



Before the
State of Wisconsin
DIVISION OF HEARINGS AND APPEALS

In the Matter of Individual Permit IP-SE-2018-41-03995 Authorizing Installation of Riprap on the Banks of the Milwaukee River, in the Village of River Hills, Milwaukee County

Case No. DNR-20-0002

AMENDED NOTICE OF PREHEARING CONFERENCE & CONTESTED CASE HEARING
& ORDER FOR PUBLICATION

On April 19, 2019, the Department of Natural Resources (DNR) issued permit to Linda Wright to install riprap on the banks of the Milwaukee River in the Village of River Hills, Milwaukee County, pursuant to Wis. Stat. § 30.12(3m), specifically on her property described as being in the NW1/4 of the NE1/4 of Section 18, Township 08 North, Range 22 East. On May 16, 2019, Frederick and Anne Vogel submitted a petition for a contested case hearing to review the decision and, on June 17, 2019, the DNR denied the request for a hearing; however on remand from Milwaukee County Circuit Judge Carl Ashley, the hearing was granted on June 29, 2020. On July 14, 2020, the DNR requested that the Division of Hearings and Appeals conduct a contested case hearing based on the Petitioners' request for hearing.

At an informal conference on July 29, 2020, upon the agreement of Permittee, Petitioners, and DNR, the issue for contested case hearing was narrowed as follows:

1. Whether Permit No. IP-SE-2018-41-03995 was granted in compliance with Wis. Stat. § 30.12(3m)(2) and (3):
 - a. Whether the structure or deposit will be detrimental to the public interest;
 - b. Whether the structure or deposit will materially reduce the flood flow capacity of a stream.

NOTICE IS HEREBY GIVEN that the State of Wisconsin Division of Hearings and Appeals will hold a prehearing conference in the above captioned cases, pursuant to Wis. Stat. § 227.44, Wis. Admin. Code § NR 2.08(5), and Wis. Admin. Code § NR 2.12, **at 9:30 AM on September 11, 2020**, via Skype teleconference. The call-in number for this meeting is (608)316-9000, access code 59353583#. Any person, organization or governmental unit wishing to become a party to this proceeding must appear at the conference in person or by an authorized representative. The purpose of the prehearing conference will be to identify parties to the

proceeding, to further simplify or clarify the issues which may be contested at the hearing, identify witnesses, discuss the exchange of exhibits, address any other matters as may aid in the disposition of the action, and, if necessary, reschedule the date for the contested case hearing. No testimony will be heard at the prehearing conference.

NOTICE IS HEREBY GIVEN that the State of Wisconsin Division of Hearings and Appeals will hold a contested case hearing in the above captioned cases, pursuant to Wis. Stat. § 30.209(1m)(2), Wis. Stat. § 227.46(1), Wis. Admin. Code § Chapter NR 2, **from December 1, 2020 until December 3**, in Room 518 of the Milwaukee State Office Building, located at 819 N. 6th Street, Milwaukee, Wisconsin 53203. **The proceedings will begin at 9:00 AM.** It is expected that testimony will be heard at the contested case hearing. The contested case hearing will be a Class 1 contested case, pursuant to Wis. Stat. § 227.01(3)(a). The procedures set forth in Wis. Stat. § 30.209(1m)(2), Wis. Stat. § 227.46(1), and Wis. Admin. Code § Chapter NR 2 will be followed and those procedures will closely resemble those which are normally followed at a trial in State Circuit Court. 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.

PLEASE NOTE, that in light of the state of public health, the location of this hearing is subject to change, in that it may not be safe to convene in person, in which case the hearing will be conducted via videoconference. Members of the public interested in observing this hearing or providing comment at the conclusion of the presentation of evidence should monitor the DNR website (<https://dnr.wi.gov/Calendar/Hearings/>) for updated information about whether the hearing will convene in person or via videoconference. Even if the hearing convenes in person, occupancy will likely be limited, in which case the opportunity for interested persons to observe via video will be available.

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 prior to the date of the scheduled prehearing or hearing.

ORDER FOR PUBLICATION

THE DIVISION, THEREFORE, ORDERS:

Pursuant to Wis. Admin. Code § NR 2.08(5), Wis. Stat. § 30.209(1m)(2)(d), and Wis. Stat § 30.208(5), the DNR shall cause a copy of the foregoing Notice to be published once **at least** 30 days before the date of hearing as a Class 1 notice under Wis. Stat. Ch. 985. Additionally, the DNR shall furnish proof of publication to the Division of Hearings and Appeals prior to the date of each hearing.

Dated at Milwaukee, Wisconsin, on August 5, 2020.

STATE OF WISCONSIN
DIVISION OF HEARINGS AND APPEALS
819 North 6th Street, Room 382
Milwaukee, WI 53203-1685
Telephone: (414) 227-1867
FAX: (414) 227-3818

By:  _____
KRISTINE M. KERIG
ADMINISTRATIVE LAW JUDGE