ENVIRONMENTAL ANALYSIS AND DECISION ON THE NEED FOR AN ENVIRONMENTAL IMPACT STATEMENT (EIS)
Form 1600-1 Rev. 7-2006

Department of Natural Resources (DNR)

Region or Bureau
North East
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. July 6, 2009.

Contact Person:
Kristy Rogers

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Telephone Number
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Applicant: City of Oshkosh Redevelopment Authority

Address: PO Box 1130, Oshkosh, WI 54903-1130

Title of Proposal: Oshkosh Riverwalk Phase I: Marion Road Zone

Location: County: Winnebago City/~~Town~~/~~Village~~: Oshkosh

Township Range Section(s): Section 23, Township 18N, Range 16E

PROJECT SUMMARY

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

The City of Oshkosh has adopted a plan to construct a continuous riverwalk on both sides of the Fox River through downtown. This public investment in the waterfront is intended to spur redevelopment on adjacent sites, many of which are brownfields or industrial facilities. The adopted "Fox River Corridor Riverwalk Plan and Design Guidelines" can be found on the City's webpage at http://www.ci.oshkosh.wi.us/Community_Development/Riverwalk/Riverwalk.htm. The plan was developed with the intent of providing a framework for:

- Developing a continuous Riverwalk on two sides of the river between Wisconsin Street and Lake Winnebago;
- Linking the downtown Riverwalk with the WIOUWASH State Trail and UW-Oshkosh to the northeast;
- Linking the downtown Riverwalk with neighborhoods and the Pioneer Resort area to the south;
- Crafting a unifying design vocabulary for public and private projects linked by the Riverwalk;
- Encouraging consistently high quality riverfront development;
- Creating a more beautiful, inviting riverfront in the downtown area;
- Improving infrastructure to make redevelopment opportunities more attractive;
- Locating improved facilities for recreational boating and fishing;
- Creating a way finding system and user amenities to promote the safe, easy use of the Riverwalk; and
- Establishing alternative transportation (e.g. boating, bicycling, pedestrian, etc.) connections between key destinations.

- Having an overall framework for the riverfront will also improve the likelihood of securing grants for phased improvements.

This project is Phase I of the Riverwalk plan. Phase I includes the construction of a riverwalk segment near Marion Road, on a site that was previously part of a Mercury Marine production facility. The City will retain ownership of the property as a public open space and recreational amenity.

The public riverwalk will be constructed within a 30-foot wide parcel along the river, with access points along Jackson Street at the east boundary and through a new City-owned park located next to the WPS electrical lines along Dawes Street (vacated) on the west boundary. The project also includes the installation of 16 transient and 32 rental boat slips along the riverwalk. Construction of the riverwalk requires the following actions:

- Grading more than 10,000 square feet on the bank of the Fox River.
- Installing rock riprap along the bulkhead line.
- Dredging approximately 3800 cubic yards of material from the river.
- Installing piers.
- Extending two stormwater outfalls

The estimated cost of this Project is $4.0 million (2008 dollars). The City of Oshkosh is planning to finance the majority of the project using tax increment financing (TIF) funds associated with the adjacent development.

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

The City of Oshkosh is actively working to promote reinvestment in its urban core. Recognizing the Fox River as a recreational and aesthetic amenity, the City generated a plan to provide a continuous pedestrian and multi-use walkway on both sides of the river. This vision was articulated in the Fox River Corridor Riverwalk Plan and Design Guidelines in November 2005. The City is seeking to begin Phase I implementation of this plan in the Marion Road Zone, concurrent with redevelopment on adjacent parcels.

The site is currently a vacant brownfield that was acquired by the City Redevelopment Authority in order to facilitate cleanup and development. Several recognized environmental conditions exist on or near the proposed riverwalk site, which will be dealt with as part of the site remediation effort in order to make the site safe for public use.

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

This analysis is being performed in conjunction with an Individual Permit Application (Form 3500-053) filed with the WDNR. Several activities planned for the site require regulatory approval and are included under the submitted application.

