

**STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES**



**GENERAL PERMIT FOR UTILITIES TO PLACE FILL IN WETLANDS, PLACE TEMPORARY BRIDGES
ACROSS WATERWAYS, PLACE STRUCTURES ON THE BED, REMOVE MATERIAL FROM THE BED,
OR DRIVE ON THE BED**

PERMITTEE: Utilities

PERMIT NO.: WDNR-GP3-2023

ISSUING OFFICE: Office of Energy, Environmental Analysis and Sustainability Program, Wisconsin Department of Natural Resources (Department or WDNR)

ISSUANCE DATE: 7/2/2023

EXPIRATION DATE: 7/1/2028

GENERAL PERMIT AUTHORIZATIONS: In compliance with the provision(s) of s. 281.36 (3b)(b), Wis. Stats., no person may discharge/place dredged or fill into a wetland unless the discharge is authorized by a wetland general permit or individual permit issued by the Department of Natural Resources (Department) or the discharge is exempt by statute. In compliance with the provision(s) of ss. 30.025, 30.12, 30.123, 30.20, 30.206, 30.29, and 182.017, Wis. Stats., utilities are authorized to construct, reconstruct, repair, or maintain utility facilities provided they comply with the terms and conditions of WDNR-GP3-2023. Please refer to the following sections of this permit for the specific eligibility standards, application requirements, certification requirements and responsibilities, definitions and conditions required by WDNR-GP3-2023.

OTHER AUTHORIZATIONS NECESSARY: WDNR-GP3-2023 authorizations are subject to all applicable terms and conditions specified in this permit. Moreover, **WDNR-GP3-2023 authorizations are provisional and require that project proponents obtain all necessary local, state, or federal permits before any work may proceed.** U.S. Army Corps of Engineers permits may be required for discharges to waters of the United States, including most wetlands.

PROJECT DESCRIPTION AND LOCATION: WDNR-GP3-2023 applies to the removal of materials from or discharge of materials to waters of the State when such removal or discharge is necessary for the construction, reconstruction, repair, maintenance, or decommissioning of utility facilities. WDNR-GP3-2023 applies to certain discharges of dredged or fill into wetlands if the discharge is for routine utility installation, construction, reconstruction, repair, or maintenance projects and activities.

GENERAL PERMIT COVERAGE: A utility in the state of Wisconsin is authorized to perform work, subject to the terms and conditions specified below, if it meets the eligibility standards for the Non-Reporting general permit. For all other projects, unless notified by the Department to the contrary, the effective date of coverage under this general permit is thirty (30) calendar days after a complete application package has been received by the Department at the office designated in the permit application materials provided by the Department. WDNR-GP3-2023 permit coverage is valid for 5 years after the

date on which the discharge is considered to be authorized or until the discharge has been completed, whichever occurs first. Therefore, permit coverage terminates unless another application is submitted to retain coverage under this permit or a reissued version of this permit.

State of Wisconsin Department of Natural Resources
For the Secretary

Gregory Pils – Director
Environmental Analysis and Sustainability Program

Date Permit Signed

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WDNR-GP3-2023 TERMS AND CONDITIONS

The following sections describe the general permit authorization procedures implemented by the Department in WDNR-GP3-2023. Projects must meet all the terms and conditions of this permit to be eligible for coverage under WDNR-GP3-2023.

NOTE: The term "you" and its derivatives, as used in this general permit, means the permittee, which is the *utility* proposing the project. The term "the Department" or "this office" refers to the appropriate Wisconsin Department of Natural Resources (Department or WDNR) Service Center, Department Region, or Central Office headquarters of the Wisconsin DNR having jurisdiction over the authorized activity or the appropriate official of that office acting under the authority of the Secretary of the Department.

SECTION 1 – ACTIVITIES AUTHORIZED BY THIS PERMIT

A. Non-Reporting¹ Coverage

If **all** of the project's¹ regulated activities qualify under one or more of the Non-Reporting¹ standards below, **and** if all of the applicable standards in Sections 2 and 3 are met, the project¹ may be covered under the Non-Reporting¹ coverage category of this general permit:

- 1.) Less than 400 square feet of total wetland fill material¹ (permanent and temporary). The placement of construction matting¹ that meets standard #3 in Section 1A, or standard #17 in Section 1B, is not included when calculating this threshold.
- 2.) Maintenance¹ of a previously authorized¹ utility facility¹ within the existing utility right-of-way (ROW) that will not result in more than 0.5 acres of temporary wetland fill material¹. The placement of construction matting¹ that meets standard #3 in Section 1A, or standard #17 in Section 1B, is not included when calculating this threshold.
- 3.) Temporary placement of construction matting¹ in wetland placed between November 16th and May 14th, or for no longer than 60 consecutive days between May 15th and November 15th.
- 4.) The installation of scientific measuring devices¹ in wetland or the restoration of wetlands disturbed by scientific surveying or geotechnical exploration.
- 5.) Up to 10,000 square feet of temporary disturbance per wetland complex associated with the clean-up of an inadvertent release of drilling fluid from a directional bore related to a utility project¹ with the required notification and restoration documentation as detailed in standard #4 in Section 3A.
- 6.) The temporary placement of structures in a waterway for up to five (5) consecutive days for the purposes of cleaning up of an inadvertent release of drilling fluid from a directional bore with the required notification and restoration documentation as detailed in standard #4 in Section 3A.
- 7.) Temporary placement of construction matting¹ or similar material over an existing bridge or culvert to facilitate the crossing of a waterway.
- 8.) Temporary placement of cofferdams¹ or spud poles¹ in a waterway. Requires complete removal and restoration upon project¹ completion.
- 9.) Placement of navigational markers¹ related to hydropower facilities.
- 10.) Less than 2 cubic yards of fill and/or less than 2 cubic yards of dredging for the placement or removal of temporary cofferdams¹ or spud poles¹, or the maintenance¹ or removal of a previously authorized¹ utility structure¹ below the ordinary high water mark (OHWM)¹.

