

**WISCONSIN DEPARTMENT OF NATURAL RESOURCES  
WATERWAY AND WETLAND GENERAL PERMIT  
POND AND ARTIFICIAL WATERBODY**



**Permittee:** The General Public in Wisconsin

**Permit #:** WDNR-GP23-2023

**Issuing Office:** Waterways Program  
Wisconsin Department of Natural Resources (Department)

**Issuance Date:** Date

**Expiration Date:** Date

**GENERAL PERMIT AUTHORIZATIONS**

In compliance with the provision(s) s. 281.36 (3b)(b), Wis. Stats., no person may discharge/place dredged or fill material 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 under s. 281.36, Wis. Stats.

The Department has authority to issue general permits under s. 281.36(3g), Wis. Stats. Pursuant to s. 281.36(3b)(a), Wis. Stats., a wetland general permit issued by the Department constitutes the water quality certification required by 33 USC 1341(a) (Clean Water Act section 401) for federal permits that authorize the discharge of dredged or fill material into wetlands regulated under 33 USC 1344(a) (Clean Water Act section 404) and have not already been certified through a previous Department action.

In compliance with the provision(s) of ss. 30.19(1g), “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, dredge, or enlarge any artificial waterbody that connects with an existing navigable waterway” and/or “construct or enlarge any part of an artificial waterbody that is or will be located within 500 feet of the ordinary high-water mark of, but that does not or will not connect with, an existing navigable waterway.” An artificial waterbody that meets the requirements of this paragraph includes a storm water management pond that does not discharge into a navigable waterway except as a result of storm events.

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:** 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.

**Note: Sections 30.206(3r), Wis. Stats. and 281.36(3g)(i),** allow the Department to require that an individual permit be obtained in lieu of a general permit for activities at certain sites.

## **OTHER AUTHORIZATIONS NECESSARY**

WDNR-GP23-2023 authorizations are subject to all applicable terms and conditions specified in this permit. However, WDNR-GP23-2023 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 Clean Water Act s. 404 permits are required for discharges of dredged or fill material to Waters of the United States, including discharges to federal wetlands. Rivers and Harbors Act Section 10 permits are required for work including the placement of structures and dredging in navigable waters of the United States. Floodplain permits (ch. NR 116, Wis. Adm. Code) or other local zoning permits may be required. Please contact your local zoning authority; county zoning administrator contact information is available at <https://www.wccadm.com/wcca-contacts>.

Additional waterway, wetland and dam permitting may also be necessary depending on the project size, scope and purpose and need. Please visit <https://dnr.wisconsin.gov/>, keyword “water permitting” for more information.

This permit does not supersede any applicable easement(s) within the project boundary. It is the responsibility of the applicant to ensure that the proposed project does not conflict with existing land use or development restrictions, including easements, applicable to the property. This permit also does not authorize flooding or impeding drainage of the adjacent properties or upstream properties. It is the responsibility of the applicant to secure any necessary easements or other permissions from affected landowner(s).

## **PROJECT DESCRIPTION AND LOCATION**

WDNR-GP23-2023 applies to certain waterway and wetland activities undertaken as part of creating ponds or artificial waterbodies within 500’ of the ordinary high-water mark.

The following activities are eligible for coverage under WDNR-GP23-2023:

- Constructing or enlarging any part of an artificial waterbody that is or will be located within 500 feet of the ordinary high-water mark of, but that does not connect with, an existing navigable waterway. An artificial waterbody that meets the requirements of this paragraph includes a storm water management pond that does not discharge into a navigable waterway except as a result of storm events.
- Constructing or enlarging any part of an artificial waterbody in wetlands that is located within 500 feet of the ordinary high-water mark.

Any person that intends to do any of the following activities as part of this general permit must comply with all applicable provisions therein:

- Construction or enlargement of any part of an artificial waterbody within 500 feet of the ordinary high-water mark requires a permit under s. 30.19, Wis. Stats.

### **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-GP23-2023 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-GP23-2023**.

State of Wisconsin Department of Natural Resources  
For the Secretary

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Benjamin Callan – Director  
Waterways Program

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Date

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### WDNR-GP23-2023 TERMS AND CONDITIONS

The following sections describe the general permit authorization procedures implemented by the DNR in WDNR-GP23-2023. Projects must meet all the terms and conditions of this permit to be eligible for coverage under WDNR-GP23-2023.

