

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

Permittee: Owners of Existing Dams in Wisconsin

Permit No. WDNR-GP10-2021

Issuing Office: Waterways and Wetlands Section, Bureau of Waterways, Wisconsin Department of Natural Resources (Department)

Issuance Date: 06/01/2021

Expiration Date: 05/31/2026

**GENERAL PERMIT AUTHORIZATIONS:** In compliance with the provision(s) of s. 281.36 (3b)(b), Wis. Stats., no person may discharge/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). The Department has authority to issue general permits under s. 281.36(3g), Wis. Stats. In compliance with s. 281.36(3b), Wis. Stats., a wetland general permit issued by the Department constitutes the water quality certification required by 33 USC 1341(a) (Clean Water Act section 401) for federal permits that authorize the discharge of dredged or fill material into wetlands regulated under 33 USC 1344(a) (Clean Water Act section 404).

Section 281.36 (3g)(c) and ch. 31, Wis. Stats., authorize 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-GP10-2021.

**Note:** WDNR GP10-2021 does not apply to proposed tribal activities located on Federal Indian Trust Land.

**Note:** Coverage under this permit authorizes the permittee to undertake specified activity/activities in compliance with the above statutes and the terms of this permit but does not authorize a permittee to undertake any activity prohibited by other applicable federal, state, or local law.

**OTHER AUTHORIZATIONS NECESSARY:** WDNR-GP10-2021 authorizations are subject to all applicable terms and conditions specified in this permit. **WDNR-GP10-2021 authorizations also are provisional and require that project proponents obtain a dam plan approval authorized under ss. 31.12 or 31.33, Wis. Stats., and any other local, state or federal permits before any work may proceed.** U.S. Army Corps of Engineers wetland permits are required for discharges to federal wetlands. U.S. Army Corps of Engineers permits are also required for any deposit or removal of material from waters of the United States.

**PROJECT DESCRIPTION AND LOCATION:** WDNR-GP10-2021 applies to certain dam repair,

reconstruction or maintenance projects that may impact a waterway and/or wetland.

The following activities are eligible for coverage under WDNR-GP10-2021:

- Sect. 1A: General eligibility conditions for the repair, reconstruction and maintenance of dams regulated under ch. 31, Wis. Stats.
- Sect. 1B: Discharges affecting up to 10,000 square feet in size, of dredged and/or fill material into wetlands in the State of Wisconsin except for proposed tribal activities located on Federal Indian Trust lands. Discharges to wetlands are regulated under s. 281.36 (3b), (3g), (3m), and (4), Wis. Stats.

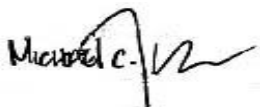
**NOTE:** Some hydroelectric dams are also subject to federal regulatory requirements administered by the Federal Energy Regulatory Commission (FERC). More information on FERC regulated dams in Wisconsin can be accessed at <https://dnr.wisconsin.gov/topic/dams/hydroElectric.html>.

Any person that intends to do any of the following activities as part of this general permit must comply with all applicable provisions therein:

- Discharge dredged or fill material to wetlands where the Department requires a permit under s. 281.36, Wis. Stats.
- Repair, reconstruct or maintain a dam where the Department requires a plan approval under ch. 31, Wis. Stats.

**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 application package has been received by the Department at the office designated in the permit application materials provided by the Department. **WDNR-GP10-2021 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.** Therefore, permit coverage terminates unless another application is submitted to retain coverage under this permit or a reissued version of this permit. If the project scope changes within the valid period of the permit coverage the department may require a new application or modify coverage if the project continues to meet all eligibility criteria.

State of Wisconsin Department of Natural Resources  
For the Secretary



---

Mike Thompson – Director  
Bureau of Waterways

05/26/2021

---

Date

## **TABLE OF CONTENTS**

			<b><u>Page(s)</u></b>
<b>SECTION</b>	<b>1</b>	ELIGIBILITY STANDARDS AUTHORIZATION	1
<b>SECTION</b>	<b>2</b>	APPLICATION REQUIREMENTS	4
<b>SECTION</b>	<b>3</b>	CERTIFICATION & RESPONSIBILITIES	6
<b>SECTION</b>	<b>4</b>	GENERAL PERMIT CONDITIONS	6
<b>SECTION</b>	<b>5</b>	FINDINGS OF FACT	10
<b>SECTION</b>	<b>6</b>	CONCLUSIONS OF LAW	10
<b>SECTION</b>	<b>7</b>	DEFINITION OF TERMS	11

### **WDNR-GP10-2021 TERMS AND CONDITIONS**

The following sections describe the general permit authorization procedures implemented by the DNR in WDNR-GP10-2021. Projects must meet all the terms and conditions of this permit to be eligible for coverage under WDNR-GP10-2021.

