

**WISCONSIN DEPARTMENT OF NATURAL RESOURCES**  
**WATERWAY GENERAL PERMIT TO PLACE WATERWAY CROSSINGS IN AND**  
**OVER IN NAVIGABLE WATERS**

**PERMITTEE:** The General Public in Wisconsin

**PERMIT NO.:** WDNR-GP21-2021

CULVERTS PLACED WITHOUT AN ENGINEERED DESIGN  
CULVERTS PLACED WITH AN ENGINEERED DESIGN  
CLEAR SPAN BRIDGE CROSSINGS  
FORD CROSSINGS

**ISSUING OFFICE:** Waterways & Wetland Section, Waterways Bureau, External Services Division, Wisconsin Department of Natural Resources (DNR)

**ISSUANCE DATE:** 06/01/2021

**EXPIRATION DATE:** 05/31/2026

**GENERAL PERMIT AUTHORIZATIONS:**

In compliance with the provision(s) of ss. 30.12(1) and (2m), Wis. Stats., no person may place any structure upon the bed of any navigable water unless an individual or a general permit has been issued under this section or authorization has been granted by the legislature through an exemption.

In compliance with the provision(s) of s. 30.123(2), Wis. Stats., “unless an individual or a general permit has been issued under this section or authorization has been granted by the legislature, no person may construct or maintain a bridge or construct, place, or maintain a culvert in, on, or over navigable waters”

**Note:** Section 30.123(6)(d), Wis. Stats. allows for the construction or placement and the maintenance of a replacement culvert that is placed in substantially the same location as the culvert being replaced if the replacement culvert is constructed or placed using best management practices to comply with water quality standards under subch. [II of ch. 281](#).

In compliance with the provision(s) of ss. [30.123\(7\)](#) (a) through (c), Wis. Stats., the Department has the authority to issue statewide general permits under s. [30.206](#), Wis. Stats., that authorize any person to do all of the following:

1. Construct and maintain a clear-span bridge over a navigable water that provides access to a principal structure, as defined by rule by the department.
2. Construct and maintain a culvert that replaces a culvert that does not qualify for the culvert replacement exemption and that is in a navigable water that is less than 35 feet wide.
3. Construct and maintain a bridge that is supported only by culverts in a navigable water that is less than 35 feet wide.

The Department has authority to issue general permits under s. 30.206(1)(am), Wis. Stats., that authorize any person in the State of Wisconsin to perform work in accordance with

the terms and conditions of the general permit specified below after satisfying all applicable permit terms and conditions. Please refer to the following sections of this permit for the specific eligibility standards, application requirements, certification requirements and responsibilities, conditions, findings of fact, conclusions of law, and definitions.

Note: WDNR GP21-2021 does not apply to proposed tribal activities located on Federal Indian Trust lands. within the exterior boundary of a reservation.

Note: Coverage under this permit authorizes the permittee to undertake specified activity/activities in compliance with the above statutes and the terms of this permit, but does not authorize a permittee to undertake any activity prohibited by other applicable federal, state, or local law.

**OTHER AUTHORIZATIONS NECESSARY:** WDNR-GP21-2021 authorizations are subject to all applicable terms and conditions specified in this permit. However, **WDNR-GP21-2021 authorizations do not supersede any other local, state or federal authority so additional permits may be required before any work may proceed.** U.S. Army Corps of Engineers wetland and waterway permits are required for discharges to federal wetlands and any deposit or removal of material from waters of the United States.

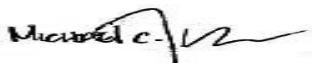
**PROJECT DESCRIPTION AND LOCATION:** WDNR-GP21-2021 applies to construction, placement and maintenance of culverts, clear-span bridges, and ford crossings located across navigable streams as regulated under. ss. 30.123 and 30.12, Wis. Stats.

Any person that intends to construct, place or maintain a culvert, clear-span bridge, or ford crossing in or over any navigable waterway designated as an Area of Special Natural Resource Interest (ASNRI) or at a site where the Department requires a permit under Wis. Stats. s. 30.12(2m) or 30.123(6m) must comply with all applicable provisions of this general permit.

