant adverse impact may be eligible for this general permit if all other standards and conditions are met.
3. **Individual Permit (IP)** is authorized s. NR 353.09, Wis. Admin. Code for wetland conservation activities that are not eligible for the two general permits listed above or for those projects that require more detailed review and/or special permit conditions to ensure project does not result in significant adverse impacts (i.e. threatened and endangered resources. For example, projects that result in the construction of large dams will require review under an individual permit process due to the potential risk to life, health and property. Initial consultations are also required for individual permits to allow for joint site inspections and early discussion regarding any potential concerns.
4. **Maintenance of Pre-existing Wetland Conservation Projects** is authorized under s. NR 353.10, Wis. Admin. Code and applies to existing wetland conservation projects that were constructed before August 1, 1991 that meet the outlined conditions. This approval process allows only for maintenance of the original project design, this process is not applicable if the proposed modifications deviate from the original design.

The following tools can assist you with the state permit process and are available at <http://wi.dnr.gov/wetlands/permits>.

- State Wetland Conservation Permit Comparison Table
- Watershed Maps with Artificial Ditch Use by Fish to Access Spawning Habitat
- Large Dam vs. Small Dam Diagram
- Common Questions & Answers

Appendix B - Federal Wetland Restoration Permits

The following outlines the four most common ACOE (federal) permit mechanisms available to authorize wetland restoration projects pursuant to Section 404 of the Clean Water Act (CWA) in Wisconsin. Please note this does not necessarily include authorizations which may be required pursuant to Section 10 of the Rivers and Harbors Act of 1899 for work in federally navigable waters of the United States:

1. **Non-Reporting General Permit (GP) GP-002-WI, category #7: Stream and Wetland Restoration Activities:** *Note: Stream restoration projects subject to regulation under Chapters 30 and/or 31 of Wisconsin State Statutes must be approved by the DNR to qualify for this GP. This GP DOES NOT cover any conversion of sedge meadow or forested wetland to other wetland types.*

This GP covers discharges of dredged or fill materials in waters of the United States associated with the restoration and enhancement (please refer to the Appendix D) of degraded wetlands and riparian areas, the creation of wetlands and riparian areas, and the restoration and enhancement of non-Section 10 streams and open water areas on:

- (i) Non-federal public lands and private lands, in accordance with the terms and conditions of a binding wetland enhancement, restoration or creation agreement between the landowner and the United States Fish and Wildlife Service or the Natural Resources Conservation Service (NRCS) or voluntary wetland restoration, enhancement, and creation actions documented by the NRCS pursuant to NRCS regulation; or
- (ii) Any federal land; or
- (iii) Any public or private land by a state agency.

This GP cannot be used to authorize activities for the conversion of a natural stream to another aquatic use, channelization of a stream, or placement of rip rap, and does not authorize the conversion of natural wetlands to another aquatic use. Projects which may convert wetland types may still qualify for this GP if the type is relocated on the project site, and provide a net gain in aquatic resource function, service, value, and no net loss of aquatic resource acreage.

For projects conducted under paragraph (i), this GP may also authorize any future discharge of dredged or fill material associated with the reversion of the area to its documented prior condition and use (i.e., prior to the restoration, enhancement, or creation activity) within five years after expiration of a limited term wetland restoration or creation agreement or permit. See <http://www.mvp.usace.army.mil/regulatory/default.asp?pageid=681> for more information. No ACOE application or notification is required under this GP. Project proponents may proceed with the described discharge after very carefully making sure that the work will meet ALL applicable terms and conditions. ACOE staff are available to assist in making these determinations, and may independently verify that a given project meets the terms and conditions of this GP.