Regulatory Agency	Permit	Number
WDNR	s. 30.19 Grade > 10,000 square feet	#68106
WDNR	s. 30.20 Dredge > 3,000 cubic yards of material	#68107
WDNR	s. 30.12 Construct 2 outfalls	#68108
WDNR	s. 30.12 Install riprap	#68109
WDNR	s. 30.12 Construct Piers	#68110
WDNR	NR 216 Construction Site Stormwater Permit	FIN#40616
ACOE	Permit for placing structures in the water	
City of Oshkosh	Building permits, etc.	

PROPOSED PHYSICAL CHANGES (more fully describe the proposal)

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

For the entire site, all pavement and site features associated with the former industrial use will be cleared and disposed of offsite. In the 30-foot wide corridor along the river edge, the riverwalk and open green space will be created. Construction of the riverwalk is described below under 'Manipulation of Aquatic Resources' as it affects the riverbank edge treatment. The open space will be a park lawn, with canopy trees spaced approximately 40-

feet on center.

A passive use park is planned at the western edge of the project. Park facilities include a 27 stall asphalt parking lot (2 accessible stalls), a central open lawn area, and sidewalks connecting to the riverwalk. No buildings are proposed for the park or the riverwalk project.

Approximately 127,500 square feet of total land surface area is proposed for grading and disturbance as part of the project. Proposed grade of the concrete walkway surface at the river edge is 751.00.
Dredge spoils will be transported to an approved landfill.

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

Riverbank Stabilization: The existing shoreline along the Fox River consists of sections of wood piles, wood retaining walls, steel pile with wood lagging, concrete pavement, and stone riprap. All of the materials are generally in poor condition, and several sections are reportedly failing. The shoreline will be re-graded and rock riprap will be placed along the entire length. There is an existing bulkhead line at the site. A bulkhead line is a legally established location of the shoreline. Fill can be placed up to the bulkhead line without the need for certain permits. Portions of the existing shoreline now extend beyond the bulkhead line. The new riprap shoreline will be constructed so that it is in compliance with the bulkhead line. The normal water level of 747.0 of the Fox River will hit the new shoreline at the location of the bulkhead line. Existing material within 14-feet landward of the shoreline will be replaced with a granular backfill. Excavated material along the shoreline is known to consist of fill soils, including sawdust, other wood products, and foundry sand. Thickness of this fill material near the proposed riverwalk ranges from seven to ten feet. Excavated material will be managed as solid waste, and will be disposed of at an appropriate licensed landfill.

The riverwalk consists of a 15-foot wide reinforced concrete slab placed over compacted fill. Proposed grade of the concrete walkway surface at the river edge is 751.00. A 6-inch high, 1-foot wide concrete curb is located on the landward side of the walk with pedestrian lights spaced at 75-feet on center. Bollard lights are placed at 25-foot spacing, 1.5 feet from the edge of the slab along the river, in line with 12 inch wide by 6 inch high by 7 foot long pre-cast concrete bumpers.

Dredging: Approximately 3800 cubic yards of sediment and shoreline material will be dredged. These sediments will be excavated to an elevation of approximately 742.0 to accommodate the new shoreline and boat slips.

It is expected that mechanical dredging methods will be implemented on this project. A barge mounted mechanical excavator is expected and will offload dredged material to the upland area of project site. The offload area will be protected with fencing and barriers such that sediments will not be allowed to flow back into the river. Material will then be loaded on to sealed dump trucks and hauled to a landfill licensed to accept these sediments as described below. During the bidding phase of the project, the owner and engineer will work with contractors to ensure the most cost effective and environmentally sensitive dredging procedures are used. No work will be performed in the river during spring fish spawning season which extends from March 1 to June 1 of each year.

