ENVIRONMENTAL ANALYSIS AND DECISION ON THE NEED FOR AN ENVIRONMENTAL IMPACT STATEMENT (EIS)

Form 1600-1 Rev. 6-2001

Department of Natural Resources (DNR)

Region or Bureau
NER Watershed – Water Reg/Zoning

Type List Designation
II

NOTE TO REVIEWERS: This document is a DNR environmental analysis that evaluates probable environmental effects and decides on the need for an EIS. The attached analysis includes a description of the proposal and the affected environment. The DNR has reviewed the attachments and, upon certification, accepts responsibility for their scope and content to fulfill requirements in s. NR 150.22, Wis. Adm. Code. Your comments should address completeness, accuracy or the EIS decision. For your comments to be considered, they must be received by the contact person before 4:30 p.m., Insert Date.

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Telephone Number
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Applicant: Town of Menasha

Address: 2000 Municipal Drive, Menasha, WI 54956

Title of Proposal: Northern Road Pond

Location: County: Winnebago City/Town/Town: Menasha

Township Range Section(s): SW ¼ of Section 3, T20N, R17E

PROJECT SUMMARY

1. Brief overview of the proposal including the DNR action (include cost and funding source if public funds involved)

The Town of Menasha plans to construct the Northern Road Pond (*the pond*) in an unnamed tributary to the Fox River, generally located east of Northern Road, south of Stroebe Road, and west of West Butte des Morts Beach Road. The pond is to be funded, owned, operated, and maintained by the Town. The total cost of the project is projected to be approximately $894,000. The average annual cost of the pond to the Town is $0.94/lbs of removed pollutants. The Town funds these types of projects by charging a storm water utility fee to property owners within Town limits. The primary purpose of the pond is to improve water quality and to assist in complying with NR 216 storm water regulations. The proposed wet detention pond will serve a 433 acre watershed. The project will include constructing the pond (1.76 acre permanent pool) within a navigable perennial waterway. The proposed project will disturb approximately 0.19 acres of wetlands. The following Chapter 30 permits are required as part of this project: storm water pond within a navigable waterway, grading in excess of 10,000 square feet on the bank of a navigable waterway, the placement of culverts, conventional rip-rap, and an outfall structure on the bed of a navigable waterway, a small dam approval and wetland disturbance. Approximately 2.9 acres of land will be disturbed as part of this project.

2. Purpose and Need (include history and background as appropriate)

The pond's watershed has experienced major urbanization over the last 50 years. The entire 433 acre watershed is almost fully developed. The combination of increased imperviousness, storm sewer pipes and compacted soils dramatically changes the hydrology of urban streams. The increased frequency of flooding, particularly from smaller storm events, often impacts streams by transporting sediments and causing channel erosion. Urban streams, such as the navigable perennial waterway at hand, respond to the increased frequency and magnitude of flooding by enlarging their channel cross section to accommodate the increased flows. The pond will utilize an outlet structure designed to reduce peak flows for the smaller, channel forming rainfall events. Peak flow control, especially during smaller rainfall events, will assist in reducing stream erosion and channel expansion.

Pursuant to NR 216, Wis. Adm. Code, the Town of Menasha is required by the EPA and State of Wisconsin to obtain *Wisconsin Pollutant Discharge Elimination System* (WPDES) Municipal Storm Water Discharge Permits. The purpose of the permit is to control urban non-point source pollution by regulating discharges from *municipal separate storm sewer systems* (MS4). As part of these MS4 permits, the Town is responsible for developing a Storm Water Management Plan (SWMP). The Town is required, to the maximum extent practicable, to achieve a 40% TSS reduction

in runoff that enters waters of the state as compared to no controls by March, 2013. The Town had developed a SWMP that identifies various alternatives that achieve the 20% and 40% *total suspended solids* (TSS) reductions. Four alternatives were selected on a cost effective basis. The Town also has prepared a Town-wide Practicable Alternatives Analysis: MS4 Permitting Compliance that discusses the various alternatives and their impacts to environmentally sensitive areas. The pond was identified as a critical and cost-effective *best management practice* (BMP) for meeting NR 216 regulations.

In addition to satisfying NR 216 requirements, the pond will assist in satisfying future water quality requirements / standards. A *Total Maximum Daily Loading* (TMDL) report is currently being developed for the *Lower Fox River* (LFR) Basin, which includes the Town of Menasha. The LFR Basin TMDL will specify reductions required from both nonpoint and point sources of sediment and phosphorus to achieve water quality standards. There is also a draft revision to NR 102.06, Wis. Adm. Code, which would specify state-wide phosphorus limits for Wisconsin's surface waters. Per this draft document, streams such as the unnamed waterway will be expected to meet a total phosphorus criterion of 75 µg/L (micrograms per liter). Addressing anticipated water quality regulations before they are implemented can potentially reduce the number of future projects that would be required to satisfy such regulations.

In summary, the pond is designed to address four major issues: reduce peak flows, reduce stream erosion, comply with new NR 216, Wis. Adm. Code, requirements, and improve water quality to the Fox River (reduction of TSS and TP).

3. Authorities and Approvals (list local, state and federal permits or approvals required)

The proposed project will require a federal permit from the U.S. Army Corps of Engineers (USACE) under Section 404 of the Clean Water Act. At the state level, the following permits from the WDNR under Chapter 30 and 31, Wisconsin Statutes will be required:

s. 30.19(1g)(a), Stats – connected enlargement
s. 30.19(1g)(c), Stats – grading in excess 10,000 sq. ft.
s. 31.06 & 31.12, Stats – dam plan approval
s. 30.12(1), Stats – outfall structure and riprap
s. 30.123(2), Stats –culvert
s. 30.195(1), Stats – stream realignment
s. 281.15 & 281.37, Stats – wetland water quality certification

The WDNR will also require construction site NOI permit for land disturbances over 1 acre (pursuant to NR 216.42(1), Wis. Adm. Code).

PROPOSED PHYSICAL CHANGES (more fully describe the proposal)

4. Manipulation of Terrestrial Resources (include relevant quantities - sq. ft., cu. yard, etc.)

A stormwater pond will be constructed and the flows from a navigable stream will be diverted into the pond. Approximately 35,283 cubic yards (CY) of material will be excavated, approximately 251 CY of fill volume is required, and 2.9 acres of land will be disturbed for the pond construction. The pond will have a total permanent pool area of 1.76 acres. The total storage that is created below the normal water surface elevation (739.50') is 6.62ac-ft. During the 100-year rainfall event, an additional 24.22 ac-ft of storage is provided, providing 30.84 ac-ft of total storage. The peak flow rates leaving the pond for the 2, 10, and 100-year rainfall events are approximately 109.7, 130.1 and 159.9 cubic feet/second (cfs), respectively.

