

**WISCONSIN DEPARTMENT OF NATURAL RESOURCES  
WETLAND GENERAL PERMIT  
WETLAND CONSERVATION**



**Permittee:** The General Public in Wisconsin

**Permit #:** WDNR-GP24-2023

**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) of 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.

The Department has the authority to issue general permits under s. 281.36 (3g)(c), 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 required by WDNR-GP24-2024.

**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:** Section 281.36(3g)(i), Wis. Stats., allows the Department to require that an individual permit or

general permit be obtained in lieu of an exemption for activities at certain sites.

## **OTHER AUTHORIZATIONS NECESSARY**

WDNR-GP24-2023 authorizations are subject to all applicable terms and conditions specified in this permit. However, WDNR-GP24-2023 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 and wetland 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-GP24-2023 applies to certain wetland activities undertaken as part of a wetland restoration or enhancement project intended to result in a net gain in wetland function where site conditions indicate wetland degradation that is potentially reversible. The following activities are eligible for coverage under WDNR-GP24-2023:

- Drain tile alteration or removal by disabling a section of drain tile or adding a water control structure within the existing tile line.
- Disabling artificial surface drains by fillings lengths of the ditch.
- Constructing dams or water control structures that include dikes, embankments, and low berms.
- Removing vegetation or post-European settlement deposition, including shallow scrapes, submerged islands and interconnected drainage or runoff.
- Altering hydrology by removing pumps, breaching structures, or re-routing artificial drainage features.
- Introducing plants, installing and maintaining staff gauges, water level recording devices, and similar equipment.

WDNR-GP24-2023 does not apply to projects in which the sole intent and purpose is not wetland conservation. For example, a detention basin in wetlands for stormwater management or a project in which the sole intent and purpose is flood control.

## **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-GP24-2023**

**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-GP24-2023**.

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-GP24-2023 TERMS AND CONDITIONS

The following sections describe the general permit authorization procedures implemented by the DNR in WDNR-GP24-2023. Projects must meet all the terms and conditions of this permit to be eligible for coverage under WDNR-GP24-2023.

**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 (WDNR or DNR) Service Center, DNR Region 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-GP24-2023. In these cases, persons may apply for an Individual Permit as outlined ins. 281.36(3m), Wis. Stats. The Department also has authority under s. 281.36(3g)(i), 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 additional restrictions on the discharge to provide reasonable assurance that no significant adverse impacts to wetland functional values and floristic integrity will occur.

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

## SECTION 1. GENERAL ELIGIBILITY CRITERIA

1. The project purpose is wetland conservation (restoration, enhancement, preservation or management of wetlands). For example, this general permit does not authorize the construction of a detention basin in wetlands for stormwater management, even if the detention basin or the project of which the basin is a part will also result in some habitat creation or enhancement. Similarly, this chapter does not authorize a flood control project that may also result in creation or enhancement of some wildlife habitat.
2. The project will result in net gains to wetland functions and will not result in a net loss of existing wetland acreage. For example, if the project places fill into an existing wetland, there must be a gain in at least the same amount of wetland as the existing wetland acreage lost due to filling. When assessing wetland functional values, use the Wisconsin Rapid Assessment Methodology found at: <http://dnr.wi.gov/topic/wetlands/assessment.html>.
3. Site conditions exhibit impacts to topography, soils, native vegetation or hydrology that have degraded a wetland and are potentially reversible.
4. Project proposals that include existing wetlands on or adjacent to the project area are eligible for this general permit only if both of the following conditions are met:
  - a. Agricultural crops, invasive wetland species or early successional hydrophyte species dominate the project area.
  - b. The proposed activities will not cause significant adverse impact to undisturbed wetland plant communities on-site or adjacent to the project area.
5. Project involves only the following wetland restoration or management activities that are designed and will be constructed to meet following applicable Natural Resources Conservation Service Field Office Technical Guide Standard Conservation Practices: 378-Pond, 410-Grade Stabilization Structure, 587-Structure for Water Control, 638-Water & Sediment Control Basin, and 657-Wetland Restoration.
  - a. Drain tile alteration or removal by disabling a section of drain tile or adding a water control structure within the existing tile line in the project area.
  - b. Disabling artificial surface drains by filling lengths of the ditch downstream of the drainage system to be altered. Ditch fills may be added upstream of ditch plugs or ditch fill for the entire length of the ditch. Ditch plugs may be eliminated if the proposed ditch is completely filled with earth.
  - c. Constructing dams or water control structures that include dikes, embankments and low berms to impede surface water drainage or runoff.
  - d. Removing vegetation or post-European settlement deposition, including shallow scrapes, submerged islands and interconnected open water areas.
  - e. Altering the hydrology of an area by removing pumps, breaching structures, such as dikes, or re-routing artificial drainage features or manipulation of water control structures.
  - f. Introducing plants, installing and maintaining devices such as staff gauges, water level recording devices, and similar monitoring equipment.