As described in a sediment sampling report by STS Consultants, LTD, dated May 8, 2008, the dredge material will consist of soft organic silt with trace wood chips, shells, and coal. The Contractor will determine dewatering methods for the dredge material, which may occur on site or at the disposal site using one, or a combination of, the following methods:

1. On Site Drainage Bed. Upon WDNR approval and conditions thereof, the Contractor may provide a drying/drainage bed area not to exceed 10,000 SF of disturbed earth area within the project construction limits. The bed will be bounded by an earthen berm, or rock berm in combination with an approved geotextile filter cloth. Unfiltered water must be treated via pumping/hauling to a sanitary treatment facility. The material may remain in the temporary drying/drainage bed for up to two weeks.
2. Direct Hauling. The Contractor may directly haul material to the disposal site using sealed trucks.
   As noted above, the total volume of proposed dredging activity is 3800 cubic yards. Twelve representative sediment samples were collected from six borings in the proposed dredge area and analyzed for a list of potential contaminants. The results indicate that dredged sediment will require management as solid waste in general accordance with local, state, and federal law. This includes disposal at a licensed solid waste facility. Currently, Veolia's Hickory Meadows landfill in Hilbert, WI, accepts dredging spoils.

However, it may be more economical to dispose of the dredge material at the Waste Management landfill disposal facility in Berlin, WI, due to the proximity of the landfill to the site. This landfill is currently being permitted to accept dredge spoils, and should be available to the project by summer 2009.

Piers: Boat slips were previously located on the property when the facility was operated by Mercury Marine. Nine 40-foot slips are currently located along the shore. These slips are in poor condition, and will be removed as part of this project. Two boat lifts from the prior manufacturing facility will also be removed and the associated wells filled in accordance with DNR standards.

Two groups of boat docks are proposed as part of this project. Thirty two public rental slips are provided near the park on the west side of the project, and 16 transient slips are located to the east. Transient slips are 35' long. Rental slips include a mix of 14 30-foot slips, 10 35-foot slips, and 8 40-foot slips. Dredging will be performed as described above to provide safe water depths for the proposed boat slips.

The main stems of the piers will be eight feet wide. The finger piers are three and four feet wide depending on the size of the slip. The rental pier at the greatest extends waterward approximately 55 feet from the bulkhead line. The eastern most stem of the pier is 48 feet long. The transient pier is 43 feet long and extends waterward approximately 50 feet from the bulkhead line.

The transient slips will be available to recreational boaters on a first come, first-serve basis. Rental slips will be available to the public on a seasonal basis, managed by a marina manager hired through a joint venture of the City of Oshkosh and the adjacent private development partner.

All docks are designed with a fixed surface elevation of 751.00. The docks are supported by 8" steel pipe piles, and are constructed of a steel framework with wood or composite decking. A security gate is provided at the access platform between the public riverwalk and the rental slips; no gate is provided at the transient docks. Water and electric utility service are provided only to the rental slips.

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

No buildings or roads are planned as part of this project.

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

The current stormwater flow across the former industrial site discharges directly into the river via three stormwater outfalls. Conveyance of this flow will be maintained. Directed stormwater infiltration is not recommended at this site due to the subsurface contamination. There is a 36 inch outfall pipe form the Marion Road storm system on the west project boundary, a 60 inch outfall pipe near Jackson Street, and an 18 inch outfall pipe located near the former Mercury Marine plant. The 18 inch pipe will be abandoned and the other two pipes will outfall along the riprap. The outfall pipes will be terminated with a standard reinforced concrete apron endwall covered with a steel grate.

During construction, the major sediment disturbance will occur during dredging of the river bottom. For site grading, an erosion control plan has been prepared using best management practices that will limit migration of materials offsite.

