



March 15, 2019

IP-NE-2018-38-04494

Northland Lutheran Retirement Community, Inc.
Attn: Darrell Lancour
813 Pine Beach Road
Marinette, WI 54143
[sent electronically]

Dear Mr. Lancour:

The Department of Natural Resources has completed its review of your application for a permit to place a structure on the bed of an unnamed tributary to Lake Michigan, in the City of Marinette, Marinette County. You will be pleased to know your application is approved.

I am attaching a copy of your permit, which lists the many important conditions that must be followed to protect water quality and habitat. A copy of the permit must be posted for reference at the project site. Please read your permit conditions carefully so that you are fully aware of what is expected of you.

Please note you are required to submit photographs of the completed project within 7 days after you've finished construction. This helps both of us to document the completion of the project and compliance with the permit conditions.

Your next step will be to notify me of the date on which you plan to start construction and again after your project is complete.

If you have any questions about your permit, please call me at (920) 662-5466 or email Crystal.VonHoldt@wisconsin.gov.

Sincerely,

Crystal von Holdt
Water Management Specialist

Email cc: Ryan Huber, Project Manager, U.S. Army Corps of Engineers
Greg Cleereman, Marinette County Zoning Administrator
David Neste, WDNR Hydrogeologist
Eric Bretl, Tyco Fire Products LP
Corey Wilcox, Arcadis US, Inc
Jeff Lautenslager, WDNR Conservation Warden

**STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES**

**Miscellaneous structure PERMIT
IP-NE-2018-38-04494**

Darrell Lancour on behalf of Northland Lutheran Retirement Community, Inc. is hereby granted under Section 30.12(3m), Wisconsin Statutes, a permit to place a structure on the bed of an unnamed tributary to Lake Michigan, in the City of Marinette, Marinette County, also described as being in the SW1/4 of the NW1/4 of Section 17, Township 30 North, Range 24 East, subject to the following conditions:

PERMIT

1. You must notify Crystal von Holdt at phone (920) 662-5466 or email Crystal.VonHoldt@wisconsin.gov before starting construction and again not more than 5 days after the project is complete.
2. You must complete the project as described **on or before March 15, 2022**. If you will not complete the project by this date, you must submit a written request for an extension prior to expiration of the initial time limit specified in the permit. Your request must identify the requested extension date. The Department shall extend the time limit for an individual permit or contract for no longer than an additional 5 years if you request the extension before the initial time limit expires. You may not begin or continue construction after the original permit expiration date unless the Department extends the permit in writing or grants a new permit.
3. This permit does not authorize any work other than what you specifically describe in your application and plans, and as modified by the conditions of this permit. If you wish to alter the project or permit conditions, you must first obtain written approval of the Department.
4. Before you start your project, you must first obtain any permit or approval that may be required for your project by local zoning ordinances and by the U.S. Army Corps of Engineers. You are responsible for contacting these local and federal authorities to determine if they require permits or approvals for your project. These local and federal authorities are responsible for determining if your project complies with their requirements.
5. Upon reasonable notice, you shall allow access to your project site during reasonable hours to any Department employee who is investigating the project's construction, operation, maintenance or permit compliance.
6. The Department may modify or revoke this permit for good cause, including if the project is not completed according to the terms of the permit or if the Department determines the activity is detrimental to the public interest.
7. **You must post a copy of this permit at a conspicuous location on the project site, visible from the waterway**, for at least five days prior to construction, and

remaining at least five days after construction. You must also have a copy of the permit and approved plan available at the project site at all times until the project is complete.

8. Your acceptance of this permit and efforts to begin work on this project signify that you have read, understood and agreed to follow all conditions of this permit.
9. **You must submit a series of photographs to the Department, within one week of completing work on the site.** The photographs must be taken from different vantage points and depict all work authorized by this permit.
10. You, your agent, and any involved contractors or consultants may be considered a party to the violation pursuant to Section 30.292, Wis. Stats., for any violations of Chapter 30, Wisconsin Statutes, or this permit.
11. Construction shall be accomplished in such a manner as to minimize erosion and siltation into surface waters. Erosion control measures (such as silt fence and straw bales) must meet or exceed the technical standards of ch. NR 151, Wis. Adm. Code. The technical standards are found at:
http://dnr.wi.gov/topic/stormwater/standards/const_standards.html .
12. All equipment used for the project including but not limited to tracked vehicles, barges, boats, hoses, sheet pile and pumps shall be de-contaminated for invasive and exotic viruses and species prior to use and after use.