The outlet structure for the pond consists of a 3'x8' concrete box with an 18" orifice and weir. There is also a 43"x68" horizontal elliptical reinforced concrete pipe (HERCP) that will provide peak flow control and water quality results. The pond has a 20' wide emergency spillway (elevation 744.75') that will convey flows during larger storm events. Downstream of the outlet structure, heavy rip-rap will be installed in order to dissipate the hydraulic forces through the outlet pipe. The 43"x68" HERCP will be set 6" below the existing stream bed / permanent pool elevation, allowing the bottom of the culvert to eventually silt in and create a natural bottom similar to existing conditions.

Two rip-rap lined channels will be constructed to divert the stream into and back out of the pond. The riprap channels will be covered with topsoil and seeded with the wet-to-wet mesic prairie mix on the channel bottom and the mesic prairie mix on the side slopes (See below for information on the seed mix).

A 30'' corrugated metal pipe (CMP) culvert with apron endwalls 43' in length set at elevation 739.50` (0.0% pitch) will be placed between the pond and the existing wetland/stream channel. The purpose of the culvert is to allow flow into the wetland from the pond so that this area of the former stream channel is not "starved" of water.

The safety shelf portion of the pond will be lined with 12'' of topsoil and planted with approximately 1,888 potted shallow water marsh plant species. Two deep water marsh species will be planted in the pond from 12'' to 48'' of water depth. Approximately 108 potted plants will be planted after 12'' of topsoil is placed on the side slopes of the forbays. The wetland plantings will cover nearly 57% of the permanent pool of water.

A vegetated buffer around the pond consisting of wet to wet-mesic prairie and mesic prairie plants will be established. The wet to wet-mesic (0.22 acres) prairie is a grass / wildflower seed mix consisting of 57 species, 60% of which are obligate (occurs almost always, estimated probability 99%, under natural conditions in wetlands), facultative (equally likely to occur in wetlands or non-wetlands, estimated probability 34%-66%), and facultative + (more frequently found in wetland conditions) wetland types. The wet to wet-mesic prairie is to be planted two feet above the permanent pool down to the permanent pool. The mesic (0.1.12 acres) prairie is a grass / wildflower seed mix consisting of 50 species and is to be planted upland of the wet to wet-mesic prairie plantings. In addition, several nut producing deciduous trees including Burr Oak and White Oak, will be placed around the pond.

All excavated material suitable for fill within the project limits will be disposed of on-site. The contractor will haul excess material to an off-site location to be determined by the contractor. Topsoil will be hauled in for placement upon completion of pond excavation.

5. Manipulation of Aquatic Resources (include relevant quantities - cfs, acre feet, MGD, etc.)

The existing navigable waterway flows northeast through the site and continues to a culvert under the railroad tracks and enters Little Lake Buttes des Morts through the marsh at near Stroebe Island. This waterway will be permanently diverted into the pond via a riprap channel lined with 24'' thick heavy riprap (122 CY rock) at a 3:1 slope and a 6' wide bed. The riprap will be topped with 3'' topsoil and then erosion mat and vegetated. The inlet riprap channel has a 5% longitudinal slope (20:1) and is approximately 75' in length. Construction of the pond will disturb 8,110 square feet (or 0.19 acres) of wetlands with 6,200 square feet (or 0.14 acres) of that being wetland fill. Approximately 550' of stream length will be impacted from the pond. The wetlands to be impacted are located within the stream corridor and will be excavated or filled during construction of the pond.

6. Buildings, Treatment Units, Roads and Other Structures (include size of facilities, road miles, etc.)

A 15' wide maintenance trail (103 total feet) will be constructed from Northern Road down to the permanent pool. The trail will provide access for future maintenance of the pond.

7. Emissions and Discharges (include relevant characteristics and quantities)

The proposed pond is intended to improve water quality prior to discharge to the Fox River. The Fox River is a 303(d) listed (impaired) water body. The pond will target the 303(d) pollutant of concern, total phosphorus (TP). The TP reduction provided by the pond is approximately 192 pounds (46%) of TP per year, as compared to no controls. Likewise, the TSS reduction provided by the pond is approximately 109,442 pounds (61%) of total suspended solids (TSS) per year, as compared to no controls. The water quality analysis for the study area was prepared using the Source Loading and Management Model (SLAMM) (v9.3.0). The peak flow rates leaving the pond for the 2, 10, and 100-year rainfall events are approximately 109.7, 130.1 and 159.9 cfs, respectively.

8. Other Changes
None.

9. Identify the maps, plans and other descriptive material attached

Attachment x Project Plans

AFFECTED ENVIRONMENT (describe existing features that may be affected by proposal)

10. Information Based On (check all that apply):

☐ Literature/correspondence (specify major sources)

☒ Personal Contacts (list in item 26)

Field Analysis By: ☒ Author ☒ Other (list in item 26)

Past Experience With Site By: ☐ Other (list in item 26)

11. Physical Environment (topography, soils, water, air)

The project site is located along railroad tracks and previously served a sand and gravel company. A majority of the site is open, consisting of old asphalt pavement in areas. The navigable waterway also has various trees located along portions of the stream corridor that will be cleared during construction. The existing topography consists of mild to steep slopes that drain towards the waterway, ranging from 1 to 33 percent. The pond will be graded with 3:1 side slopes down to the permanent pool. Approximately 2.9 acres of land will be disturbed as part of the project.

Soil types were obtained from the NRCS Soils Map from the WDNR data viewer. In addition, a two soil borings were performed in the location of the pond. The soils report associated with the borings indicate the following: Topsoil depths of 6 inches with fill covering the topsoil in one location, silty clay to a depth of approximately 4-8 feet, and fat clay to a depth of 20 feet, groundwater was found at a depth of 6-14 feet, with no bedrock encountered to depths of 20 feet.

Approximately 35,283 cubic yards (CY) of material will be excavated, approximately 251 CY of fill volume is required, and 2.9 acres of land will be disturbed. All excavated material suitable for fill within the project limits will be disposed of on-site. The contractor will haul waste and excess material to an off-site location to be determined by the contractor. Excess material cannot be placed below the ordinary high water mark of any navigable waterway or in low-lying areas or wetlands. Topsoil will be hauled in for placement upon completion of pond excavation.

