

Addendum #8
Project #2767
Brown County Port Development Project
Port & Resource Recovery
October 7, 2025

Request for Alternative Technical Concepts
See original specification packet for addresses

THIS ADDENDUM IS ISSUED TO MODIFY, EXPLAIN OR CORRECT THE ORIGINAL DRAWINGS AND SPECIFICATIONS AND IS HEREBY MADE PART OF THE CONTRACT DOCUMENTS. THIS ADDENDUM MUST BE ACKNOWLEDGED ON THE ADDENDUM RECEIPT SCHEDULE, WHICH WAS INCLUDED IN THE ORIGINAL DOCUMENT PACKAGE.

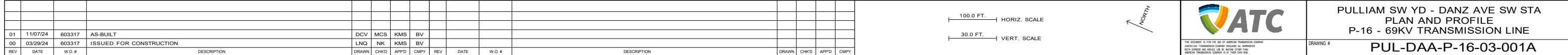
Vendors are required to read entire addendum to determine requirements affecting their contract.

Addendum #8

This addendum is for the following:

- To attach information for the “Existing ATC Tower Line Height Information”
- To attach information for existing permits from WDNR and USACE

RATC DUE DATE
10/9/25 BY 3:00 P.M. CST





DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, ST. PAUL DISTRICT
332 MINNESOTA STREET, SUITE E1500
ST. PAUL, MN 55101-1323

APRIL 29, 2024

Regulatory File No. MVP-2021-01169-RJH

Dean Haen
Brown County Port & Resource Recovery
PO BOX 23600
Green Bay, WI 54305-3600

Dear Dean Haen:

Enclosed is the validated copy of the Department of the Army permit authorizing you to permanently discharge fill material into 10.93 acres of Lake Michigan/Green Bay. The project also includes dredging from 8.34 acres of the Fox River (Section 10 water). Please be advised that the authorization hereby granted is contingent on the permittee's compliance with all conditions stated in the permit and its attachments.

This Federal permit does not obviate the need to obtain any other Federal, state or local authorizations required by law.

If you have any questions, please contact Ryan Huber in our Green Bay office at (651) 290-5859 or Ryan.J.Huber@usace.army.mil. In any correspondence or inquiries, please refer to the Regulatory file number shown above.

Sincerely,

A handwritten signature in black ink, appearing to read "JS", is located below the "Sincerely," text.

Joseph Shoemaker
Chief, East Branch

Enclosure(s)

cc:
Crystal von Holdt, WDNR
Kyle Bretl, GEI

DEPARTMENT OF THE ARMY PERMIT

Permittee Brown County Port & Resource Recovery- Dean Haen
Permit No. MVP-2021-01169-RJH

Issuing Office St. Paul District
U.S. Army Corps of Engineers

NOTE: The term "you" and its derivatives, as used in this permit, means the permittee or any future transferee. The term "this office" refers to the appropriate district or division office of the Corps of Engineers having jurisdiction over the permitted activity or the appropriate official of that office acting under the authority of the commanding officer.

You are authorized to perform work in accordance with the terms and conditions specified below.

Project Description:

You are authorized to discharge fill material into 10.93 acres of Lake Michigan/Green Bay and dredge material from 8.34 acres of the Fox River (Section 10 water). The authorized work area is shown on the attached drawings labeled MVP-2021-01169-RJH Page 1 or 3 through Page 3 of 3.

It has also been determined that the activities authorized do not impair the usefulness of the USACE Navigation project and is not injurious to the public interest provided you adhere to the standard conditions from Appendix K to Engineer Circular 1165-2-220 (September 10, 2018) (see attached Appendix K)

Project Location:

The project site is in Sections 24, Township 24 North, Range 20 East, Brown County, Wisconsin. The approximate coordinates are Latitude 44.539201 Longitude -88.007977

Permit Conditions:

General Conditions:

1. The time limit for completing the work authorized ends on December 31, 2027 .If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least one month before the date is reached.
2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.
3. If you discover any previously unknown historic or archaeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of

what you have found. We will initiate the Federal and state coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

4. If you sell the property associated with this permit, you must obtain the signature of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.
5. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit. For your convenience, a copy of the certification is attached if it contains such conditions.
6. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.

Special Conditions:

1. The following special condition is a part of all Corps of Engineers permits that provide authorization under Section 10 of the Rivers and Harbors Act, regardless whether the permit provides such authorization under Section 10 alone, or in combination with authorization under other laws:
 - a. You understand and agree that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

Further Information:

1. Congressional Authorities: You have been authorized to undertake the activity described above pursuant to:

☒ (X) Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).

☒ (X) Section 404 of the Clean Water Act (33 U.S.C. 1344).

☐ () Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413).

2. Limits of this authorization.

- a. This permit does not obviate the need to obtain other Federal, state, or local authorizations required by law.
- b. This permit does not grant any property rights or exclusive privileges.
- c. This permit does not authorize any injury to the property or rights of others.

- d. This permit does not authorize interference with any existing or proposed Federal project.

3. Limits of Federal Liability. In issuing this permit, the Federal Government does not assume any liability 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 United States 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 permit.

4. Reliance on Applicant's Data: The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.


5. Reevaluation of Permit Decision. This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:

- a. You fail to comply with the terms and conditions of this permit.
- b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (See 4 above).
- c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you to comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measures ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

6. Extensions. General condition 1 establishes a time limit for the completion of the activity authorized by this permit. Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the Corps will normally give favorable consideration to a request for an extension of this time limit.

Your signature below, as permittee, indicates that you accept and agree to comply with the terms and conditions of this permit.



(PERMITTEE SIGNATURE)


4-29-24

(DATE)

Dean R. Hren

(PERMITTEE PRINTED OR TYPED NAME)

This permit becomes effective when the Federal official, designated to act for the Secretary of the Army, has signed below.



Joseph Shoemaker
Chief, WI East Branch

2 MAY 2024

(DATE)

for:

Eric R. Swenson
Colonel, Corps of Engineers
District Engineer

When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.

(TRANSFEREE SIGNATURE)

(DATE)

(TRANSFEREE PRINTED OR TYPED NAME)