8. Other Changes

None

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

Attachment 1 _X_ Project Plans
Available online - "Fox River Corridor Riverwalk Plan and Design Guidelines"
http://www.ci.oshkosh.wi.us/Community_Development/Riverwalk/Riverwalk.htm

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 site is a former brownfield, and as such, several recognized environmental conditions exist on or near the property. A soil deed restriction and groundwater use restriction exist for the central portion of the former Mercury Marine production facility site due to residual contaminations and groundwater impacts above NR 140 enforcement standards. Based on a site remediation analysis completed by STS Consultants, Ltd., an impervious cap is not necessary for the project. Any areas which are not paved will be covered with a direct-contact prevention cap consisting of a woven geotextile warning layer covered with 8-inches of topsoil.

The riverbank is highly urban in nature, and currently consists of sections of wood piles, wood retaining walls, steel pile with wood lagging, concrete capping, and stone riprap. All of the materials are generally in poor condition, and several sections are reportedly failing and are not safe for public access.

The river sediment was found to be contaminated with higher levels of metals, volatile organic compounds (VOC), and polycyclic aromatic hydrocarbons (PAH).

The Fox River in this area is heavily navigated with all types of watercraft. This area is not designated as "slow no wake". The former railroad bridge pier extends into the water immediately upstream of the project area which decreases the area of navigation. Fishing use in the area includes setline fishing ("A **setline** is a staked line equipped with no more than 25 hooks. Bank poles and setlines are passive gears that, once deployed, can fish without the angler being present." Source: http://dnr.wi.gov/fish/regulations/2008/documents/setbnkpl.pdf), some fishing from boats and limited shore fishing near the east end of the project.

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

The Fox River is designated an Area of Special Natural Resource Interest (ASNRI) due to the fishery. (ASNRI is a designation pursuant to Wis. Adm. Code NR 1. The designation impacts the availability of exemptions and general permits for activities along waterways.) The river provides habitat for many species of fish and wildlife including turtles. The river bottom in the project area is mostly soft sediment. This soft sediment may provide habitat to macroinvertebrates that are an important food source for fish and waterfowl. In the 1980's, DNR staff observed good populations of the burrowing mayfly Hexagenia hatching from the Fox River. The soft sediment in this area has the ability to support mayflies however with the contamination levels it is unknown if it occurs at this site.

The Natural Heritage Inventory identifies that the following special concern (SC), endangered (END) and threatened (THR) species are located with the project area: Pygmy Shrew (SC), Purple Milkweed (END), Wood Turtle (THR), and Blanding's Turtle (THR). The following species were also found within one mile of the project area: Lake Sturgeon (SC), Banded Killifish (SC), Striped Shiner (END), and Pugnose Minnow (SC).

Turtles utilize the soft sediment to hibernate. Both the Wood and Blanding's turtle use the Fox River however with the contaminated sediment and lack of upland habitat they are not expected to use this area.

There is very little natural vegetation along the project area. All of the site is disturbed with only limited vegetation along a portion of the shoreline. There are a few overhanging willows along this stretch of shoreline that provide some cover for fish and wildlife. The Purple Milkweed was not seen during site inspections. Due to the lack of vegetation Pygmy shrews are not expected to be a concern (Joe Henry, DNR Ecologist).

In areas along the shore where the sediment is more gravel in nature, forage fish such as minnows, darters and shiners may be found. Anecdotally, fishermen in the area have mentioned historically trapping spawning emerald

shiners and trout perch in this area.

No wetlands currently exist on the site.

13. Cultural Environment

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

The site is currently a brownfield. Defunct manufacturing facilities such as this pose environmental, legal and financial burdens on a community and its taxpayers. However, after cleanup, these sites can become a community amenity and can stimulate other economic reinvestment in the vicinity.

b. Social/Economic (including ethnic and cultural groups)

Given its current condition as a former industrial facility, the existing site is not open to the public for use. It also provides no economic benefit to the community.

c. Archaeological/Historical

No known archaeological or historical resources exist on site.

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

None

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

15. Physical and Biological (include visual if applicable)

Grading. Grading and filling of the Riverwalk site may cause erosion and siltation into the Fox River if erosion controls are not properly designed, installed, and maintained. Increased turbidity and the deposition of soil into the water adversely impacts fish, amphibians, reptiles, and aquatic invertebrates. The risk of this impact will be temporary and will cease once the site is stabilized with vegetation.

