

WISCONSIN DEPARTMENT OF NATURAL RESOURCES
WETLAND GENERAL PERMIT
TO DISCHARGE DREDGED OR FILL MATERIAL INTO A WETLAND OF
THE STATE TO REPAIR RECONSTRUCT OR MAINTAIN A DAM OR
DAMS

PERMITTEE: Owners of Existing Dams in Wisconsin

PERMIT NO. WDNR-GP10-2014

ISSUING OFFICE: Waterway and Wetland Section, Bureau of Watershed Management, Wisconsin Department of Natural Resources

ISSUANCE DATE: May 23, 2014

EXPIRATION DATE: May 23, 2019

GENERAL PERMIT AUTHORIZATIONS: In compliance with the provision(s) of Section 281.36(3b)(b), Wisconsin Statutes, no person may discharge or place dredged or fill material into a wetland unless the discharge is authorized by a wetland general permit or individual permit issued by the Department of Natural Resources (Department) or the discharge is exempt under s. 281.36(4), Wis. Stats. S. 281.36(3g), Wis. Stats., authorizes the Department to issue general permits. Section 281.36 (3g)(c) Wis. Stats., authorizes any person in the State of Wisconsin to perform work in accordance with the terms and conditions of the general permit specified below after satisfying all applicable permit terms and conditions. Please refer to the following sections of this permit for the specific eligibility standards, application requirements, certification requirements and responsibilities, conditions, findings of fact, conclusions of law, and definitions required by WDNR-GP10-2014.

OTHER AUTHORIZATIONS NECESSARY: WDNR-GP10-2014 authorizations are subject to all applicable terms and conditions specified in this permit. **WDNR-GP10-2014 authorizations also are provisional and require that the project proponents obtain a dam plan approval authorized under s. 31.12 or 31.33, Wis. Stats., and any other applicable local, state, or federal permits before any work may proceed.** Work or structures in, over, or under navigable waters of the United States requires U.S. Army Corps of Engineers authorization under Section 10 of the Rivers and Harbor Act of 1899. Discharges of dredged or fill material into waters of the U.S., which include most wetlands, rivers, streams, lakes, and impoundments, require Corps authorization under Section 404 of the Clean Water Act.

PROJECT DESCRIPTION AND LOCATION: WDNR-GP10-2014 applies to a temporary or permanent discharge of dredged or fill material into wetlands where the discharge affects up to 10,000 square feet of wetlands, is not exempt under state law, is for the purpose of dam repair, reconstruction, or maintenance as described herein, and is located in the State of Wisconsin, except for proposed tribal activities located on Federal Indian Trust Lands. This general permit does not apply to FERC regulated dams.

GENERAL PERMIT COVERAGE: Unless notified by the Department to the contrary, the effective date of coverage under this general permit is 30 calendar days after a complete general permit application package has been received by the Department at the office designated in the application materials provided by the Department. **WDNR-GP10-2014 permit coverage is valid for 5 years after the date on which the discharge is considered to be authorized or until the discharge has been completed, whichever occurs first.** Thereafter permit coverage terminates unless another complete general permit application package is submitted to retain coverage under this permit or a reissued version of this permit.

State of Wisconsin Department of Natural Resources
For the Secretary



Pam Biersach – Director
Bureau of Watershed Management

May 22, 2014
Date

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WDNR-GP10-2014 TERMS AND CONDITIONS

The following sections describe the general permit authorization procedures implemented by the Department in WDNR-GP10-2014. Projects must meet all the terms and conditions of this permit to be eligible for coverage under WDNR-GP10-2014.

NOTE: The term "you" and its derivatives, as used in this general permit, means the permittee who owns the existing dam(s) and signed and submitted the complete general permit application package for coverage under the General Permit. The term "the Department" or "this office" refers to the appropriate Wisconsin Department of Natural Resources (DNR) Service Center, DNR Region or Central Office headquarters of the Wisconsin DNR having jurisdiction over the authorized activity or the appropriate official of that office acting under the authority of the Secretary of the Department.