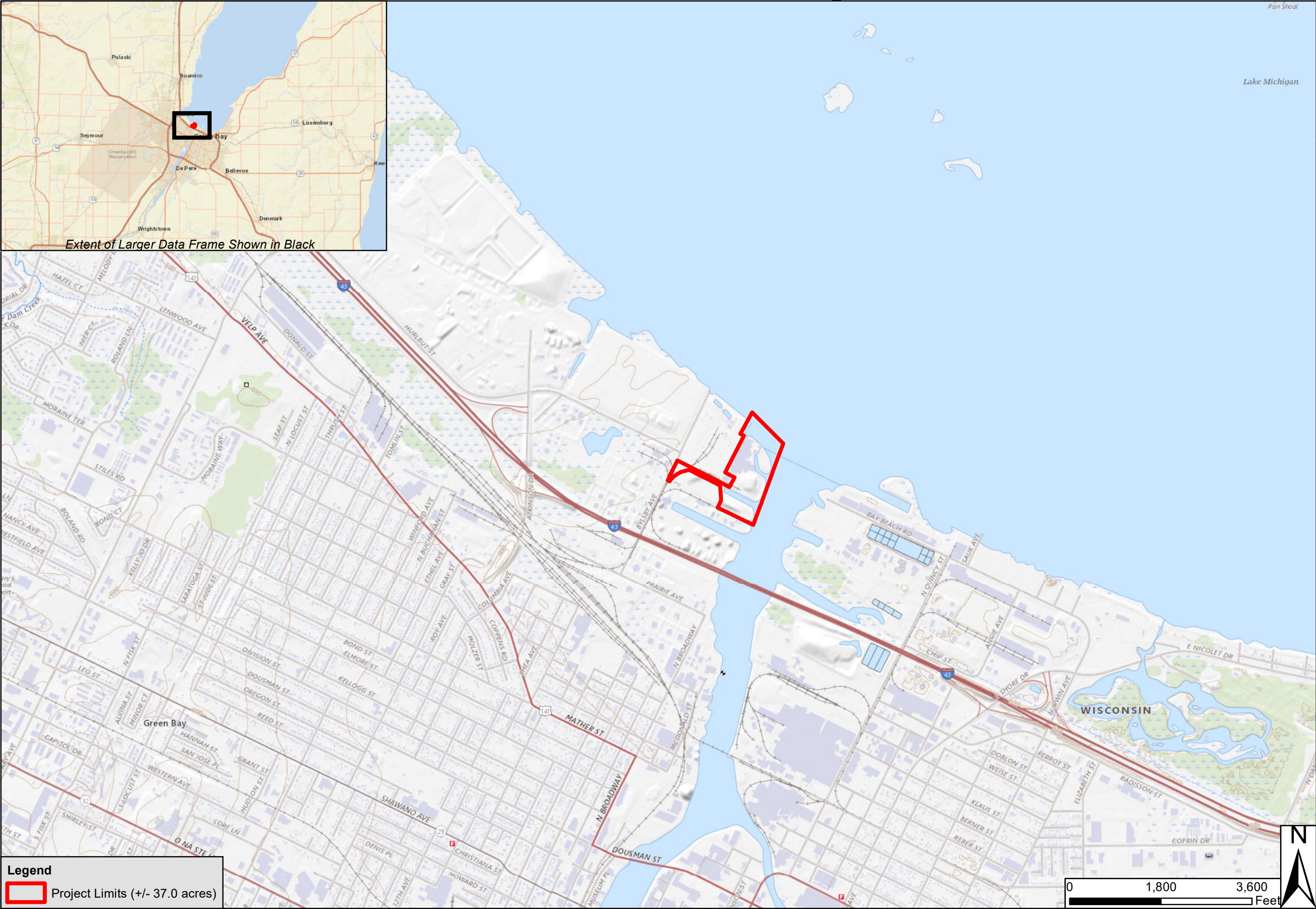




FIGURE 5
WETLAND DELINEATION MAP
BROWN COUNTY PORT & RESOURCE RECOVERY
PORT OF GREEN BAY SITE DEVELOPMENT PROJECT
CITY OF GREEN BAY
BROWN COUNTY, WISCONSIN

Drawn: KTB 8/25/2023
Approved: KJU 8/25/2023
Scale: As Shown
Project Number: 2201593
Page 1 of 1

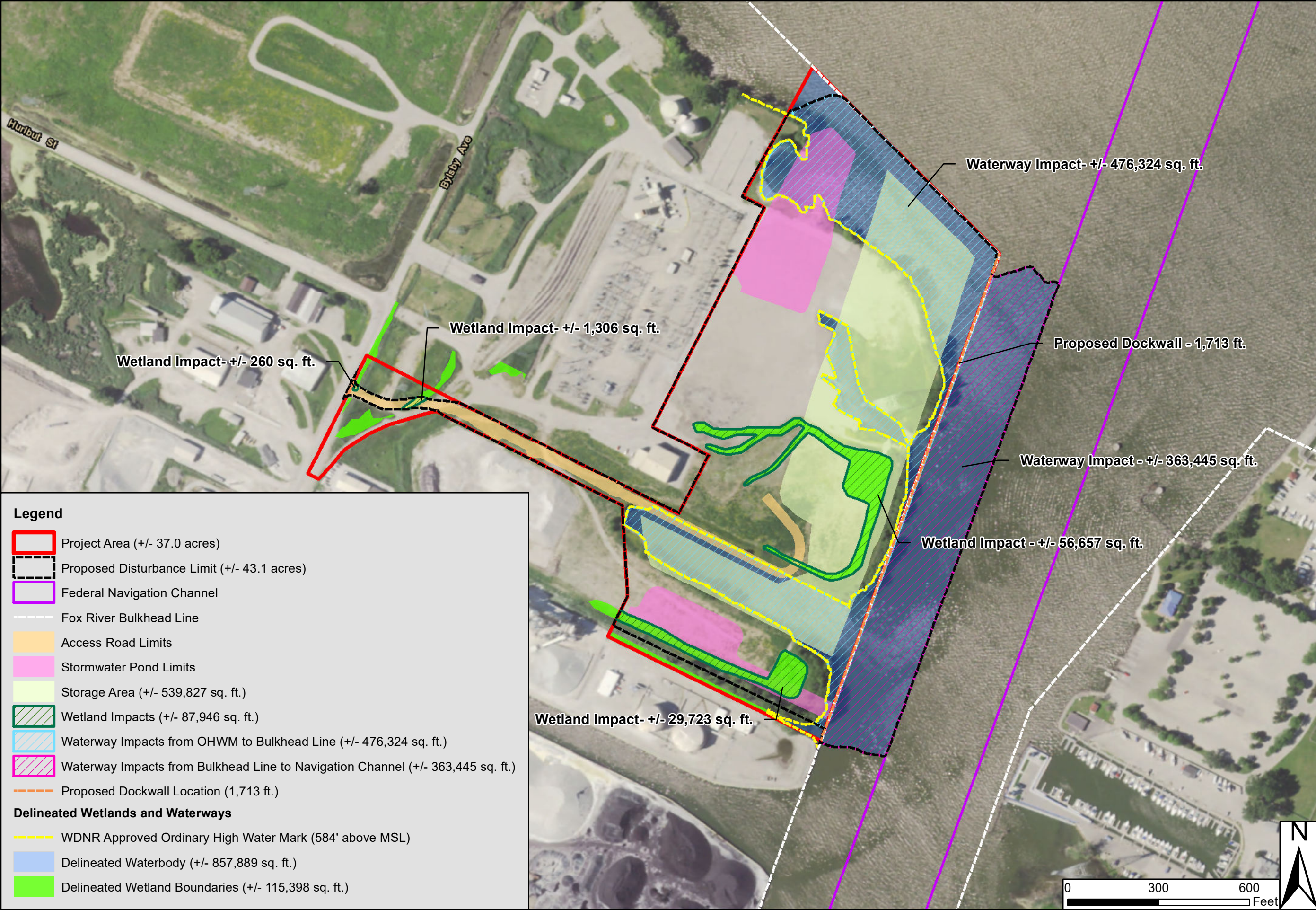
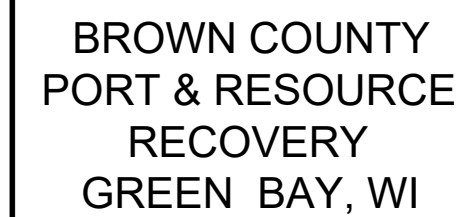


FIGURE 9
WATERWAY AND WETLAND IMPACT MAP
BROWN COUNTY PORT & RESOURCE RECOVERY
PORT OF GREEN BAY SITE DEVELOPMENT PROJECT
CITY OF GREEN BAY
BROWN COUNTY, WISCONSIN



**PORT PROPERTY
DEVELOPMENT**

DRAFT

P.E. No.:

Approved:

Checked:	GMM
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<i>Drawn:</i>	INR
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<i>Designed:</i>	INR
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GEI Project	2201593
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Attention:

0 1"

If this scale bar does not measure 1
then drawing is not original scale.