2. **Reporting General Permit (GP-002-WI):** GP-002-WI has several categories which may be utilized to authorize wetland restorations pursuant to the CWA that do not qualify for lower level review. Applicants must submit a complete application to the ACOE. In some cases, the ACOE may require a wetland delineation prepared in accordance with the 1987 Corps of Engineers Wetland Delineation Manual (and applicable Regional Supplement). All projects subject to Reporting General Permit GP-002-WI require written confirmation from the ACOE prior to starting work. See <http://www.mvp.usace.army.mil/regulatory/default.asp?pageid=681> for more information.
3. **Letter of Permission (LOP-06-WI):** LOP-06-WI may be utilized for projects requiring CWA authorization which exceed the thresholds of, or otherwise do not meet the terms and conditions of, available ACOE General Permits. The LOP-06-WI may be utilized for activities where the discharge of dredged or fill material does not cause the loss of greater than two acres of waters of the United States, including wetlands. Projects reviewed pursuant to this authorization type may require a 30-day public notice. Work is authorized under the LOP-06-WI when the project proponent receives both a written letter of permission from the ACOE

and confirmation from the WDNR that State water quality certification has been granted or waived for the project. See <http://www.mvp.usace.army.mil/docs/regulatory/special%20notices/2005007189SN.pdf> for more information.

4. **Individual Permit (IP):** This is the most rigorous level of project review available pursuant to the CWA. The IP may be utilized for projects requiring the ACOE to provide CWA authorization which exceed the thresholds of, or otherwise do not meet the terms and conditions of, any of the mechanisms described above. There is no upper acreage threshold for proposed impacts to waters of the United States associated with this review type; projects must meet the requirements of NEPA, the ACOE public interest review, and the Section 404(b)(1) guidelines. Projects subject to IP review routinely require a 30 day public notice. Work is authorized under the IP process when the project proponent receives a signed, written permit from the ACOE (confirmation from the WDNR that State water quality certification has been granted or waived for the project must be obtained). We recommend proponents contact the appropriate ACOE project manager (http://www.mvp.usace.army.mil/regulatory/contact/wi_county_map.asp) for additional information on this process.

The following links can provide tools to assist you with the federal permit process and procedures:

- Description of all ACOE General Permit and Letter of Permission procedures, terms and conditions: <http://www.mvp.usace.army.mil/regulatory/default.asp?pageid=681>
- List of ACOE Project Management staff available to assist you by County they cover: http://www.mvp.usace.army.mil/docs/regulatory/county_assignments/wi/Corps_Permit_StaffWI.pdf
- Clickable map providing Project Management Staff by County, including contact information and supervisory information: http://www.mvp.usace.army.mil/regulatory/contact/wi_county_map.asp.
- Wetland Delineation (1987 Corps of Engineers Wetland Delineation Manual and Regional Supplements): <http://www.mvp.usace.army.mil/regulatory/default.asp?pageid=1793>.
- Application forms: <http://www.mvp.usace.army.mil/regulatory/>
- Overview of our regulatory authority: <http://www.mvp.usace.army.mil/regulatory/>
- Corps FAQ: <http://www.mvp.usace.army.mil/regulatory/default.asp?pageid=740>

Appendix C – Initial Consultation

Requesting an initial consultation before applying for permits is recommended if there is uncertainty as to what permit is required or if general permit eligibility standards will be met. For example, the initial consultation can request a stream history determination. For projects that require WDNR individual permit review an initial consultation request is required to provide early involvement and input from permit reviewers, resource managers and engineers to ensure any concerns are addressed prior to application.

When requesting an initial consultation, the items listed below shall be submitted to the regulatory agencies by mail, email or faxed notification as soon as possible once a potential project site project is proposed. After the permit reviewer reviews the information, they may request an initial site review and conceptual design. The following information is the minimum recommended by the DNR and ACOE to expedite initial regulatory review.

Note: For those projects requiring reporting authorization from the ACOE, additional information may be required. A checklist outlining the necessary items is available from the ACOE Project Manager upon request.