¹ Refer to the definition in Section 8

B. Reporting Coverage

If **any** of the project's¹ regulated activities qualify under one or more of the Reporting standards below, **and** if all applicable standards in Sections 2 and 3 are met, the project¹ may be covered under the Reporting coverage category of this general permit:

- 11.) The placement and removal of temporary clear span bridges¹ across waterways for a project¹. Each subsequent installation and removal shall comply with standard #25 in Section 2B related to the fish timing restriction. Bridge placement after the approved permit coverage expires requires coverage under a new permit.
 - 12.) Dredging¹ within waterways for the purpose of installing (i.e., open cutting trenching or plowing), inspecting, replacing, removing, re-burying, and/or repairing a utility structure¹ or utility facility¹.
 - 13.) The placement of a new utility structure¹ below the OHWM¹ that is not exposed above the water.
 - 14.) The temporary placement of structures below the OHWM¹ that are used to facilitate the placement of a new utility structure¹, or for the purpose of repairing, maintaining, or reconstructing an existing utility structure¹ or utility facility¹.
 - 15.) The operation of motor vehicles in or on any navigable waterway or the exposed bed of a navigable waterway.
 - 16.) Wetland fill
 - i) Up to 10,000 square feet (0.23 acres) of total wetland fill material¹ (permanent and temporary) for non-underground utility projects¹. The placement of construction matting¹ that meets standard #3 in Section 1A, or standard #17 in Section 1B, is not included when calculating this threshold.
 - ii) Up to 10,000 square feet (0.23 acres) of permanent wetland fill material¹ and no more than two (2) acres of total temporary wetland fill material¹ for underground utility projects¹. The placement of construction matting¹ that meets standard #3 in Section 1A, or standard #17 in Section 1B, is not included when calculating this threshold.
- Note: For projects¹ that include a combination of non-underground and underground components, the total permanent wetland fill material¹ for the project¹ cannot exceed 10,000 square feet.
- 17.) The placement of construction matting¹ that exceeds standard #3 in Section 1A. You shall submit a wetland restoration proposal with the application submittal and shall include the information detailed in standard #76 in Section 2G.

¹ Refer to the definition in Section 8

18.) The clean-up of inadvertent releases of drilling fluid from a directional bore in wetlands or waterways that do not meet or exceed the thresholds detailed in standards #5 and #6 in Section 1A.

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¹ Refer to the definition in Section 8

SECTION 2 – ELIGIBILITY STANDARDS

The *utility* project¹ must meet **all** the following standards to be eligible for coverage and authorization under this general permit. Persons proposing to do work under this general permit are subject to the ss. 281.36(3g)(h), Wis. Stats., requirements that applicants must demonstrate that adverse impacts to wetlands cannot be avoided and have been minimized to the greatest extent practicable.

NOTE: Projects that do not meet all the standards in this general permit are not eligible for coverage under this general permit and are therefore excluded from coverage under WDNR-GP3-2023. For utility projects that do not qualify for WDNR-GP3-2023, the Department is authorized under ss. 281.36(3g)(i) and 30.206(3r), Wis. Stats., to require an individual permit. Pursuant to ss. 281.36(3g)(i) and 30.206(3r), the Department has authority to require an individual permit in lieu of a general permit if the Department has inspected the site and determined that conditions specific to the site require additional restrictions upon the discharge or upon the activity in order to prevent significant adverse impacts to wetland functional values will occur, or to prevent significant adverse impacts to the public rights and interest, environmental pollution, or material injury to the riparian rights of any riparian owner.

A. General Standards

- 1.) A utility¹ is the project¹ proponent and the project¹ purpose is to access, construct, reconstruct, repair, or maintain¹ a utility facility¹ in or over a wetland¹ or navigable waterway¹.
- 2.) This permit does **not** apply to the construction, reconstruction, repair, or maintenance of any storm sewer, sanitary sewer, wastewater treatment facilities, or any watermain, unless regulated by the Public Service Commission of Wisconsin (PSCW). Such projects, unless regulated by PSCW, are not eligible for coverage under this permit.
- 3.) The project¹ applicant has legal rights over the property or has other legal authorization to undertake the project¹.
- 4.) Utility projects¹ that are necessary for the placement, construction, reconstruction, maintenance¹, repair, or removal of utility facilities shall be defined as one project¹ and cannot be segmented for the purpose of meeting the eligibility requirements of this general permit.
- 5.) No activity is authorized which will result in take of a state threatened or endangered species, as identified under the state's Endangered Species Law, unless approved through the Department's Incidental Take Permit/Authorization process. In addition, no activity is authorized which is likely to jeopardize the continued existence of a federally threatened or endangered species or a species proposed for such designation, or which is likely to destroy or adversely modify the species' critical habitat area as identified under the federal Endangered Species Act.
- 6.) The activity will not result in adverse impacts to historical or cultural resources and will comply with s. 44.40, Wis. Stats.
- 7.) All projects¹ on tribal lands or within the Ceded Territory shall be identified and included in the application and may require additional coordination.

¹ Refer to the definition in Section 8

- 8.) All Department managed lands impacted by the project¹ shall be identified and included in the application and may require additional coordination. Please contact DNR Office of Energy staff to initiate coordination.
- 9.) Measures shall be implemented to prevent fluid leaks (e.g., fuel, oil, hydraulic, coolant, etc.) from vehicles and equipment into wetlands or waterways. Leaks shall be corrected before the equipment is allowed back into operation in wetlands or waterways.
- 10.) At no time shall dewatering activities directly discharge to wetlands or waterways without prior effective water quality treatment. Construction and dewatering activities shall be accomplished in such a manner as to minimize erosion and siltation into surface waters and wetlands. All erosion control measures shall meet or exceed the Department approved technical standards of ss. NR 151.11 and 151.12, Wis. Adm. Code. The technical standards are found at: <http://dnr.wi.gov/topic/stormwater/standards/index.html>.
- 11.) To prevent the spread of invasive species¹, you shall ensure that all machinery and equipment used for the project¹ are free of invasive and exotic species and viruses prior to use and after use in any waterway and wetland. Utility right-of-way best management practices for invasive species can be found at: <http://dnr.wi.gov/topic/Invasives/bmp.html>.
- 12.) You shall report all incidents of non-compliance with this permit to DNR Office of Energy within 24 hours of the incident occurrence.
- 13.) You shall determine if there are any contaminated sites within the areas disturbed by the regulated activities by checking the Wisconsin Remediation and Redevelopment Database (WRRD), <http://dnr.wi.gov/topic/Brownfields/WRRD.html>. If your regulated activity is in close proximity to a contaminated site, additional coordination may be required. Please contact DNR Office of Energy staff to initiate coordination.
- 14.) You shall determine if there are any Environmental Repair and Solid Waste disposal sites within the areas disturbed by the regulated activities by checking the Historic Registry of Waste Disposal Sites, <http://dnr.wi.gov/topic/Landfills/registry.html>. If your regulated activity is in close proximity to a disposal site, additional coordination may be required. Please contact DNR Office of Energy staff to initiate coordination.