**Note:** Municipal public transportation projects as defined in WDNR GP2-2017 which includes town roads, should be permitted under the WDNR Municipal General Permit to Construct or Reconstruct Bridges/Highways/Culverts (WDNR GP2-2017) in effect on the date of application.

**GENERAL PERMIT COVERAGE:** Unless notified by the Department to the contrary, the effective date of coverage under this general permit is 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-GP21-2021 permit coverage is valid for 5 years after the date the coverage is granted by the department.** If the project is not completed within 5 years after the date of coverage another application must be submitted. If the project scope changes within the valid period of the permit coverage the department may require a new application or modify coverage if the project continues to meet all eligibility criteria. The 5 year timeline is based on the date coverage is granted by the department, not the expiration date of WDNR-GP21-2021.

State of Wisconsin Department of Natural Resources



Mike Thompson - Director  
Bureau of Waterways

05/26/2021

Date

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### **WDNR-GP21-2021 TERMS AND CONDITIONS**

The following sections describe the general permit authorization procedures implemented by the DNR in WDNR-GP21-2021. Projects must meet all the terms and conditions of this permit to be eligible for coverage under WDNR-GP21-2021.

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

The project must meet **all** the following standards to be eligible for coverage and authorization under this general permit. Section 30.206, Wis. Stat. requires that applicants meet all of the following standards to be eligible for coverage and authorization under this general permit. Persons proposing to do work should note that s. 281.36 (3g)(h), Wis. Stats., requires applicants to demonstrate that adverse impacts to wetland functions and values have been avoided and minimized to the maximum extent practicable.

**NOTE:** Projects that do not meet all standards are not eligible for this general permit and are therefore excluded from coverage under WDNR-GP21-2021. For Culvert Crossing, Clear Span Bridge Crossing, or Ford Crossing projects that do not qualify for WDNR-GP21-2021, you must apply for an Individual Permit as outlined in ss. 20.12(3m) or 30.123(8), Wis. Stats. in order to proceed with the project.

**NOTE:** The department has authority under s. 30.206(3r), Wis. Stats., to require an

individual permit in lieu of a general permit if the department has determined that the proposed activity is not authorized under WDNR-GP21-2021 or has conducted an investigation and visited the site and has determined that conditions specific to the site require restrictions on the activity in order to prevent significant adverse impacts to the public rights and interest, environmental pollution, as defined in Wis. Stats. s. 299.01 (4), or material injury to the riparian rights of any riparian owner.

## **SECTION 1 – WDNR-GP21-2021 ELIGIBILITY CRITERIA**

Any person who proposes to place a clear span bridge crossing, new culvert crossing, a replacement culvert crossing not eligible for the state culvert replacement exemption, or ford crossing in or over a navigable stream that is designated as an area of special natural resource interest, or at a site where the Department requires a permit under ss. 30.12(2m) or 30.123(6m), Wis. Stats., must meet all of the following standards to be eligible for coverage and authorization under this general permit.

### **A. ELIGIBILITY STANDARDS APPLICABLE TO ALL WATERWAY CROSSING PROJECTS**

1. The applicant has contacted the local [WDNR Water Management Specialist](#) during the development of the project to have a pre-application discussion. Go to [dnr.wi.gov](http://dnr.wi.gov), key word “waterway protection” for more information. Project design must address the site specific considerations that are identified by the WMS and appropriate resource managers during the pre-application discussion.
2. The project purpose is to place a waterway crossing to allow for access across a navigable river or stream and does not result in significant adverse impacts to the public rights and interests, cause environmental pollution as defined in s. 299.01(4), Wis. Stats., or result in material injury to the riparian rights of any riparian owner pursuant to s. 30.206(3r)(a)2., Wis. Stats., nor does it cause more than minimal adverse environmental impacts, materially interfere with navigation, nor have an adverse impact on the riparian property rights of adjacent riparian owners pursuant to s. 30.206(1)(am), Wis. Stats.
3. Projects proposed in locations with existing recorded deed restrictions within the project area, including easements limiting construction and land use activities, are not eligible for this general permit.