SECTION 1: WDNR-GP10-2014 ELIGIBILITY STANDARDS FOR AUTHORIZATION

The dam project must meet all the following standards to be eligible for coverage and authorization under this general permit.

NOTE: Dam projects that do not meet all standards are not eligible for this general permit and are therefore excluded from coverage under WDNR-GP10-2014. For dam projects that do not qualify for WDNR-GP10-2014, you may apply for state waterway and wetland individual permits as outlined in s. 281.36(3m), Wisconsin Statutes. The department also is authorized under s. 281.36(3g)(i), Wis. Stats. to require an individual permit in lieu of a general permit, if the department has inspected the site and has determined that conditions specific to the site require additional restrictions on the discharge to provide reasonable assurance that no significant adverse impacts to wetland functional values will occur.

Project Description

1. The owner of the dam is the permit applicant and the dam repair, reconstruction or maintenance authorized by this permit is associated with a single and complete project.

2. The original construction of the dam was authorized by law.
3. The project proposes to fill wetland for the sole purpose of improve the safety of the dam.
4. The dam owner also either owns the land where the dam is located, holds an easement that allows the dam at its existing site, or otherwise has legal authorization to proceed.
5. The project discharge does not affect (as defined in Section 7) more than 10,000 square feet (0.23 acre) of wetland as part of a single and complete dam repair, reconstruction or maintenance project.
6. No hydro-generation facilities or recreational structures may be placed on fill authorized by this permit.
7. Dredged or fill material will not be discharged into any of the following wetland resources: Great Lakes ridge and swale complexes, interdunal wetlands, coastal plain marshes, emergent marshes containing wild rice, southern sphagnum bogs, boreal rich fens, or calcareous fens.
8. The proposed project cannot avoid wetland impacts.
9. The proposed project minimizes wetland impacts to the greatest extent practicable.
10. The discharge will cause only minimal adverse environmental effects.
11. Construction shall be accomplished in such a manner as to minimize erosion and siltation into surface waters and wetlands. All erosion control measures shall meet or exceed the Department-approved technical standards of sections NR 151.11 and 151.12, Wisconsin Administrative Code. The technical standards are found at: <http://dnr.wi.gov/topic/stormwater/>
12. No activity is authorized which is likely to jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act or State law or which is likely to destroy or adversely modify the critical habitat of a species as identified under the Federal Endangered Species Act.
13. The activity shall not result in additional significant adverse impacts to fishery spawning habitat, including obstructing fish passage, or adversely affect bird breeding areas, or substantially disrupt the movement of species that normally migrate from open water to upland or vice versa (e.g., amphibians, reptiles and mammals) as determined by the Department.
14. The activity will not result in adverse impacts to historical or cultural resources and will comply with s. 44.40, Wis. Stats., as determined by the Department.

SECTION 2: WDNR-GP10-2014 APPLICATION REQUIREMENTS FOR COVERAGE

You are required to comply with the following application requirements:

1. After you have carefully confirmed the proposed discharge of dredged or fill material into the wetland meets all the terms and conditions of this permit you must submit a *complete application package* to the DNR office designated on the application materials provided by the Department. Application materials, including an application checklist and alternatives analysis requirements can be found at <http://dnr.wi.gov/permits/water/>
2. Unless notified by the Department to the contrary, the effective date of coverage under this permit is 30 calendar days after the designated DNR office receives a complete application package.
3. The Department has one opportunity to request that you provide additional information necessary to verify compliance with the terms and conditions of this permit. If additional information is needed, the Department will notify you within 30 calendar days after receiving your application.
4. If adverse weather conditions prevent the Department from conducting an accurate on-site inspection or assessing the potential for site-specific impacts during the 30-day application period, the Department shall give notice to the applicant of this condition and shall complete the inspection as soon as weather conditions permit.
5. As provided under s. 281.36(3g)(i), Wis. Stats., the Department may determine the project is not eligible for this general permit and require the project be reviewed through the individual permit process outlined in s. 281.36(3m), Wis. Stats. If the Department determines your project is not eligible for this permit, you will be notified within 30 calendar days after your complete application package is received by the Department.
6. Your application shall be submitted on forms supplied by the Department. Details for a complete application can be found at <http://dnr.wi.gov/permits/water/> The application shall include all of the following:
 - a. A complete and signed application certifying that your project meets the terms and conditions of WDNR-GP10-2014.
 - b. Project plans that include the final project design and construction and the total acreage of the wetland impact. The total impact should show the any secondary wetland impacts separately.
 - c. Maps of the project. Information to include: most recent Soil Survey map, WI Wetland inventory map, topographic map, floodplain information and aerial photographs. All maps must show clear directions to the project site with project and property boundaries clearly labeled. The aerial photo shall also show the locations of all proposed wetland fill or discharge clearly labeled.
 - d. Current photographs that represent existing site conditions where the project will occur.
 - e. A wetland delineation report unless the Department and applicant agree that a delineation is not necessary for a given site or area impacted.
 - f. Documentation verifying that the project will not result in an adverse impact to federal or state threatened or endangered resources or cultural or historical resources.

- g. Detailed documentation that clearly demonstrates why the impact to the wetland cannot be avoided and how the impact to the wetland will be minimized as outlined in the application checklist.

SECTION 3: WDNR-GP10-2014 CERTIFICATION AND RESPONSIBILITIES

You certify and agree that upon submittal of a complete application package to DNR, the wetland project will be conducted in compliance with all the terms and conditions of WDNR-GP10-2014.

SECTION 4: WDNR-GP10-2014 GENERAL PERMIT CONDITIONS

You agree to comply with the following conditions:

1. **Application.** You shall submit a complete application package to the Department as outlined in the application materials and Section 2 of this permit. If requested, you shall furnish the Department, within a reasonable timeframe, any information the Department needs to verify compliance with the terms and conditions of this permit.
2. **Certification.** Acceptance of general permit WDNR-GP10-2014 and efforts to begin work on the activities authorized by this general permit signifies that you have certified the project meets all eligibility standards outlined in Section 1 of this permit and that you have read, understood and have agreed to follow all terms and conditions of this general permit.
3. **Reliance on Applicant's Data.** The determination by this office that confirmation of authorization is not contrary to wetland water quality standards will be based upon the information provided by the applicant and any other information required by the Department.
4. **Project Plans.** This permit does not authorize any work other than what is specifically described in the notification package and plans submitted to the Department and you certified is in compliance with the terms and conditions of WDNR-GP10-2014.
5. **Expiration.** This WDNR-GP10-2014 expires on May 23, 2019. The time limit for completing work authorized by the provisions of WDNR-GP10-2014 ends 5 years after the date on which the discharge is considered to be authorized under WDNR-GP10-2014 or until the discharge is completed, whichever occurs first.
6. **Other Permit Requirements.** You are responsible for obtaining a dam plan approval authorized under s. 31.12 or 31.33, Wis. Stats., and any other approvals required by other state agencies, local ordinances, the US Army Corps of Engineers, or any other federal agency before starting your project.
7. **Authorization Distribution.** You must supply a copy of the permit coverage authorization to every contractor working on the project.