B. General Waterway Standards

- 15.) The permit does not authorize projects¹ affecting Wild Rivers designated under s. 30.26, Wis. Stats, and ch. NR 302, Wis. Adm. Code, or in a location where similar federal, state, or local regulations prohibit the construction.
- 16.) This permit does not authorize the placement of permanent structures below the OHWM¹ that could materially obstruct navigation or impact designated Public Rights Features¹.
- 17.) You shall restore the bed to pre-existing conditions and the banks shall be restored to stable conditions.

¹ Refer to the definition in Section 8

- 18.) The proposed project¹ shall not result in significant cumulative and/or adverse environmental impact, injury to public rights or interests, environmental pollution, and material injury to rights of any riparian owner. The project¹ shall not materially interfere with navigation, and not result in adverse impacts to the riparian rights of adjacent riparian owners.
- 19.) This permit does not authorize any change in the course of a navigable stream under s. 30.195, Wis. Stats.
- 20.) All stockpiled spoils, supplies, or materials shall be isolated from the waterway to prevent impacts beyond the work area.
- 21.) All construction vessels, vehicles, and equipment used shall be appropriate for the job, and can be brought to and removed from the project¹ site without unreasonable harm to fish, wildlife, and their habitats.
- 22.) Construction shall minimize the removal of shoreline vegetation above the OHWM¹.
- 23.) You shall not install bridges and/or conduct in-water work during periods of high water levels or flooding if the water level or flooding could overwhelm the proposed crossing or construction technique. The contractor shall have an implementable plan to monitor for changes to water levels and flows and to handle high flows.
- 24.) The project¹ shall not result in a material obstruction of or result in a significant adverse impact upon navigation of public waters and shall allow for portage to anyone legally navigating the waterway. All bridges and structures shall comply with standards in Ch. NR 320.04(3), Wis. Adm. Code.
- 25.) To minimize adverse impacts on fish movement, fish spawning, and egg incubation periods, placement and removal of temporary clear span bridges¹, or any activity below the OHWM¹, may not occur during the following time periods unless waived or modified in writing by the Department's regional Fisheries Biologist. The timing restrictions apply to waterways that have standing or flowing water during any portion of the regulated activity. If a waiver from the fish timing restrictions is requested, the applicant should complete a Waiver Request Form (<https://widnr.widen.net/s/6hffcgjmt/revisedtcsborinwaterworkrestrictionwaiverrequestform>) and include it with the application submittal. The application should also include all other necessary information to facilitate the review of the waiver request, detailed in the waiver request form.
- September 15th through May 15th for all trout streams; (trout maps can be found at: <https://dnr.wisconsin.gov/topic/Fishing/trout/streammaps.html>).
 - September 15th through June 15th on all Great Lakes tributaries upstream to the first dam or barrier.
 - November 1st through June 15th for Lake Michigan waters surrounding Door County including Green Bay and all harbors and bays.

¹ Refer to the definition in Section 8

- September 15th through July 1st for Lake Superior waters surrounding Douglas County including St. Louis River and all harbors and bays.
- March 1st through June 15th for ALL OTHER waters.

26.)The project¹ shall be conducted in a manner that minimizes dispersal of sediment away from the project¹ site. Temporary sediment containment measures shall be used as necessary and shall be installed prior to starting in-water work and removed from the waterbody no more than 24 hours after completing in-water work.

27.)In-water work shall be conducted to minimize the re-suspension of sediment to the maximum extent practicable in accordance with the following:

- For trout streams identified under s. NR 1.02 (7) and perennial tributaries to those trout streams, the total suspended solid concentrations may not exceed 40 mg/L.
- For all other waters, the total suspended solid concentrations may not exceed 80 mg/L.

C. Temporary Clear Span Bridge (TCSB) Standards - Waterways

28.)All TCSBs shall completely span the waterway from top of channel to top of channel with no support pilings in the waterway.

29.)Equipment used to install and remove TCSBs shall not enter or operate on the bed or waters of the waterway. The equipment shall not disturb the bed or bank of the waterway.

30.)Appropriate barriers, such as geotextile fabric and silt sock, shall be installed to prevent sediment and materials from entering the waterway during use of the TCSBs.

31.)Installation and removal of the TCSBs shall be conducted in a manner that prevents sediment and debris from entering the waterway.

32.)This permit does not authorize bridges across waterways that are more than 35 feet wide measured from OHWM¹ to OHWM¹.

33.)This permit does not authorize the removal of any material below the OHWM¹ for the placement or removal of TCSBs.

34.)This permit does not authorize the placement of permanent bridges or channel relocation.

35.)You shall inspect the bridge openings periodically for debris and shall remove any restriction of flow. Removed debris shall not be placed in a wetland or floodplain.

36.)You shall ensure that all bridges and mats are anchored to prevent them from being transported downstream during high flow conditions.

¹ Refer to the definition in Section 8

37.) No approach fill, other than construction matting¹, shall be placed in any wetland, floodway or below the OHWM¹ of any navigable waterway.

38.) Bridges shall be removed no later than 7 days after the necessary waterway crossing activities have been completed, unless the removal conflicts with a required timing restriction.

D. Dredging¹ Standards - Waterways

39.) A utility crossing¹ may occur only to cross a navigable stream no more than 35 feet wide, measured from OHWM¹ to OHWM¹.

40.) Equipment access and activity below the OHWM¹ to complete the utility crossing¹ shall be minimized to the extent practicable to complete the work.

41.) During construction and installation of a utility crossing¹, downstream flow shall be maintained during all periods of open trench construction.

42.) Dredging¹ not associated with a utility crossing¹ shall be limited to 50 cubic yards.

43.) Dredging¹ not associated with a utility crossing¹ is limited to areas of soft sediment (i.e., silt, clay) and may not occur in an area of naturally occurring sand, rock, cobble, or gravel.

44.) Unless the waterway is completely dry for the entire duration of the activity below the OHWM¹, including accounting for rain events during construction, trenching in the waterway shall be completed using a work zone isolation system or bypass system¹ such as a "dam and pump" or "dam and flume" technique, to isolate the in-water work zone from the waterway.