NOTE: The term "you" and its derivatives, as used in this general permit, means the permittee, which is the landowner. The term "the Department" or "this office" refers to the appropriate Wisconsin Department of Natural Resources (WDNR or DNR) Service Center, DNR Region or Central Office headquarters of the WDNR 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-GP10-2021 ELIGIBILITY CRITERIA**

The project must meet **all** the following standards to be eligible for coverage and authorization under this general permit. Persons proposing to do work should note that Section 281.36 (3g)(h), Wis. Stats. requires applicants to demonstrate that adverse impacts to wetlands functions and values have been avoided and minimized to the maximum extent practicable.

**Note:** Projects that do not meet all standards below are not eligible for this general permit and are therefore excluded from coverage under WDNR-GP10-2021. In these cases, persons may apply for an Individual Permit as outlined in s. 281.36(3m), Wis. Stats. The Department also has authority under s. 281.36(3g)(i), Wis. Stats. to require an individual permit in lieu of a general permit, if the Department 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.

**A. GENERAL STANDARDS APPLICABLE TO IMPACT WETLANDS TO CONDUCT DAM REPAIR, RECONSTRUCTION OR MAINTENANCE ACTIVITIES**

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 impact a waterway or wetland for the sole purpose to improve the safety of the dam.
4. The dam owner 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. No hydro-generation facilities or recreational structures may be placed on fill authorized by this permit.
6. Any repair, maintenance or reconstruction activity may not change the amount of impounded water on a permanent basis unless specifically authorized by the Department in accordance with ss. 31.02 and 31.13, Wis. Stats.
7. The maintenance, repair or reconstruction activities must be approved by a DNR water management engineer.
8. The project will not flood or impede drainage of the adjacent properties or upstream properties unless appropriate signed agreements have been made with affected landowners.
9. If the project occurs in a mapped floodplain (official Federal Emergency Management Agency (FEMA) or local zoning map adopted into the community's floodplain zoning ordinance), all federal, state, and local community floodplain standards must be met. Projects within a mapped floodplain conducted by NRCS or FWS will meet the local government's floodplain zoning standards by following the 8-step process outlined in Executive Order 11988 to identify floodplain impacts, investigate alternatives, and if no feasible alternative is available take the necessary steps to mitigate any harms caused by the project. This order can be found at <https://www.archives.gov/federal-register/codification/executive-order/11988.html>.
10. The project will not adversely impact an Area of Special Natural Resource Interest (ASNRI) or Public Rights Feature (PRF) identified pursuant to § NR 1.06(5), Wis. Adm. Code.
11. The project may not result in significant adverse impacts to the public rights and interests, or cause environmental pollution as defined in Wis. Stats. s. 299.01(4)., or result in material injury to the riparian rights of any riparian owner pursuant to Wis. Stats. s. 30.206(3r)(a)2. The project also may not cause more than minimal adverse environmental impacts,

materially interfere with navigation, or have an adverse impact on the riparian property rights of adjacent riparian owners pursuant to Wis. Stats. s. 30.206(1)(am).

12. The project is not eligible for authorization under a “Superior Special Area Management Plan (SAMP)” permit reviewed by the City of Superior, Wisconsin.
13. The project will not adversely impact any of the following wetlands: Great Lakes ridge and swale complexes, interdunal wetlands, coastal plain marshes, emergent marshes containing wild rice, southern sphagnum bogs as defined in s. 281.36(3g)(d)5m, Wis. Stats., boreal rich fens, or calcareous fens.
14. A project **is not** eligible for this general permit if it has the potential to negatively impact a cold water community as defined in s. NR 102.04(3)(a), Wis. Admin. Code.
15. 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.
16. The project shall not result in additional significant adverse impacts to fish spawning, fish spawning habitat, including obstruction of 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 (i.e. amphibians, reptiles and mammals) as determined by the Department.
17. 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.
18. 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 ss. NR 151.11 and 151.12, Wis. Admin. Code. The technical standards are found at: <http://dnr.wi.gov/topic/stormwater/>.
19. The project will not result in adverse impacts to adjacent properties, unless the affected landowners have authorized such impacts by written agreement.
20. All equipment used for the project, including but not limited to tracked vehicles, hoses, sheet piles, and pumps, shall be de-contaminated for invasive and exotic viruses and species prior to use and after use.
21. The following steps must be taken every time you move your equipment to avoid transporting invasive and exotic viruses and species. To the extent practicable, equipment and gear used on infested areas should not be used on other non-infested areas.