Grading to create a direct-contact prevention cap consisting of a woven geotextile warning layer covered with 8-inches of topsoil across the site will help reduce exposure to contaminants of concern on the property. These measures have been reviewed and approved by DNR Remediation and Redevelopment Staff Kathy Sylvester.

The site is required to meet pre and post construction storm water management standards for redevelopment sites pursuant to Chapter NR 151 Wis. Adm. Code and also the City of Oshkosh's ordinance. These requirements will reduce but not eliminate the impact of storm water runoff from the development into the Fox River. The storm water management practices are designed to reduce the total suspended solids load by 40% however they will not provide peak discharge controls as required for new development (NR 216 does not require peak discharge controls for redevelopment sites.).

The Riverwalk-Marion site is currently an industrialized site with a significant amount of impervious area. Reducing the impervious surface on the site will provide increased habitat for small mammals and songbirds. The proposed park includes an open lawn area with no proposed buildings. Lawn areas are often fertilized and treated with chemicals to control weeds. Over application of these chemicals can cause them to be carried with storm water into the Fox River where they can contribute to the growth of algae and aquatic plants. The chemicals used to control weeds can also adversely impact aquatic resources. The 15 foot wide reinforced concrete slab Riverwalk does not offer the benefits that a natural vegetated buffer would to reduce these impacts by allowing those plants to absorb excess nutrients. Phosphorus free fertilizers along with chemicals that are approved for use near surface waters, if used, would also reduce these impacts as well.

Blanding's turtles are not expected in the area however as a precaution, all spoil piles and disturbed areas will be required to be protected with silt fence to prevent turtles from laying eggs in the disturbed soils.

The grading is not expected to adversely impact any SC, THR, or EDR species.

Dredging. Dredging will have short and long term impacts. The short term impacts include the release of sediment and contaminants into the water column. The sediment and contaminants could be moved downstream and deposit in other areas of the River or Lake Winnebago. The suspended sediment and contaminants can adversely impact fish, amphibians, waterfowl and humans. Installation of turbidity curtains and water quality monitoring during construction will help to minimize this impact. In addition, no dredging will be permitted during spring fish spawning season or when amphibians have started to hibernate (October 1 to June 1) to limit short term impacts to these species.

Due to the high contaminant levels, removing the sediment from the River should have a positive long term impact. The increased depth will reduce disturbance of the contaminated sediment from boat traffic. In addition, any new deposition of soft sediment in areas that will not be re-dredged is expected to be "cleaner" which will provide new habitat for macroinvertebrates and turtles including Blanding's and Wood in the future.

In areas where piers are located, the soft sediment habitat will be eliminated on a more permanent nature. The action of the boats along with future maintenance dredging will prevent this habitat from redeveloping.

When dredging is complete, the newly exposed river bottom may still contain contaminants at a level that prevent use by plants and animals. Sampling of the newly exposed sediment will be required. If the contaminant levels exceed statewide and federal standards, a sand blanket will be required to cover the sediment to minimize exposure of the sediment.

The on-site dewatering of the dredge spoils if done improperly could result in the discharge of highly turbid and potentially contaminated water into the Fox River and groundwater. The dewatering activity must be monitored and sampled to ensure that the discharge does not contain high levels of PAHs. If chemical polymers are used to facilitate faster settling of suspended solids there is a risk of improper use resulting in toxicity from the polymer chemicals.

The dewatered dredged spoil material will be trucked to a licensed landfill for disposal. The dewatered spoils will be hauled in water-tight trucks. However, there is always a concern for leaking of sediment onto roadways. Dredge material that leaks out of the trucks onto the highway can cause safety hazards for driving and contaminate storm water runoff.