45.) You shall remove all cofferdams¹ gradually, in such a way that minimizes the downstream sediment impacts.

46.) You shall inspect and maintain the bypass system¹ daily, prior to any forecasted rain event, and within 12 hours following any rainfall exceeding ½ inch.

47.) You shall remove any restriction of flow affecting the stream bypass system¹. Any debris shall be deposited in an upland¹ site and out of any floodplain.

48.) Pump intakes and discharges shall prevent impacts to fisheries, wildlife, and their habitat.

49.) Pump intakes or flume discharges shall be placed to prevent the disturbance, removal, and scour of bed material.

50.) Activities below the OHWM¹ shall be completed as quickly as possible to minimize disruption.

51.) Dredging¹ shall be located to reduce environmental impacts by minimizing the disturbance of the following: adjacent wetland corridors, banks with steep slopes, and fish and wildlife habitat within the waterway.

¹ Refer to the definition in Section 8

52.) Unless the existing substrate is silt, the originally removed material may be used as backfill material for the dredged trench if the disturbed site is immediately stabilized. If the existing substrate is silt, you shall backfill with clean, washed gravel, crushed stone, or clean river stone to replace the excavated material.

53.) The dredging¹ may not impact habitat in waterways with self-sustaining populations of walleye located in the Ceded Territory of the state where resource allocation rights are shared by sovereign tribes as defined in Wis. Adm. Code NR 1.07(4)(d). These waterways can be found at <http://dnr.wi.gov/topic/surfacewater/swdv/> and turn on the layer called "Walleye Waters" which is under the "Fisheries Management" layer.

54.) The applicant shall provide information that the dredged material does not contain any hazardous substance(s) if:

- a. The proposed dredging¹ site is listed or immediately adjacent to a site listed on the Bureau for Remediation and Redevelopment Tracking System (BRRTS) website or other county, state, or federal web-based data system that tracks the presence of hazardous substances. BRRTS database information can be found at <http://dnr.wi.gov/topic/Brownfields/WRRD.html>, or
- b. The Department determines the potential that a hazardous or contaminated substance may be present in the material proposed to be dredged *and* there is a need to verify that the substance(s) is/are actually present.

Note: There may be cases where the Department already has specific information about the presence of a hazardous substance(s) in a waterbody and can waive the sampling requirement since no verification that the substance(s) is/are present is needed. Specific information could include but is not limited to: 1. The collection and laboratory analysis of the dredged material in compliance with Ch. NR 347, Wis. Adm. Code; or 2. The review of historical information on material that was dredged from the vicinity of the proposed project and collected and analyzed in accordance with Ch. NR 347, Wis. Adm. Code; or 3. Assessment of the potential for hazardous substances to be present based upon the characteristic of the watershed, industrial and municipal discharges to the waterbody, and dredge material data from similar waterways.

E. Structures on Bed Standards - Waterways

55.) This permit does not authorize new permanent structures below the OHWM¹ that are exposed above the water or that could affect natural scenic beauty as determined by the Department.

56.) This permit does not authorize riprap projects for stream stabilization purposes or the placement of permanent or temporary culverts.

57.) Structures shall not permanently impair navigation, flood flows, water quality, or fish or wildlife habitat.

58.) Structures placed in the waterway shall be appropriately marked to prevent navigational hazards.

¹ Refer to the definition in Section 8

59.) Installation of structures shall be completed as quickly as possible to minimize waterway disruption.

60.) If an applicant is not the riparian owner but is placing a structure pursuant to Wis. Stats. s. 182.017(1r) and (2), they shall provide documentation that all affected riparian owners have been notified of the proposed project¹.

F. Driving on the Bed Standards – Waterways

61.) The motor vehicle shall operate at the minimum speed required to maintain controlled forward motion.

62.) The motor vehicle shall travel along the most direct route to safely cross the waterway.

63.) Motor vehicles shall be inspected prior to travel below the OHWM¹, and shall be free of soil, debris, and fluid leaks.

64.) No soil shall be displaced within the waterway channel or on its banks during the driving activity.

65.) Driving on the bed shall be minimized to the extent practicable.

G. General Wetland Standards

66.) The project¹ shall not result in more than 43,560 square feet (1.00 acres) of forested wetland¹ clearing (temporary and permanent) when there are regulated wetland activities associated with the project¹.

67.) The project¹ is not eligible for authorization under a “Superior SAMP” permit reviewed by the City of Superior, Wisconsin.

68.) The proposed project¹ cannot avoid wetland impact¹.

69.) The proposed project¹ minimizes wetland impact¹ to the greatest extent practicable.

70.) Temporary wetland excavation activities shall segregate topsoil from subsoil. Topsoil shall be replaced to its original stratum. Subsoil shall be removed or replaced to its original stratum.

71.) This permit does not authorize the placement of soil or gravel to construct temporary access roads or staging areas in wetlands.

72.) To avoid topsoil and subsoil mixing, the vehicles and equipment used in wetlands shall work from construction mats, use low ground pressure equipment, or shall work during stable conditions.

¹ Refer to the definition in Section 8

- 73.) All construction waste materials shall be removed from wetlands at the completion of construction.
- 74.) Except where permanent wetland fill material¹ is authorized, all wetlands shall be restored to pre-existing elevations and hydrology. Where permanent wetland fill material¹ is authorized, the project¹ shall be constructed in a manner that will maintain wetland hydrology in the remaining wetland complex.
- 75.) Final site stabilization in wetlands requires the re-establishment of pre-existing vegetative conditions or native perennial vegetation to at least 70 percent vegetative cover.
- 76.) Projects¹ that include proposed placement of construction matting¹ in wetlands for longer than 60 consecutive days between May 15 and November 15 of any year shall implement an approved wetland restoration plan for the areas where mat placement occurs. This plan shall include information on the pre-existing wetland conditions (topography, vegetation, and hydrology) and how these conditions will be restored post-removal. Specify the sequencing and timing of matting placement and removal, and how area will be restored and monitored.
- 77.) The project¹ shall not result in permanent wetland impacts to Great Lakes ridge and swale complexes¹, interdunal wetlands¹, coastal plain marshes¹, emergent marshes containing wild rice¹, southern sphagnum bogs¹, boreal rich fens¹, or calcareous fens¹.