- a. Inspect and remove aquatic plants, animals, and mud from your equipment.
- b. Drain all water from any of your equipment that comes in contact with infested waters, including but not limited to tracked vehicles, hoses, sheet pile, and pumps.
- c. Dispose of aquatic plants and animals in the trash. Never release or transfer aquatic plants, animals, or water from one waterbody to another.
- d. Wash your equipment with hot (>104°F) or high pressure water, steam clean or allow your equipment to dry thoroughly for 5 days.

22. Wetland impact is not related to the construction of a new storm water treatment facility including but not limited to a pond, infiltration basin, or swale.

**Note:** Construction or land disturbance for a stormwater best management practice to comply with chs. NR 151 or 216, Wis. Adm. Code, may occur outside of a natural wetland so long as the practice complies with applicable standards specified in this general permit.

23. The project may not result in permanent placing or discharging fill (defined in section 7) onto more than 10,000 square feet (0.23 acre) of wetland as part of a single and complete project.

24. The project may not result in temporary placing or discharging fill onto more than 2 acres of wetland as part of a single and complete project.

25. Temporary or permanent wetland impacts will not take place in or directly or indirectly result in the conversion of sedge meadows, forested wetlands, or rare wetland community types, such as calcareous fens and those listed in s. [281.36\(3g\)\(d\)](#), Wis. Stats., into other wetland types or non-wetlands.

26. The proposed project cannot avoid wetland impacts.

27. The proposed project minimizes wetland impacts to the greatest extent practicable. Avoidance and minimization should include analysis of impacts on adjacent wetland hydrology and wetland community type.

28. Projects proposed with existing recorded deed restrictions within the project area, including easements limiting construction and land use activities, are not eligible for this general permit.

## **SECTION 2: WDNR-GP10-2021 APPLICATION REQUIREMENTS FOR COVERAGE**

You are required to comply with the following application requirements:

1. After you have carefully confirmed the proposed activity meets all the terms and conditions of this permit you must submit a *complete application package* as outlined in item 6 below to the Department. Pursuant to s. 281.36(3g)(h)1., Wis.Stats., the complete application package should be received a minimum of 30 calendar days before the desired project start date. Permit application materials can be found and submitted online 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 (s. 281.36(3g)(h)2., Wis. Stats.).
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 package. If the Department makes a request for additional information, the 30-day period is paused on the date the person applying for authorization receives the request for additional information. The clock remains paused until the date that the Department receives the information at the designated DNR office, at which point the clock resumes from the point it was initially stopped (s. 281.36(3g)(h)3., Wis. Stats.).
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 (s. 281.36 (3g)(h)2m., Wis. Stats.).
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 DNR.
6. A complete application package must include all of the following information:
  - a. Complete and Signed Application Form certifying project meets the terms and conditions of WDNR-GP10-2021. This form can be found at <http://dnr.wi.gov/permits/water>.
  - b. Permit fees  
**Note:** projects *conducted by* a federal or state agency are exempt from wetland permit fees under s. 281.36(12)(e), Wis. Stat., *only* if the project is *conducted by* a federal or state agency.
  - c. A copy of the deed or similar proof of ownership of the site where the activity will occur.
  - d. Project plans that include final project design and construction including a project diagram that shows all of the following:
    - i. The location of the completed project relative to any Ordinary High Water Mark (OHWM) or wetland boundaries with the location and size of all proposed wetland impacts (if applicable).
    - ii. The methods, materials, and equipment that will be used to carry out the project.
    - iii. The location and type of temporary and permanent silt fences or any other sediment/erosion control devices.
    - iv. Top, side, and cross section plan profiles with appropriate measurements for the proposed project.