12. Biological Environment (dominant aquatic and terrestrial plant and animal species and habitats including threatened/endangered resources; wetland amounts, types and hydraulic value)

The reach of stream to be modified for construction of the pond is a relatively healthy stream segment that likely serves as critical spawning and nursery habitat for local adventitious fish species (such as northern pike and white sucker). The stream has a clearly defined bed and banks with rooted submergent macrophytes (submerged aquatic plants). As the tributary flows eastward it has a bed and bank that is stable and covered in vegetation. Water clarity appears to be good and flow was of importance for summer time aspects that indicates springs along with possible discharge from a quarry farther to the west. While the stream may be fragmented by the road and railroad, cover is present in the interim except for areas of the culverts.

Stroebe Island Marsh is a valuable wetland system located on the Lower Fox River and is the largest of any wetland complex that is still in existence downstream of Lake Winnebago. Approximately 0.19 acres of wetlands will be disturbed as part of the project. The existing wetland is primarily a shallow marsh dominated by hybrid cattail, jewel weed, stinging nettle, sandbar willow, and reed canary grass. Wildlife seen by sight or sign was deer, raccoons, muskrat, catbird, robins, red-tailed hawk, red wing blackbirds and viceroy butterflies (WDNR Wildlife Biologist Dick Nickolai).

13. Cultural Environment

a. Land use (dominant features and uses including zoning if applicable)

The pond is to be located on an old sand and gravel site. The entire 433 acre watershed is almost fully developed and consists primarily of commercial/industrial land uses. It is anticipated that construction activities involved with the project will generate fumes, dust and noise from truck travel and heavy equipment operation. These short-term impacts could be a nuisance to businesses located near the construction site.

c. Archaeological/Historical

There are no known archeological or historical facts within the project boundary.

14. Other Special Resources (e.g., State Natural Areas, prime agricultural lands)

There are no other special resources within the project boundary.

ENVIRONMENTAL CONSEQUENCES (probable adverse and beneficial impacts including indirect and secondary impacts)

15. Physical (include visual if applicable)

The proposed project involves the construction of the pond within a navigable waterway to the Fox River. The pond is proposed to be constructed by means of realignment of the navigable stream into an excavated pond with berms and then discharging downstream into the natural stream corridor through an outlet-weir (small dam) structure. The current conditions of the site include a previous non-metallic mining site (sand/gravel pit) that would be converted to an open water storm water treatment pond resulting from the stream realignment. Several physical changes will occur to the existing landscape as part of this project. Approximately 2.9 acres of the land will need to be cleared and re-graded as part of the project. All of the pond's side slopes will be graded at 3:1, instead of the typical 4:1 or 5:1, in order to maximize the storage capacity while minimizing wetland disturbance. The clearing of the trees along the existing stream corridor will impact various wildlife that utilize trees for habitat or food sources. Disturbance of the stream bed / bank is inevitable as part of the proposed project. The natural stream (and associated stream corridor wetlands) would be converted to an open water pond, changing the current wetland character of a vegetated corridor to one of having open viewshed potentially attractive to nuisance wildlife like geese and gulls. Maintenance trails will further fragment the continuity of the system.

Since the pond design is intended to address and control peak flows of the waterway, the velocity and volume of water to be discharged from the pond into the stream will manage and reduce downstream impacts (such as erosion). The pond is designed to alleviate flashiness of the waterway by controlling the velocity of the stream and volume of water flowing in the stream channel.

The existing continuous stream and wetland habitat will be interrupted and converted to a pond habitat. Water quality is expected to decline within the pond compared to the existing stream. The open water pond would cause thermal impacts which are expected to be increased temperatures in the summer and reduced temperatures in the winter. Nutrients within in the pond will become concentrated and phosphorus will be routinely released into the water column under anoxic (no oxygen) conditions. This phosphorus will be available to algae and other aquatic plants if present. It is expected that dissolved oxygen levels will be less stable and fluctuate depending on storm events, drought conditions, fluctuationg temperature, and the presence or absence of vegetation. Depending on the design of the pond, the structure could block migration of fish and other aquatic organisms. Some aquatic insects derive their energy from the flow of organic matter, such as tree leaves, in a stream. Depending on the ecological character of the stream, the creation of a pond could restrict downstream delivery of organic matter necessary to sustain some species of aquatic organisms.

The water quantity impacts for this project are unknown. Ponds experience much greater water loss due to evaporation and infiltration. If the water loss in the pond exceeds the base flow of the stream, there will be no discharge from the pond. The lack of flow downstream of the pond would destroy the stream ecosystem. The ecosystem destruction would continue downstream until the point where groundwater or other discharges enter the stream.

16. Biological (including impacts to threatened/endangered resources)

Fisheries: Since the pond site is very close in distance to Little Lake Buttes des Morts, native adventitious fish species (northern pike and white sucker, for example) likely use this stretch of stream for critical life history stages, such as spawning and nursery habitat. Structures preventing the passage of natives from Little lake Buttes des Morts through the proposed pond to access the stream segment, in addition to adverse impacts to the habitat qualities, would be detrimental to the fish communities. It is very possible that the proposed pond would become a preferred habitat for non-native common carp. The pond would warm quickly in the spring, attracting juvenile and adult carp from the adjacent wetlands into the pond. The presence of benthic species (especially carp) and the action of their feeding would re-suspend the sediments into the water column and reduce any benefit of the storm water pond. Therefore, any structure that is placed in the stream should restrict the passage of all life stages of common carp, while still allowing passage of native species. This is likely unachievable due to (1) the short distance and low gradient between the proposed pond and Little Lake Buttes des Morts and (2) because of the presence of sub adult and young of the year carp.

Wildlife: Urban nuisance wildlife will replace the more peripheral habitat, which has few individuals but more species diversity. The largest marsh on the Fox River (the receiving marsh near Stroebe Island) will experience greater changes such as thermal impacts by increasing water temperatures upstream from the dam. The pond would decrease the continuous nature of stream habitat and would adversely impact wildlife usage. More avenues will be opened up for invasives to travel into the whole Lower Fox River corridor, especially the Stroebe Island marsh. Reoccurring future maintenance of the online detention pond will disrupt the stream continuity on a consistent basis every three, 5, 10 or 15 years for as long as it exists. For stability of native populations, wildlife communities need basic habitat requirements without sharply changing conditions. Constant habitat disruption would result in additional negative impacts from predation or starvation. The proposed final slopes of the pond are conducive to muskrat penetration potentially causing further silt suspension and reduced plant establishment. The pond may ultimately receive carp (despite the proposed carp barrier) since the access to the Fox River is close for wetland wildlife to bring eggs on their bodies, fur or feathers.