- 1. Reason for Request:** Indicate the reason for the initial consultation request. A few examples include, but are not limited to: (1) required for projects that require WDNR individual permits and recommended by ACOE; (2) request stream history determination; (3) need assistance determining which permit to apply for; or (4) need Fisheries Biologist or Water Management Engineer's input.
- 2. Location Information:** A current aerial photo, Wisconsin Wetland Inventory Map or USDA Soils Survey map of the project site that clearly indicates the location and boundaries of the proposed project. The photo or maps should include roads, waterways, wetlands, fire numbers or other landmarks that will enable staff to locate the project site.
- 3. Project Description:** Plans or a narrative that describe the project site, the proposed activity including approximate dimensions, location of any adjacent or contiguous watercourses and water source for the restored wetland.
- 4. Contact Information:** Include name, address and telephone number of all property owner(s) and agency point of contact information, including email address.

Appendix D - Definitions

These following terms and definitions are to be used for implementation of this MOU for Wetland Conservation Activities and associated state permits, definitions formally used by ACOE are indicated where applicable:

1. **Artificial Ditch** means a constructed channel that was not previously a natural stream that holds or conveys water some portion of the year, which may or may not connect to another waterbody. Artificial ditches are typically excavated or dug on agricultural lands to improve drainage and enhance crop production.
2. **Cold Water Community** includes surface waters capable of supporting a community of cold water fish and other aquatic life, or serving as a spawning area for cold water fish species. This subcategory includes, but is not restricted to, surface waters identified as trout water by the department of natural resources (Wisconsin Trout Streams, publication 6-3600 (80)).
3. **Complete Notification Package** means a completed and signed notification form, the information specified in Section 2 of this permit and any other information which can reasonably be required from an applicant that the department needs to make a decision.
4. **Conversion** means alterations made to existing wetlands that result in a change in wetland classification from one wetland community type to another (i.e. conversion of a sedge meadow to a shallow marsh or a forested wetland to a wet meadow). Applicable for ACOE, formally known as Wetland Conversion.
5. **Creation** means the construction of a wetland in an area that was not wetland in the past. Applicable for ACOE, formally known as Wetland Creation.
6. **Dams** are any artificial barrier in or across a watercourse which has the primary purpose of impounding or diverting water. A dam includes structures such as embankments, dikes, weirs, water control structures and ditch plugs. A complete ditch fill is not considered a dam.
7. **Degraded** means a wetland subjected to deleterious activities such as drainage, excessive nutrient runoff, grazing, cultivation, increased stormwater input and partial filling, to the extent that the natural wetland characteristics are compromised and where wetland function is reduced.
8. **Dominated** refers to those plant species with a vegetative cover of 20% or more.
9. **Enhancement** is alterations made to existing wetlands that result in a net increase in wetland function (i.e. vegetation management techniques or changes to the hydrologic regime). Wetland enhancement generally does not include wetland conversion, unless the purpose of the conversion is to return the wetland to known pre-disturbance conditions AND also represents a net increase in wetland function. Applicable for ACOE, formally known as Wetland Enhancement.
10. **Early Successional Hydrophyte** means a plant adapted to quickly colonize open, disturbed wetlands, which does not persist over time and is replaced by perennials that hold space and persist over time. Examples of these plants include nut sedge (*Cyperus spp.*), nettle (*Urtica dioica*), smartweed (*Polygonum spp.*), wild millet (*Echinochloa spp.*), ragweed (*Ambrosia spp.*), Beggar's tick (*Bidens spp.*) and foxtail (*Setaria spp.*).
11. **Fill Material** means material placed in waters of the United States (U.S.) where the material has the effect of: (i) Replacing any portion of a water of the U.S. with dry land; or (ii) Changing the bottom elevation of any portion of a water of the U.S. Examples of such fill material include, but are not limited to: rock, sand, soil, clay, plastics, construction debris, wood chips, overburden from mining or other excavation activities, and materials used to

create any structure or infrastructure in the waters of the U.S. The term fill material does not include trash or garbage. ACOE definition, based on ACOE regulations (33 CFR 323.2).