- v. The construction schedule and sequence of work.
  - vi. For disturbance or fill, a description of type, composition, and quality of materials.
  - vii. Area impacted for projects that impact waterways, if applicable.
  - viii. The location of any disposal area for dredged or excavated materials, if applicable.
- e. Maps of the project site with information that includes: most recent Soil Survey map, WI Wetland Inventory map, topographic map, floodplain information, and aerial photographs. All maps must show basic map elements (e.g., scale) and 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, if applicable.
  - f. Current photographs that represent existing site conditions where the project will occur.
  - g. A copy of a concurred-with wetland delineation, a wetland delineation conducted by an assured wetland delineator, or a waiver by the WDNR Water Management Specialist (WMS) stating that a delineation is not needed.
  - h. Documentation verifying the project will not result in an adverse impact to federal or state threatened/endangered resources and/or cultural/historical resources.
  - i. Detailed documentation that clearly demonstrates why any proposed wetland impacts cannot be avoided, the practicable alternatives that were considered, and how the impact to the wetland will be minimized as required by s. 281.36(3g)(h)1., Wis. Stats.

### **SECTION 3: WDNR-GP10-2021 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-GP10-2021.

### **SECTION 4: WDNR-GP10-2021 GENERAL PERMIT CONDITIONS**

The applicant agrees 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, within a reasonable timeframe you shall furnish the Department any information it needs to verify compliance with the terms and conditions of this permit.
2. **Certification.** Acceptance of general permit WDNR-GP10-2021 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 agreed to follow all terms and conditions of this general permit.
3. **Reliance on Applicant's Data.** The determination by this office that a 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 WDNR.



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 is certified by you to comply with the terms and conditions of WDNR-GP10-2021
5. **Expiration.** This WDNR-GP10-2021 expires on 05/31/2026. The time limit for completing an activity authorized by the provisions of WDNR-GP10-2021 ends 5 years after the date on which the activity is considered to be authorized under WDNR-GP10-2021 or until the activity is completed, whichever occurs first, regardless of whether WDNR-GP10-2021 expired before the activity is completed.
6. **Other Permit Requirements.** You are responsible for obtaining any other permit or approval that may be required before starting your project. These include but are limited to local zoning ordinances, shoreland zoning, floodplain zoning, DNR construction site stormwater (for land disturbances greater than an acre), and requirements by the U.S. Army Corps of Engineers.
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 using the information provided on the confirmation of coverage letter you receive before starting any activity and again not more than 5 days after each activity is completed.
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. The copy of the permit coverage letter must remain posted at that location until at least five days after the area where the activity took place is stabilized. You must also keep a copy of the permit coverage letter and the 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 it is not constructed 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 waterway work below the OHWM begins, all construction activities in those waterways must be continuous until the work is completed and the site is stabilized. Once wetland work begins, all construction activities in those wetlands must be continuous to the extent practicable. During periods of inactivity in wetlands, the site must be stabilized until the work is resumed and completed.
12. **Construction.** No other area of the wetland or waterway may be disturbed except the area designated in the submitted plans.

13. **Project Completion.** Within one week after completing the regulated activity, you shall submit to the Department a statement certifying the project complies with all the terms and conditions of this permit, and photographs of the activities authorized by this permit. This statement must reference the Department-issued docket number and be submitted to the Department staff member that authorized coverage.
14. **Proper Maintenance.** You must maintain the activity authorized by WDNR-GP10-2021 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 the site to any Department employee who is investigating the project's construction, operation, maintenance or permit compliance with the terms and conditions of WDNR-GP10-2021 and applicable laws.
16. **Erosion and siltation controls.** The project site shall implement erosion and sediment control measures that adequately control or prevent erosion and prevent damage to wetlands as outlined in s. NR 151.11(6m), Wis. Admin. Code. These standards can be found at the following website: [http://dnr.wi.gov/topic/stormwater/standards/const\\_standards.html](http://dnr.wi.gov/topic/stormwater/standards/const_standards.html). Any area where topsoil is exposed during the project should be immediately seeded and mulched to stabilize disturbed areas and prevent soils from being eroded and washed into the waterway.
17. **Equipment use.** The equipment used in the wetlands must be low ground weight equipment as specified by the manufacturer specifications.
18. **Wetland protection.** You shall not store any vegetation, material, or equipment in wetlands unless authorized to do so through an approved project design. The project will be constructed in a manner that will maintain wetland hydrology in the remaining wetland complex, if applicable.
19. **Invasive Species.** All project equipment shall be decontaminated for removal of invasive species prior to and after each use on the project site by using best management practices to avoid the spread of invasive species as outlined in ch. NR 40, Wis. Adm. Code. For more information, refer to <http://dnr.wi.gov/topic/Invasives/bmp.html>. Keyword: "equipment operator" or "invasive bmp".
20. **Federal and State Threatened and Endangered Species.** WDNR-GP10-2021 does not affect the DNR's responsibility to ensure that all authorizations comply with Section 7 of the Federal Endangered Species Act, s. 29.604, Wis. Stats., and 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. Documentation options include:

- a. An ER Review Verification Form showing that the project is covered by the Broad Incidental Take Permit for no/low impact activities and therefore does not require a review.
- b. An ER Preliminary Assessment from the NHI Public Portal stating that no further actions are necessary or that further actions are recommended. The NHI Public Portal is located here: <http://dnr.wi.gov/topic/erreview/publicportal.html>.
- c. If the ER Preliminary Assessment from the NHI Public Portal shows that “Further actions are required” then submit one of the following:
  - i. A DNR ER Review letter. This request form for an ER Review letter is located here: <http://dnr.wi.gov/topic/erreview/review.html>.
  - ii. A Certified ER Review letter. The list of Certified Reviewers is located here: <http://dnr.wi.gov/topic/ERReview/Documents/CertifiedReviewers.pdf>.

21. **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.

22. **Historic Properties and Cultural Resources.** WDNR-GP10-2021 does not affect the DNR’s responsibility to ensure that all authorizations comply with Section 106 of the National Historic Preservation Act and s. 44.40, Wis. Stats. No DNR 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.

23. **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 the responsibility of the permittee 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**.

24. **Suitable fill material.** All fill authorized under this permit must consist of clean suitable soil, as defined by s. NR 500.03(214), Wis. Admin. Code, free from hazardous substances as defined by s. 289.01(11), Wis. Stats., and free from solid waste as defined by s. 289.01(33), Wis. Stats.

25. **Standard for Coverage.** Wetland impacts from the project will cause only minimal adverse environmental impacts as determined by the Department.

26. **Transfers.** Coverage under this permit is transferable to any person upon prior written approval of the transfer by the Department.

27. **Reevaluation of Decision.** The Department may suspend, modify or revoke authorization of

any previously authorized activity and may take enforcement action if the following occur:

- a. The applicant fails to comply with the terms and conditions of WDNR-GP10-2021.
- b. The information provided by the applicant in support of the permit application proves to have been false, incomplete, or inaccurate.
- c. Significant new information surfaces which the Department did not consider in reaching the original public interest decision.

## **SECTION 5: WDNR-GP10-2021 FINDINGS OF FACT**

1. The Department has determined that projects that meet the eligibility criteria and conditions and are granted coverage under this general permit will cause only minimal adverse environmental impacts and will not have an adverse impact on the riparian property rights of adjacent riparian owners pursuant to s. 30.206(1)(am), Wis. Stats., nor result in significant adverse impacts to the public rights and interest, cause environmental pollution as defined in s. 299.01(4), or result in material injury to the riparian rights of any riparian owner pursuant to s. 30.206(3r)(a)2., Wis. Stats.
2. Pursuant to s. NR 299.04(1), Wis. Adm. Code, the Department has reasonable assurance that projects that meet the eligibility criteria and conditions and are granted coverage under this general permit will meet all applicable water quality standards.
3. The Department has determined pursuant to wetland water quality standards under s. NR 103.03, Wis. Adm. Code, and s. 281.36(3g)(d), Wis. Stats., that projects that meet the eligibility criteria and conditions and are granted coverage under this general permit will only result in minimal adverse environmental effects.
4. For wetland impacts authorized under this general permit, the Department has determined that projects that meet all eligibility criteria, for which all information required in Section 2 has been submitted, and for which the Department has not required a wetland individual permit pursuant to s. 281.36(3g)(i), Wis. Stats., have adequately avoided and minimized wetland impacts to the greatest extent practicable and will result in minimal adverse environmental impacts. This finding is based on the information submitted in Section 2 and the fact that the project scope is confined to the project area, which is limited to the minimum area needed to place, replace, or maintain the project.
5. Projects that meet the eligibility criteria 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.
6. The Department and the applicant have completed all procedural requirements, and projects that meet the eligibility criteria and conditions and are granted coverage under this general permit will comply with all applicable requirements of WDNR-GP10-2021, s. 281.36(3g), Wis. Stats., and chs. NR 102, 103, 150, 299, and 310, Wis. Adm. Code.