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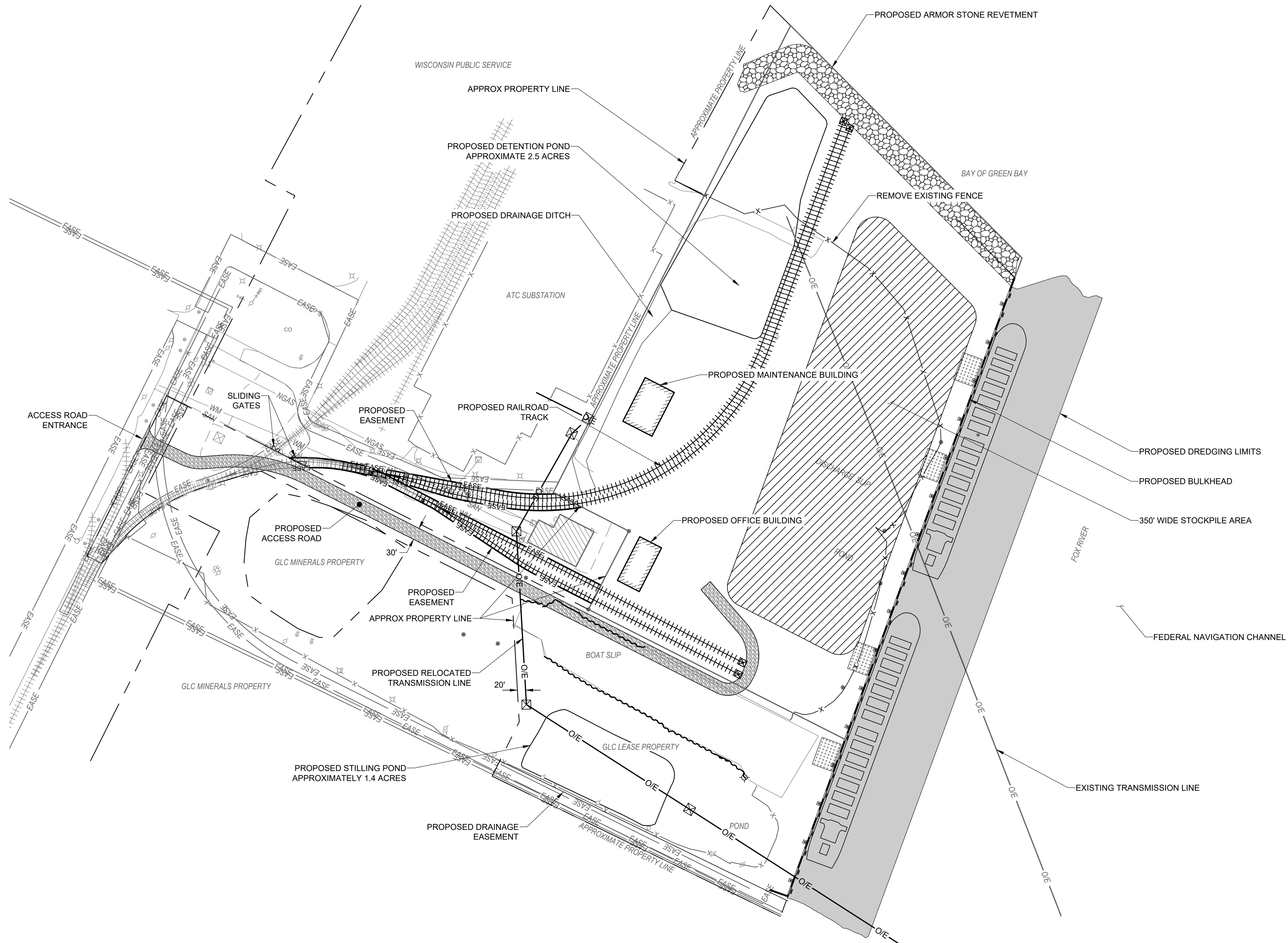
0	6/16/2023	ISSUE FOR PERMIT	M
NO.	DATE	ISSUE/REVISION	A

SHEET NAME

PROPOSED SITE PLAN

SHEET NO.

C-110

**FIGURE 10**

FOR PERMIT

State of Wisconsin
DEPARTMENT OF NATURAL RESOURCES
2984 Shawano Ave.
Green Bay, WI, 54313

Tony Evers, Governor
Adam N. Payne, Secretary
Telephone 608-266-2621
Toll Free 1-888-936-7463
TTY Access via relay - 711



February 2, 2024

IP-NE-2023-5-02988

Brown County Port & Resource Recovery
Attn: Mark Walter
2561 S Broadway
Green Bay, WI 54304
[sent electronically]

RE: Water Quality Certification for discharges within an established bulkhead area on the west bank of the Fox River in the City of Green Bay, Brown County

Dear Mr. Walter:

The Department of Natural Resources has completed its review of your application for state *Water Quality Certification* (WQC) to discharge materials to a water of the state, the Fox River, in the City of Green Bay, Brown County. Enclosed is a State WQC which certifies the discharges from the proposed activities will comply with water quality requirements and lists the conditions which must be followed. Please read your certification carefully so that you are fully aware of what is expected of you.

As a condition of the State's Water Quality Certification, state law requires that you:

1. Publish the attached as a Class 1 Notice, at your expense, in the **Green Bay Press Gazette**, 435 E. Walnut St, PO Box 23430, Green Bay WI 54305-3430, Email: legals@greenbaypressgazette.com, Phone (877) 943-0446, Fax (877) 943-0443.
2. Please obtain and send to me, the affidavit from the newspaper providing proof that the notice has been published.

Please note, this **Water Quality Certification decision becomes final 30 days after the date of publication**, unless an objection is filed, and a hearing is requested. We will contact you only if a hearing is requested.

If you have any questions about your certification, please call me at (920) 410-3181 or email me at Crystal.VonHoldt@wisconsin.gov.

Sincerely,

Crystal Von Holdt
Water Management Specialist

Email CC:

Ryan Huber, U.S. ACOE
Jon LeRoy, City of Green Bay Zoning Adm.
Gaven Brault, DNR Conservation Warden
Kate Angel, WI Coastal Management Program
Connie Antonuk, DNR Field Integration Leader

Kyle Bretl, GEI
Jim Killian, DNR Water Resources
Tauren Beggs, DNR R&R Program
Sarah Anderson, DNR Stormwater Specialist

Notice of Water Quality Certification (Docket #IP-NE-2023-5-02988)

Mark Walter, on behalf of Brown County Port & Resource Recovery, has filed an application with the Wisconsin Department of Natural Resources for water quality certification under Section 401 of the Federal Clean Water Act, Section 281.15, 283, 401 CWA, Wisconsin Statutes.

The project is located in the SW of the NW of Section 19, Township 24 North, Range 21 E, in the City of Green Bay, Brown County. The project consists of filling between the existing edge of water (the natural shoreline) and the established surveyed bulkhead line where coastal revetment will be constructed on the lakeshore (north property boundary) and a dock wall (seawall) constructed on the riverbank (east property boundary). Both shoreline structures (revetment and dock wall) will be entirely within the bulkhead line. The newly filled riverbed and lakebed area will be raised and graded to match the proposed raised site elevation across the project area. All work for filling and grading will be conducted within contained construction site by means of turbidity barriers or sheet piling structures to contain the construction impacts. The overall project is for redevelopment and improvement of the site to be used for Port operations. This redevelopment project will result in discharges to a water of the state, the Fox River. There is an existing and established bulkhead line along the Fox River at the project location.

The Department has evaluated this proposal and determined that this activity will meet the standards found in Section NR 299.04, Wis. Admin. Code, and certification is granted.

If you would like to know more about this project, contact Crystal Von Holdt, in writing at 2984 Shawano Ave., Green Bay WI 54313, by email at Crystal.vonHoldt@wisconsin.gov, or by phone at (920) 410-3181. Reasonable accommodation, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request.