12. **Forested Wetlands** are those areas with ≥ 17 trees per acre with $> 50\%$ canopy of trees ≥ 3 -inch DBH (diameter at breast height).
13. **Functional Values** means the physical, chemical and biological process or attributes that occur in a wetland and the benefit society derives from certain functions as listed in s. NR 103.03(1), Wis. Adm. Code and include the following: (1) Floral Diversity; (2) Fish and Wildlife Habitat; (3) Flood Protection; (4) Water Quality Protection; (5) Shoreline Protection; (6) Groundwater Recharge and Discharge and (7) Aesthetics, Recreation, Education and Science. To assess wetland functional values please use the Wisconsin Rapid Assessment Methodology found at DNR's website at <http://dnr.wi.gov/wetlands/documents/RapidWetlandAssessment.pdf>.
14. **Intermittent Flow** typically will cease flowing for weeks or months each year especially in the summer months when lack of rainfall runoff or soil moisture will dry out drainage systems. The time period to determine intermittent versus permanent flow is typically July through Sept in most years with average weather conditions.
15. **Invasive Plants** are non-native or native plant species that invade natural plant communities and wild areas replacing desirable native vegetation. For a listing of common invasive plants found in Wisconsin visit DNR's website at <http://dnr.wi.gov/invasives/plants.asp>.
16. **Management** means actions taken at a wetland to establish and maintain desired habitat and human use conditions including water level manipulations, herbicide application, wetland species introduction and control, fencing, monitoring, signage and vandalism repair.
17. **Maximum Storage Capacity** means the total volume of water in acre-feet capable of being stored behind a dam at the maximum water surface elevation before overtopping would occur using the design elevation.
18. **Monoculture** means a single plant species occupying a large area.
19. **Permanent Flow** typically occurs throughout the year and flow will be present even during the summer months when lack of rainfall runoff or soil moisture will dry out intermittent drainage systems. The time period to determine intermittent versus permanent flow is July through Sept in most years with average weather conditions.
20. **Post European Settlement Deposition** means sediment accumulated over original hydric soils since European settlement of the area.
21. **Preservation** means the protection of ecologically important wetlands in perpetuity through implementation of appropriate legal and physical mechanisms.
22. **Project Sponsor** means NRCS or FWS has supervision over of all phases of the wetland restoration project from project design through project construction and is responsible for making sure the project and all parties involved comply with the terms and conditions of this permit WRGP-2011-WI.
23. **Re-establishment** means the re-introduction of wetland vegetation AND wetland hydrology to a non-wetland (upland) area where these vegetative and hydrologic qualities previously existed (re-establishment of hydric soils may rarely be required). This alteration results in the re-establishment or restoration of previously existing wetland. Applicable for ACOE, formally known as Wetland Restoration.

24. **Small Dams** have a structural height of less than or equal to 6 feet or a structural height of less than 25 feet provided that the maximum storage *capacity* is less than 50 acre-feet. Please reference dam diagram for the criteria of a small dam versus a large dam found on DNR's Wetland Conservation Activity Permit webpage.
25. **Structural Height** means the difference in elevation in feet between the point of lowest elevation of the top of the dam before overtopping and the lowest elevation of the natural stream or lake bed at the downstream toe of the dam.
26. **Watercourse** means a running stream of water; a natural stream fed from permanent or natural sources, including rivers, creeks, runs and rivulets. There must be a stream, usually flowing in a particular direction, though it need not flow continuously. It may sometimes be dry. It must flow in a definite channel, having a bed or banks, and usually discharges itself into some other stream or body of water. It must be something more than a mere surface drainage over the entire face of the tract of land, occasioned by unusual freshets or other extraordinary causes. (*Hoyt v. City of Hudson*)
27. **Wetland** means an area where water is at, near or above the land surface long enough to be capable of supporting aquatic or hydrophytic vegetation and which has soils indicative of wetland conditions. The wetland definition used by the ACOE is found in the 1987 Wetland Delineation Manual and reads as follows "those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas."
28. **Wetland Conservation** means activities used in the restoration/re-establishment, enhancement, preservation and management of wetlands.