## **SECTION 6: WDNR-GP10-2021 CONCLUSIONS OF LAW**

1. The Department has authority under s. 281.36, Wis. Stats., to issue this general permit.
2. The Department has determined that issuance of this general permit is a prior compliance action under s. NR 150.20(3)(b), Wis. Admin. Code, based on the Environmental Analysis and Environmental Impact Statements prepared previously for statewide general permits. The Department has determined that on that basis we have complied with ch. NR 105, Wis. Admin. Code, and s. 1.11, Wis. Stats.

## **SECTION 7: WDNR-GP10-2021 DEFINITION OF TERMS**

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

1. Affect includes 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 a complex, reduction in flood capacity, etc.).
2. Area of special natural resource interest for purposes of this permit means only the following areas listed in s. 30.01 (1am), Wis. Stats., and identified by the department in s. NR 1.05, Wis. Admin. Code:
  - a. A state natural area designated or dedicated under ss. 23.27 to 23.29, Wis. Stats., and shown on a map published on the Department's Internet site.
  - b. A surface water identified as a trout stream by the Department in s. NR 1.02(7), Wis. Admin. Code, and shown on a map published on the Department's Internet site.
  - c. A surface water identified as an outstanding or exceptional resource water under s. 281.15, Wis. Stats., and shown on a map published on the Department's Internet site.
  - d. A body of water designated as a wild rice water under a written agreement between the Department and the Great Lakes Indian Fish and Wildlife Commission and shown on a map published on the Department's Internet site.
  - e. A body of water in a wetland along Lake Michigan or Lake Superior that the Department has identified as an ecologically significant coastal wetland and shown on a map published on the Department's Internet site.
  - f. A river that is included in the national wild and scenic rivers system or designated as a wild river under s. 30.26, Wis. Stats., and shown on a map published on the Department's Internet site.
  - g. The portion of a body of water that contains a sensitive area and shown on a map published on the Department's Internet site.
  - h. A unique and significant wetland specified by the Department in a special wetland inventory study or a special area management plan and shown on a map published on the Department's Internet site.

3. Boreal rich fens are a rare open peatland community of northern Wisconsin that are associated with glacial moraines, or less commonly, outwash landforms, in which the underlying substrate includes calcareous materials.
4. 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.
5. Coastal plain marshes are typically within the sandy beds or margins of extinct glacial lakes, on level or gently sloping glacial outwash sands, and, possibly in glacial tunnel channels.
6. 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.
7. 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.
8. Department means the Wisconsin Department of Natural Resources or WDNR.
9. Emergent marshes containing wild rice are typically emergent aquatic 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.
10. Fill material has the meaning given in 33 CFR 323.2(e), and means material placed wetlands where the material has the effect of replacing any portion of a 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.
11. Floodplain has the meaning in ch. NR 116, Wis. Admin. Code, which means the land which has been or may be hereafter covered by flood water during the regional flood. Note: <http://dnr.wi.gov/topic/floodplains/ordinances.html>.
12. Great Lakes ridge and swale complexes are associated closely with Great Lakes shorelines and are a series of narrow sandy ridges alternate with low swales, 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.

13. 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.
14. 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.
15. 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/invasives/plants.asp>.
16. Impact to wetlands includes temporary or permanent conversion of a wetland.
17. 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.
18. Reconstruction (of dams) is defined in s. NR 333.03(22), Wis. Admin. Code, as "alteration of an existing dam in a manner which affects its hydraulic capacity or structural integrity." Reconstructed is interpreted as meaning a significant change or modification of a dam from its original configuration.
19. 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."
20. Single and complete project means the total project proposed by the project proponent. For example, if construction of a residential development 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" developments, each phase may constitute a single and complete project if it has independent utility and would accomplish its intended purpose whether or not other phases were constructed.
21. Southern sphagnum bogs are 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. They are typically 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.
22. Wetland has the meaning in s. 23.32, Wis. Stats., and 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.
23. Wetland Functional Values means the physical, chemical and biological process or attributes that occur in a wetland and the benefit society derives from certain functions as listed in s. NR 103.03(1), Wis. Admin. Code, and 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) Aesthetics, Recreation, Education and Science.