The following conditions are part of the certification:

1. You must notify Crystal vonHoldt at phone (920) 410-3181 or email Crystal.VonHoldt@wisconsin.gov before starting construction and again not more than 5 days after the project is complete.
2. The applicant shall allow the Wisconsin Department of Natural Resources reasonable entry and access to the discharge site to inspect the discharge for compliance with the certification and applicable laws.
3. Authorization hereby granted by the Department is not transferable.
4. **This approval is valid for 3 years from the date the Water Quality Certification authorization becomes final.** If you will not complete the project by this date, you must submit a written request for an extension prior to expiration of the initial time limit specified in the certification. Your request must identify the requested extension date. The Department shall extend the time limit for no longer than an additional 3 years if you request the extension before the initial time limit expires. You may not begin or continue construction after the original certification expiration date unless the Department extends the certification in writing or grants a new certification.
5. This certification does not authorize any work other than what you **specifically describe in your application and plans, and as modified by the conditions** of this certification. If you wish to alter the project or certification conditions, you must first obtain written approval of the Department.
6. Before you start your project, **you must first obtain any permit or approval that may be required for your project** by local zoning ordinances and by the U.S. Army Corps of Engineers. You are responsible for contacting these local and federal authorities to determine if they require permits or approvals for your

project. These local and federal authorities are responsible for determining if your project complies with their requirements.

7. An after-construction survey of the edge of fill and a survey of the historically established bulkhead line are to be completed and submitted to the Department to document all fill has remained within the established bulkhead and does not extend outside of this bulkhead boundary.
8. All company(s) performing the proposed work must include design provisions requiring that spudding, barging, prop-wash, and dredging activities must stay at least 25-feet from all established engineered caps. This 25-feet is a requirement unless the company(s) can document that they have the capabilities for position control of plus or minus less feet instead. Regardless of which offset the companies propose, the companies must describe the location control and monitoring QA and QC capabilities in detail. This information is to be submitted to DNR's Water Resources Management Specialist, Jim Killian, as your main contact regarding the responsibility to monitor and maintain the established engineered caps at this location. Jim can be reached at James.Killian@wisconsin.gov or by phone at 608-445-4724.
9. The Department may modify or revoke this certification for good cause, including if the project is not completed according to the terms of the certification or if the Department determines the activity is detrimental to the public interest.
10. **You must post a copy of this certification at a conspicuous location on the project site**, visible from the waterway, for at least five days prior to construction, and remaining at least five days after construction. You must also have a copy of the certification and approved plan available at the project site at all times until the project is complete.
11. Your acceptance of this certification and efforts to begin work on this project signify that you have **read, understood, and agreed** to follow all conditions of this certification.
12. **You must submit a series of photographs to the Department, within one week of completing work on the site.** The photographs must be taken from different vantage points and depict all work authorized by this certification.
13. You, your agent, and any involved contractors or consultants may be considered a party to the violation pursuant to Section 30.292, Wis. Stats., for any violations of Ch 30, Wis. Stats., or this certification.
14. Construction shall be accomplished in such a manner as to minimize erosion and siltation into surface waters. Erosion control measures (such as silt fence and straw bales) must meet or exceed the technical standards of ch. NR 151, Wis. Adm. Code. The technical standards are found at: http://dnr.wi.gov/topic/stormwater/standards/const_standards.html.
15. All equipment used for the project including but not limited to tracked vehicles, barges, boats, hoses, sheet pile, and pumps shall be de-contaminated for invasive and exotic viruses and species prior to use and after use. 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 waters shall not be used on other non-infested waters.
 - a. Inspect and remove aquatic plants, animals, and mud from your equipment.
 - b. Drain all water from your equipment that comes in contact with infested waters, including but not limited to tracked vehicles, barges, boats, hoses, sheet pile, and pumps.
 - c. Dispose of aquatic plants, animals in the trash. Never release or transfer aquatic plants, animals, or water from one waterbody to another.

- d. Wash your equipment with hot (>140° F) and/or high-pressure water, - **OR** - Allow your equipment to dry thoroughly for 5 days.
16. To minimize adverse impacts on sensitive fish movement, fish spawning, and egg incubation periods, in-water disturbances are not to be conducted annually between March 1st or ice-out (whichever is earliest) and June 15th to protect various spring spawning species. Additionally, in-water disturbances are not to be conducted annually between October 15th and November 30th to protect fall spawning migration of lake whitefish in the Fox River. During this period, the placement of material may not occur unless a waiver has been obtained from the DNR.
17. A plan will need to be submitted to the DNR's Remediation and Redevelopment (R&R) Program (Attn: Tauren Beggs) and approval obtained **prior to work** starting for contaminated dredge materials management and disturbance of engineered caps associated with the Fox River NRDA/PCB Releases OU2-5 (ALT SF) case, BRRTS # 02-45-582407. Additional information and clarification (including engineering design) will need to be provided as part of that plan to ensure that the proposed disturbance of and/or filling on top of the engineered caps and the management of contaminated dredge materials will be protective of public health and the environment.
 - a. Tauren Beggs can be reached at Tauren.Beggs@wisconsin.gov or by phone at 920-510-3472.
18. Appropriate erosion and water quality control measures for in-water work must be in place and effective during the project and at the end of each workday.
19. You must supply a copy of this permit to every contractor associated with this project.

FINDINGS OF FACT

1. Mark Walter on behalf of Brown County Port & Resource Recovery has filed an application for a certification to discharge materials to a water of the state, the Fox River, in the City of Green Bay, Brown County, also described as being in the SW of the NW of Section 19, Township 24 North, Range 21 East.
2. The proposed project includes dredging along the proposed dock wall to a depth that will allow vessels to access and dock along the site from the navigational channel with a proposal to remove 184,500 cubic yards of material. Some of the material will be transported to Bayport CDF and appropriate materials staying on site for reuse. The project proposes the construction of a stormwater management pond within 500ft of the riverbank. Additionally, the project is applying for state Water Quality Certification (WQC) for authorization of in-water impacts proposed within the established bulkhead line. The WQC will review for impacts from the proposed new dock wall construction along the riverbank and the placement of riprap along the shoreline on the lake. The overall project is for redevelopment and improvement of the site to be used for Port operations.
3. The Department has reviewed the proposed activity and certifies that the discharge from the proposed project will comply with water quality requirements.
4. The Department has completed an investigation of the project site and has evaluated the project as described in the application and plans.
5. The Fox River is a navigable water with an established bulkhead at the project site along the west bank of the Fox River and shoreline of the Lower Bay.

6. The proposed project, if constructed in accordance with this certification will not adversely affect water quality, will not increase water pollution in surface waters and will not cause environmental pollution as defined in s. 283.01(6m), Wis. Stats.
7. The proposed project will not impact wetlands if constructed in accordance with this certification.
8. The Department of Natural Resources has determined that the agency's review of the proposed project constitutes an equivalent analysis action under s. NR 150.20(2), Wis. Adm. Code. The Department has considered the impacts on the human environment, alternatives to the proposed projects and has provided opportunities for public disclosure and comment. The Department has completed all procedural requirements of s. 1.11(2)(c), Wis. Stats., and NR 150, Wis. Adm. Code for this project.

CONCLUSIONS OF LAW

1. The Department has authority under the above indicated Statutes and Administrative Codes, to issue a permit for the construction and maintenance of this project.
2. The Department has complied with s. 1.11, Wis. Stats.