See [NRCS Field Office Technical Guide | WI](#) for more information regarding NRCS Conservation Practice Standards in Wisconsin.
6. The discharge will cause only minimal adverse environmental effects.

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 “stormwater technical standard.”
8. 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.
9. The project is confined to non-navigable waters or waters that are navigable without stream history or is otherwise determined to not cause significant adverse impacts to those waters.
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 project does not cause significant adverse impacts to cold water resources as defined in s. NR 102.04(3)(a), Wis. Adm. Code. The project is not eligible for this general permit if any of the following are true:
  - a. The project will result in a permanent flow or discharge the drains to a cold water community.
  - b. The artificial ditch has permanent flow that discharges to a cold water community, unless the project fills the entire ditch or disables an entire tile line without increasing pooling or ponding. This scenario includes drain tiles with permanent flow that discharges to the artificial ditch.
  - c. The artificial ditch has intermittent flow that discharges to a cold water community, unless the project fills the entire ditch or fills a portion of the ditch starting at the beginning point of the ditch and continues to fill the ditch toward the cold water stream.
  - d. The scrape is proposed in an area with evidence of spring activity.
12. Project activities will not take place in or result in the conversion of sedge meadows, forested wetlands, rare wetland community types such as calcareous fens, and undisturbed wetland plant communities, such as wetlands dominated by non-invasive native hydrophytes on site where hydrology has not been altered.
13. Activities are allowed in or adjacent to existing wetlands if the project meets one or both of the following criteria:
  - A degraded wetland plant community dominated by agricultural crops, early successional hydrophytes, invasive plants or non-native plants. No restrictions are placed on the wetland restoration activity method(s) selected. To determine which species are considered invasive, see <https://dnr.wisconsin.gov/>, keyword “invasive plants.”
  - A wetland plant community dominated by a mix of invasive, early successional, non-native and non-invasive native plants. This wetland plant community type must also exhibit site alterations, such as ditching or tiling, that have effectively impacted wetland hydrology. Wetland hydrology restoration is restricted to the following methods: (1) ditch fills; (2) ditch plugs; (3) tile breaks and (4) tile removals. Earth disturbing activities, such as scrapes necessary for borrow material, shall be restricted to invasive or non-native plant species dominated areas.

14. The project does not involve the planned introduction of non-native or invasive wetland plants.
15. The project does not involve the control of native wetland plant species unless the applicant has demonstrated that the activity is to maintain a wetland community or to diversify a monotypic stand of invasive wetland plants.
16. The project includes a re-vegetation plan that adequately stabilizes the site.
17. 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.
18. 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 ch. 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".
19. 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.
20. The project will not result in adverse impacts to adjacent properties unless appropriate signed agreements have been made with the affected landowners. For example, project activities that result in water impoundment cannot flood or impede drainage of the adjacent properties. Note: Some wetland conservation projects may involve multiple landowners that have signed on to binding NRCS and FWS agreements that include their property within the boundaries of the wetland conservation project.
21. The project may not negatively impact 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.
22. Repairs (not enhancements or expansions) associated with this project are allowed without additional permits, provided the repairs are within the original scope and footprint of the original permit.