Dredging is not expected to adversely impact any SC, THR, or EDR species. The dredging may result in additional suitable habitat for the turtle and fish species that did not exist due to contaminated sediment.

Piers. The docks along with the moored boats will shade the bottom which limits the ability of aquatic plants to grow.

While the piers provide mooring spaces available to the public, they also restrict other users of the waterway.

Increased mooring will increase boat traffic in this immediate area. The Fox River is already heavily navigated therefore safety concerns increase with increased traffic.

The piers are not expected to adversely impact any SC, THR, or EDR species.

16. Biological (including impacts to threatened/endangered resources)
See question #15.

17. Cultural

a. Land Use (include indirect and secondary impacts)

Since this site is currently a brownfield, the development of this once private industrial facility into a public riverwalk is expected to promote public access and use of the Fox River and may further redevelopment in this area of the community. After cleanup, the site may become a community amenity to help stimulate other economic reinvestment of brownfields and industrial parcels. The riverwalk can provide pedestrian and multi-use walkways on the Fox River where previous public access did not exist.

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

The Marion riverwalk will provide additional public boat mooring space and boat access for the public. Transient slips are to be available to recreational boaters on a first-come first-serve basis. Rental slips are to be available to the public on a seasonal basis and will be managed by the marine manager. The need for additional boat access sites is not critical in this area of the Fox River however this site does provide another option for individuals in the area. The demand for renting boat slips is unknown.

c. Archaeological/Historical

There are no anticipated impacts to archaeological/historical sites.

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

None.

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

- Destruction of shallow water soft sediment habitat.
- Elimination of other public use in the locations of the piers.
- Safety concerns with increased boat traffic.

DNR EVALUATION OF PROJECT SIGNIFICANCE (complete each item)

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20. Environmental Effects and Their Significance

a. Would the proposed project or related activities substantially change the quality of the environment (physical, biological, socio-economic)? Explain.

This project will likely not have a significant impact on the biological habitat in this area. Historically manipulated, the Marion riverwalk site is an existing brownfield and habitat will possibly improve with the completion of the Marion riverwalk project.

The project is anticipated to have a significant positive impact on the economics and aesthetics of the area. It is also expected to have a positive impact on the public's ability to access the water for boating, enjoying the beauty of the river, and shore fishing.

b. Discuss the significance of short-term and long-term environmental effects of the proposed project including secondary effects; particularly to geographically scarce resources such as historic or cultural resources, scenic and recreational resources, prime agricultural lands, threatened or endangered species or ecologically sensitive areas. (The reversibility of an action affects the extent or degree of impact)

Short term, the impacts are not expected to be significant because they can be controlled through timing the project to avoid spawning fish and hibernating turtles and through the use of best management practices. It will be very important to monitor the site to ensure that the contractors are using the best management practices as set forth.

Long term, the completion of the project is likely to offset the environmental impacts from the historic industrial use of the site. By eliminating the existing impervious areas and removal of significant amounts of contaminated sediment, the proposed riverwalk project can potentially enhance public use of the site and reduce the impacts of the former land-use activities.

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

All of the impacts are likely reversible. The Fox River carries a tremendous amount of sediment so re-deposition would occur in the dredged areas returning it to a more shallow soft sediment habitat. The piers, shore protection, and riverwalk could be removed.

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.

This project is being conducted as the first phase of a multi-phase project so it is important to assess cumulative impacts. Boating safety, overcrowding and destruction of in water habitat are potential cumulative impacts. Every project is reviewed on a case by case basis however project applicants have an expectation of fairness. Project applicants often view fairness as receiving permits for the same type of work despite the differing natural conditions at every site.

Department staff intensively reviewed the single project and cumulative impacts from similar projects along the Fox River in Oshkosh. The applicant originally proposed double the number of boat slips with a configuration that extended much further into the River. Based on the impacts of this design and likely future projects, Department staff worked with the applicant to minimize the impact while meeting the project's purpose.