¹ Refer to the definition in Section 8

SECTION 3 – PERMIT COVERAGE REQUIREMENTS

A. Non-Reporting¹ Coverage

- 1.) If **all** of the project's¹ regulated activities qualify under one or more of the Non-Reporting¹ standards in Section 1A, **and** meet all other terms, conditions, and applicable standards in Section 2, the project¹ is authorized under this general permit.
- 2.) If **any** of the project's¹ regulated activities do **not** qualify for the Non-Reporting¹ coverage category, then the project¹ does not qualify for coverage under the Non-Reporting¹ coverage category, and will be reviewed under the Reporting coverage category or as an Individual Permit, if required. If Reporting coverage or an Individual Permit is needed, the complete application package¹ shall include information on all regulated activities for the project¹, including regulated activities that qualify for Non-Reporting¹ coverage, and permit coverage for the project¹ must be obtained before commencing any regulated activity.
- 3.) If the project¹ qualifies for coverage under the Non-Reporting¹ category, no application submittal to the Department is necessary, however, you shall:
 - a. Carefully confirm that your proposed project¹ meets all applicable terms, conditions, and standards of WDNR-GP3-2023.
 - b. Maintain records documenting that your project¹ is/was completed in compliance with WDNR-GP3-2023. Upon request by the Department for auditing purposes, you shall provide these records to the Department.
- 4.) Standards #5 and #6 in Section 1A require notification to the Office of Energy via email within 48 hours of initial release of material. Restoration documentation shall include a description and location of the release and information on the containment and clean-up of the release, including details on the area of impact, the equipment used, duration of placement and removal of materials, and photos documenting restored conditions.
- 5.) As provided under s. 281.36(3g)(h)4 and (i), Wis. Stats., the Department may determine the project¹ may not proceed under the Non-Reporting¹ coverage category of this general permit and require that the project¹ be reviewed through the Reporting coverage category, or the Individual Permit process outlined in s. 281.36(3m), Wis. Stats.

¹ Refer to the definition in Section 8

B. Reporting Coverage

- 6.) If **any** of the project's¹ regulated activities qualify under one or more of the Reporting standards in Section 1B, **and** all other terms, conditions, and applicable standards in Section 2, the project¹ may qualify for Reporting coverage, and a complete application package¹ shall be submitted to the Department.
- 7.) If **any** of the project's¹ activities require Reporting coverage, the project¹ will be reviewed under the Reporting coverage category or as an Individual Permit, if required. If a Reporting or Individual Permit is required, the complete application package¹ shall include information on all regulated activities for the project¹, including regulated activities that qualify for Non-Reporting¹ coverage, and permit coverage for the project¹ must be obtained before commencing any regulated activity.
- 8.) Unless completed under the Wetland Assurance program, wetland boundary concurrence is required prior to submission of the complete application package¹ and can be requested by submitting a wetland concurrence request to DNR Office of Energy (<http://dnr.wi.gov/topic/Sectors/Energy.html>). A wetland concurrence request submittal is described in the permit application checklist, found on the Department's website and also at <https://widnr.widen.net/s/dwhdtmjwbw/gp3-appchecklist>.
- 9.) The complete permit application package¹ shall be submitted on forms supplied by DNR Office of Energy, or online through DNR's application submission website <http://dnr.wi.gov/permits/water/>.
- 10.) You are responsible for sending a copy of your complete permit application package to the US Army Corps of Engineers for their review and determination regarding federal permit requirements and coverage.
- 11.) A complete application package shall include information detailed in the permit application checklist found on the Department's website and also at <https://widnr.widen.net/s/dwhdtmjwbw/gp3-appchecklist>.
- 12.) Unless notified by the Department to the contrary, coverage under this general permit takes effect thirty (30) calendar days after the designated Department office receives a complete permit application package.
- 13.) If the Department determines the permit application package is incomplete, the Department has one opportunity to request that you provide additional information necessary to verify compliance with the terms and conditions of this permit. If this additional information is needed, the Department will notify you within thirty (30) calendar days after receiving your permit application package. If the Department makes a request for additional information, the 30-day period is paused on the date the project proponent receives the request for additional information. The clock remains paused until the date that the Department receives all the requested information, at which point the clock resumes from the point it was initially stopped and the application package is now considered complete.

¹ Refer to the definition in Section 8

- 14.) If adverse weather conditions prevent the Department from conducting an accurate on-site inspection or assessing the potential for site-specific impacts, the Department shall give notice during the thirty (30) day application period to the applicant of this condition and shall complete the inspection as soon as weather conditions permit.
- 15.) As provided under s. 281.36(3g)(i), Wis. Stats., the Department may determine the project¹ may not proceed under this general permit and require that the project¹ be reviewed through the individual permit process outlined in s. 281.36(3m), Wis. Stats. If the Department determines your project¹ may not proceed under this permit, you will be notified within thirty (30) calendar days after the Department receives your complete application package¹.
- 16.) Projects¹ that impact wetland requiring Reporting coverage shall comply with the standards outlined in s. 281.36(3g)(h), Wis. Stats.

¹ Refer to the definition in Section 8

SECTION 4 - CERTIFICATION AND RESPONSIBILITIES

Upon submittal of a complete application package¹ to the Department, you agree to be the responsible party that supervises and oversees all aspects of the project¹ to ensure compliance with the terms and conditions of WDNR-GP3-2023. You have certified that the project¹ will be conducted in compliance with all the terms and conditions of WDNR-GP3-2023, and you certify the project¹ will not result in adverse impacts to riparian rights of riparian owners.

SECTION 5 - GENERAL PERMIT CONDITIONS

You agree to comply with the following conditions:

1. **Application.** You shall submit a complete application package to the Department as outlined in Section 3 of this permit. If requested, you shall furnish the Department, within a reasonable timeframe, any information the Department needs to verify compliance with the terms and conditions of this permit.
2. **Certification.** Acceptance of general permit WDNR-GP3-2023 and efforts to begin work on the activities authorized by this general permit signify that you have certified that the project¹ meets all eligibility standards of this permit and that you have read, understood, and agreed to follow all terms and conditions of this general permit.
3. **Reliance on Applicant's Data.** The determination by this office that a confirmation of authorization is not contrary to wetland water quality standards will be based upon the information provided by the applicant and any other information required by the Department.
4. **Project Plans.** This permit does not authorize any work other than what is specifically described in the application materials submitted to the Department and certified to comply with the terms and conditions of WDNR-GP3-2023.
5. **Expiration.** This WDNR-GP3-2023 expires 5 years from the date of issuance. Any activity that the Department authorizes under WDNR-GP3-2023 remains authorized under WDNR-GP3-2023 for a period of 5 years from the date the discharge is considered to be authorized under WDNR-GP3-2023, or until the discharge is completed, whichever occurs first, regardless of whether WDNR-GP3-2023 expired before the activity is completed.
6. **Other Permit Requirements.** You are responsible for obtaining all other permits or approvals that may be required for your project¹ by local zoning ordinances, other local authority, other state permits, and by the U.S. Army Corps of Engineers before starting your project¹.
7. **Authorization Distribution.** You shall supply a copy of the permit coverage authorization to every contractor working on the project¹.
8. **Project Start.** You shall notify the Department at the telephone number or email address provided on the confirmation of coverage letter you receive before starting construction.