The right-of-way for the transmission lines offers some protection for the existing stream habitat. Despite the fragmentation of the stream by the road and railroad, the connectivity of the small stream to the large river is integral for the health and stability of the local Fox River community. The development of the pond will interrupt this continuity. Disturbance and clearing of the vegetated banks will temporarily interrupt the movement of furbearers along the stream corridor. Banks that offer hiding opportunities either within or along give greater protection for the resources with vegetation that is already established. Once the site has stabilized and re-vegetated, the impacts to wildlife movement may decrease or cease altogether.

Most wetland usage would be from wildlife using the corridor in its present state to get to a destination using the stream and along the banks where cover exists. For other wildlife using the corridor, it would be for cover, rest, food resources, and closeness to the water resource. For raptors, these are prime sites for prey (rabbits & voles) for they have continuity for escape and offer opportunity for the most part for their survival. Other predators seen within similar urban complexes are coyotes and foxes. Mud Creek to the north has otter using its habitat so one would assume similar use when opportunity presents itself for this stream and corridor.

Considering the developed urban environment, the site has some great qualities for a stream, especially since there is jewelweed, smartweed, bidens, etc along the stream course. Invasives present include purple loosestrife, canary grass, wild parsnips, and some phragmites. Stable banks and little disturbance at the stream have not provided much opportunity for these species to spread. Roads, construction, and other human impacts are known to allow invasive plants opportunities to establish in plant communities. Invasive species are a significant concern because the stream corridor acts as an avenue for transmission of aggressive species. Considering the area is developed and the stream is already somewhat fragmented, the established dense vegetation is keeping the stream habitat intact while offering critical habitat functions in a modified environment for wildlife species.

Storm water pond: The goal of the pond is to collect and treat storm water runoff before it reaches the listed 303(d) impaired waterway, the Fox River. The proposed pond would create a municipal storm water treatment facility within and impacting a public resource. The presence of fish in the storm water treatment facility is likely to result in re-suspension of sediment in the water column, reducing any benefit of the storm water pond. Collecting and treating the pollutants of concern (total phosphorus and total suspended solids) before they reach the Fox River will benefit the receiving waterway by reducing the amount of pollutants received in runoff. The proposed pond will likely become a sink for these same pollutants ultimately resulting in reduced water quality and possibly the creation of another impaired waterway. Also, as a storm water treatment pond by design, there are some concerns that any fish or wildlife using the pond will be exposed to higher levels of contamination which can adversely impact fish and predators (including humans) that ingest these fish.

On-site Wetlands: On-site wetlands (0.19 acres) are to be converted from the shallow marsh wetland system (within the stream corridor) into an open pond with constructed wetland plantings. The existing marsh wetlands would be destroyed and will no longer be available to serve as habitat or food sources to wildlife and aquatic communities. Constructed (artificial) wetlands do not typically provide the same services or functions as their natural counterparts. The proposed project includes a plan to re-create wetlands through a designed “wetland and prairie plantings” that is intended to provide food sources, shelter, and nesting habitat. If designed and installed properly, the plantings are intended to connect the open water system and the upland planted prairies.

Off-site/Downstream Wetlands: The small tributary flows to the east where it enters the Fox River on Little Lake Buttes des Mort through the Stroebe Island marsh, which is the largest of all marshes left on the Fox River after it leaves Lake Winnebago. This marsh has a diverse community of plants and wildlife unique to the urban setting. Great egrets, great-blue herons, pelicans, many species of terns as well as waterfowl utilize the marsh. Eagles are present as well as a nest site is close at hand in the Stroebe Island area. Osprey are seen utilizing opportunities from the Fox River and may possible nest within the vicinity. Not only are on-site wetlands impacted, but downstream wetlands (Stroebe Island marsh) will experience secondary impacts. Water quality may improve as it relates to removed pollutants (due to the upstream treatment facility) but thermal influences would still impact the water quality and communities dependent upon the marsh system. If the water loss in the pond exceeds the base flow of the stream, the lack of flow would destroy the downstream ecosystem until the point where groundwater or other discharges enter the stream.

17. Cultural

a. Land Use (including indirect and secondary impacts)

The 433 acre pond watershed is almost fully developed, consisting of residential, commercial and industrial land uses. The project is located at a former non-metallic mining operation. The pond is not expected to conflict with any adjacent land uses.

b. Social/Economic (including ethnic and cultural groups, and zoning if applicable)

The pond will be a short-term social and economic gain for the Town of Menasha and its residents. Construction activities should lead to short-term increases in employment and purchase of goods and services near the project location. The proposed project could potentially enhance the natural scenic beauty of the area, by creating habitat from a previously non-metallic mining location. As previously mentioned, the pond has been identified as a cost-effective BMP in helping the Town meet their 40% TSS reduction requirement. It is also anticipated that construction activities involved with the project will generate fumes, dust and noise from truck travel and heavy equipment operation. These short-term impacts could be a nuisance to residents or businesses located near the construction site.

The project does not address long-term maintenance costs nor is there any data to support that these ponds actually perform to the design standards proposed. If fish gain access to the pond, maintenance costs will increase in order to manage the fish population to allow the pond to function as close to the designed levels as possible. No long-term data exists to show that TSS, total phosphorous and other toxicants are being removed to the levels modeled. Construction of smaller off-line ponds further up in the watershed could also lead to short-term increases in employment and purchase of goods and services near the projects. Although there may be a higher expenditure of cost up front, the long-term maintenance of these off-line ponds may be cost-effective in the long run. No data was provided regarding this fact.

c. Archaeological/Historical

There are no known archeological or historical facts within the project boundary.

18. Other Special Resources (e.g., State Natural Areas, prime agricultural lands)

WI DNR wildlife and fisheries staff reviewed the resources at the proposed site. There are no other special resources within the project boundary.

19. Summary of Adverse Impacts That Cannot Be Avoided (more fully discussed in 15 through 18)

- 8,110 square feet (or 0.19 acres) of shallow marsh riverine wetlands will be destroyed
- Approximately 550' length of perennial stream habitat will be destroyed
- Water quality will be degraded
- Loss of fish passage for native species
- Undesirable fish species will inhabit the pond causing dysfunction of the pond and increased maintenance costs
- Creating a degraded waterway that is impaired for the exact same pollutants-of-concern as the larger receiving waterway (Fox River)
- Further fragmenting a stream segment that provides natural connectivity for fish and wildlife species traveling to and from the downstream receiving waterbody
- Attraction of unwanted nuisance species to the pond such as common carp, muskrats, geese

DNR EVALUATION OF PROJECT SIGNIFICANCE (complete each item)

20. Environmental Effects and Their Significance

a. Discuss which of the primary and secondary environmental effects listed in the environmental consequences section are long-term or short-term.