The following steps must be taken every time you move your equipment to avoid transporting invasive and exotic viruses and species. To the extent practicable, equipment and gear used on infested waters shall not be used on other non-infested waters.

1. **Inspect and remove** aquatic plants, animals, and mud from your equipment.
2. **Drain all water** from your equipment that comes in contact with infested waters, including but not limited to tracked vehicles, barges, boats, hoses, sheet pile and pumps.
3. **Dispose** of aquatic plants, animals in the trash. Never release or transfer aquatic plants, animals or water from one waterbody to another.
4. **Wash your equipment** with hot (>140° F) and/or high-pressure water,

- OR -

Allow your equipment to **dry thoroughly for 5 days.**

CONDITIONS FOR MISCELLANEOUS STRUCTURE

13. The in-stream check dam is to be removed immediately upon completion of the project.
14. Maintenance work for the check dam and/or pump system may not result in the downstream discharge or deposition of materials (for example silt, sediment, paint, sand or abrasives, metal or chemicals) into the waterway.
15. Heavy equipment must not be used below the ordinary high-water mark during construction or for maintenance.
16. You must periodically inspect the pump intake for debris and must remove any restriction of flow. This material must be deposited in an upland site and out of any floodplain.
17. The discharge of treated water returning to the tributary shall be discharged at a rate that comparable to the natural base flow so as to not cause excessive erosion of the downstream channel.
18. When the treatment system is no longer needed, and the pump and check dam are removed, the stream channel is to be returned to pre-construction conditions unless authorized by the Department.
19. Any rock material placed in the waterway must be clean rock without fines and properly sized to create a stable structure that will stay at the site.
20. You must supply a copy of this permit to every contractor associated with this project.
21. A state WPDES permit from the department's wastewater program is required to be obtained before discharging processed (treated) water into the waterway.

FINDINGS OF FACT

1. Darrell Lancour on behalf of Northland Lutheran Retirement Community, Inc. has filed an application for a permit to place a structure on the bed of Unnamed Tributary to Lake Michigan, in the City of Marinette, Marinette County, also described as being in the SW1/4 of the NW1/4 of Section 17, Township 30 North, Range 24 East.
2. The proposed project is for the construction of a temporary check dam and bypass pumping to treat stream channel water flow for PFAS. Water will be pumped by a sump pump and piping to an upland treatment building and will be returned immediately downstream of the check dam. The check dam and sump will impact the stream channel by the temporary filling of 600 sq ft (0.01 ac) of stream channel

with 222 cubic yards of material placed over geotextile fabric. Temporary wetland impacts are under a separate authorization review.

3. A public information hearing was scheduled for March 4, 2019 at 3pm at the Peshtigo Town Hall. No community members attended the hearing.
4. The Department has completed an investigation of the project site and has evaluated the project as described in the application and plans.
5. The unnamed tributary to Lake Michigan is a navigable water (and no bulkhead exists at the project site).
6. The proposed project, if constructed in accordance with this permit will not adversely affect water quality, will not increase water pollution in surface waters and will not cause environmental pollution as defined in s. 283.01(6m), Wis. Stats.
7. The proposed project will temporarily impact wetlands if constructed in accordance with this permit. The temporary wetland impacts have been authorized under a separate permit (#GP-2018-04495).
8. The Department of Natural Resources has determined that the agency's review of the proposed project constitutes an equivalent analysis action under s. NR 150.20(2), Wis. Adm. Code. The Department has considered the impacts on the human environment, alternatives to the proposed projects and has provided opportunities for public disclosure and comment. The Department has completed all procedural requirements of s. 1.11(2)(c), Wis. Stats., and NR 150, Wis. Adm. Code for this project.
9. The Department of Natural Resources has completed all procedural requirements and the project as permitted will comply with all applicable requirements of sections 30.12(3m), Wisconsin Statutes and Chapters NR 102 and 103 of the Wisconsin Administrative Code.