¹ Refer to the definition in Section 8

9. **Permit Posting.** You shall post a copy of this permit at a conspicuous location on the project¹ site before beginning the permitted activities. The copy shall remain in place until the permitted activities are completed. A copy of the permit coverage letter and approved plan shall also be maintained and available on the project¹ site before and during the execution of the permitted activities.
10. **Permit Compliance.** The Department may modify or revoke coverage of this permit if it is not constructed in compliance with the terms and conditions of this permit, or if the Department determines the project¹ will be detrimental to the public interest or wetland water quality standards. Any act of noncompliance with this permit constitutes a permit violation and is grounds for enforcement action. Additionally, if any conditions of this permit are found to be invalid or unenforceable, authorization for all activities to which that condition applies is denied.
11. **Construction Timing.** Once in-water work below the OHWM¹ commences, all construction activities in those waterways shall be continuous until the work is completed and the site is stabilized. Once wetland work commences, all construction activities in those wetlands shall be continuous to the extent practicable. During periods of inactivity in wetlands, the site shall be stabilized until the work is resumed and completed.
12. **Construction.** No other portion of the wetland or waterway may be disturbed beyond the area designated in the submitted plans.
13. **Project¹ Completion.** For projects¹ authorized under the Reporting coverage category, upon project¹ completion you shall submit a statement certifying that the permitted project¹ complied with all the terms and conditions of this permit and provide clear, labeled photographs of the completed restoration of the regulated activities authorized by this permit. This statement shall reference the Department-issued docket number and be submitted to the Department staff member that authorized coverage.
14. **Proper Maintenance.** The activity authorized by WDNR-GP3-2023 shall remain in good condition and in conformance with the terms and conditions of this permit and shall avoid additional impacts to waterways and wetlands.
15. **Site Access.** Upon reasonable notice, you shall allow access to the site to any Department employee who is investigating the project's¹ construction, operation, maintenance or compliance with the terms and conditions of WDNR-GP3-2023 and applicable laws.
16. **Erosion and Sediment Control Practices.** Erosion and sediment control measures that adequately control or prevent erosion and prevent damage to waterways and wetlands as outlined in s. NR 151.11(6m), Wis. Adm. Code, shall be implemented on the project¹ site.
17. **Invasive Species.** All project¹ equipment shall be free of invasive species before and after each use on the project¹ site by using best management practices to avoid the spread of invasive species. More information can be found at: <http://dnr.wi.gov/topic/Invasives/bmp.html>
18. **Temporary fills.** Any temporary fills shall be removed in their entirety and the affected areas returned to their pre-existing elevations, hydrology, and revegetated.

¹ Refer to the definition in Section 8

19. **Federal and State Threatened and Endangered Species.** WDNR-GP3-2023 does not affect the Department's responsibility to ensure that all authorizations comply with Section 7 of the Federal Endangered Species Act, Wisconsin's Endangered Species Law (s. 29.604, Wis. Stats), and any other applicable state laws. The Department may not grant authorization under this permit for projects¹ found not to comply with these laws. No activity is authorized that: (a) is likely to jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act or state law; or (b) is likely to destroy or adversely modify the critical habitat area¹ of a species as identified under the Federal Endangered Species Act. To be in compliance, documentation is required showing Endangered Resources (ER) concerns have been addressed. Documents associated with ER are valid for one year from the date they are prepared. Documentation options include:
- a. An ER Review Verification Form (<http://dnr.wi.gov/files/PDF/forms/1700/1700-079.pdf>) showing that all project¹ activities are covered by the Broad Incidental Take Permit for no/low impact activities (<http://dnr.wi.gov/topic/ERReview/ITNoLowImpact.html>) , or
 - b. An ER Preliminary Assessment from the Department Natural Heritage Inventory (NHI) Public Portal (<http://dnr.wi.gov/topic/ERReview/PublicPortal.html>) stating that no further actions are necessary, or
 - c. If option B results state that further actions are recommended or required, then submit either a Department ER Review Letter or a Certified ER Review Letter.
20. **Special Concern Species.** If the Wisconsin National Heritage Inventory lists a known special concern species to be present in the project¹ area, reasonable action is recommended to prevent significant adverse impacts or to enhance the habitat for the species of concern.
21. **Historic Properties and Cultural Resources.** WDNR-GP3-2023 does not affect the Department's responsibility to ensure that all authorizations comply with Section 106 of the National Historic Preservation Act and s. 44.40, Wis. Stats. No Department authorization under this permit will be granted for projects¹ found not to comply with these laws. The project¹ shall avoid impacts to archaeological sites or historic structures and is subject to Department and Wisconsin Historical Society review and approval. Information on the location and existence of historic resources can be obtained from the State Historic Preservation Office and the National Register of Historic Places. If cultural, archaeological, or historical resources are unearthed during activities authorized by this permit, work must be stopped immediately and the State Historic Preservation Officer or appropriate Tribal Historic Preservation Officer must be contacted for further instruction.
22. **Equipment Use.** To avoid topsoil and subsoil mixing, the vehicles and equipment used in wetlands shall work from construction mats, or shall be low ground pressure equipment, or shall work during stable conditions.