NOTICE OF APPEAL RIGHTS

If you believe that you have a right to challenge this decision, you should know that the Wisconsin statutes and administrative rules establish time periods within which requests to review Department decisions shall be filed. For judicial review of a decision pursuant to sections 227.52 and 227.53, Wis. Stats., you have 30 days after the decision is mailed, or otherwise served by the Department, to file your petition with the appropriate circuit court and serve the petition on the Department. Such a petition for judicial review shall name the Department of Natural Resources as the respondent.

To request a contested case hearing of any individual permit decision pursuant to section 30.209, Wis. Stats., you have 30 days after the decision is mailed, or otherwise served by the Department, to serve a petition for hearing on the Secretary of the Department of Natural Resources, P.O. Box 7921, Madison, WI, 53707-7921. The petition shall be in writing, shall be dated and signed by the petitioner, and shall include as an attachment a copy of the decision for which administrative review is sought. If you are not the applicant, you must simultaneously provide a copy of the petition to the applicant. If you wish to request a stay of the project, you must provide information, as outlined below, to show that a stay is necessary to prevent significant adverse impacts or irreversible harm to the environment. If you are not the permit applicant, you must provide a copy of the petition to the permit applicant at the same time that you serve the petition on the Department.

The filing of a request for a contested case hearing is not a prerequisite for judicial review and does not extend the 30-day period for filing a petition for judicial review.

A request for contested case hearing must meet the requirements of section 30.209, Wis. Stats., and sections NR 2.03, 2.05, and 310.18, Wis. Admin. Codes, and if the petitioner is not the applicant the petition must include the following information:

1. A description of the objection that is sufficiently specific to allow the department to determine which provisions of this section may be violated if the proposed permit or contract is allowed to proceed.
2. A description of the facts supporting the petition that is sufficiently specific to determine how the petitioner believes the project, as proposed, may result in a violation of Chapter 30, Wis. Stats.

3. A commitment by the petitioner to appear at the administrative hearing and present information supporting the petitioner's objection.

If the petition contains a request for a stay of the project, the petition must also include information showing that a stay is necessary to prevent significant adverse impacts or irreversible harm to the environment.

This determination becomes final in accordance with the provisions of s. NR 299.05(7), Wis. Admin. Code, and is judicially reviewable when final. For judicial review of a decision pursuant to ss. 227.52 and 227.53, Wis. Stats., you have 30 days after the decision becomes final to file your petition with the appropriate circuit court and to serve the petition on the Secretary of the Department of Natural Resources. The petition must name the Department of Natural Resources as the respondent.

Reasonable accommodation, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request.

Dated at Green Bay, Wisconsin, on February 2, 2024.

WISCONSIN DEPARTMENT OF NATURAL RESOURCES

For the Secretary

A handwritten signature in cursive script that reads "Crystal Von Holdt".

Crystal Von Holdt

WI Department of Natural Resources

State of Wisconsin
DEPARTMENT OF NATURAL RESOURCES
2984 Shawano Ave.
Green Bay, WI, 54313

Tony Evers, Governor
Adam N. Payne, Secretary
Telephone 608-266-2621
Toll Free 1-888-936-7463
TTY Access via relay - 711



February 2, 2024

IP-NE-2023-5-02987

Brown County Port & Resource Recovery
Attn: Mark Walter
2561 S Broadway
Green Bay, WI 54304
[sent electronically]

RE: Permit for stream dredging of the Fox River in the City of Green Bay, Brown County

Dear Mr. Walter:

The Department of Natural Resources has completed its review of your application for a permit to dredge materials from the Fox River located in the SW 1/4, NW 1/4, Section 19, Township 24, Range 21E, in the City of Green Bay, Brown County. You will be pleased to know your application is approved.

I am attaching a copy of your permit, which lists the many important conditions that must be followed to protect water quality and habitat. A copy of the permit must be posted for reference at the project site. **Please read your permit conditions carefully so that you are fully aware of what is expected of you.** Please note one of the conditions requires that you submit photographs of the completed project within 7 days after you've finished construction. This helps both of us to document the completion of the project and compliance with the permit conditions.

Your next step will be to notify me of the date on which you plan to start construction and again your project is complete. If you have any questions about your permit, please call me at (920) 410-3181 or you can reach me by email at Crystal.VonHoldt@wisconsin.gov.

Sincerely,

Crystal Von Holdt
Water Management Specialist

Email CC:

Ryan Huber, U.S. ACOE
Jon LeRoy, City of Green Bay Zoning Adm.
Gaven Brault, DNR Conservation Warden
Kate Angel, WI Coastal Management Program
Connie Antonuk, DNR Field Integration Leader

Kyle Bretl, GEI
Jim Killian, DNR Water Resources
Tauren Beggs, DNR R&R Program
Sarah Anderson, DNR Stormwater Specialist

STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES

STREAM DREDGING PERMIT
IP-NE-2023-5-02987

Application of Mark Walter on behalf of Brown County Port & Resource Recovery, is hereby granted under Section 30.20(2), Wisconsin Statutes, a permit to dredge materials from the Fox River located in the SW 1/4, NW 1/4, Section 19, Township 24, Range 21E, in the City of Green Bay, Brown County, subject to the following conditions:

PERMIT

1. You must notify Crystal Von Holdt by phone at (920) 410-3181 or by email at Crystal.VonHoldt@wisconsin.gov before starting construction and again not more than 5 days after the project is complete.
2. You must complete the project as described **on or before February 2, 2029**. If you will not complete the project by this date, you must submit a written request for an extension **prior** to expiration of the initial time limit specified in the permit. Your request must identify the requested extension date. The Department shall extend the time limit for an individual permit or contract for no longer than an additional 5 years if you request the extension before the initial time limit expires. You may not begin or continue construction after the original permit expiration date unless the Department extends the permit in writing or grants a new permit.
3. This permit does not authorize any work other than what you specifically describe in your application and plans, and as modified by the conditions of this permit. If you wish to alter the project or permit conditions, you must first obtain written approval of the Department.
4. Before you start your project, you must first obtain all other permits or approvals that may be required for your project by local zoning ordinances and/or by the U.S. Army Corps of Engineers. You are responsible for contacting these local and federal authorities to determine if they require permits or approvals for your project. These local and federal authorities are responsible for determining if your project complies with their requirements.
5. Upon reasonable notice, you shall allow access to your project site during reasonable hours to any Department employee who is investigating the project's construction, operation, maintenance, or permit compliance.
6. The Department may modify or revoke this permit for good cause, including if the project is not completed according to the terms of the permit or if the Department determines the activity is detrimental to the public interest.
7. **You must post a copy of this permit at a conspicuous location on the project site**, visible from the waterway, for at least five days prior to construction, and remaining at least five days after construction. You must also have a copy of the permit and approved plan available at the project site at all times until the project is complete.
8. Your acceptance of this permit and efforts to begin work on this project signify that you have **read, understood, and agreed** to follow all conditions of this permit.
9. You must **submit a series of photographs** to the Department, within one week of completing work on the site. The photographs must be taken from different vantage points and depict all work authorized by this permit.

10. You, your agent, and any involved contractors or consultants may be considered a party to the violation pursuant to Section 30.292, Wis. Stats., for any violations of Chapter 30, Wis. Stats., or this permit.
11. Construction above and below the ordinary high-water mark (OHWM) shall be accomplished in such a manner as to minimize erosion and siltation into surface waters. Erosion control measures (such as silt fence and straw bales) must meet or exceed the technical standards of ch. NR 151, Wis. Adm. Code. The technical standards are found at: http://dnr.wi.gov/topic/stormwater/standards/const_standards.html.
12. All equipment used for the project including but not limited to tracked vehicles, barges, boats, hoses, sheet pile and pumps shall be de-contaminated for invasive and exotic viruses and species prior to use and after use. 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 waters shall not be used on other non-infested waters.
 - a. **Inspect and remove** aquatic plants, animals, and mud from your equipment.
 - b. **Drain all water** from your equipment that comes in contact with infested waters, including but not limited to tracked vehicles, barges, boats, hoses, sheet pile, and pumps.
 - c. **Dispose** of aquatic plants, animals in the trash. Never release or transfer aquatic plants, animals, or water from one waterbody to another.
 - d. **Wash your equipment** with hot (>140° F) and/or high-pressure water, - OR - Allow your equipment to **dry thoroughly for 5 days**.