The construction of a municipal storm water treatment facility within a public waterway includes several long and short term environmental impacts. Short term impacts from the earth-moving phase of construction involves clearing of vegetation in the stream corridor and upland, grading and sloping the site and removal of the impervious surfaces currently existing on the parcel, and converting a previous non-metallic mining site to serve a different function – storm water treatment. Construction activities may likely lead to short-term increases in employment and purchase of goods and services near the project location. Erosion and siltation may occur from grading activities if BMP's are not properly designed, installed, and maintained. Increased turbidity and deposition of soil into the waterway adversely impacts aquatic communities but is temporary and will cease when the site is stabilized. The clearing of the trees along the existing stream corridor will impact various wildlife species that utilize trees for habitat or food sources. It is also anticipated that construction activities involved with the project will generate fumes, dust, and noise from truck travel and heavy equipment operation. These short-term impacts could be a nuisance to residents or businesses located near the construction site.

A portion (0.19 acres) of the on-site wetlands will be disturbed and filled to create the pond, berms, and stream diversion. The disturbance of the existing natural wetlands within the stream corridor for the purpose of converting them into an open water pond will have short and long term impacts. As a result of converting the wetlands to an open water pond system (0.19 acres of wetland impact), the natural wetland will no

longer be available to serve as habitat or food sources to wildlife and aquatic communities. Research supports the argument that artificial (constructed) wetlands do not provide the same services or functions as their natural counterparts. Destruction and replacement of a natural wetland with a constructed wetland does not imply that the natural habitat and functions have also been replaced in-kind. Constructed wetlands typically perform below levels of natural wetlands and may, in cases, actually cause more environmental damage (i.e., erosion). One of the project objectives, however, is to re-create wetlands through a designed "wetland and prairie plantings" that is intended to provide food sources, shelter, and nesting habitat that is to be impacted. If designed and installed properly, the plantings are intended to connect the open water system and the upland planted prairies.

The proposed pond will not likely serve as an informational/educational example to increase public awareness of and support for storm water and sustainability. The location along a major commuter corridor does not make it highly visible despite its close proximity to the highly-traveled highway.

Diversion of the stream into and the creation of a storm water pond within the public waterway will have long-term negative impacts to the native fish species utilizing the stream system for spawning and nursery stages of their life strategy. Any disturbance and diversion of and changes to the stream corridor in addition to the placement of any structure preventing upstream migration will likely negatively impact spawning habitat and behavior of aquatic species. Even with an outlet structure (weir) that allows for fish passage (of native species), spawning fish will likely find another obstacle while attempting to navigate upstream. The channel diverting the stream into the pond is to be lined with 24'' thick heavy riprap and then topsoiled and vegetated. The proposal to use "heavy riprap" material in the stream bed will likely impede the movement of fish upstream. If fish are able to make it into the pond, their chances of leaving the pond in an effort to head upstream is greatly reduced due to the channel lined with 24'' thick of heavy rock material. The impounded water is likely to increase in temperature and draw invasive species (such as the common carp) into the system. Not only will this species disrupt the function of the storm water pond but the impounded water will likely have thermal impacts to the downstream segment of waterway as it enters into the marsh on Little Lake Buttes des Morts.

The goal of the pond is to collect and treat storm water runoff before it reaches the listed 303(d) waterway, the Fox River. The presence of fish (natives or non-natives) in the storm water treatment facility is likely to result in re-suspension of sediment in the water column. The re-suspension of sediment negates the primary function of the storm water pond as a treatment facility. The purpose of the pond would be compromised and so will not provide the service it was designed to provide. By catching and treating the pollutants of concern before they reach the Fox River, the pond will benefit the receiving waterway by reducing the amount of pollutants received. This is a long-term positive impact for the Fox River. However, the proposed pond may essentially become a "sink" for these same pollutants. As a long-term treatment facility, the presence of fish in a treatment pond will likely decrease the level of functionality of the pond and, ultimately, not improve the water quality.

Proposed landscaping also includes emergent (an aquatic plant having its stem, leaves, etc., extending above the surface of the water) and submerged (an aquatic plant having its stem, leaves, etc., below the surface of the water) wetland intended to increase shading and reduce the absorption of solar energy. Wetland plants hide litter, reduce shoreline erosion, reduce accessibility to deep water, provide habitat for mosquito predators, improve water quality, and improve public safety by limiting access to deep water. The wetland plantings are designed to provide food sources, shelter, and nesting habitat for small mammals, song birds, butterflies, insects, invertebrates, and fish. While the wetland plantings are designed to cover nearly 57% of the permanent pool of water to shade the shallow water, thermal impacts may be reduced but these impacts will not be entirely eliminated. The wetland and prairie plantings should also reduce the potential for Canada geese residence. Possible concerns may include attracting fish to the wetland habitat created in and around the online pond, disrupting the settled sediment and reversing any treatment the storm water pond may provide.

While the proposed location of the storm water pond is at the lowest point in the watershed in order to meet the numerical pollutant-removal goals, the proposed pond does not prevent already-contaminated runoff from entering the public waterway upstream of the pond site.

b. Discuss which of the primary and secondary environmental effects listed in the environmental consequences section are effects on geographically scarce resources (e.g. historic or cultural resources, scenic and recreational resources, prime agricultural lands, threatened or endangered resources or ecologically sensitive areas).

The location of the proposed online pond is close in proximity to the marsh where the waterway outlets into Little Lake Butte des Morts. This stretch of stream is considered healthy and is considered a warm water forge fishery. The stream has significant base flow and provides critical spawning and nursery habitat to native, adventitious species (like northern pike and white sucker). Any disturbance of and changes to the stream in addition to the placement of any structure preventing upstream migration will likely negatively impact the existing habitat and behavior of aquatic species, specifically native fish communities dependent upon healthy waterways such as this for fulfilling various stages of their life history. Thermal impacts from the impounded water are likely to draw invasive species (such as the common carp) into the system. Not only will this species disrupt the function of the storm water pond but the impounded water will likely have thermal impacts to the downstream segment of waterway as it enters into the marsh on Little Lake Buttes des Morts.

As has been previously noted, further fragmentation of the continuous stream corridor will be detrimental to many wildlife species – including large raptors and their prey species, coyotes and foxes, and otters. These stream corridors are the last remaining contiguous habitat found in a highly developed urban setting. Destroying this geographically scarce resource will have devastating impacts on certain wildlife species.

