



**Before The  
State Of Wisconsin  
DIVISION OF HEARINGS AND APPEALS**

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In the Matter of the Denial by the Department of Natural Resources of the Permit Application of Thomas Burgess to Remove Materials From the Bed of Green Bay, Town of Egg Harbor, Door County

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Case No. DNR-14-066

**NOTICE OF PUBLIC HEARING  
AND  
ORDER FOR PUBLICATION**

Thomas Burgess (applicant) filed an application with the Department of Natural Resources (DNR or Department) to remove materials from the Bed of Green Bay. The proposed project is located at 8007 Whitecliff Road, in the NW  $\frac{1}{4}$  of the SE  $\frac{1}{4}$  of Section 24, Township 30 North, Range 26 East, in the Town of Egg Harbor, Door County.

The applicant proposes to dredge out a 150 foot long, 30 foot wide channel to the eight foot water depth in addition to a 10 foot long, 12 foot wide, six foot deep flow through channel under an existing solid pier, for a total of 30,000 cubic feet of material removed.

By letter and Order dated July 9, 2014, the Department denied the application.

On August 8, 2014, the Department received a petition for a contested case hearing from Attorney Paul G. Kent, on behalf of Thomas Burgess.

On September 8, 2014, the Department granted the case hearing request with respect to the following:

1. Will the project as proposed adversely affect fish and aquatic habitat on this site?
2. Did the DNR adequately support its conclusion that there is a relationship between dredging projects and adverse impacts on fish and aquatic life?
3. Did the DNR base its findings on a statement of policy of general application that must be promulgated as a rule?
4. Did the DNR adequately support its conclusion that the project will not conform to the standards in chs. NR 102, 299, and 345, Wis. Adm. Code?
5. Did the DNR adequately support its findings that the project will adversely affect water quality and will increase water pollution?

On September 10, 2014, the Division of Hearings and Appeals received the Request for Hearing from the Department.

NOTICE IS HEREBY GIVEN that the State of Wisconsin Division of Hearings and Appeals will hold a public hearing pursuant to Wis. Stat. §§ 30.20, 227.10(1) and 227.42 commencing at **8:30 a.m. on October 23, 2014**, in the Hearing Room at the Door County Justice Center, 1201 South Duluth Avenue, Sturgeon Bay, Wisconsin.

The hearing will be a Class 1 contested case pursuant to Wis. Stat. § 227.01(3)(a) and the fair play provisions of Wis. Stat. ch. 227 will apply. The procedures relating to contested cases set forth in Wis. Admin. Code ch. NR 2 will be followed. The procedure that will be followed at the public hearing will closely resemble that normally followed at a court hearing. All parties are advised that they have the right to seek the aid and assistance of legal counsel and to be represented by legal counsel at the public hearing.

Pursuant to the Americans With Disabilities Act, reasonable accommodations will be made to any qualified individual upon request. Please call the Division of Hearings and Appeals at (608) 266-3865 with specific information on your request at least 10 days before the date of the scheduled hearing.

#### ORDER

THE DIVISION, THEREFORE, ORDERS:

That the applicant, Thomas Burgess, shall cause a copy of the foregoing Notice to be published once at least one week before the date of hearing in the "Door County Advocate", 235 North Third Avenue, P. O. Box 130, Sturgeon Bay, Wisconsin, 54235. The applicant shall furnish proof of such publication to the Division of Hearings and Appeals by **Monday, October 20, 2014**.

Dated at Madison, Wisconsin on September 15, 2014.

STATE OF WISCONSIN  
DIVISION OF HEARINGS AND APPEALS  
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By: \_\_\_\_\_

Jeffrey D. Boldt  
Administrative Law Judge