**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 Service Center, Region Office or Central Office headquarters 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. Persons proposing to do work in wetlands 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 below are not eligible for this general permit and are therefore excluded from coverage under WDNR-GP23-2023. The Department also 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 conditions specific to the site require restrictions on the activity or discharge in order to prevent significant adverse impacts to the public rights and interest, environmental pollution, as defined in s. 299.01(4), material injury to the riparian rights of any riparian owner, or significant adverse impacts to wetland functional values or floristic integrity.

**Note:** Projects that may impact tribal lands or a legally recognized treaty right may need additional coordination.

## **SECTION 1. ELIGIBILITY CRITERIA**

### **A. GENERAL CRITERIA**

1. The applicant or co-applicant is the owner of the project site. The Department may accept written authorization from the landowner authorizing temporary wetland impacts or removal of material from the waterway.
2. The project will not adversely impact an Area of Special Natural Resource Interest (ASNRI) or a Public Rights Feature (PRF) identified pursuant to s. NR 1.06(5), Wis. Adm. Code.
3. The project does not cause significant adverse impacts to a cold water community, as defined in ch. NR 102, Wis. Adm. Code.
4. The discharge will cause only minimal adverse environmental effects.
5. Discharge will not occur in the following resources: Great Lakes ridge and swale complexes, interdunal wetlands, coastal plain marshes, emergent marshes containing wild rice, sphagnum bogs that are located in the area located 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, boreal rich fens, or calcareous fens.
6. Any excavated material may not be temporarily or permanently placed in a wetland, floodplain or below the Ordinary High-Water Mark of a navigable waterway without regulatory approvals. All excavated materials shall be disposed of in an upland location.
7. Construction 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 listed under subchapter 3 of ch. NR 151, Wis. Adm. Code. The technical standards are found at <https://dnr.wisconsin.gov/>, keyword "storm water technical standard".
8. Unless part of a permanent storm water management system, all temporary erosion and sediment control practices will be removed upon final site stabilization. All areas disturbed during removal of temporary erosion and sediment control practices will be restored.
9. 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.
10. The activity shall not result in significant adverse impacts to fishery spawning habitat, including obstruction of fish passage, or adversely affect bird breeding areas or substantially disrupts the movement of species that normally migrate from open water to upland or vice versa (i.e., amphibians, reptiles and mammals) as determined by the Department.
11. The permanent vegetation planted in areas adjacent to or disturbed during pond construction must be native Wisconsin plant species.
12. The activity will not result in adverse impacts to historical or cultural resources and will comply with s. 44.40, Wis. Stats. as determined by the Department.
13. Follow the most recent Department approved washing and disinfection protocols and Department approved best management practices to avoid the spread of invasive species as outlined in NR 40, Wis. Adm. Code. These protocols and practices can be found on the Department website at

<https://dnr.wisconsin.gov/>, keyword “invasive species BMPs”.

14. If the project purpose is to expand an existing solid waste disposal facility within the boundaries of the property where the existing facility is located or on property immediately adjacent to the existing solid waste disposal facility, then the facility must have a valid feasibility determination from the Department.
15. The project will not occur in a mapped floodplain (official Federal Emergency Management Agency (FEMA) or local zoning map), or if the project is located in a regulated floodplain, the applicant has certified that they are working to or have obtained applicable floodplain permits or approvals from the local zoning authority.
16. The project may not cause significant adverse impacts to wetland water quality standards, as defined in s. NR 103.03, Wis. Adm. Code, including (but not limited to) the flow of groundwater through a wetland and water level elevations within wetlands.
17. The proposed activities will not cause significant adverse impacts to undisturbed wetland plant communities on-site or adjacent to the project area.
18. Prior to submission of an application to expand an existing pond, the applicant shall provide the Department with preliminary sediment removal information listed in s. NR 347.05, Wis. Adm. Code.
19. The pond or artificial waterbody does not connect with a navigable waterway (except as allowed under 1.B.1)