The applicant was responsible for fulfilling the procedural requirements for publication of notices under s. 30.208(5)(c)1m., Stats., and was responsible for publication of the notice of pending application under s.30.208(3)(a), Stats. or the notice of public informational hearing under s.30.208(3)(c), Stats., or both. S. 30.208(3)(e), Stats., provides that if no public hearing is held, the Department must issue its decision within 30 days of the 30-day public comment period, and if a public hearing is held, the Department must issue its decision within 20 days after the 10-day period for public comment after the public hearing. S. 30.208(5)(bm), Stats., requires the Department to consider the date on which the department publishes a notice on its web site as the date of notice.

10. The structure or deposit will materially obstruct navigation because the interim action is a measure to collect and treat water within the tributary to minimize the level of

PFAS reaching Lake Michigan. The interim action is a temporary measure and will be removed upon completion of water treatment or when a long-term design allowing in-stream aquatic organism passage is finalized and permitted (whichever is sooner). Water treatment is a priority for human health and safety.

11. The structure or deposit will not be detrimental to the public interest because the treatment of water to reduce PFAS levels is an interim measure for protection of human health and safety. The design of the structure considered fish and wildlife habitat, water quantity, water quality, navigation, and natural scenic beauty. A long-term design is being considered that will allow for collection and treatment of water (to be returned to the tributary) while also improving organism passage.
12. The proposed project does not require a Ch 30 dams/floodplain authorization through the department.

CONCLUSIONS OF LAW

1. The Department has authority under the above indicated Statutes and Administrative Codes, to issue a permit for the construction and maintenance of this project.

NOTICE OF APPEAL RIGHTS

If you believe that you have a right to challenge this decision, you should know that the Wisconsin statutes and administrative rules establish time periods within which requests to review Department decisions shall be filed. For judicial review of a decision pursuant to sections 227.52 and 227.53, Wis. Stats., you have 30 days after the decision is mailed, or otherwise served by the Department, to file your petition with the appropriate circuit court and serve the petition on the Department. Such a petition for judicial review shall name the Department of Natural Resources as the respondent.

To request a contested case hearing of any individual permit decision pursuant to section 30.209, Wis. Stats., you have 30 days after the decision is mailed, or otherwise served by the Department, to serve a petition for hearing on the Secretary of the Department of Natural Resources, P.O. Box 7921, Madison, WI, 53707-7921. The petition shall be in writing, shall be dated and signed by the petitioner, and shall include as an attachment a copy of the decision for which administrative review is sought. If you are not the applicant, you must simultaneously provide a copy of the petition to the applicant. If you wish to request a stay of the project, you must provide information, as outlined below, to show that a stay is necessary to prevent significant adverse impacts or irreversible harm to the environment. If you are not the permit applicant, you must provide a copy of the petition to the permit applicant at the same time that you serve the petition on the Department.

The filing of a request for a contested case hearing is not a prerequisite for judicial review and does not extend the 30 day period for filing a petition for judicial review.

A request for contested case hearing must meet the requirements of section 30.209, Wis. Stats., and sections NR 2.03, 2.05, and 310.18, Wis. Admin. Code, and if the petitioner is not the applicant the petition must include the following information:

1. A description of the objection that is sufficiently specific to allow the department to determine which provisions of this section may be violated if the proposed permit or contract is allowed to proceed.
2. A description of the facts supporting the petition that is sufficiently specific to determine how the petitioner believes the project, as proposed, may result in a violation of Chapter 30, Wis. Stats;.
3. A commitment by the petitioner to appear at the administrative hearing and present information supporting the petitioner's objection.

If the petition contains a request for a stay of the project, the petition must also include information showing that a stay is necessary to prevent significant adverse impacts or irreversible harm to the environment.

Dated at Green Bay, Wisconsin on March 15, 2019.

STATE OF WISCONSIN DEPARTMENT OF NATURAL RESOURCES
For the Secretary

By



Crystal von Holdt
Water Management Specialist