The downstream marsh has a diverse community of plants and wildlife unique to the urban setting. Stable banks and little disturbance at the stream have not provided much opportunity for invasive species to spread. Roads, construction, and other human impacts are known to allow invasive plants opportunities to establish in plant communities. Invasive species are a significant concern because the stream corridor acts as an avenue for transmission of aggressive species. Considering the area is developed and the stream is already somewhat fragmented, the established dense vegetation is keeping the stream habitat intact while offering critical habitat functions in a modified environment for wildlife species. Not only are on-site wetlands impacted, but downstream wetlands (Stroebe Island marsh) will experience secondary impacts. Water

quality may improve as it relates to removed pollutants (due to the upstream treatment facility) but thermal influences would still impact the water quality and communities dependent upon the marsh system. Future maintenance of the online detention pond will disrupt the continuity of the current streams on a consistent basis every three, 5, 10 or 15 years for as long as it exists. In order maintain balance, wildlife depends on its basic habitat requirements to remain stable without sharply changing conditions. In unstable environments, wildlife species are subjected to additional impacts from predation, starvation or dehydration. At one point in time, the collected contaminants/pollutants will inevitably impact the species (wildlife and aquatic) that depend on the existing waterway and associated services. Maintenance trails will further fragment the continuity of the system.

The site was historically a non-metallic mining site with little scenic and recreational resources. If the proposed pond were to be constructed, the site may have improved scenic value.

c. Discuss the extent to which the primary and secondary environmental effects listed in the environmental consequences section are reversible.

Once the construction of the pond is completed, the stream corridor may be restored but the physical changes necessary to return the site to pre-construction conditions would involve significant disturbance and the possible release of "treated" sediment that has settled out of the water column. Any sediment that has been treated for the pollutants of concern (total phosphorus and total suspended solids) in the storm water pond that was re-suspended and released as part of a restoration project would carry pollutants downstream to the receiving wetland marsh and already impaired waterway, the Fox River. The physical changes at the site may be reversed by restoring the stream and wetland so long as the collected (or treated) pond sediment is not allowed to be released during restoration efforts. A stream corridor would need to be restored and stabilized with vegetation to match the natural stream corridor that existed prior to the pond's construction.

The proposal includes impact to or conversion of 0.19 acres of wetlands during the construction of the pond as a result of filling or from changes in hydrology. Restoration efforts of the stream and wetlands would need to reinstate pre-construction hydrology which may revive the wetland community if the fill material is also removed and the area planted with native wetland species.

Site disturbance for construction will likely provide opportunities for aggressive, invasive species to colonize the area and may also provide an opportunity for invasives to become established in the immediate downstream marsh. Once most invasive species are introduced or established in native habitat, eradication is often an impossible objective. Many species cannot be completely eliminated once established, only controlled or maintained to a minimum-population standard. If invasives are not currently present in native habitat, significant proactive efforts should be made to preserve healthy native habitat without providing opportunities for the spread of invasives. The treatment of existing invasive-dominated communities require significant time and resources to develop and implement long-term maintenance plans in order to simply maintain invasive populations if eradication is not possible. Addressing concerns of invasive species (prevention of and controlling established colonies) also includes assessing the existing seed bank so the marsh downstream is not impacted by any further disturbance. This must also take into consideration the seed bank that may be transferred to another site or within the site to propagate new plants on open disturbed ground.

21. Significance of Cumulative Effects

Discuss the significance of reasonably anticipated cumulative effects on the environment (and energy usage, if applicable). Consider cumulative effects from repeated projects of the same type. Would the cumulative effects be more severe or substantially change the quality of the environment? Include other activities planned or proposed in the area that would compound effects on the environment.

Cumulative impacts of the permitting of similar projects include long-term negative impacts to the public resource and species utilizing the stream system. These impacts would significantly lower the quality of the environment. If this project (and others like it) were to be permitted, the stream corridor and its associated resources will be significantly altered. Construction of online ponds such as the proposed pond includes impact to or conversion of wetlands during the construction phase as a result of filling (to create pond berms and divert stream flow into and out of the pond) or from changes in hydrology. These changes are attempted to be mitigated by implementing wetland and prairie plantings. However, the landscaping plantings are an artificial system intended to replace the services and function of what is currently an existing and healthy waterway with associated wetlands. If similar projects are permitted across the landscape, more functional and natural wetlands will be lost due to conversion to open water treatment ponds paired with artificially mitigated wetland plantings. The new wetland would be within the storm water pond and will be inundated with pollutants (TSS and TP). If storm water was treated before entering any public resource and associated wetlands, wetlands can still function but not be "storage tanks" for storm water pollution.

Similar site disturbances for pond construction will likely provide opportunities for aggressive, invasive species to colonize the area. Once most invasive species are introduced or established in native habitat, eradication is often an impossible objective. Many species cannot be completely eliminated once established, only controlled or maintained to a minimum-population standard. If invasives are not currently present in native habitat, significant proactive efforts should be made to preserve healthy native habitat without providing opportunities for the spread of invasives. The treatment of existing invasive-dominated communities require significant time and resources to develop and implement long-term maintenance plans in order to simply maintain invasive populations if eradication is not possible.

If similar on-line ponds are permitted across the landscape, more waterways will become impaired faster than the rate at which 303(d) listed waters are being successfully treated and removed from the list. The proposal would create an additional impaired waterway (tributary to the Fox River) for the purpose of treating storm water entering the Fox River but this site alone would not allow the delisting of the Fox River. By creating a newly impaired water without delisting another, the list of impaired waterways is simply growing longer.

In addition, cumulative social impacts may include supporting the attitude of "end of pipe" treatment (or a reactive approach) low in the watershed rather than addressing and treating the source of storm water pollution before it reaches public waterways (a proactive approach). By compounding the effects of online storm water treatment ponds, more waterways may become impaired at the cost of treating a single

larger impaired receiving waterway, the Fox River. By permitting similar projects, the message that is being sent to the citizens of the state is that it is acceptable to allow a public resource to be used for a municipality's purpose of storm water treatment.

Efforts should be made to retrofit best management practices (BMP's) at various levels in the watershed (upstream, downstream, etc.). In addition, communities should consider focusing on prevention and treatment upstream and out-of-stream (such as off-line ponds) to treat polluted storm water before the pollutants reach waters of the state. By permitting projects like the proposed pond (and similar projects), the pollutants are being allowed to remain in the water resource for as long as possible before undergoing treatment in the storm water pond.

The short-term cost-effective reasoning for bottom-of-the-watershed ponds is clear – this is a location in the watershed where fewer BMPs can be used to remove or treat the largest quantity of pollutant. However, it is the Department's opinion that the long-term costs and benefits from preventing and treating storm water before it enters waters of the state outweighs the immediate benefits of short-term solutions. Ultimately, treatment ponds located low in the watershed are not working to change behaviors or attitudes that create polluted storm water at its source.