Projects Sponsored by Natural Resources Conservation Service (NRCS) or United States Fish and Wildlife Service (FWS)

1. The NRCS or the FWS is the project sponsor for the wetland restoration project. For wetland restoration projects conducted on private lands, NRCS and/or FWS have obtained a binding wetland conservation project agreement with the landowner(s).
2. A dam or water control structure placed across a watercourse must meet the definition of a small dam, including:
  - i. Dam failure will not endanger life, health, or property.
  - ii. Dam structural height is less than 25 feet and the maximum storage capacity is less than 50 acre-feet of water.

**Note:** Please reference "Large Dam vs. Small Dam Diagram" for the necessary criteria at <https://dnr.wisconsin.gov/> with keyword "large dam small dam max".

Projects Not Sponsored by NRCS or FWS

1. A dam or water control structure placed across a water course must meet **a. and b. or a. and c.:**
  - a) Dam failure will not endanger life, health, or property.

AND

- b) Dam structural height is 2 feet or less and the maximum storage capacity is less than 50 acre-feet of water.

**OR**

- c) Dam structural height is 6 feet or less and the maximum storage capacity is less than 50 acre-feet of water and the dam has been designed by a professional engineer registered in Wisconsin.

## **SECTION 2. APPLICATION REQUIREMENTS**

1. After you have carefully confirmed the proposed activity 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 s. 281.36(3g), 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 designated DNR office 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 the designated DNR office, 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.
5. As provided under s. 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 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-GP24-2023. 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:
    - Wetland and dam projects are exempt from wetland permit fees under s. 281.36(12)(e) or 31.12(5), 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 silt fences or any other sediment/erosion control devices.
  - Top, side, and cross section plan profiles with appropriate measurements for the proposed project, including the number and location of:
    - Scrapes.
    - Micro-topography.
    - Water control structures, includes in-stream structures which are considered dams, such as weirs, tin whistles, ditch plugs with outlet pipes, etc.
    - Embankments/dikes, which are considered dams if across a watercourse.
    - Ditch fill/ditch plugs, which must have no outlet pipes.
    - Breach dike or dike removal.
  - 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.
  - Current photographs that represent existing site conditions where the project will occur. Photos must show a clear and unobstructed view of the wetland within the project area. (not covered in snow/ice/thick vegetation, etc.)
  - A copy of a concurred with 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.