**Note:** Department Chs. 30 and 281 Wis. Stats. permits do not supersede any legal restrictions on the use of land

4. Structures over lake outlets and lake systems are not eligible for this permit.
5. Structures shall be placed entirely within the riparian’s zone of interest, as determined by one of the methods outlined in ch. NR 326, Wis. Admin. Code, or applicants have the written permission from all affected riparian landowners to proceed with structure placement in the proposed location.
6. The placement and installation of waterway crossing structures placed on the bed of a river or stream (culvert or ford crossings) shall mimic the natural streambed and gradient above and below the structure to allow for aquatic organism passage (AOP) where appropriate, and not result in a permanent impoundment of water upstream of the crossing location. (note: culverts on streams 2% gradient or greater may require

additional culvert design considerations to allow for AOP).

7. Spawning. To minimize adverse impacts on fish movement, fish spawning, and egg incubation periods, in-stream structures **may not be placed** during the following time periods:
  - September 15th through May 15th for all trout streams; to determine if a waterway is a trout stream, you may use the WDNR website trout maps which 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.
  - March 1st through June 15th for ALL OTHER waters.

**Note:** The local Department Fisheries Biologist may waive or modify timing restrictions in writing. To request waiver or modification of fish spawning timing restrictions for your project please do so within the narrative portion of your permit application.

8. The applicant is working to obtain a local shoreland zoning authorization for the project or the local shoreland zoning requirements have been waived. (Documentation required). If local zoning permits are not required, the project vegetation and bank disturbance is limited to the amount necessary for project placement and erosion control practices are adequate to prevent sedimentation to surface waters.
9. If the project is located in a regulatory floodplain, the applicant is working to obtain a floodplain permit (NR 116 Wis. Adm. Code) from the local floodplain zoning department.

**Note:** Contact your local floodplain zoning department to determine whether your project is located in a regulatory floodplain. For general floodplain mapping information, you may review the floodplain themed surface water data viewer at <https://dnrmaps.wi.gov/H5/?Viewer=SWDV&layerTheme=1>

10. Structures in and over navigable waterways must be sized and set at an elevation so that water depths, widths and velocities at the inlet and outlet match the natural stream channel. Invert elevations of culverts shall be determined by surveying the stream bed elevations upstream and downstream of the crossing, and setting the culvert below the natural stream bed elevation. (note: site specific conditions such as northern pike waters, may require different embedding techniques than typical designs to prevent fish entrapment)
11. All bridges and culverts shall maintain a clearance of 5 feet or more above the ordinary high water mark (OHWM), or request a waiver to the navigational clearance requirements, which can be granted by the Department when the following conditions apply:
  - a. The waterway is known to have little or no navigation or snowmobile use.
  - b. The waterway is not anticipated to have navigational use by other than lightweight craft.
  - c. The owner provides a portage over or around the bridge or culvert.
  - d. The reduced clearance would not be detrimental to the public interest.

12. Any wetland disturbance associated with the structure placement is incidental to the

structure, confined to the area within the stream channel being crossed or the immediate adjacent banks, and has been authorized by a department wetland permit or exemption as required pursuant to s. 281.36 Wis. Stats. (Documentation required).

13. The removal of material from the stream bed to facilitate the placement of structures located on the stream bed is located within 2' of the structure or is limited to the minimum amount necessary for correct placement of the structure and shall not be disposed of in a waterway, floodway, floodplain, or wetland. (Note. Stream channels may not be widened beyond existing bankfull width to accommodate culvert placement.)
14. The applicant shall avoid operating equipment on the stream bed. If required for project installation, the applicant must consult with the Department and shall follow the best management practices identified below as appropriate in order to minimize adverse resource impacts:
  - a. Temporary timber matting is used to protect the streambed
  - b. Movement on the stream bed is kept to a minimum
  - c. Equipment is kept on streambed for as little time as needed to complete the project and must be removed when not in use;
  - d. Properly installed and maintained silt curtains and/or turbidity barriers are used around the perimeter of the project;
  - e. Pre-inspection of vehicles/equipment is done for all operating days to avoid leaks;
  - f. Biodegradable hydraulic and engine oils are used OR a spill containment kit is on site in case of spill

**B. ELIGIBILITY STANDARDS for Culverts Crossings** In addition to the standards in Section 1 A, the following standards apply to culvert crossing projects.