22. Significance of Risk

a. Explain the significance of any unknowns that create substantial uncertainty in predicting effects on the quality of the environment. What additional studies or analysis would eliminate or reduce these unknowns?

It is uncertain if the few online storm water ponds that have previously been permitted are actually functioning to the degree at which they are designed to function. If online ponds do not provide the treatment of storm water that they are designed to provide, then the proposed environmental impacts would be for little to no public benefit. Understanding the functionality of existing online ponds in similar settings would provide useful insight as to whether the discussed environmental impacts are worth the treatment advantages online ponds may or may not provide.

b. Explain the environmental significance of reasonably anticipated operating problems such as malfunctions, spills, fires or other hazards (particularly those relating to health or safety). Consider reasonable detection and emergency response, and discuss the potential for these hazards.

For a storm water pond, reasonably anticipated operating problems may include a berm breach. If the berm of the pond were to be breached, the principal concern would be of the unintentional release of stored sediment and pollutants. The purpose of the pond is to treat storm water to enhance water quality through the removal of pollutants of concern (sediment and phosphorus, in this case). If the berm were breached, the sediment and pollutants would be discharged into the stream and the adjacent downstream marsh. Short term impacts of a breach would include elevated levels of total suspended solids, turbidity, and the release of phosphorus that was to be removed as part of the "treatment" of the storm water and a likely short-term increase in erosion and stream flow and velocity. Long term impacts may include the deposition of this sediment and pollutants in the immediate downstream marsh.

23. Significance of Precedent

Would a decision on this proposal influence future decisions or foreclose options that may additionally affect the quality of the environment? Describe any conflicts the proposal has with plans or policy of local, state or federal agencies. Explain the significance of each.

The precedent that would be set by permitting this and similar online storm water ponds at the lowest point possible in the watershed, essentially, is that it is acceptable to allow a resource that is held in the Public Trust Doctrine to be used for a municipal storm water treatment purpose. The municipality is attempting to treat the storm water runoff after it as already entered a public waterway, as a reactive means to reduce pollutant levels while potentially creating another impaired waterway. By permitting retrofitted best management practices (BMP's) at the bottom-of-the-watershed rather than focusing on prevention and treatment upstream, the pollutants are allowed to remain in the resource for as long as possible before undergoing treatment. In an effort to maintain or improve the quality of the resource, these treatment devices should be designed at upstream locations to treat storm water runoff before entering the public resource.

The proposed online pond conflicts with state and federal goals of removing impaired waterways from the 303(d) list. Bottom-of-the-watershed storm water treatment is inconsistent with this goal since the storm water treatment pond will effectively collect and store the target pollutant, thus creating a permanently impair waterway for the sake of the receiving water.

The placement of the proposed pond site at the lowest point in the watershed supports the short-term cost-effective reasoning. At this location, the pond can treat a large watershed and remove the greatest amount of pollutants. This would require fewer BMPs to be installed by the Town yet the Town can still comply with the permit by removing the most pollution possible. However, treatment ponds low in the watershed are not working to change behaviors or attitudes that create polluted storm water at its source.

24. Significance of Controversy Over Environmental Effects

Discuss the effects on the quality of the environment, including socio-economic effects, that are (or are likely to be) highly controversial, and summarize the controversy.

Communities are now required to treat storm water runoff and remove pollutants of concern (described in the waterway's unique TMDL, or total maximum daily loading, report) from tributaries leading to receiving 303(d), or impaired, waters of the state. There is also a stringent timeline associated with meeting these storm water permit conditions. Communities must design and implement BMPs to treat storm water runoff for targeted pollutants. In order to achieve the highest amount of pollutant removal that fits into a tight budget, bottom-of-the-watershed online storm water treatment ponds (like the proposed pond) are the most cost-effective options that communities are pursuing. However, the quality of the public resource is suffering by allowing the pollutant(s) of concern to enter and remain in public waterways for the longest

amount of time possible before treatment occurs immediately prior to the receiving water.

Communities may need to evaluate various types and combinations of BMPs in addition to considering the "maximum extent practicable" (MEP) option for meeting their storm water permit conditions, pursuant to NR 151.13(2)(b)(2), Wis. Adm. Code. The negative impacts of the proposed pond should be weighed against MEP to determine retrofitted practices are truly cost-effective options with minimized environmental impacts.

ALTERNATIVES

25. Briefly describe the impacts of no action and of alternatives that would decrease or eliminate adverse environmental effects. (Refer to any appropriate alternatives from the applicant or anyone else.)

Please refer to the Town wide Practicable Alternatives Analysis: MS4 Permitting Compliance and / or the site specific Northern Road Pond Practicable Alternatives Analysis. **Alternative #1** consists of a wet detention pond with a 1.51 acre permanent pool. This alternative provides a 60.93% reduction of TSS and a 44.90% reduction of TP. Wetland disturbance includes 0.31 acres. The approximate cost of Alternative #1 is $900,000 with an average annual cost to the Town of $0.94/lbs. This alternative has the largest wetland impact and highest capital cost and so was eliminated from consideration. **Alternative #2** consists of a wet detention pond with a 1.33 acre permanent pool. This alternative provides a 55.73% reduction of TSS and a 40.96% reduction of TP. Wetland disturbance includes 0.21 acres. The approximate cost of Alternative #1 is $815,000 with an average annual cost to the Town of $0.98/lbs. This alternative was eliminated due to the smallest permanent pool area and since the pond would not provide as much TSS and TP removal as the proposed pond or Alternative #1. Wetland impacts were also not minimized.

For minimal or no-impact options, the design should be re-evaluated to be an off-line storm water treatment pond. No-impact alternatives should be designed for a pond to collect higher water levels (storm event levels) while allowing the base flow to remain in the natural stream corridor. Storm event water levels could "spill over" into a pond adjacent to the stream corridor and discharge back into the stream after treatment in the storm water pond. An off-line alternative would essentially avoid wetland impacts and stream diversion but still provide treatment of certain storm events water levels. In an effort to maintain or improve the quality of the resource, these treatment devices should be designed at upstream locations to treat storm water runoff before entering the public resource. The proposed online pond conflicts with state and federal goals of removing impaired waterways from the 303(d) list. Bottom-of-the-watershed storm water treatment is inconsistent with this goal since the storm water treatment pond will effectively collect and store the target pollutant, thus creating a permanently impair waterway for the sake of the receiving water.

The no-impact alternative pond design alone may not provide enough treatment for the Town to comply with permit conditions by 2013, but a combination of various types and locations of BMPs may need to be evaluated to comply with the MS4 permit condition or to comply to the maximum extent practicable.

