

## **Guidance on Office of Energy Wetland and Waterway Permitting**

*\*This is a guidance document only \**

The WDNR's [Office of Energy](#) provides consultation and process environmental impact permits for energy and utility projects across the state, including solar projects.

Please review the information below for guidance on next steps for your utility project, as it relates to utility wetland and waterway permitting.

### **Waterway Permitting**

- Waterways can be viewed on the WDNR's [Surface Water Data Viewer](#) (SWDV) website (select the "surface waters" layer). All waterways and waterbodies mapped there are assumed to be navigable (and thus state jurisdictional under Chapter 30 Wis. Stats.). Field-identified waterways that are not mapped on SWDV are also assumed to be navigable. Only WDNR staff can determine if a particular waterway is non-navigable within a project area, even if there does not appear to be a visible waterway channel there.
- A waterway permit under [Chapter 30 \(WI Statutes\)](#) would be required if any of the following construction activities occur within or across waterways or waterbodies:
  - Trenching
  - Plowing
  - Installing temporary or permanent structures within it (i.e. pedestals, handholes, overhead power poles, fence footings, cofferdams, etc.)
  - Placing temporary bridges across it, installing temporary culverts within it, or driving directly through it for temporary vehicle/equipment access during construction
  - Placing permanent bridges across it or permanent culverts within it for permanent vehicle access for facility operation
  - Placing solar arrays or buildings such as substations or office facilities over waterways
- Directional boring an underground utility facility completely under a waterway or waterbody does not require a waterway permit from WDNR.

***IF a Waterway Permit is Required:*** A [Utility wetland, bridge, structure, dredging, driving on the bed](#) wetland/waterway general permit, [Waterway Crossing](#) general permit, OR individual [permit application](#) must be submitted to WDNR and waterway permit coverage granted by the WDNR prior beginning construction.

### **Wetland Permitting**

- A wetland delineation conducted by a qualified biologist is recommended, but not required, to confirm the wetland boundaries within your project area. If a wetland delineation is not conducted, the project proponent is then **required to assume** all areas mapped as "wetland indicators and soils" (purple polygons, includes NRCS wetspots) and "mapped wetlands" (orange polygons, various points, includes "wetlands too small to delineate" symbols that reflect wetlands up to 5 acres) on

WDNR's [Surface Water Data Viewer](#) are wetlands, and either avoid impacting these areas, or apply for permit coverage to impact these areas.

- Directions on creating a SWDV map can be provided upon request
- A wetland permit under Chapter 281.36 (WI Statutes) would be required if any of the following construction activities occur within wetlands:
  - Trenching/excavation
  - Plowing across it if the plowing would **create a discharge of fill (soil mixing and/or soil rutting)**. Plowing through saturated or wet/soggy wetlands would likely result in soil mixing and rutting, and thus the plowing would then be regulated
  - Installing structures (i.e. pedestals, handholes, overhead power poles, substations, facility buildings, etc.) in wetland. Direct imbed array or fence supports are not considered wetland fill, but concrete footing supports would be considered wetland fill
  - Excavation from bore pit placement for underground collection lines in wetland
  - Mechanized tree clearing in forested wetlands (permanent or temporary)
  - Vehicle/equipment access across wetland **resulting in soil mixing or soil rutting**
  - The placement of construction matting in wetland to facilitate vehicle/equipment access or for material storage
  - The placement of fill material in wetlands (temporary or permanent)
- Directional boring a wetland does not require a wetland permit from WDNR, as long as all associated bore pits are placed outside of the wetland.
- Plowing or vehicle access through wetlands during dry/frozen, stable conditions (where access/plowing will NOT result in soil rutting or soil mixing), does not require a wetland permit from WDNR.

***IF a Wetland Permit is Required:***

- If wetland disturbance (see list above for regulated activities) will be **less than 400 sq. ft. total along the entire project**, you must qualify for and follow all terms, conditions, and eligibility criteria of [WDNR-GP3-2023](#) (Non-Reporting Coverage).
  - The WDNR does not provide confirmation if a project meets non-reporting criteria. WDNR-GP3-2023 provides non-reporting coverage for certain activities listed in the permit, as long as all eligibility criteria, conditions and standards are met.
  - WDNR-GP3-2023 Non-Reporting Coverage **does not** require a permit application submittal. Please ensure to maintain records documenting that your project is/was completed in compliance with WDNR-GP3-2023.

- If wetland disturbance (see list above for regulated activities) will be **more than 400 sq. ft. total along the entire project**, a [Utility wetland, bridge, structure, dredging, driving on the bed](#) wetland general permit OR individual [permit application](#) must be submitted to WDNR and wetland permit coverage granted by the WDNR prior to construction of the entire project.

#### Wetland Concurrence

Prior to submitting a permit application, a wetland concurrence request should be submitted to [Molly.Gardner@wisconsin.gov](mailto:Molly.Gardner@wisconsin.gov) for the proposed utility project. A wetland concurrence request consists of an email detailing how the project was evaluated for the presence of wetland. In your concurrence request email, please provide the following:

- A narrative that includes the scope and location of the project and describes how the wetland boundaries were determined (i.e., conservative desktop, refined desktop, field verification, field delineation). Indicate if the concurrence request includes laydown areas, off right-of-way (ROW) access, and if the project will intersect tribal lands.