¹ Refer to the definition in Section 8

23. **Preventive Measures.** Measures shall be adopted to prevent potential pollutants from entering a wetland or waterbody. Construction materials and debris, including fuels, oil, and other liquid substances, may not be stored in a manner that would allow them to enter a wetland or waterbody as a result of spillage, natural runoff, or flooding. If a reportable spill should occur, it is the responsibility of the permittee to remove such material, to minimize any contamination resulting from this spill, and to immediately notify the State Duty Officer at **1-800-943-0003**. More information can be found at: <http://dnr.wi.gov/topic/Spills/Define.html>
24. **Waste Restrictions.** You shall follow field protocols for activities in proximity to known landfills. Any solid waste encountered shall be disposed of in accordance with chs. NR 500 et. seq., Wis. Adm. Code.
25. **Suitable Fill Material.** All permanent fill authorized under this permit shall consist of clean suitable soil material, as defined by s. NR 500.03(214), Wis. Adm. Code, free from hazardous substances as defined by s. 289.01(11), Wis. Stats., and free from solid waste as defined by ss. 289.01(33), Wis. Stats.
26. **Standard for Coverage.** Wetland impacts from the project¹ will cause only minimal adverse environmental impacts as determined by the Department.
27. **Property Rights.** This permit does not convey any property rights of any sort, or any exclusive privilege. The permit does not authorize any injury or damage to private property or any invasion of personal rights, or any infringement of federal, state or local laws or regulations.
28. **Transfers.** Coverage under this permit is transferrable to any entity upon prior written approval of the transfer by the Department. Prior to approving a transfer, the Department may require proof of notification to landowners on whose property permitted work is authorized or whose permission as riparian owner was required as part of the original application for coverage..
29. **Limits of State Liability.** In authorizing work, the State Government does not assume any liability, including for the following:
- a. Damages to the permitted project¹ or uses thereof as a result of other permitted or unpermitted activities or from natural causes.
 - b. Damages to the permitted project¹ or uses thereof as a result of current or future activities undertaken by or on behalf of the State in the public interest.
 - c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.
 - d. Design or construction deficiencies associated with the permitted work.
 - e. Damage claims associated with any future modification, suspension, or revocation of WDNR-GP3-2023.
30. **Reevaluation of Decision.** The Department may suspend, modify or revoke authorization of any authorized activity and may take enforcement action if the following occur:
- a. The applicant fails to comply with the terms and conditions of WDNR-GP3-2023.

¹ Refer to the definition in Section 8

- b. The information provided by the applicant in support of the permit application proves to have been false, incomplete, or inaccurate.
- c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

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¹ Refer to the definition in Section 8

SECTION 6 - FINDINGS OF FACT

1. The Department has determined that the project¹ site and project¹ plans meet the standards in WDNR-GP3-2023 to qualify for this General Permit.
2. Pursuant to s. NR 299.04(1), Wis. Adm. Code, the Department has reasonable assurance that projects¹ that meet the eligibility criteria and conditions and are granted coverage under this General Permit will meet all applicable water quality standards.
3. The Department has determined, pursuant to wetland water quality standards under s. NR 103.03, Wis. Adm. Code, and ss. 281.36(3g)(d), and 30.206(1)(am), Wis. Stats., that projects¹ that meet the eligibility criteria and conditions and are granted coverage under this General Permit will only result in minimal adverse environmental effects or impacts.
4. The proposed project¹ will not cause significant cumulative adverse environmental impacts, will not injure public rights or interests, or cause environmental pollution as defined in s. 299.01(4), Wis. Stats.
5. The proposed project¹ will not materially interfere with navigation or have an adverse impact on the riparian property rights of adjacent riparian owners pursuant to 30.206(1)(am), Wis. Stats., if completed in accordance with this permit.
6. The Department and the applicant have completed all procedural requirements, and projects¹ that meet the eligibility criteria and conditions and are granted coverage under this General Permit will comply with all applicable requirements of 33 U.S.C.S. § 1341 (CWA §401), WDNR-GP3-2023, ss. 30.025, 30.12, 30.123, 30.20, 30.206, 30.29, and 281.36(3g), Wis. Stats., and chs. NR 102, 103, 150, 299, 310, 320, 329, and 345 Wis. Adm. Code.

¹ Refer to the definition in Section 8

SECTION 7 - CONCLUSIONS OF LAW

1. The Department has authority under ss. 30 and 281.36(3g), Wis. Stats., to issue a General Permit for the construction, reconstruction, repair, or maintenance of the utility facilities authorized in this permit.
2. The Department has complied with s. 1.11, Wis. Stats.
3. Issuance of coverage under this general permit constitutes federal Water Quality Certification under 33 U.S.C. s. 1341 if the project has not already been certified through a separate Department action.

SECTION 8 - DEFINITION OF TERMS

For the purposes of this general permit, you accept the following definitions:

1. Boreal Rich Fen is a rare open peat-land community of northern Wisconsin that is associated with glacial moraines, or less commonly, outwash landforms, in which the underlying substrate includes calcareous materials.
2. Bypass system means devices placed in a waterway to divert water for the purposes of isolating the in-water work zone. Examples include a cofferdam, a dam and pump system, or a dam and flume system.
3. Calcareous Fens occur mostly in southern Wisconsin, on sites that are fed by carbonate-enriched groundwater and are often associated and can intergrade with more abundant and widespread wetland communities such as southern sedge meadow, wet prairie, shrub-carr, emergent marsh, and southern tamarack swamp.
4. Coastal Plain Marshes are within the sandy beds or margins of extinct glacial lakes, on level or gently sloping glacial outwash sands, and, possibly in glacial tunnel channels.
5. Cofferdams are structures that isolate a portion of a waterway to limit impacts from construction disturbance. Cofferdams can include, but are not limited to, sheetpile, sandbags, Portadam[®], Aquabarrier[®], or culverts placed on end (e.g. vertically). Cofferdams do not include earthen dams.
6. Complete Application Package means a completed and signed application, the information specified in Section 3 of this permit, and any other information which can reasonably be required from an applicant that the Department needs to make a permit decision.
7. Construction Matting means timber or composite matting free of soil, seeds, and vegetative material.
8. Dredging, as defined in s.NR 345.03(5), Wis. Admin. Code, means any part of the process of the removal or disturbance of material from the bed of a navigable waterway, transport of the material to a disposal, rehandling, or treatment facility; treatment of the material; discharge of

¹ Refer to the definition in Section 8

carriage or interstitial water; and disposal of the material. For the purpose of Ch. 30 (Wis. Stats.), dredging does not include “de minimus” activities as defined in s.NR 345.03(2), Wis. Admin. Code.