1. The culvert crossing shall not be placed in a stream wider than 35 feet as measured from ordinary high water mark to ordinary high water mark.
2. The required culvert flow-area shall not exceed 20 square feet unless the project is designed by an engineer registered in the state of Wisconsin. Please refer to the [culvert sizing worksheet](#) for common culvert sizes, respective flow areas, and appropriate sizing guidelines.
3. The culvert crossing must be appropriately sized. This may be accomplished in any of the following manners:
  - a. As calculated in the Culvert Sizing Worksheet (Appendix A), or available at:  
[http://dnr.wi.gov/topic/Waterways/factsheets/Culvert\\_Placement\\_Worksheet.pdf](http://dnr.wi.gov/topic/Waterways/factsheets/Culvert_Placement_Worksheet.pdf)
  - Note:** The Culvert Sizing Worksheet must be included with the plans and specifications portion of the permit application.
  - b. The placement of a single Culvert sized to completely span bankfull width at a location that is representative of the stream width through the reach

in question.

- c. Any other method that is shown to result in the following outcome and can be justified using site specific information:
  - i. adequately pass stream flows without impounding water on the upstream side of the crossing up to the 100 year storm event.
  - ii. meets all other performance standards of this permit.
4. Culvert Design shall follow culvert design best practices depicted in the [culvert placement example drawing](#).
5. Multiple culvert designs must provide adequate spacing between culverts to allow for compaction between pipes during installation in order to prevent piping or washout (Note: The lesser of .5 pipe diameter or 3' for culverts larger than 48" or ≥ 24" for culverts 48" in size or less).
6. Culvert installation shall follow established best management practices as referenced in [Stream Culverts – Best Management Practices](#).

**C. ELIGIBILITY STANDARDS TO PLACE CLEAR SPAN BRIDGES ACROSS NAVIGABLE WATERWAYS.**

1. The clear span bridge shall not be located on a wild river designated under Ch. NR 302, Wis. Admin. Code, or where similar federal, state or local regulations prohibit the construction.
2. The bridge shall completely span the navigable stream from top of the channel to top of the channel with no support pilings in the stream.

**D. ELIGIBILITY STANDARDS APPLICABLE TO Ford Crossings.** In addition to the standards in Section 1 A, the following standards apply to all ford crossings.

1. The ford **shall not** be located in an Area of Special Natural Resource Interest (ASNRI) or Public Rights Feature (PRF), unless it is constructed for an agricultural use as defined in [s. 30.40 \(1\), Wis.Stats](#).

**Note:** To determine if a waterway is an ASNRI or PRF, you may use the Designated Waters Theme on DNR's Surface Water Data Viewer:  
<http://dnr.wi.gov/topic/surfacewater/swdv/>

3. The ford shall only be constructed where the stream width is less than 100 feet, the normal stream depth is less than 2 feet.
4. The ford shall consist of a 6 to 24 inch thick layer of a minimum 2 to 4 inch diameter rock or pre-cast reinforced concrete planks over a base of crushed rock **or** an NRCS recommended design consistent with Conservation Practice [578 standards](#). The final placement of the crossing shall result in the top surface of the crossing set at the same elevation of the natural streambed immediately up and downstream of the crossing.

## SECTION 2: WDNR-GP21-2021 APPLICATION REQUIREMENTS FOR COVERAGE

You are required to comply with the following application requirements:

1. After you have carefully confirmed that your project(s) meet(s) the purpose and all the terms and conditions of this permit, you must submit a *complete application package*, outlined in item 5 below, to the Department. The complete application package should be received a minimum of 30 calendar days before the desired project start date. Application submittal can be completed through the Department's electronic permitting system found at <https://dnr.wi.gov/permits/water/>  
**NOTE:** The Department will forward a copy of your application package to the U.S. Army Corps of Engineers for their review and determination regarding federal permit requirements and coverage.
2. Unless notified by the Department to the contrary, the effective date of coverage under this permit is 30 calendar days after the Department receives a complete application package.
3. The Department may request that you provide additional information necessary to verify compliance with the terms and conditions of this permit. The Department may make a request for additional information one time during the 30-day period. If the department makes a request for additional information, the 30-day period is paused on the date the person applying for authorization receives the request for additional information. The clock remains paused until the date on which the department receives the information, at which point the clock resumes from the point it was initially stopped.
4. The Department may determine the project is not eligible for this general permit and require that the project be reviewed through the individual permit process outlined in ch. 30, Wis. Stats.
5. A complete application package must include all of the following information:
  - a. A Complete Application form certifying that the project meets the terms and conditions of WDNR-GP21-2021. This form can be found at <http://dnr.wi.gov/permits/water/>.
  - b. The appropriate application fee.
  - c. A copy of the deed or similar proof of ownership of the site where the activity will occur. If you do not own the site, also include proof of any notice(s) and permission(s) required by Section IA, standard 4 of this General Permit.
  - d. A project diagram that shows all of the following:
    1. The location of the project relative to the OHWM.
    2. Pertinent dimensions of the waterway to be crossed and the structure proposed to be placed, including but not limited to stream channel width, depth, and bank heights, and crossing length, width, height, diameter (if applicable) and placement relative to the stream bed and banks.
    3. Crossing approach details (associated dimensions and siting information)
    4. The location of silt fences or any other sediment control devices.
  - e. A narrative description of materials and equipment to be used for the placement of the waterway crossing, the purpose and need for the placement, and any request for a navigational clearance waiver or waiver to standard fish timing restrictions.



- f. Maps of the project site that show all of the following:
  - 1. The location of the property lines for the property where the project will occur including identification of the riparian zone area from the OHWM to the line of navigation.
- g. Photographs that represent existing site conditions where the project will occur.

### **SECTION 3: CERTIFICATION & RESPONSIBILITIES**

You certify and agree that upon submittal of a complete application package to DNR, the project will be conducted in compliance with all the terms and conditions of WDNR-GP21-2021

### **SECTION 4: WDNR-GP21-2021 GENERAL PERMIT CONDITIONS**

The applicant agrees to comply with the following conditions:

1. **Application.** You must submit a complete application package to the Department as outlined in Section 2 of this general permit. If requested, you must furnish to 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-GP21-2021 and efforts to begin work on the activities authorized by this general permit signifies that you have certified the project meets all eligibility standards outlined in Section 1 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 waterway and wetland 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 the work that is specifically described in the notification package and plans submitted to the Department, and which you certified is in compliance with the terms and conditions of WDNR-GP21-2021.
5. **Expiration.** This WDNR-GP21-2021 is valid for a period of 5 years from the date of issuance. Any activity that the Department determines is authorized by this WDNR-GP21-2021 remains authorized under WDNR-GP21-2021 for a period of 5 years from the date of the Department's determination or until the activity is completed, whichever occurs first, regardless of whether WDNR-GP21-2021 expired before the activity is completed.
6. **Authorization Distribution.** You must supply a copy of the permit coverage authorization to every contractor working on the project.
7. **Project Start.** You must notify the Department, using the information provided on the confirmation of coverage letter you receive, before starting any activity and again not more than 5 days after each activity is completed.
8. **Permit Posting.** You must post a copy of this permit at a conspicuous location on

the project site for at least 5 days prior to the project starting, and the copy must remain posted on the project site at least five days after the project is complete. You must also have a copy of the permit and approved plan available at the project site at all times until the project is complete.

9. **Permit Compliance.** The Department may modify or revoke coverage of this permit if placement structures is not carried out in compliance with the terms and conditions of this permit, or if the Department determines the project will be detrimental to the public interest. 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.

10. **Construction Timing.** Once waterway work below the OHWM begins, all construction activities in those waterways must be continuous until the work is completed and the site is stabilized. Once wetland work begins, all construction activities in those wetlands must be continuous to the extent practicable. During periods of inactivity in wetlands, the site must be stabilized until the work is resumed and completed.

11. **Construction.** No other area of the wetland or waterway may be disturbed except the area designated in the submitted plans.