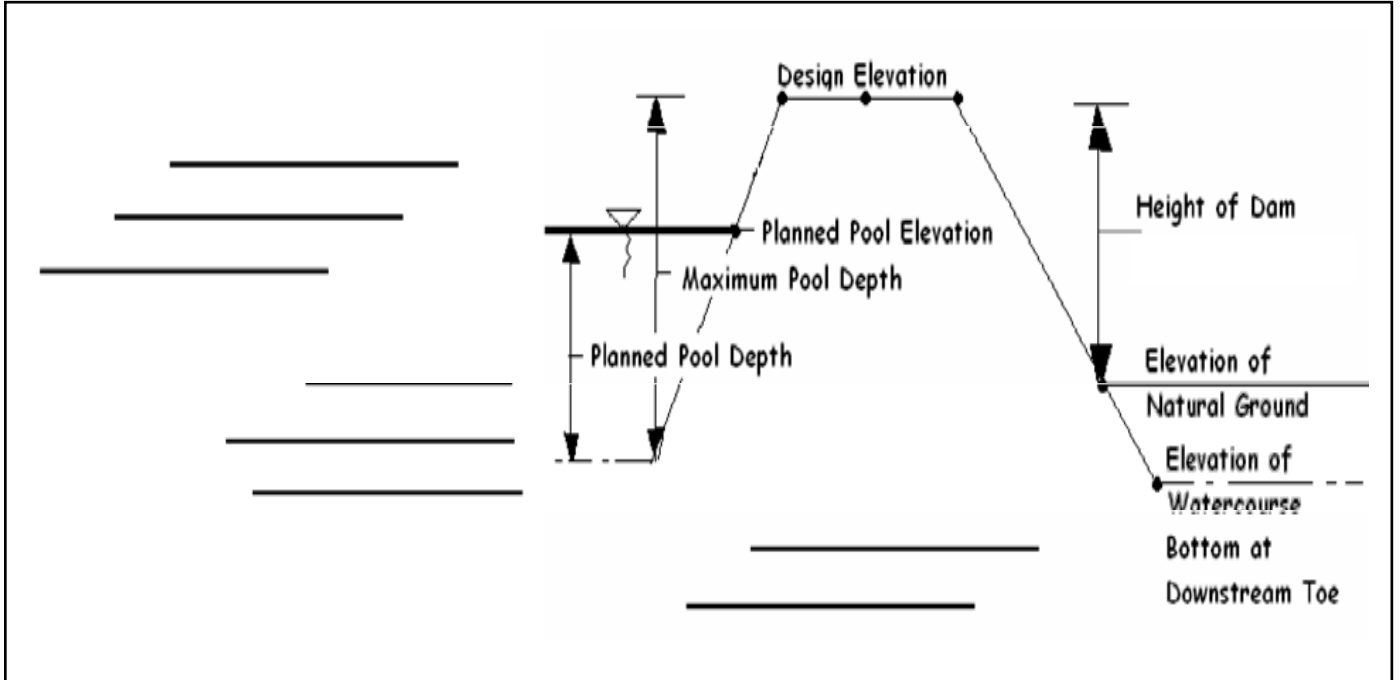
**Note:** A delineation waiver or wetland identification service may be available on a case-by-case basis. A pre-application meeting with a water management specialist is required to determine if this waiver is acceptable for the specific project. For more information about the

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 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 a Department **or** Certified ER Review letter. This request form for an ER Review letter and a list of Certified Reviewers is located at <https://dnr.wisconsin.gov/>, keywords "ER review request".
- Documentation verifying the project will not result in an adverse impact to federal or state cultural/historical resources.
- f. Dam checklist for projects proposing new dams, embankments, or other water retention structures across a watercourse:
  - Dam structure
    - Elevation (design elevation) of top of embankment (low point in embankment crest)
    - Elevation of the natural ground (low point) at the downstream toe of the embankment
    - Drainage area (square miles)
    - Planned pool elevation
    - Elevation of watercourse bottom at toe
    - Planned pool surface area (acres)
    - Maximum pool surface area (acres)
    - Planned storage (from bottom of impoundment to design elevation)
    - Structural height (difference between design elevation and elevation of watercourse at downstream toe) (feet)
    - Design storm frequency/duration (if calculated for standard) (year) (hour)
    - Design total discharge (if calculated for standard) (reservoir routing may reduce peak spillway outflow) (cfs)
  - Outlet/spillway
    - Outlet structure type, location, elevations, dimensions, joint treatment, corrosion protection
    - Principal spillway type, location, elevations, dimensions, materials
    - Auxiliary spillway type, location, elevations, dimensions, materials
    - Auxiliary spillway construction in natural undisturbed soils or show stability/erosion analysis
    - Drawdown facilities
    - Trash rack
    - Access for gate operation

- Anti-vortex device

### Example Dam Drawing



### SECTION 3. CERTIFICATION & RESPONSIBILITIES

You certify and agree that upon submittal of a complete application package to the Department, the wetland project will be conducted in compliance with all the terms and conditions of WDNR-GP24-2023.

### 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 coverage under general permit WDNR-GP24-2023 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-GP24-2023.