## **B. STORM WATER POND CRITERIA**

**In addition to the general standards in Section 1A, the following standards apply to all storm water ponds:**

1. The pond or artificial waterbody is a storm water management pond that does not discharge into a navigable waterway except as a result of a storm event.
2. The pond shall have a stable (non-erosive) overflow outlet.
3. The pond or artificial waterbody may not be designed to have a permanent pool of water that discharges to a cold water community, as defined in s. NR 102.04(3)(a), Wis. Adm. Code, (or its upstream navigable tributaries) or an Area of Special Natural Resource Interest, as defined in s. NR 1.05(3), Wis. Adm. Code.
4. No portion of the berm or pond may be any closer than 35 feet from the ordinary high water mark of any navigable waterway or within 100 feet of the location of any public rights feature as described in s. NR 1.06, Wis. Adm. Code. The separation distance does not include the outlet structure for the pond. An outfall below the ordinary high water mark shall comply with s. NR 329, Wis. Adm. Code.
5. The pond or artificial waterbody may not be constructed, dredged or enlarged in a wetland.
6. The pond may not be subject to inflow from the navigable waterway up to the 10-year, 24-hour rainfall event.
7. Fish may not be stocked or intentionally introduced into the storm water pond.
8. The pond or artificial waterbody shall be designed to prevent fish entrapment.

9. If the pond is a storm water management pond for mining, it must be located outside of the regulated 100-year floodplain.

### **C. WILDLIFE POND CRITERIA**

**In addition to the general standards in Section 1A, the following standards apply to all wildlife ponds:**

1. The purpose of the pond or artificial waterbody shall be restoration, enhancement, preservation and management of wetlands.
2. The project proponent has demonstrated that existing site conditions exhibit impacts to topography, soils, native vegetation, or hydrology that have degraded a wetland and are potentially reversible.
3. Agricultural crops, invasive wetland species or early successional hydrophyte species dominate the project area.
4. The project is designed and constructed to meet the following specifications:
  - a. Minimum side slopes of 8 feet horizontal to 1 foot vertical (8'H:1'V) or flatter
  - b. An irregular shape to adapt to the site
  - c. Maximum excavation depth of 6 feet
  - d. A size range from 0.1 acre to 1.0 acre per wildlife pond.
  - e. A minimum 25-foot-wide vegetated buffer area surrounding the pond
5. The project does not involve any activities in navigable waters with prior stream history or is otherwise determined to not cause significant adverse impacts to those waters.
6. Fish may not be stocked or intentionally introduced into the wildlife pond.
7. The pond is not associated with any metallic or non-metallic mining project (not intended to excavate and sell material).

### **D. LANDSCAPE POND CRITERIA**

**In addition to the general standards in Section 1A, the following standards apply to all landscape ponds:**

1. The pond is not part of a storm water management plan.
2. The pond is not associated with a metallic or non-metallic mining project (not intended to excavate and sell material).
3. No portion of the berm or pond may be any closer than 35 feet from the ordinary high-water mark of any navigable waterway or within 100 feet of the location of any public rights feature as described in s. NR 1.06, Wis. Adm. Code. Separation distance does not include the outlet structure for the pond. An outfall below the ordinary high-water mark shall comply with s. NR 329, Wis. Adm. Code.
4. The pond or artificial waterbody is not constructed, dredged or enlarged in a wetland or in the regulated 100-year floodplain.
5. Fish may not be stocked or introduced into the landscape pond without a fish stocking permit.

6. Upon completion, the pond shall have a minimum of 3 foot horizontal to 1-foot vertical slopes (3H:1V) or flatter to a minimum 6-foot water depth or deeper.