SPECIFIC DREDGING CONDITIONS

13. To minimize adverse impacts on sensitive fish movement, fish spawning, and egg incubation periods, in-water disturbances are not to be conducted annually between March 1st or ice-out (whichever is earliest) and June 15th to protect various spring spawning species. Additionally, in-water disturbances are not to be conducted annually between October 15th and November 30th to protect fall spawning migration of lake whitefish in the Fox River. During this period, the removal of material may not occur unless a waiver has been obtained from the DNR.
14. Land disturbances exceeding 1 acre in size must obtain *Wisconsin Pollution Discharge Elimination System* (WPDES) coverage through the DNR's Stormwater Management Program. A Notice of Intent (NOI) is required to be submitted and coverage granted before land disturbances over 1 acre commence. For questions, please contact Stormwater Specialist Sarah Anderson (sarah.anderson@wisconsin.gov).
15. All company(s) performing the proposed work must include design provisions requiring that spudding, barging, prop-wash, and dredging activities must stay at least 25-feet from all established engineered caps. This 25-feet is a requirement unless the company(s) can document that they have the capabilities for position control of plus or minus less feet instead. Regardless of which offset the companies propose, the companies must describe the location control and monitoring QA and QC capabilities in detail. This information is to be submitted to DNR's Water Resources Management Specialist, Jim Killian, as your main contact regarding the responsibility to monitor and maintain the established engineered caps at this location. Jim can be reached at James.Killian@wisconsin.gov or by phone at 608-445-4724.
16. A plan will need to be submitted to the DNR's Remediation and Redevelopment (R&R) Program (Attn: Tauren Beggs) and approval obtained **prior to work** starting for contaminated dredge materials management and disturbance of engineered caps associated with the Fox River NRDA/PCB Releases OU2-5 (ALT SF) case, BRRS # 02-45-582407. Additional information and clarification (including engineering design) will need to be provided as part of that plan to ensure that the proposed disturbance of and/or filling on top of the engineered caps and the management of contaminated dredge materials will be protective of public health and the environment.

- a. Tauren Beggs can be reached at Tauren.Beggs@wisconsin.gov or by phone at 920-510-3472.
17. If dewatering is required, you will need to contact DNR Wastewater Specialist Sarah Adkins to determine if a dewatering permit is required. If a dewatering permit is required, you will need to obtain that permit/approval prior to any dewatering activities. Sarah can be reached at Sarah.Adkins@wisconsin.gov or by phone at 920-360-3309.
 18. All of the removed materials must be placed at an upland location outside of the floodway in the location shown on applicant's plans submitted in the application dated 09/05/2023 and updated on 10/27/2023 and approved by the Department with this permit. You must not deposit or store any of the removed materials in any wetland or below the OHWM of any waterway.
 19. This permit complies with the substantive requirements of s. 23.24, Wis. Stats. and NR 109, Wis. Adm. Code.
 20. Bottom materials must be removed by equipment designed to minimize the amount of sediment that can escape into the water. Equipment must be properly sized so that excavation conforms to the plans submitted and allows the work to be done from the banks rather than in the waterway.
 21. Removal must not exceed 184,500 cubic yards and you must dredge to the dimensions and elevations shown on your approved plans submitted in the application dated 09/05/2023 and updated on 10/27/2023.
 22. You are required to install best management practices (such as a silt curtain, turbidity barrier, or similar) in the waterway around your project authorized by this permit and shown on the plans submitted in the application dated 09/05/2023 and updated on 10/27/2023.
 23. A copy of the plans and permit must be provided to every contractor working on the project.

FINDINGS OF FACT

1. Mark Walter, on behalf of Brown County Port & Resource Recovery at 2561 S Broadway, Green Bay, WI 54304, filed an application with this Department on 09/05/2023, under sections 30.20(2) and 30.208, Wis. Stats., to dredge the Fox River located in the SW 1/4, NW 1/4, Sec. 19, T. 24, R. 21E, in the City of Green Bay, Brown County.
2. The proposed project includes dredging along the proposed dock wall to a depth that will allow vessels to access and dock along the site from the navigational channel with a proposal to remove 184,500 cubic yards of material. Some of the material will be transported to Bayport CDF and appropriate materials staying on site for reuse. The project proposes the construction of a stormwater management pond within 500ft of the riverbank. Additionally, the project is applying for state Water Quality Certification (WQC) for authorization of in-water impacts proposed within the established bulkhead line. The WQC will review for impacts from the proposed new dock wall construction along the riverbank and the placement of riprap along the shoreline on the lake. The overall project is for redevelopment and improvement of the site to be used for Port operations.
3. The project includes other state regulated activities, including waterway permit records IP-NE-2023-5-02988 and IP-NE-2023-5-02989.

4. The Department has completed an investigation of the project site and has evaluated the project as described in the application and plans.
5. The Fox River is a navigable water, and dredging is a state regulated activity even with a legally established bulkhead line documented along the riverbank of the project site (west bank of the Fox River).
6. The proposed project, if constructed in accordance with this permit will not adversely affect water quality, will not increase water pollution in surface waters and will not cause environmental pollution as defined in s. 283.01(6m), Wis. Stats.
7. The proposed project will not impact wetlands if constructed in accordance with this permit.
8. The Department of Natural Resources has determined that the agency's review of the proposed project constitutes an integrated analysis action under s. NR 150.20(2), Wis. Adm. Code. The Department has considered the impacts on the human environment, alternatives to the proposed projects and has provided opportunities for public disclosure and comment. The Department has completed all procedural requirements of s. 1.11(2)(c), Wis. Stats., and NR 150, Wis. Adm. Code for this project.
9. The Department of Natural Resources and the applicant have completed all procedural requirements and the project as permitted will comply with all applicable requirements of Sections 30.20 and 30.208, Wis. Stats., and Chapters NR 102, 103, and 345, Wis. Adm. Codes.

The applicant was responsible for fulfilling the procedural requirements for publication of notices under s. 30.208(5)(c)1m., Wis. Stats., and was responsible for publication of the notice of pending application under s.30.208(3)(a), Wis. Stats. or the notice of public informational hearing under s.30.208(3)(c), Wis. Stats., or both. S. 30.208(3)(e), Wis. Stats., provides that if no public hearing is held, the Department must issue its decision within 30 days of the 30-day public comment period, and if a public hearing is held, the Department must issue its decision within 20 days after the 10-day period for public comment after the public hearing. S. 30.208(5)(bm), Wis. Stats., requires the Department to consider the date on which the department publishes a notice on its web site as the date of notice.

10. The stream dredging will not be detrimental to the public interest because the plans and construction details include best management practices within the river to contain the disturbance and water quality impacts during dredging.
11. The activity will not cause environmental pollution as defined in s. 299.01(4), Wis. Stats.
12. No material injury will result to the riparian rights of any riparian owners of real property that abuts any water body that is affected by the activity.

CONCLUSIONS OF LAW

1. The Department has authority under the above indicated Statutes and Administrative Codes to issue a permit for the construction and maintenance of this project.
2. The Department has complied with s. 1.11, Wis. Stats.