5. Expiration. The time limit for completing an activity authorized by the provisions of WDNR-GP24-2023 ends 5 years after the date on which the activity is considered to be authorized under WDNR-GP24-2023 or until the activity is completed, whichever occurs first, regardless of whether WDNR-GP24-2023 expired before the activity is completed. The Department's use of general permit WDNR-GP24-2032 established under s. 281.36(3g) Wis. Stats. expires on **Month, day, year**.
6. Written authorization for modification of scope. Any modification to the wetland impacts authorized under this general permit must be approved by the Department in writing 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-GP24-2023 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 inspecting the project's construction, operation, maintenance or permit compliance with the terms and conditions of WDNR-GP24-2023 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. Adm. Code. These standards can be found at the following website: <https://dnr.wisconsin.gov/>, keyword "stormwater 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 along with a factsheet for equipment operators can be found at the following website: <https://dnr.wisconsin.gov/>, keyword “invasive species BMPs”.
20. Federal and State Threatened and Endangered Species. WDNR-GP24-2023 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-GP24-2023 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:
  - a. The applicant fails to comply with the terms and conditions of WDNR-GP24-2023.
  - b. 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-GP24-2023, 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 chs. NR 102 and NR 103 Wis. Adm. Code, and ss. 281.36(3g)(d) and 30.206(ag), 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 7. 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 8. 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. 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, reducing 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. "Artificial ditch" means a constructed channel that was not previously a natural stream that holds or conveys water some portion of the year, which may or may not connect to another waterbody. Artificial ditches are typically excavated or dug on agricultural lands to improve drainage and enhance crop production.
  4. "Bridge" means any private or public structure except municipal highway bridges constructed in or over a navigable waterway to provide a walkway or roadway for pedestrians, animals, or vehicles, and includes pipe arches and culverts.
  5. "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.
  6. "Channel" means a natural or artificial water course with defined bed and banks to confine and conduct the normal flow of water.
  7. "Cold water community" includes surface waters capable of supporting a community of cold water fish and other aquatic life, or serving as a spawning area for cold water fish species. This subcategory includes, but is not restricted to, surface waters identified as trout water by the Wisconsin Department of Natural Resources.
  8. "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.

9. "Conversion" means alterations made to existing wetlands that result in a change in wetland classification from one wetland community type to another (i.e., conversion of a sedge meadow to a shallow marsh or a forested wetland to a wet meadow).
10. "Creation" means the construction of a wetland in an area that was not wetland in the past.
11. "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.
12. "Department" means the Department of Natural Resources.
13. "Degraded" means a wetland subjected to deleterious activities such as drainage, excessive nutrient runoff, grazing, cultivation, increased stormwater input and partial filling, to the extent that the natural wetland characteristics are compromised and where wetland function is reduced.
14. "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.
15. "Ditch fills" are complete or partial closure of an artificial surface drainage system (main and/or laterals) in hydric soil, applied to disable or render inoperable existing wetland drainage. A combination of soil, vegetation and woody debris may be used, and compaction is not required. This practice can be used in conjunction with a ditch plug at the lower end of the ditch fill.
16. "Ditch plugs" are a partial block installed in an artificial drainage system in hydric soils, applied to disable or render inoperable existing wetland drainage. Earth fill used in ditch plug construction must be free of vegetation and compacted into place for a minimum distance as specified in NRCS Wetland Restoration Practice Standard 657.
17. "Dominated by" refers to those plant species with a vegetative cover of 20% or more.
18. "Drain tile removal" is the destruction or impairment of a subsurface drainage system in hydric soils, used to disable or render inoperable existing wetland drainage. Tile drains encountered can be made of clay, concrete or plastic and typically exist as a single tile line or series of tile lines installed as a network, typically 36 – 48 inches below the soil surface. In very flat agricultural landscapes with high water tables, tile drains may include pumping stations and underground storage tanks that must be removed in addition.
19. "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 OHWM.
20. "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, 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.
21. "Early successional hydrophyte" means a plant adapted to quickly colonize open, disturbed wetlands, which does not persist over time and is replaced by perennials that hold space and persist over time. Examples of these plants include nut sedge (*Cyperus* spp.), nettle (*Urtica dioica*), smartweed (*Polygonum* spp.), wild millet (*Echinochloa* spp.), ragweed (*Ambrosia* spp.),



Beggar's tick (*Bidens* spp.) and foxtail (*Setaria* spp.).