## **SECTION 2. APPLICATION REQUIREMENTS**

1. After you have carefully confirmed the proposed pond meets all the terms and conditions of this permit you must submit a complete application package to the Department as outlined in item 6 below. Pursuant to ss. 30.206 (3) and 281.36(3g)(h), Wis. Stats., the complete application package should be received a minimum of 30 calendar days before the desired project start date. Permit application materials can be found and submitted online at <https://dnr.wisconsin.gov/>, keyword “water permit”.
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 has one opportunity to request that you provide additional information necessary to verify compliance with the terms and conditions of this permit. If additional information is needed, the Department will notify you within 30 calendar days after receiving your application package. 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 that the Department receives the information, at which point the clock resumes from the point it was initially stopped.
4. If adverse weather conditions prevent the Department from conducting an accurate on-site inspection or assessing the potential for site-specific impacts during the 30-day application period, the Department shall give notice to the applicant of this condition and shall complete the inspection as soon as weather conditions permit (s. 281.36 (3g)(h)2m, Wis. Stats.).
5. As provided under ss. 30.206(3r) and 281.36 (3g)(i), Wis. Stats., the Department may determine the project is not eligible for this general permit and require the project be reviewed through the individual permit process outlined in ch. 30 and s. 281.36(3m), Wis. Stats. If the Department determines your project is not eligible for this permit, you will be notified within 30 calendar days after your complete application package is received by the Department.
6. A complete application package must include all of the following information:
  - a. Complete and Signed Application Form certifying project meets the terms and conditions of WDNR-GP23-2023. This form can be found at <https://dnr.wisconsin.gov/>, keyword “water permit”.
  - b. Permit fees as shown on the fee sheet at <https://dnr.wisconsin.gov/>, keyword “Waterway Permit Fee” except as follows:
    - Waterway projects authorized under ch. 30, Wis. Stats., funded in whole or in part by a state or federal agency are exempt from permit fees under s. 30.28(3), Wis. Stats.
    - Wetland and dam projects are exempt from wetland permit fees under s. 281.36(12)(e) or 31.39(3), Wis. Stats., only if the project is conducted by a federal or state agency.
  - 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 under wetland eligibility criteria.
  - d. A signed permit checklist that confirms the applicant understands the eligibility standards



specified in Section 1.

e. Project plans that include final project design and construction including a project diagram that shows all of the following:

- The final proposed project plans relative to wetland boundaries with the location and size of all proposed wetland impacts clearly identified and quantified in square feet. Project plans must clearly differentiate between proposed permanent and temporary wetland impacts. Where applicable, provide the project location relative to any ordinary high-water mark (OHWM) of navigable waterways.
- Detailed documentation that clearly demonstrates why any proposed wetland impacts cannot be avoided, the practicable alternatives that were considered, and how the impact to the wetland will be minimized as required by s. 281.36(3g)(h)1, Wis. Stats. This documentation is not required if the project does not impact wetlands.
- The methods, materials, and equipment that will be used to carry out the project.
- The location and type of temporary and permanent sediment/erosion control devices.
- Top, side, and cross section plan profiles with appropriate measurements for the proposed project.
- The construction schedule and sequence of work.
- For disturbance or fill, a description of type, composition, and quality of materials.
- Area impacted for projects that impact waterways.
- The location of any disposal area for dredged or excavated materials, if applicable.
- Maps of the project site with information that includes: most recent Soil Survey map, WI Wetland Inventory map, topographic map, floodplain information, and aerial photographs. All maps must show basic map elements (e.g., scale) and clear directions to the project site with project and property boundaries clearly labeled. The aerial photo shall also show the locations of all proposed wetland fill or discharge clearly labeled, if applicable.
- Photographs that represent existing site conditions where the project will occur.
- A copy of a Department approved wetland delineation, a wetland delineation conducted by an assured wetland delineator, or a waiver by the Department Water Management Specialist (WMS) stating that a delineation is not needed.

**Note:** A delineation waiver or wetland identification service may be available on a case-by-case basis. A pre-application meeting with a water management specialist is required to determine if this waiver is acceptable for the specific project. For more information about the wetland identification or confirmation service, visit <http://dnr.wi.gov/>, keyword: "wetland identification".

- Documentation verifying the project will not result in an adverse impact to federal or state cultural/historical resources.
- Documentation verifying the project will not result in an adverse impact to federal or state threatened/endangered resources. 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 at <https://dnr.wisconsin.gov/>, keyword "NHI public portal".
- 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 at <https://dnr.wisconsin.gov/>, keyword "endangered species review".
  - A Certified ER Review letter. The list of Certified Reviewers is located at <https://dnr.wisconsin.gov/>, keyword "NHI certification".
  - Documentation verifying the project will not result in an adverse impact to federal or state threatened/endangered resources and/or cultural/historical resources.