NOTICE OF APPEAL RIGHTS

If you believe that you have a right to challenge this decision, you should know that the Wisconsin statutes and administrative rules establish time periods within which requests to review Department decisions shall be filed. For judicial review of a decision pursuant to sections 227.52 and 227.53, Wis. Stats., you have 30 days after the decision is mailed, or otherwise served by the Department, to file your petition with the appropriate circuit court and serve the petition on the Department. Such a petition for judicial review shall name the Department of Natural Resources as the respondent.

To request a contested case hearing of any individual permit decision pursuant to section 30.209, Wis. Stats., you have 30 days after the decision is mailed, or otherwise served by the Department, to serve a petition for hearing on the Secretary of the Department of Natural Resources, P.O. Box 7921, Madison, WI, 53707-7921. The petition shall be in writing, shall be dated and signed by the petitioner, and shall include as an attachment a copy of the decision for which administrative review is sought. If you are not the applicant, you must simultaneously provide a copy of the petition to the applicant. If you wish to request a stay of the project, you must provide information, as outlined below, to show that a stay is necessary to prevent significant adverse impacts or irreversible harm to the environment. If you are not the permit applicant, you must provide a copy of the petition to the permit applicant at the same time that you serve the petition on the Department.

The filing of a request for a contested case hearing is not a prerequisite for judicial review and does not extend the 30-day period for filing a petition for judicial review.

A request for contested case hearing must meet the requirements of section 30.209, Wis. Stats., and sections NR 2.03, 2.05, and 310.18, Wis. Admin. Code, and if the petitioner is not the applicant the petition must include the following information:

1. A description of the objection that is sufficiently specific to allow the department to determine which provisions of this section may be violated if the proposed permit or contract is allowed to proceed.
2. A description of the facts supporting the petition that is sufficiently specific to determine how the petitioner believes the project, as proposed, may result in a violation of Chapter 30, Wis. Stats.
3. A commitment by the petitioner to appear at the administrative hearing and present information supporting the petitioner's objection.

If the petition contains a request for a stay of the project, the petition must also include information showing that a stay is necessary to prevent significant adverse impacts or irreversible harm to the environment.

Dated at the Northeast Region Headquarters, Wisconsin on February 2, 2024.

STATE OF WISCONSIN DEPARTMENT OF NATURAL RESOURCES

For the Secretary

By:



Crystal Von Holdt

Water Management Specialist

State of Wisconsin
DEPARTMENT OF NATURAL RESOURCES
2984 Shawano Ave.
Green Bay, WI, 54313

Tony Evers, Governor
Adam N. Payne, Secretary
Telephone 608-266-2621
Toll Free 1-888-936-7463
TTY Access via relay - 711



February 2, 2024

IP-NE-2023-5-02988

Brown County Port & Resource Recovery
Attn: Mark Walter
2561 S Broadway
Green Bay, WI 54304
[sent electronically]

RE: Water Quality Certification for discharges within an established bulkhead area on the west bank of the Fox River in the City of Green Bay, Brown County

Dear Mr. Walter:

The Department of Natural Resources has completed its review of your application for state *Water Quality Certification* (WQC) to discharge materials to a water of the state, the Fox River, in the City of Green Bay, Brown County. Enclosed is a State WQC which certifies the discharges from the proposed activities will comply with water quality requirements and lists the conditions which must be followed. Please read your certification carefully so that you are fully aware of what is expected of you.

As a condition of the State's Water Quality Certification, state law requires that you:

1. Publish the attached as a Class 1 Notice, at your expense, in the **Green Bay Press Gazette**, 435 E. Walnut St, PO Box 23430, Green Bay WI 54305-3430, Email: legals@greenbaypressgazette.com, Phone (877) 943-0446, Fax (877) 943-0443.
2. Please obtain and send to me, the affidavit from the newspaper providing proof that the notice has been published.

Please note, this **Water Quality Certification decision becomes final 30 days after the date of publication**, unless an objection is filed, and a hearing is requested. We will contact you only if a hearing is requested.

If you have any questions about your certification, please call me at (920) 410-3181 or email me at Crystal.VonHoldt@wisconsin.gov.

Sincerely,

Crystal Von Holdt
Water Management Specialist

Email CC:

Ryan Huber, U.S. ACOE
Jon LeRoy, City of Green Bay Zoning Adm.
Gaven Brault, DNR Conservation Warden
Kate Angel, WI Coastal Management Program
Connie Antonuk, DNR Field Integration Leader

Kyle Bretl, GEI
Jim Killian, DNR Water Resources
Tauren Beggs, DNR R&R Program
Sarah Anderson, DNR Stormwater Specialist

Notice of Water Quality Certification (Docket #IP-NE-2023-5-02988)

Mark Walter, on behalf of Brown County Port & Resource Recovery, has filed an application with the Wisconsin Department of Natural Resources for water quality certification under Section 401 of the Federal Clean Water Act, Section 281.15, 283, 401 CWA, Wisconsin Statutes.

The project is located in the SW of the NW of Section 19, Township 24 North, Range 21 E, in the City of Green Bay, Brown County. The project consists of filling between the existing edge of water (the natural shoreline) and the established surveyed bulkhead line where coastal revetment will be constructed on the lakeshore (north property boundary) and a dock wall (seawall) constructed on the riverbank (east property boundary). Both shoreline structures (revetment and dock wall) will be entirely within the bulkhead line. The newly filled riverbed and lakebed area will be raised and graded to match the proposed raised site elevation across the project area. All work for filling and grading will be conducted within contained construction site by means of turbidity barriers or sheet piling structures to contain the construction impacts. The overall project is for redevelopment and improvement of the site to be used for Port operations. This redevelopment project will result in discharges to a water of the state, the Fox River. There is an existing and established bulkhead line along the Fox River at the project location.

The Department has evaluated this proposal and determined that this activity will meet the standards found in Section NR 299.04, Wis. Admin. Code, and certification is granted.

If you would like to know more about this project, contact Crystal Von Holdt, in writing at 2984 Shawano Ave., Green Bay WI 54313, by email at Crystal.vonHoldt@wisconsin.gov, or by phone at (920) 410-3181. Reasonable accommodation, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request.

The following conditions are part of the certification:

1. You must notify Crystal vonHoldt at phone (920) 410-3181 or email Crystal.VonHoldt@wisconsin.gov before starting construction and again not more than 5 days after the project is complete.
2. The applicant shall allow the Wisconsin Department of Natural Resources reasonable entry and access to the discharge site to inspect the discharge for compliance with the certification and applicable laws.
3. Authorization hereby granted by the Department is not transferable.
4. **This approval is valid for 3 years from the date the Water Quality Certification authorization becomes final.** If you will not complete the project by this date, you must submit a written request for an extension prior to expiration of the initial time limit specified in the certification. Your request must identify the requested extension date. The Department shall extend the time limit for no longer than an additional 3 years if you request the extension before the initial time limit expires. You may not begin or continue construction after the original certification expiration date unless the Department extends the certification in writing or grants a new certification.
5. This certification does not authorize any work other than what you **specifically describe in your application and plans, and as modified by the conditions** of this certification. If you wish to alter the project or certification conditions, you must first obtain written approval of the Department.
6. Before you start your project, **you must first obtain any permit or approval that may be required for your project** by local zoning ordinances and by the U.S. Army Corps of Engineers. You are responsible for contacting these local and federal authorities to determine if they require permits or approvals for your

project. These local and federal authorities are responsible for determining if your project complies with their requirements.