The construction of the Riverwalk itself along the Fox River within the City should have positive cumulative impacts. The Riverwalk will provide public access that does not currently exist and will help stimulate redevelopment in areas that have historically been industrial and may be brownfields. When people are able to enjoy the water, they often take more ownership in wanting to protect the resource now and into the future.

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?

The impacts of shore protection, dredging and motor boat use are well studied. No additional studies have been identified as needed at this time.

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.

There will be an increased potential for fuel spills and other operating malfunctions. Machinery should be checked daily for leaks and removed from the site if any leaks are detected. If a spill occurs, the WDNR and local fire department will be notified immediately.

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.

All projects are reviewed on a case by case basis; however, the permits issued to one project often set a social and political precedence. When decisions are made on such large projects that impact our natural resources, it is important to study the impacts after several years time. Learning from the impacts of past projects helps promote better decision making in the future.

The number of boat slips and the type of shore protection used for this project will set a precedent for future phases. The Department has received applications for two additional phases since receiving this application. The same requirements for not extending into the River beyond the bulkhead line and the same analysis for boat docking need and boater's safety will be used for these phases along with the future phases of the project.

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.

The project is not known to conflict with other local, state, or federal policies. The issuance of decisions by the DNR does not limit the authorities of local, federal, or other state agencies.

The City of Oshkosh Common Council adopted the "Fox River Corridor Riverwalk Plan and Design Guidelines" on January 24, 2006. There is no known local controversy and the Department has not received any comments to the

"Notice of Complete Application" published in the newspaper.

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.)

No action Alternative. The no action alternative would leave the site in its current brownfield state. This action would provide no benefit to the community, and would leave the safety hazard of the failing shore protection. Public access to the site would remain restricted.

Increased boat slips. Increasing the number of boat slips or extending the piers would increase the availability of "in water" boat mooring however greatly increases the negative impacts of the project. Additional boat slips would extend farther into the River decreasing navigational capacity, increasing safety risks, and eliminating additional shallow water habitat.

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
2004-2008	Jackson Kinney, City of Oshkosh	As part of the on going City process to redevelop the Marion Road site, numerous public City Council meetings and individual stakeholder meetings have been held regarding the project. Please contact Jackson Kinney, Director of Community Development, for more information
Ongoing	Kendall Kamke, WDNR	Fisheries Biologist, Fisheries Impacts
Ongoing	Brian Woodbury, WDNR	Wildlife Biologist, Wildlife Impacts
Ongoing	Jim Reyburn, WDNR	Water Resources Specialist, Water Quality and Sediment impacts
Ongoing	Jim Killian, WDNR	Water Resource Specialist, Sediment Impacts
Ongoing	Kathy Sylvester, WDNR	Hydrogeologist, Site contamination issues.
Ongoing	Kristy Rogers, WDNR	Aquatic Habitat Coordinator, Permit process.
Ongoing	Lee Archiquette, WDNR	Waste Management Engineer, Dredge spoil disposal
Ongoing	Joe Henry, WDNR	Regional Ecologist, Threatened and Endangered species issues.
Ongoing	Jason Higgins, WDNR	Conservation Warden, Navigational impacts
Ongoing	Jim Doperalski, WDNR	Environmental Analysis & Review Specialist, Environmental Assessment Review

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
Kristy Rogers	7/9/09

Number of responses to news release or other notice: 0

Certified to be in compliance with WEPA	
Environmental Analysis and Liaison Program Staff	Date Signed
James P. Dopenski Jr	7/9/09

NOTICE OF APPEAL RIGHTS

If you believe you have a right to challenge this decision made by the Department, you should know that Wisconsin statutes, administrative codes and case law establish time periods and requirements for reviewing Department decisions.

To seek judicial review of the Department's decision, ss. 227.52 and 227.53, Stats., establish criteria for filing a petition for judicial review. Such a petition shall be filed with the appropriate circuit court and shall be served on the Department. The petition shall name the Department of Natural Resources as the respondent.