### **SECTION 3. CERTIFICATION & RESPONSIBILITIES**

You certify and agree that upon submittal of a complete application package to Department, the wetland project will be conducted in compliance with all the terms and conditions of WDNR-GP23-2023.

### **SECTION 4. GENERAL PERMIT CONDITIONS**

The applicant agrees to comply with the following conditions:

1. Application. You shall submit a complete application package to the Department as outlined in the application materials and application requirements section of this permit. If requested, within a reasonable timeframe you shall furnish the Department any information it needs to verify compliance with the terms and conditions of this permit.
2. Certification. Acceptance of general permit WDNR-GP23-2023 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 above 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 notification package and plans submitted to the Department and is certified by you to comply with the terms and conditions of WDNR-GP23-2023.
5. Expiration. The time limit for completing an activity authorized by the provisions of WDNR-GP23-2023 ends 5 years after the date on which the activity is considered to be authorized under WDNR-GP23-2023 or until the activity is completed, whichever occurs first, regardless of whether WDNR-GP23-2023 expired before the activity is completed. The Department's use of general permit WDNR-GP23-2023 established under ss. 281.36(3g) and 30.206, Wis. Stats., expires on **Month, day, year.**

6. Written authorization for modification of scope. Any modification to the waterway and/or wetland impacts authorized under this general permit must be reviewed by Department staff to ensure that the project continues to meet the general permit eligibility in section 1. Separate permitting is necessary if the modified project scope no longer meets general permit eligibility.
7. Authorization Distribution. You must supply a copy of the permit coverage authorization to every contractor working on the project.
8. Project Start. You shall 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.
9. Permit Posting. You must post a copy of this permit coverage letter at a conspicuous location on the project site before beginning the permitted activity. The copy of the permit coverage letter must remain posted at that location until at least five days after the area where the activity took place is stabilized. You must also keep a copy of the permit coverage letter and the approved plan available at the project site at all times until the project is complete.
10. Permit Compliance. The Department may revoke coverage of this permit if it is not constructed in compliance with the terms and conditions of this permit. Any act of noncompliance with this permit constitutes a permit violation and is grounds for enforcement action.
11. 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.
12. Construction. No other area of the wetland or waterway may be disturbed beyond the area designated in the submitted plans.
13. Project Completion. Within one week after completing the regulated activity, you shall submit to the Department a statement certifying the project complies with all the terms and conditions of this permit, and photographs of the activities authorized by this permit. This statement must reference the Department-issued docket number and be submitted to the Department staff member that authorized coverage.
14. Proper Maintenance. You must maintain the activity authorized by WDNR-GP23-2023 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 remaining wetlands and waterways.
15. Site Access. Upon reasonable notice, you shall allow access to the site to any Department employee who is investigating the project's construction, operation, maintenance or permit compliance with the terms and conditions of WDNR-GP23-2023 and applicable laws.
16. Erosion and Siltation Controls. The project site shall implement erosion and sediment control measures that adequately control or prevent erosion and prevent damage to wetlands as outlined in s. NR 151.11(6m), Wis. Admin. Code. These standards can be found at <https://dnr.wisconsin.gov/>, keyword "storm water technical standards". 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.

17. Equipment Use. The equipment used in waterways and wetlands must be low ground weight equipment as specified by the manufacturer specifications.
18. 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.
19. Invasive Species. All project equipment shall be decontaminated for removal of invasive species prior to and after each use on the project site by following the most recent Department approved washing and disinfection protocols and Department approved best management practices to avoid the spread of invasive species as outlined in ch. NR 40, Wis. Adm. Code. These protocols and practices can be found at <https://dnr.wisconsin.gov/>, keyword "invasive species BMPs".
20. Federal and State Threatened and Endangered Species. WDNR-GP23-2023 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.
21. 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.
22. Historic Properties and Cultural Resources. WDNR-GP23-2023 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 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.
23. 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, will 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.**
24. 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.
25. Standard for Coverage. Wetland impacts from the project will cause only minimal adverse environmental impacts as determined by the Department.
26. Transfers. Coverage under this permit is transferable to any person upon prior written approval of the

transfer by the Department.