12. **Project Completion.** *Within one week* of project completion you must submit to the Department a statement certifying that the project is in compliance with all the terms and conditions of this permit and photographs of the work authorized by this permit. This statement must reference the Department-issued docket number and be submitted to the Department staff member that authorized coverage

13. **Proper Maintenance.** You must maintain the activity authorized by WDNR-GP21-2021 in good condition and in conformance with the terms and conditions of this permit using best management practices. Any structure or fill authorized shall be properly maintained to ensure no additional impacts to the surrounding wetlands and waterways. This includes removing accumulated brush, debris or other obstructions that are trapped in or underneath the structure to prevent upstream flooding and to maintain structural integrity

14. **Site Access.** Upon reasonable notice, you must allow access to the site to any Department employee who is investigating the project's construction, operation, maintenance, or compliance with the terms and conditions of WDNR-GP21-2021 and applicable laws.

15. **Erosion and Siltation Control Practices.** The project site shall implement 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. Admin. Code. These standards can be found at the following website: [http://dnr.wi.gov/topic/Stormwater/standards/const\\_standards.html](http://dnr.wi.gov/topic/Stormwater/standards/const_standards.html). Any area where topsoil is exposed during the project should be immediately seeded and mulched to stabilize disturbed areas and prevent soils from being eroded and washed into the waterway.

16. **Equipment Use.** The equipment used in waterways and wetlands must be low ground weight equipment as specified by the manufacturer specifications.

**17. Wetland Protection.** You shall not store any vegetation, material, or equipment in wetlands unless authorized to do so through an approved project design. The project will be constructed in a manner that will maintain wetland hydrology in the remaining wetland complex, if applicable.

**18. Invasive Species.** All project equipment shall be decontaminated for removal of invasive species prior to and after each use on the project site by using best management practices to avoid the spread of invasive species, as outlined in s. NR 40.07 Wis. Adm. Code. For more information, refer to <http://dnr.wi.gov/topic/Invasives/bmp.html>. Keyword: "equipment operator" or "invasive bmp"

**19. Federal and State Threatened and Endangered Species.** WDNR-GPXX-20XX does not affect the Department's responsibility to ensure that all authorizations comply with Section 7 of the Federal Endangered Species Act, s. 29.604, Wis. Stats., and applicable state laws. No Department authorization under this permit will be granted for projects found not to comply with these acts/laws. No activity is authorized which 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 and/or state law, or which is likely to destroy or adversely modify the critical habitat of a species as identified under the Federal Endangered Species Act. Documentation options include:

- i. An ER Review Verification Form showing that the project is covered by the Broad Incidental Take Permit for no/low impact activities and therefore does not require a review.
- ii. An ER Preliminary Assessment from the NHI Public Portal stating that no further actions are necessary or that further actions are recommended. The NHI Public Portal is located here: <http://dnr.wi.gov/topic/erreview/publicportal.html>.
- iii. If the ER Preliminary Assessment from the NHI Public Portal shows that "further actions are required" then submit one of the following:

\* A Department ER Review letter. This request form for an ER Review letter is located here: <http://dnr.wi.gov/topic/erreview/review.html>.

\* A Certified ER Review letter. The list of Certified Reviewers is located here: <http://dnr.wi.gov/topic/ERReview/Documents/CertifiedReviewers.pdf>.

**20. Special Concern Species.** If the Wisconsin National Heritage Inventory lists a known special concern species to be present in the project area you will take reasonable action to prevent significant adverse impacts or to enhance the habitat for the species of concern.

**21. Historic Properties and Cultural Resources.** WDNR-GP21-2021 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 projects found not to comply with these acts/laws. 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 must be contacted for further instruction.

**22. Preventive Measures.** Measures must be adopted to prevent potential pollutants from entering a wetland or waterbody. Construction materials and debris, including fuels, oil, and other liquid substances, shall not be stored in the construction area in a manner that would allow them to enter a wetland or waterbody as a result of spillage, natural runoff, or flooding. If a spill of any potential pollutant 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.

**23. Suitable Fill Material.** All fill authorized under this permit must consist of clean suitable soil, 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 s. 289.01(33), Wis. Stats.

**24. Standard for Coverage.** Wetland impacts from the project will cause only minimal adverse environmental impacts, as determined by the Department.

**25. Transfers.** Coverage under this permit is transferable to any person upon prior written approval of the transfer by the Department.

**26. Dam Transfers.** No transfer of ownership of the dam may take place without proper authority under s. 31.21, Wis. Stats.