*Note: The conservative desktop method assumes that all areas mapped under “Mapped Wetlands” and “Wetland Soils & Indicators” layers on the DNR’s Surface Water Data Viewer (SWDV) are wetland.*

- A supporting wetland map (overlying leaf-off aerial imagery) showing the proposed wetland boundaries within the project area (including laydown areas and off-ROW access). The wetland map should also include the “Mapped Wetlands” and “Wetland Soils & Indicators” layers from SWDV. If field surveys were conducted (as part of a field verification or field delineation), the supporting map should also include the field identified wetlands, the area of investigation, and the locations where photos were taken.
  - If applicable, include a statement on whether wetland boundaries were determined to be different from desktop resource mapping. If wetland boundaries differ from desktop resource mapping, provide documentation where the differences occur and justify why the difference occurs. Justification can be provided via
    - Comment boxes on the wetland boundary map with site specific information such as topography changes, existing roads and drives, etc.
    - Google Earth street view screen capture
    - Clearly labeled site photos
    - A wetland boundary report and the location referenced on the wetland boundary map
  - Include DNR-mapped waterways (“surface waters” layer on SWDV)

#### **Permit Application Examples**

- Some authorized GP3 applications that may be helpful as you develop your application(s) can be found [here](#). In the search bar, you can enter:
  - WP-GP-WC-2021-27-X11-01T07-30-36
  - WP-GP-NE-2021-45-X07-27T19-03-18
- Note: You will not be able to see any confidential documents (endangered resources reviews, cultural screenings, etc.), but the narrative and alternative analysis documents will be helpful and a great place to start when you review the documents

### **Land Disturbance (Upland and Wetland) Permitting**

- A WDNR [Construction Site Storm Water Permit](#) is required for any projects disturbing one acre or more of land (total land disturbance, including wetlands and upland)
  - Areas of vehicle access/vehicle driving, areas of excavation, vegetation clearing, grading, and other potential activities would constitute as ground disturbance
  - The WDNR Office of Energy contact for stormwater permitting is [Samantha.Whitens@wisconsin.gov](mailto:Samantha.Whitens@wisconsin.gov)

### **Other Permits and Approvals to Consider for your Project**

Additional permits and/or approvals may be required from the WDNR for construction, as well as other local, state, and federal authorities. Some examples are listed below:

- Wisconsin DNR
  - For any land or water disturbing activities, regardless of if a WDNR permit is required, a screening for potential impacts to state listed threatened and endangered species should be performed to ensure the project is in compliance with state law. Any permit applications submitted to the WDNR must include documentation showing that this screening was completed and fulfilled.
    - Here is a link to where more information can be found on how to begin reviewing for rare species within your project area: <http://dnr.wi.gov/topic/ERReview/Review.html>.
    - Directions on how to screen for endangered resources can be provided upon request
  - For any land disturbing activities, regardless of if a WDNR permit is required, a screening for cultural resources should be performed to ensure the project is in compliance with state law. Any permit applications submitted to the WDNR should include documentation showing that this screening was completed. If a permit application does not include documentation of this screening, the WDNR Archaeologist will have to review the application for potential impacts to cultural resources, which may delay the permit issuance.

- The Wisconsin Historic Society is the leading agency, and more information can be found [here](#) on their website.
- Directions on how to screen for cultural resources can be provided upon request
- [state wastewater permitting](#) (such as pit/trench dewatering)
- [wastewater plan review](#) (for sanitary sewer)
- [Air permitting](#) (Owners or operators of industrial sources that emit pollutants to the atmosphere)
- Easements needed for crossing of [WDNR property](#) (state lands, state trails, etc.)
  - Information and an *Application for Use of State-Owned Land* can be found and submitted through the following link:  
<https://dnr.wisconsin.gov/topic/fl/RealEstate/ConveyedOnlineApplication>.
  - The WDNR Regional Real Estate Specialist contact can be found [here](#).
  - The link to view public access lands can be found here: [Public Access Lands Publications | Wisconsin DNR](#)
  - WDNR GIS data can be found on our Open Data Portal found here: [Wisconsin DNR Open Data Portal \(arcgis.com\)](#)
- [Public Service Commission of Wisconsin](#)
- Wisconsin Department of Transportation
  - WDNR Liaison staff can be found here:  
<https://dnr.wi.gov/topic/Sectors/documents/transportation/Liaisons.pdf>
- U.S. Army Corps of Engineers
  - The St. Paul Regulatory Homepage can be found here:  
<https://www.mvp.usace.army.mil/Missions/Regulatory.aspx>
- Local town/village/city zoning and permitting
- Local county zoning and permitting
- Resource identification, approvals, permits, or authorizations needed from tribal entities for work within tribal reservation boundaries

### **Additional Resources**

- WDNR Office of Energy Webpage:  
<https://dnr.wisconsin.gov/topic/Sectors/UtilityPermitting.html>

- WDNR-GP3-2023 (General Permit for Utilities to Place Fill in Wetlands, Place Temporary Bridges Across Waterways, Place Structure on the Bed, Remove Material from the Bed, or Drive on the Bed: [GP3.pdf \(widen.net\)](#))
- WDNR-GP3-2023 application checklist: [GP3-appChecklist.pdf \(widen.net\)](#)
- Practicable Alternatives Analysis Guide: [PAASupp3Utility.pdf \(widen.net\)](#)
- Directions on how to begin an application: [Instructional videos | Wisconsin DNR](#)
- Waterway Permitting Process: [Waterways Permitting Process | Waterway protection | Wisconsin DNR](#)
- Wetland Permitting Process: [Wetland Permitting Process | | Wisconsin DNR](#)
- WDNR HDD Tech Standard: [1072\\_HorizDirectionalDrilling\\_10-2022.pdf \(wisconsin.gov\)](#)