8. **Project Start.** You shall notify the Department before starting construction.
9. **Permit Posting.** You must post a copy of this permit coverage letter at a conspicuous location on the project site before beginning the permitted activity, and keep it posted until five (5) days after the area of the permitted activity has been stabilized. You must also have a copy of the permit coverage letter and approved plan available at the project site at all times until the project is complete.
10. **Permit Compliance.** The department may modify or revoke coverage of this permit if the project is not constructed or carried out in compliance with the terms and conditions of this permit, or if the Department determines the project will be detrimental to wetland water quality standards. Any act of noncompliance with this permit constitutes a permit violation and is grounds for enforcement action. Additionally, if any applicable conditions of this permit are found to be invalid or unenforceable, authorization for all activities to which that condition applies is denied.
11. **Construction Timing.** Once wetland work commences, all wetland construction activities must be continuous until the permitted activity is completed and the site is stabilized.
12. **Construction.** No other area of the wetland may be disturbed beyond the area designated in the submitted plans.
13. **Project Completion.** Within one week of completing the regulated activity, you shall submit to the Department photographs of the activities authorized by this permit and a statement certifying the project complies with all the terms and conditions of this permit and. The statement must reference the Department-issued docket number and must be submitted to the Department staff member that authorized coverage.
14. **Proper Maintenance.** You must maintain the activity authorized by WDNR-GP10-2014 in good condition and in conformance with the terms and conditions of this permit using best management practices. Any structure or fill authorized shall be properly maintained to ensure no additional impacts to the remaining wetlands.
15. **Site Access.** Upon reasonable notice, you shall allow access to any privately owned area of the site to any Department employee who is investigating the project's construction, operation, or maintenance or its compliance with the terms and conditions of WDNR-GP10-2014 and applicable laws.
16. **Erosion and Sediment Control Practices.** The project site shall implement erosion and sediment control measures that adequately control or prevent erosion, and prevent damage to waterways and wetlands as outlined in NR 151.11(6m), Wis. Adm. Code.
17. **Invasive Species.** All project equipment shall be decontaminated for removal of invasive species prior to and after each use on the project site by utilizing other best management practices to avoid the spread invasive species as outlined in ch. NR 40, Wis. Admin. Code. For more information, go to <http://dnr.wi.gov/topic/invasives/bmp.html>.

18. **Federal and State Threatened and Endangered Species.** WDNR-GP10-2014 does not affect the Department's responsibility to insure that all authorizations comply with Section 7 of the Federal Endangered Species Act and s. 29.604, Wis. Stats., and any other applicable state laws. No DNR authorization under this permit will be granted for projects found not to comply with these Acts/laws. No activity is authorized which is likely to jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act and/or State law or which is likely to destroy or adversely modify the critical habitat of a species as identified under the Federal Endangered Species Act.
19. **Special Concern Species.** If the Wisconsin National Heritage Inventory lists a known special concern species to be present in the project area you will take reasonable action to prevent significant adverse impacts or to enhance the habitat for the species of concern.
20. **Historic Properties and Cultural Resources.** WDNR-GP10-2014 does not affect the Department's responsibility to insure that all authorizations comply with Section 106 of the National Historic Preservation Act and s. 44.40, Wis. Stats. No Department authorization under this permit will be granted for projects found not to comply with these Acts/laws. Information on the location and existence of historic resources can be obtained from the State Historic Preservation Office and the National Register of Historic Places. If cultural, archaeological, or historical resources are unearthed during activities authorized by this permit, work must be stopped immediately and the State Historic Preservation Officer must be contacted for further instruction.
21. **Preventive Measures.** Measures must be adopted to prevent potential pollutants from entering a wetland or waterbody. Construction materials and debris, including fuels, oil, and other liquid substances, will not be stored in the construction area in a manner that would allow them to enter a wetland or waterbody as a result of spillage, natural runoff, or flooding. If a spill of any potential pollutant should occur, it is your responsibility to remove such material, to minimize any contamination resulting from this spill, and to immediately notify the State Duty Officer at **1-800-943-0003**.
22. **Suitable fill material.** All fill authorized under this permit must consist of clean suitable soil material, as defined by s. NR 500.03(214), Wis. Admin. Code, free from hazardous substances as defined by s. 289.01(11), Wis. Stats., free from solid waste as defined by s. 289.01(33), Wis. Stats., and as conditioned in the dam plan approval under s. 31.12 or 31.33, Wis. Stats.
23. **Property Rights.** This permit does not convey any property rights of any sort, or any exclusive privilege. The permit does not authorize any injury or damage to private property or any invasion of personal rights, or any infringement of federal, state or local laws or regulations.
24. **Transfers.** Coverage under this permit is transferable to any person who is owner of the dam upon written approval of the transfer by the Department.