22. "Enhancement" is alterations made to existing wetlands that result in a net increase in wetland function (i.e., vegetation management techniques or changes to the hydrologic regime). Wetland enhancement generally does not include wetland conversion unless the purpose of the conversion is to return the wetland to known pre-disturbance conditions AND represents a net increase in wetland function.
23. "Fish Habitat Structure" means a man-made structure composed of biological or inert materials designed specifically for the purpose of providing habitat for fish.
24. "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 surface 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.
25. "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".
26. "Ford" means a structure consisting of rock or gravel, placed on the bed of a navigable waterway to facilitate crossing the waterway.
27. "Forested wetlands" are those areas with > 17 trees per acre with > 50% canopy of trees > 3-inch DBH (diameter at breast height).
28. "Impacts to wetlands" includes temporary or permanent conversion of a wetland.
29. "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".
30. "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).
31. "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.
32. "Large dams" have a structural height of 25 feet or more and maximum storage capacity of more than 15 acre-feet of water; or have a structural height of more than 6 feet and a maximum storage capacity of 50 acre-feet of water.
33. "Management" means actions taken at a wetland to establish and maintain desired habitat and human use conditions including water level manipulations, herbicide application, wetland

species introduction and control, burning, vegetation cutting, fencing, monitoring, signage and vandalism repair.

34. "Maximum storage capacity" means the total volume of water in acre-feet capable of being stored behind a dam at the maximum water surface elevation before overtopping would occur using the design elevation.
35. "Post European settlement deposition" means sediment accumulated over original hydric soils since European settlement of the area.
36. "Preservation" means the protection of ecologically important wetlands in perpetuity through implementation of appropriate legal and physical mechanisms.
37. "Project sponsor" means NRCS or FWS has supervision over of all phases of the wetland restoration project from project design through project construction and is responsible for making sure the project and all parties involved comply with the terms and conditions of this permit WDNR-GP24-2023.
38. "Re-establishment or restoration of wetlands" means the re-introduction of wetland vegetation AND wetland hydrology to an area where these vegetative and hydrologic qualities previously existed (re-establishment of hydric soils may rarely be required). This alteration results in the re-establishment or restoration of previously existing wetland.
39. "Riparian" means an owner of land abutting a navigable waterway.
40. "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.
41. "Single and complete project" means the total project proposed by the project proponent. For example, if construction of a linear project affects several different waterway and wetland areas, the cumulative total of all regulated areas is the basis for deciding the project's total waterway and wetland impact. For "phased" developments, each phase may constitute a single and complete project if it has an independent objective and would accomplish its intended purpose whether or not other phases were constructed.
42. "Southern sphagnum bogs" are bogs located in the area south of a horizontal line drawn across the state based on the routes of STH 16 and STH 21 west of Lake Winnebago and on USH 151 east of Lake Winnebago. 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.
43. "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.
44. "Structural height" means the difference in elevation in feet between the point of lowest elevation of the top of the dam before overtopping and the lowest elevation of the natural stream or lake bed at the downstream toe of the dam.
45. "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.

46. "Wetland" has the meaning in s. 23.24., Wis. Stats., and NR 103.02(5), Wis. Adm. Code, 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.
47. "Wetland conservation" means activities used in the restoration/re-establishment, enhancement, preservation and management of wetlands.
48. "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.
49. "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.