9. Emergent Marshes Containing Wild Rice are emergent aquatic communities that have wild rice as the dominant macrophyte. Substrates supporting wild rice usually consist of poorly-consolidated, semi-organic sediments. Water fertility is low to moderate, and a slow current is present.
10. Fill Material, as defined in ss. 281.36(1)(bd), Wis. Stats., means material placed in wetlands where the material has the effect of replacing any portion of a wetland with dry land; or changing the bottom elevation of any portion of any wetland or waterway. Examples of such fill material include, but are not limited to rock, sand, soil, clay, plastics, construction debris, wood products, overburden from mining or other excavation activities, and materials used to create any structure or infrastructure in a wetland. The term fill material does not include trash or garbage.
11. Forested Wetlands are dominated by woody vegetation at least twenty (20) feet in height with more than fifty (50) percent canopy cover.
12. Great Lakes Ridge and Swale Complexes are associated closely with Great Lakes shorelines and are a series of narrow sandy ridges alternate with low swales, parallel to the lakeshore. The vegetation on the dry ridges can vary from open herbaceous or shrub communities on the semi-stabilized dunes closest to the shoreline, dry forests dominated by pines and oaks farther inland, and mixed mesophytic forests of northern hardwoods or hemlock hardwoods farthest from the shore.
13. Interdunal Wetlands occupy wind-created hollows that intersect the water table within active dune fields along the Great Lakes shores. They may also occur where moving sand encroaches on nearby wetlands, surrounding and isolating all or portions of them.
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 Species include nonnative species, hybrids, cultivars, subspecific taxa, and genetically modified variants that invade natural communities and wild areas replacing desirable native species. For a listing of common invasives found in Wisconsin, visit Department’s website at: <http://dnr.wi.gov/topic/Invasives/what.html>.
16. Maintenance means the inspection, repair, replacement, removal, or reconstruction of a previously authorized utility facility within the existing utility ROW where the line is currently installed, or the upkeep of the existing ROW, that does not result in a relocation or an increase in capacity or volume.

¹ Refer to the definition in Section 8

17. Navigable waterway means any body of water with defined bed and banks that is navigable under the laws of the state. In Wisconsin, a navigable body of water is capable of floating the lightest boat or skiff used for recreation or any other purpose on a regularly occurring basis, as defined in Wis. Admin. Code s. NR 310.03(5).
18. Navigational Markers are buoys, signs and other fixed objects in the water which are used to restrict and regulate boating related activity associated with hydropower facilities.
19. New Utility Structure means a utility structure¹ that does not meet the definition of a replacement utility structure¹.
20. Non-reporting means permit coverage under WDNR-GP3-2023 without submitting a formal permit application. The project¹ proponent is responsible to confirm the project¹ meets all standards in WDNR-GP3-2023 to qualify for this coverage.
21. Ordinary High Water Mark (OHWM) means the point on the banks or shore up to which the presence and action of water is so continuous as to leave a distinct mark either by erosion, destruction of terrestrial vegetation or other easily recognizable characteristics, as defined in s. NR 320.03(12), Wis. Admin. Code.
22. 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 period to determine intermittent versus permanent flow is July through Sept in most years with average weather conditions.
23. Permanent Wetland Fill means physical placement of fill material in a wetland with the intent of, or resulting in, the area becoming upland.
24. Previously authorized means an existing utility facility or infrastructure that was placed in compliance with current laws at the time of placement.
25. Project means the entire proposal by the utility. For example, if construction of a linear utility facility affects several different waterway and wetland areas, the cumulative total of all regulated areas (including Non-Reporting and Reporting activities) is the basis for deciding the project's total waterway and wetland impact. For "phased" developments, each phase may constitute a project if it has an independent objective and would accomplish its intended purpose whether or not other phases were constructed.
26. Public Rights Feature is defined in s. NR 1.06(5), Wis. Adm. Code.
27. Replacement Utility Structure means a utility structure¹ that is the same dimensions and in the same footprint as an existing utility structure¹, allowing for negligible offset to accommodate installation.
28. Scientific Measuring Device means minor equipment necessary to record technical data used to assess hydrology, water quality, or other parameters.

¹ Refer to the definition in Section 8

29. Southern Sphagnum Bogs are composed of a carpet of living sphagnum moss growing over a layer of acidic peat. Sedges, forbs and/or the low shrubs of the heath family (Ericaceae) colonize the sphagnum moss mat. Southern sphagnum bogs located in the area south of a horizontal line drawn across the state based on the routes of STH 16 and STH 21 west of Lake Winnebago and on USH 151 east of Lake Winnebago, are not eligible for a General Permit.
30. Spud Poles are temporary anchors for barges and other watercraft.
31. Temporary Clear Span Bridges (TCSBs) are structures placed above the OHWM and completely across a waterway that allow vehicles, equipment, or people to safely cross from one side of a waterway to the other. TCSBs are generally constructed from construction matting.
32. Temporary Wetland Fill means non-permanent wetland fill material¹ during access, construction, or utility installation, but does not result in loss of wetland, wetland degradation, or conversion from one type of wetland to another. For example, stockpiling segregated soils from trench excavation before placing an underground pipeline, or construction matting.
33. Upland means non-wetland areas above the OHWM¹.
34. Utility means a corporation, company, cooperative, or organization that owns, operates, manages, or controls the production, transmission, or distribution of electricity, heat, light, natural gas, petroleum products, telecommunication, or water, either directly or indirectly to or for the public or members of a cooperative.
35. Utility crossing means installing, inspecting, replacing, removing, re-burying, and/or repairing a cable, conduit, or pipeline.
36. Utility facility means an aboveground or underground conduit, duct, cable, fiber, wire, or pipeline, generation facilities or any appurtenance structures associated with these facilities, used to transmit or distribute electricity, heat, light, natural gas, petroleum product, or telecommunication. This includes facilities regulated by the Federal Energy Regulatory Commission (FERC).
37. Utility structure means a utility facility placed on the bed of a waterway (below the OHWM), and can include, but is not limited to, utility poles, utility pole foundations, FERC regulated dam appurtenance structures, hydroelectric dam appurtenance structures, guy anchors or cables, electric cables, telecommunication cables or fiber optic lines, or construction matting. This does not include the placement or replacement navigational markers, culverts, or new intake or outfall structures.
38. Wetland is defined in s. 23.32(1), Wis. Stats., and 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 wet conditions.
39. Wetland impact includes temporary or permanent conversion of a wetland, or filling in a wetland.

¹ Refer to the definition in Section 8