- 20. Limits of State Liability.** In authorizing work, the State Government does not assume any liability, including for the following:
- a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.
 - b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the State in the public interest.
 - c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.
 - d. Design or construction deficiencies associated with the permitted work.
 - e. Damage claims associated with any future modification, suspension, or revocation of this WDNR-GP10-2014.
- 21. Reevaluation of Decision.** The Department may suspend, modify or revoke authorization of any previously authorized activity and may take enforcement action if any of the following occurs:
- a. The applicant fails to comply with the terms and conditions of WDNR-GP10-2014.
 - b. The information provided in support of the permit application proves to have been false, incomplete, or inaccurate.
 - c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

SECTION 5: WDNR-GP10-2014 FINDINGS OF FACT

1. Pursuant to s. 281.36(3g)(d), Wis. Stats., and wetland water quality standards under s. NR 103.03, Wis. Admin. Code, the Department has determined that projects that meet the eligibility criteria and terms and conditions and are granted coverage under this general permit will cause only minimal adverse environmental impacts.
2. Pursuant to s. 281.36(3b)(b), Wis. Stats., and s. NR 299.04(1), Wis. Admin. Code, the Department has reasonable assurance that projects that meet the eligibility criteria and terms and conditions and are granted coverage under this general permit will meet all applicable water quality standards.
3. Projects that meet the eligibility criteria and terms and conditions and are granted coverage under this general permit will not injure public rights or interests, or cause environmental pollution as defined in s. 299.01(4), Wis. Stats.
4. The Department and the applicant have completed all procedural requirements, and projects that meet the eligibility criteria and terms and conditions and are granted coverage under this general permit will comply with all applicable requirements of WDNR-GP10-2014, s. 281.36(3g), Wis. Stats., and chs. NR 102, 103, 150, 299, and 310, Wis. Admin. Code.

SECTION 6: WDNR-GP10-2014 CONCLUSIONS OF LAW

1. The Department has authority under s. 281.36(3g), Wis. Stats., to issue this general permit.
2. The Department has complied with s. 1.11, Wis. Stats.

SECTION 7: WDNR-GP10-2014 DEFINITION OF TERMS

For the purposes of the general permit, you accept the following definitions:

1. **Affect** includes to cause or to result in direct impacts and secondary impacts to wetlands. Direct impacts to wetlands are temporary or permanent placement of dredged or fill material into the wetland and secondary impacts mean impacts associated with any adverse impact on wetland functions such as watershed hydrology (e.g. segmenting a wetland complex, severing a portion of the complex, reduction in flood capacity, etc.).
2. **Boreal rich fen** is a rare open peat-land community of northern Wisconsin that is associated with glacial moraines, or less commonly, outwash landforms, in which the underlying substrate includes calcareous materials.
3. **Calcareous fens** occur mostly in southern Wisconsin, on sites that are fed by carbonate-enriched groundwater and are often associated and can intergrade with more abundant and widespread wetland communities such as southern sedge meadow, wet prairie, shrub-carr, emergent marsh, and southern tamarack swamp.
4. **Coastal plain marshes** are within the sandy beds or margins of extinct glacial lakes, on level or gently sloping glacial outwash sands, and, possibly in glacial tunnel channels.
5. **Complete application package** means a completed and signed application, the information specified in Section 2 of this permit, and any other information which can reasonably be required from an applicant that the department needs to make a decision.
6. **Dams** are any artificial barrier in or across a watercourse which impound or divert water. A dam includes structures such as embankments, roadway fill, dikes, weirs, water control structures, and ditch plugs.
7. **Emergent marshes containing wild rice** are typically emergent communities that have wild rice as a component. Substrates supporting wild rice usually consist of poorly-consolidated, semi-organic sediments. Water fertility is low to moderate, and a slow current is present.
8. **Fill material** has the meaning given in 33 CFR 323.2(e), and means material placed in wetlands where the material has the effect of replacing any portion of the wetland with dry land; or changing the bottom elevation of any wetland. Examples of such fill material include, but are not limited to: rock, sand, soil, clay, plastics, construction debris, wood chips, overburden from mining or other excavation activities, and materials used to create any structure or infrastructure in a wetland. The term fill material does not include trash or garbage.
9. **Great Lakes ridge and swale complexes** are associated closely with Great Lakes shorelines and are a series of narrow sandy ridges that alternate with low swales and lie parallel to the lakeshore. The vegetation on the dry ridges can vary from open herbaceous or shrub communities on the semi-stabilized dunes closest to the shoreline, dry forests dominated by pines and oaks farther inland, and mixed mesophytic forests of northern hardwoods or hemlock hardwoods farthest from the shore