**27. Reevaluation of Decision.** The Department may suspend, modify or revoke authorization of any previously authorized activity and may take enforcement action if the following occur:

- i. The applicant fails to comply with the terms and conditions of WDNR-GP21-2021.
- ii. The information provided by the applicant in support of the permit application proves to have been false, incomplete, or inaccurate.
- iii. Significant new information surfaces which the Department did not consider in reaching the original public interest decision.

## **SECTION 5: WDNR-GP21-2021 FINDINGS OF FACT**

1. The Department has determined that projects that meet the eligibility criteria and conditions and are granted coverage under this general permit will cause only minimal adverse environmental impacts, will not materially interfere with navigation, and will not have an adverse impact on the riparian property rights of adjacent riparian owners pursuant to s. 30.206(1)(am), Wis. Stats., nor result in significant adverse impacts to the public rights and interest, cause environmental pollution as defined s. 299.01(4), Wis. Stats., or result in material injury to the riparian rights of

any riparian owner pursuant to § 30.206(1)(ag), Wis. Stats., if completed in accordance with this permit.

2. Pursuant to s. NR 299.04(1), Wis. Admin. Code, the Department has reasonable assurance that projects 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. Admin. Code, and s. 281.36(3g)(d), Wis. Stats., that projects that meet the eligibility criteria and conditions and are granted coverage under this general permit will only result in minimal adverse environmental effects.

4. For activities authorized under this general permit, the Department has determined that projects that meet all eligibility criteria, for which all information required in the application requirements section above, and for which the Department has not required a wetland individual permit pursuant to s. 281.36(3g)(i), Wis. Stats, have adequately avoided and minimized wetland impacts to the greatest extent practicable and will result in minimal adverse environmental impacts. This finding is based on the information submitted in accordance with the application requirements listed above and the fact that the project scope is confined to the project area, which is limited to the minimum area needed to place, replace, or maintain the project.

5. Projects that meet the eligibility criteria and conditions and are granted coverage under this general permit will not injure public rights or interests, or cause environmental pollution as defined in s. 299.01(4), Wis. Stats.

6. The Department and the applicant have completed all procedural requirements, and projects that meet the eligibility criteria and conditions and are granted coverage under this general permit will comply with all applicable requirements of WDNR-GP21-2021, s. 281.36(3g) and ch. 31, Wis. Stats., and chs. NR 102, 103, 150, 299, and 310, Wis. Admin. Code.

#### **SECTION 6: WDNR-GP21-2021 CONCLUSIONS OF LAW**

1. The Department has authority under ss. 30.12, 30.123, 30.206, and 281.36 Wis. Stats., to issue this general permit.

2. The Department has determined that issuance of this general permit is a prior compliance action under s. NR 150.20(3)(b), Wis. Adm. Code, based on the Environmental Analysis and Environmental Impact Statements prepared previously for statewide general permits. The Department has determined that on that basis it has complied with chs. NR 102 and 103, Wis. Adm. Code, and § 1.11, Wis. Stats.

3. Issuance of coverage under this general permit constitutes federal Water Quality Certification under 33 U.S.C. s. 1341.

#### **SECTION 7: WDNR-GP21-2021 DEFINITION OF TERMS**

You accept the following definitions for use with this general permit:

“Area of special natural resource interest” for purposes of this permit means only the following areas listed in s. 30.01(1am), Wis. Stats.

- a. A state natural area designated or dedicated under ss. 23.27 to 23.29, Wis. Stats., and shown on a map published on the Department's Internet site.
- b. A surface water identified as a trout stream by the Department in s. NR 1.02(7), Wis. Admin. Code, and shown on a map published on the Department's Internet site.
- c. A surface water identified as an outstanding or exceptional resource water under s. 281.15, Wis. Stats., and shown on a map published on the Department's Internet site.
- d. A body of water designated as a wild rice water under a written agreement between the Department and the Great Lakes Indian Fish and Wildlife Commission and shown on a map published on the Department's Internet site.
- e. A body of water in a wetland along Lake Michigan or Lake Superior that the Department has identified as an ecologically significant coastal wetland and shown on a map published on the Department's Internet site.
- f. A river that is included in the national wild and scenic rivers system or designated as a wild river under s. 30.26, Wis. Stats., and shown on a map published on the Department's Internet site.
- g. The portion of a body of water that contains a sensitive area and shown on a map published on the Department's Internet site.
- h. A unique and significant wetland specified by the Department in a special wetland inventory study or a special area management plan and shown on a map published on the Department's Internet site.