SUMMARY OF ISSUE IDENTIFICATION ACTIVITIES

26. List agencies, citizen groups and individuals contacted regarding the project (include DNR personnel and title) and summarize public contacts, completed or proposed).

Date	Contact	Comment Summary
08/24/09	David Rowe (WDNR Fisheries Biologist, Northeast Region)	• The site is a relatively healthy stream segment with rooted submergent macrophytes and is likely used by adventitious fish species (like northern pike and white sucker) as critical spawning and nursery habitat • Any structure that prevents fish from migrating from Little Lake Butte des Morts to the stream segment or changes the habitat qualities of the stream segment would be detrimental and should not be permitted • Concerns that the pond would become a preferred habitat for non-natives instead of the native fishes • Warm temperatures would attract juvenile and adult carp from the adjacent wetlands and into the pond • Presence of the carp and the action of their feeding would re-suspend the sediments into the water column and reduce any benefit of the storm water pond • Any structure that is placed on the stream should restrict the passage of all life stages of common carp, while still allowing passage of native species. However because of the short distance and low gradient between the proposed pond and Little Lake Butte des Morts, this would be very difficult to achieve because of the presence of sub adult and young of the year carp
08/25/09	Dick Nikolai (WDNR Wildlife Biologist, Northeast Region)	• Downstream marsh will receive the brunt of the impacts of an online stream detention pond • Urban nuisance wildlife will replace the more peripheral habitat • Expected impacts are: 1) Increased warming of the waters upstream, from the dam and impacts of an inline stream creating a pond. 2) Loss of habitat that is continuous as a stream even though the urban environment has had some changes - function to the system changes and these changes will have adverse effects on wildlife usage. 3) More avenues will be opened up for invasives to travel into the whole Lower Fox River corridor, especially the Stroebe Island marsh. 4) Future maintenance of the online detention pond will disrupt the continuity of the current streams on a consistent basis every three, 5, 10 or 15 years for as long as it exists. In order to obtain its harmony

wildlife needs its basic habitat requirements without sharply changing conditions when they will receive additional impacts from predation, starvation or dehydration.
5) Stream conversion to a pond changes the current wetland character of a vegetated corridor to one of having open viewshed attractive to nuisance wildlife like geese and gulls.
6) Contaminants on how they may affect the wildlife using the site.
7) Wildlife disease opportunities will be much higher for concentrations of waterfowl near an annual botulism site on Little Lake Butte des Morts.
8) Maintenance trails will further fragment the continuity of the system.
9) Slopes of the pond are conducive to muskrat penetration causing further silt suspension and less chance for plant establishment. Pond site can even end up receiving carp since the access to the Fox River is close for wetland wildlife to bring eggs on their bodies, fur or feathers.

- All proposed alternatives were also on-line pond designs
- Contaminants concentrated in the pond will impact wildlife at some point in time and space
- While Stroebe Island Marsh is the best of all the marshes on the Lower Fox River and the largest of any that is still in existence. The quality of that habitat should be maintained especially now that the Fox River has been cleaned of its PCB's near the project site
- The connectivity of the small stream to the large river is important for it keeps the health of the entire Fox River community stable.
- Banks that offer hiding opportunities either within or along give greater protection for the resources with vegetation that is already established.
- With the sand quarry nearby it also offers greater chances of contamination to the wetlands nearby since water can easily flow through sand.
- Water clarity appears to be good
- While the stream may be fragmented by the road and railroad, cover is present. Most wetland usage would be from wildlife using the corridor.
- For raptors, these are prime sites for prey (rabbits & voles) for they have continuity for escape and offer opportunity for the most part for their survival.
- Other predators seen within similar urban complexes are coyotes and foxes. Mud Creek to the north has otter using its habitat so one would assume similar use when opportunity presents itself for this stream and corridor.
- Stroebe Island marsh has a diverse community of plants and wildlife unique to the urban setting. Great egrets, great-blue herons, pelicans, many species of terns as well as waterfowl utilize the marsh. Eagles are present as well as a nest site is close at hand in the Stroebe Island area. Osprey are seen utilizing opportunities from the Fox River and may possible nest within the vicinity.
- Invasives that are present include purple loosestrife, canary grass, wild parsnips, some phragmites, etc. Stable banks and little disturbance at the stream have held them at bay where roads, construction and other human impacts have allowed invasive plants presence. This should be a concern for all because the stream corridor acts as an avenue for transmission of these aggressive species.
- Precautions need to be taken to eradicate the present invasives and prevention of them heading into the last remaining large marsh on the Fox River. Also the concern that the seed bank is going to be transferred to another site or within the site to propagate new plants on open ground. All ways are needed to stop any of the invasives from entering the Strobe Island Marsh.
- The established dense vegetation is keeping the stream intact while offering the best it can offer in a modified environment for wildlife species.

07/22/08	Stuart Boerst , P.S., P.H. (Soil Scientist and Senior Hydro-geologist, McMahon Group)	Wetland Delineation Report

Project Name: Northern Road Pond County: Winnebago

DECISION (This decision is not final until certified by the appropriate authority)

In accordance with s. 1.11, Stats., and Ch. NR 150, Adm. Code, the Department is authorized and required to determine whether it has complied with s.1.11, Stats., and Ch. NR 150, Wis. Adm. Code.

Complete either A or B below:

A. EIS Process Not Required ☒

The attached analysis of the expected impacts of this proposal is of sufficient scope and detail to conclude that this is not a major action which would significantly affect the quality of the human environment. In my opinion, therefore, an environmental impact statement is not required prior to final action by the Department.

B. Major Action Requiring the Full EIS Process ☐

The proposal is of such magnitude and complexity with such considerable and important impacts on the quality of the human environment that it constitutes a major action significantly affecting the quality of the human environment.

Signature of Evaluator	Date Signed

Number of responses to news release or other notice:

Certified to be in compliance with WEPA	
Environmental Analysis and Liaison Program Staff	Date Signed

NOTICE OF APPEAL RIGHTS

If you believe that you have a right to challenge this decision, you should know that Wisconsin statutes and administrative rules establish time periods within which requests to review Department decisions must be filed.

For judicial review of a decision pursuant to sections 227.52 and 227.53, 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 pursuant to section 227.42, 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. 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.

Note: Not all Department decisions respecting environmental impact, such as those involving solid waste or hazardous waste facilities under sections 144.43 to 144.47 and 144.60 to 144.74, Stats., are subject to the contested case hearing provisions of section 227.42, Stats.

This notice is provided pursuant to section 227.48(2), Stats.