10. **Hydrogeneration facilities** are facilities that are part of a dam and include, but are not limited to, the powerhouse and the canals (races) to and from the powerhouse.
11. **Interdunal wetlands** occupy wind-created hollows that intersect the water table within active dune fields along the Great Lakes shores. They may also occur where moving sand encroaches on nearby wetlands, surrounding and isolating all or portions of them.
12. **Invasive Plants** are non-native or native plant species that invade natural plant communities and wild areas replacing desirable native vegetation. For a listing of common invasive plants found in Wisconsin visit DNR's website at <http://dnr.wi.gov/topic/Invasives/what.html>.
13. **Maintenance** of a dam is the upkeep necessary for efficient operation of dams and their appurtenance works. It involves labor and materials, but is not to be confused with alterations or repairs.
14. **Reconstruction (of dams)** is defined in s. NR 333.03(23) Wis. Admin. Code as "alteration of an existing dam in a manner which affects its hydraulic capacity or structural integrity." Reconstruction is interpreted as meaning a significant change or modification of a dam from its original configuration.
15. **Repair** is defined in s. NR 335.03 (22), Wis. Admin. Code as "work performed on a dam, including maintenance, which is required to provide proper operation or continued structural integrity of the dam and does not change the dam's hydraulic capacity."
16. **Single and complete project** means the total project proposed by the project proponent. For example, if reconstruction of a dam affects several different wetland areas, the cumulative total of all impacted areas is the basis for deciding the project's total wetland impact. For "phased" construction, each phase may constitute a single and complete project if it has independent utility and would accomplish its intended purpose whether or not the other phases were constructed.
17. **Southern sphagnum bogs** are composed of a carpet of living sphagnum moss growing over a layer of acidic peat. Sedges, forbs and/or the low shrubs of the heath family (Ericaceae) colonize the sphagnum moss mat. Sphagnum bogs that are located in the area located south of a horizontal line drawn across the state based on the routes of STH 16 and STH 21 west of Lake Winnebago and on USH 151 east of Lake Winnebago are not eligible for a General Permit.
18. **Wetland** as defined in ss. 281.01(21) and 23.32(1), Wis. Stats., means an area where water is at, near or above the land surface long enough to be capable of supporting aquatic or hydrophytic vegetation and which has soils indicative of wetland conditions.
19. **Wetland Functional Values** means the physical, chemical and biological processes or attributes that occur in a wetland and the benefits that society derives from certain functions that wetlands serve as listed in s. NR 103.03(1), Wis. Admin. Code. Wetland functional values include the following: (1) Floral Diversity; (2) Fish and Wildlife Habitat; (3) Flood Protection; (4) Water Quality Protection; (5) Shoreline Protection; (6) Groundwater Recharge and Discharge, and (7) recreational, cultural, educational, scientific and natural scenic beauty values and uses.