“Backwater” means the increase in the water surface elevation that results from a bridge and any associated road fills under average water flow conditions.

“Bank toe” means the break in slope at the foot of a bank where it meets the streambed.

“Bridge” has the meaning given in s. 30.01(1g), Wis. Stats. and means a structure used to convey people, animals, and vehicles over navigable waters and includes pipe arches and culverts.

“Channel” means a natural or artificial water course with defined bed and banks to confine and conduct the normal flow of water.

“Clear span bridge” means a continuous span of which no portion of the bridge piling or other supporting structure may be located within the channel except for abutment protection.

“Clearance” means the vertical distance between the inside top of a culvert or the bottom of the lowest member of the bridge span and the ordinary high water mark of the waterway.

“De minimus” activity means the dredging of less than 2 cubic yards in a calendar year from a specific waterbody **or** disturbance of bottom material during the manual removal of aquatic plants that meet the requirements of s. NR 109.06 (2) Wis. Admin. Code. **Note:** Where the bed material is privately owned, the permission of the property owner is required.

“Department” means the Department of Natural Resources.

“Dredged material” means any material removed below the ordinary high-water mark (OHWM) or from the bed of a navigable waterway by dredging. The bed of a navigable waterway extends landward to the OHWM.

“Dredging” means any part of the process of the removal or disturbance of material from below the OHWM or from the bed of a navigable waterway, transport of the material to a disposal, re-handling or treatment facility; treatment of the material; discharge of carriage or interstitial water; and disposal of the material. For the purpose of Ch. 30, Wis. Stats., dredging does not include “de minimus” activities.

“Ford” means a structure consisting of rock or gravel, placed on the bed of a navigable waterway to facilitate crossing the waterway.

“Highway” or “public highway” has the meaning in s. [340.01 \(22\)](#), Wis. Stats.

“Lake system” means a waterbody, or portion thereof with no discernable flow and includes the outlet of such systems at which point an outlet stream begins to form.

“Maintain” means to repair, replace, own, or possess all or a portion of a structure.

“Navigable waterway” means any body of water with a defined bed and banks that is navigable under Wisconsin law. In Wisconsin, a body of water is navigable if it is capable of floating on a regularly recurring basis the lightest boat or skiff used for recreation or any other purpose. This incorporates the definition at s. 30.01(4m), Wis. Stats., and current case law, which requires a watercourse to have a bed and banks, *Hoyt v. City of Hudson*, 27 Wis. 656 (1871), and requires a navigable waterway to float on a regularly recurring basis the lightest boat or skiff, *DeGayner & Co., Inc. v. DNR*, 70 Wis. 2d 936 (1975); *Village of Menomonee Falls v. DNR*, 140 Wis. 2d 579 (Ct. App. 1987).

“Ordinary high-water mark” 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 characteristic.

“Perched culvert” means a culvert where the inlet or outlet elevation is higher than the streambed elevation, thereby effectively reducing or eliminating fish migration and fish passage.

“Professionally engineered” means designed by a person registered as a professional engineer under s. [443.04](#), Wis. Stats., and ch. [A-E 4](#), Wis. Admin. Code.

“Replacement” means a degree of structural changes to a bridge or culvert by which some or all of the bridge or culvert is being removed or recreated.

“Riparian” means an owner of land abutting a navigable waterway.

“Riprap” means a layer or layers of rock, including filter material, placed on the bed and bank of a navigable waterway to prevent erosion, scour, or sloughing of the existing bank.

“Stabilize” means the process of making a site steadfast or firm, minimizing soil movement by the use of practices such as mulching and seeding, sodding, landscaping, paving, graveling, or other appropriate measures.

“Waterway crossing” means a culvert crossing, clear-span bridge crossing, or ford crossing of a navigable waterway.

“Wetland” has the meaning in s. 23.24, 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.