27. Dam Transfers. No transfer of ownership of the dam may take place without proper authority under s. 31.21, Wis. Stats.
28. Reevaluation of Decision. The Department may suspend 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-GP23-2023.
  - ii. The information provided by the applicant in support of the permit application proves to have been false, incomplete, or inaccurate.

## **SECTION 5. FINDINGS OF FACT**

1. 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-GP23-2023, s. 281.36(3g) and chs. 30 and 31, Wis. Stats., and chs. NR 102,103,150, 299, and 300, Wis. Adm. Code.
2. The Department has determined pursuant to water quality standards under ch. NR 102 and s. NR 103.03, Wis. Adm. Code, and ss. 281.36(3g)(d) and 30.206(ag) and ch. 31 Wis. Stats., that projects that meet the eligibility criteria and conditions and are granted coverage under this general permit individually and cumulatively will only result in minimal adverse environmental effects.
3. The Department has determined that the issuance of this general permit, with conditions, will not injure public rights or interests, cause environmental pollution as defined in s. 299.01(4), Wis. Adm. Code, or result in material injury to the rights of any riparian owner.
4. The Department has determined that activities subject to this permit, with conditions, 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.
5. Pursuant to s. NR 299.04(1), Wis. Adm. 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.

## **SECTION 6. CONCLUSIONS OF LAW**

1. The Department has authority under ss. 30.12, 30.19, 30.20, 30.206, 281.36, and 31.12(5) 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 we have complied with chs. NR 102 and 103, Wis. Adm. Code, and 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 action.

## SECTION 7. DEFINITION OF TERMS

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

1. "Affect wetlands" includes direct impacts and secondary impacts to wetlands. Direct impacts to wetlands are temporary or permanent placement of dredged or fill material into the wetland and secondary impacts mean impacts associated with any adverse impact on wetland functions such as watershed hydrology (e.g., segmenting a wetland complex, severing a portion of a complex, reduction in flood capacity, etc.).
2. "Area of Special Natural Resource Interest" means only the areas listed in s. 30.01 (1am), Wis. Stats., and identified by the Department in s. NR 1.05, Wis. Adm. Code.

**Note:** "Area of special natural resource interest" means any of the following:

- 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. Adm. 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 website.
  - i. An area that possesses significant scientific value as identified by the Department in s. NR 1.05, Wis. Adm. Code.
3. "Boreal rich fens" are a rare open peatland community of northern Wisconsin that are associated with glacial moraines, or less commonly, outwash landforms, in which the underlying substrate includes calcareous materials.
  4. "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.
  5. "Channel" means a natural or artificial water course with defined bed and banks to confine and conduct the normal flow of water.
  6. "Coastal plain marshes" are typically within the sandy beds or margins of extinct glacial lakes, on level or gently sloping glacial outwash sands, and, possibly in glacial tunnel channels.

7. "Complete application package" means a completed and signed application, the information specified in Section 2 of this permit and any other information which can reasonably be required from an applicant that the Department needs to make a decision.
8. "Emergent marshes containing wild rice" are typically emergent aquatic communities that have wild rice as a component. Substrates supporting wild rice usually consist of poorly- consolidated, semi-organic sediments. Water fertility is low to moderate, and a slow current is present.
9. "Dam" means any artificial barrier in or across a watercourse which has the primary purpose of impounding or diverting water. A dam includes all appurtenant works, such as a dike, canal or powerhouse.
10. "De minimis" 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. Adm. Code.
11. "Department" means the Department of Natural Resources or DNR.
12. "Dredged material" means any material removed from the bed of a navigable waterway by dredging. The bed of a navigable waterway extends landward to the Ordinary High Water Mark.
13. "Dredging" 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 site, rehandling or treatment facility; treatment of the material; discharge of carriage or interstitial water; and disposal of the material. For the purposes of ch. 30, Wis. Stats., dredging does not include "de minimis" activities.
14. "Fill material" has the meaning given in 33 CFR 323.2(e), and 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 wetland. Examples of such fill material include, but are not limited to: rock, sand, soil, clay, plastics, construction debris, wood chips, overburden from mining or other excavation activities, and materials used to create any structure or infrastructure in a wetland. The term fill material does not include trash or garbage.
15. "Floodplain" has the meaning in ch. NR 116, Wis. Adm. Code, which means the land which has been or may be hereafter covered by flood water during the regional flood.  
**Note:** Information for floodplain regulations and ordinances is available online at <https://dnr.wisconsin.gov/>, keywords "floodplain regulations".
16. "Ford" means a structure consisting of rock or gravel or pre-cast concrete, placed on the bed of a navigable waterway to facilitate crossing the waterway.
17. "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.
18. "Impacts to wetlands" includes temporary or permanent conversion of a wetland.
19. "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.

20. "Invasive plants" are non-native or native plant species that invade natural plant communities and wild areas replacing desirable native vegetation. For a listing of common invasive plants found in Wisconsin visit <https://dnr.wisconsin.gov/>, keyword "invasive plants".
21. "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).
22. "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 characteristic.
23. "Public Rights Feature" has the meaning in s. NR 1.06, Wis. Adm. Code.

**Note:** "Public Rights Feature" means any of the following:

- a) Fish and wildlife habitat, including specific sites necessary for breeding, nesting, nursery and feeding. Physical features constituting fish and wildlife habitat include stands of aquatic plants; riffles and pools in streams; undercut banks with overhanging vegetation or that are vegetated *above*; areas of lake or streambed where fish nests are visible; large woody cover.
- b) Physical features of lakes and streams that ensure protection of water quality. Physical features that protect water quality include stands of aquatic plants (that protect against erosion and so minimize sedimentation), natural streambed features such as riffles or boulders (that cause turbulent stream flow and so provide aeration).
- c) Reaches of bank, shore or bed that is predominantly natural in appearance (not man-made or artificial) or that screen man-made or artificial features. Reaches include those with stands of vegetation that include intermixed trees, shrubs and grasses; stands of mature pines or other conifer species; bog fringe; bluffs rising from the water's edge; beds of emergent plants such as wild rice, wild celery, reeds, arrowhead.
- d) Navigation thoroughfares or areas traditionally used for navigation during recreational boating, angling, hunting or enjoyment of natural scenic beauty. Physical features indicative of navigation thoroughfares includes shallow water areas typically used by wading anglers or areas frequently occupied by regularly repeated public uses such as water shows.

24. "Riparian" means an owner of land abutting a navigable waterway.
25. "Single and complete project" means the total project proposed by the project proponent. For example, if construction of a residential development affects several different wetland areas, the cumulative total of all impacted areas is the basis for deciding the project's total wetland impact. For "phased" developments, each phase may constitute a single and complete project if it has independent utility and would accomplish its intended purpose whether or not other phases were constructed.
26. "Small dam" means a barrier in or across a watercourse that impounds water and has a structural



height of less than or equal to 6 feet or a structural height of less than 25 feet provided that the maximum storage capacity is less than 50 acre-feet.

27. "Southern sphagnum bogs" are bogs that are located in the area located 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. They are typically 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.
28. "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.
29. "Watercourse" means a running stream of water; a natural stream fed from permanent or natural sources, including rivers, creeks, runs and rivulets. There must be a stream, usually flowing in a particular direction, though it need not flow continuously. It may sometimes be dry. It must flow in a definite channel, having a bed or banks, and usually discharges itself into some other stream or body of water. It must be something more than a mere surface drainage over the entire face of the tract of land, occasioned by unusual freshets or other extraordinary causes.
30. "Water control structure" for the purposes of this general permit has the meaning of an embankment or structure that ponds water and meets the following Natural Resources Conservation Service Field Office Technical Guide Standard Conservation Practices: 410 - Grade Stabilization Structure, 638 - Water and Sediment Control Basin, 402- Dam, and 350 - Sediment Basin.
31. "Wetland" has the meaning ins. 23.32, 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 wetland conditions.
32. "Wetland floristic integrity" means the overall condition of the wetland plant community as a direct indicator of wetland quality, typically calculated using floristic quality assessment (FQA) methodology.
33. "Wetland functional values" means the physical, chemical, and biological process or attributes that occur in a wetland and the benefit society derives from certain functions as listed in ss. NR 103.03(1) and 350.003(17) Wis. Adm. Code.