7. An after-construction survey of the edge of fill and a survey of the historically established bulkhead line are to be completed and submitted to the Department to document all fill has remained within the established bulkhead and does not extend outside of this bulkhead boundary.
8. All company(s) performing the proposed work must include design provisions requiring that spudding, barging, prop-wash, and dredging activities must stay at least 25-feet from all established engineered caps. This 25-feet is a requirement unless the company(s) can document that they have the capabilities for position control of plus or minus less feet instead. Regardless of which offset the companies propose, the companies must describe the location control and monitoring QA and QC capabilities in detail. This information is to be submitted to DNR's Water Resources Management Specialist, Jim Killian, as your main contact regarding the responsibility to monitor and maintain the established engineered caps at this location. Jim can be reached at James.Killian@wisconsin.gov or by phone at 608-445-4724.
9. The Department may modify or revoke this certification for good cause, including if the project is not completed according to the terms of the certification or if the Department determines the activity is detrimental to the public interest.
10. **You must post a copy of this certification at a conspicuous location on the project site**, visible from the waterway, for at least five days prior to construction, and remaining at least five days after construction. You must also have a copy of the certification and approved plan available at the project site at all times until the project is complete.
11. Your acceptance of this certification and efforts to begin work on this project signify that you have **read, understood, and agreed** to follow all conditions of this certification.
12. **You must submit a series of photographs to the Department, within one week of completing work on the site.** The photographs must be taken from different vantage points and depict all work authorized by this certification.
13. You, your agent, and any involved contractors or consultants may be considered a party to the violation pursuant to Section 30.292, Wis. Stats., for any violations of Ch 30, Wis. Stats., or this certification.
14. Construction shall be accomplished in such a manner as to minimize erosion and siltation into surface waters. Erosion control measures (such as silt fence and straw bales) must meet or exceed the technical standards of ch. NR 151, Wis. Adm. Code. The technical standards are found at: http://dnr.wi.gov/topic/stormwater/standards/const_standards.html.
15. All equipment used for the project including but not limited to tracked vehicles, barges, boats, hoses, sheet pile, and pumps shall be de-contaminated for invasive and exotic viruses and species prior to use and after use. 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 waters shall not be used on other non-infested waters.
 - a. Inspect and remove aquatic plants, animals, and mud from your equipment.
 - b. Drain all water from your equipment that comes in contact with infested waters, including but not limited to tracked vehicles, barges, boats, hoses, sheet pile, and pumps.
 - c. Dispose of aquatic plants, animals in the trash. Never release or transfer aquatic plants, animals, or water from one waterbody to another.

- d. Wash your equipment with hot (>140° F) and/or high-pressure water, - **OR** - Allow your equipment to dry thoroughly for 5 days.
16. To minimize adverse impacts on sensitive fish movement, fish spawning, and egg incubation periods, in-water disturbances are not to be conducted annually between March 1st or ice-out (whichever is earliest) and June 15th to protect various spring spawning species. Additionally, in-water disturbances are not to be conducted annually between October 15th and November 30th to protect fall spawning migration of lake whitefish in the Fox River. During this period, the placement of material may not occur unless a waiver has been obtained from the DNR.
17. A plan will need to be submitted to the DNR's Remediation and Redevelopment (R&R) Program (Attn: Tauren Beggs) and approval obtained **prior to work** starting for contaminated dredge materials management and disturbance of engineered caps associated with the Fox River NRDA/PCB Releases OU2-5 (ALT SF) case, BRRTS # 02-45-582407. Additional information and clarification (including engineering design) will need to be provided as part of that plan to ensure that the proposed disturbance of and/or filling on top of the engineered caps and the management of contaminated dredge materials will be protective of public health and the environment.
 - a. Tauren Beggs can be reached at Tauren.Beggs@wisconsin.gov or by phone at 920-510-3472.
18. Appropriate erosion and water quality control measures for in-water work must be in place and effective during the project and at the end of each workday.
19. You must supply a copy of this permit to every contractor associated with this project.

FINDINGS OF FACT

1. Mark Walter on behalf of Brown County Port & Resource Recovery has filed an application for a certification to discharge materials to a water of the state, the Fox River, in the City of Green Bay, Brown County, also described as being in the SW of the NW of Section 19, Township 24 North, Range 21 East.
2. The proposed project includes dredging along the proposed dock wall to a depth that will allow vessels to access and dock along the site from the navigational channel with a proposal to remove 184,500 cubic yards of material. Some of the material will be transported to Bayport CDF and appropriate materials staying on site for reuse. The project proposes the construction of a stormwater management pond within 500ft of the riverbank. Additionally, the project is applying for state Water Quality Certification (WQC) for authorization of in-water impacts proposed within the established bulkhead line. The WQC will review for impacts from the proposed new dock wall construction along the riverbank and the placement of riprap along the shoreline on the lake. The overall project is for redevelopment and improvement of the site to be used for Port operations.
3. The Department has reviewed the proposed activity and certifies that the discharge from the proposed project will comply with water quality requirements.
4. The Department has completed an investigation of the project site and has evaluated the project as described in the application and plans.
5. The Fox River is a navigable water with an established bulkhead at the project site along the west bank of the Fox River and shoreline of the Lower Bay.

6. The proposed project, if constructed in accordance with this certification will not adversely affect water quality, will not increase water pollution in surface waters and will not cause environmental pollution as defined in s. 283.01(6m), Wis. Stats.
7. The proposed project will not impact wetlands if constructed in accordance with this certification.
8. The Department of Natural Resources has determined that the agency's review of the proposed project constitutes an equivalent analysis action under s. NR 150.20(2), Wis. Adm. Code. The Department has considered the impacts on the human environment, alternatives to the proposed projects and has provided opportunities for public disclosure and comment. The Department has completed all procedural requirements of s. 1.11(2)(c), Wis. Stats., and NR 150, Wis. Adm. Code for this project.

CONCLUSIONS OF LAW

1. The Department has authority under the above indicated Statutes and Administrative Codes, to issue a permit for the construction and maintenance of this project.
2. The Department has complied with s. 1.11, Wis. Stats.

NOTICE OF APPEAL RIGHTS

If you believe that you have a right to challenge this decision, you should know that the Wisconsin statutes and administrative rules establish time periods within which requests to review Department decisions shall be filed. For judicial review of a decision pursuant to sections 227.52 and 227.53, Wis. Stats., you have 30 days after the decision is mailed, or otherwise served by the Department, to file your petition with the appropriate circuit court and serve the petition on the Department. Such a petition for judicial review shall name the Department of Natural Resources as the respondent.

To request a contested case hearing of any individual permit decision pursuant to section 30.209, Wis. Stats., you have 30 days after the decision is mailed, or otherwise served by the Department, to serve a petition for hearing on the Secretary of the Department of Natural Resources, P.O. Box 7921, Madison, WI, 53707-7921. The petition shall be in writing, shall be dated and signed by the petitioner, and shall include as an attachment a copy of the decision for which administrative review is sought. If you are not the applicant, you must simultaneously provide a copy of the petition to the applicant. If you wish to request a stay of the project, you must provide information, as outlined below, to show that a stay is necessary to prevent significant adverse impacts or irreversible harm to the environment. If you are not the permit applicant, you must provide a copy of the petition to the permit applicant at the same time that you serve the petition on the Department.

The filing of a request for a contested case hearing is not a prerequisite for judicial review and does not extend the 30-day period for filing a petition for judicial review.

A request for contested case hearing must meet the requirements of section 30.209, Wis. Stats., and sections NR 2.03, 2.05, and 310.18, Wis. Admin. Codes, and if the petitioner is not the applicant the petition must include the following information:

1. A description of the objection that is sufficiently specific to allow the department to determine which provisions of this section may be violated if the proposed permit or contract is allowed to proceed.
2. A description of the facts supporting the petition that is sufficiently specific to determine how the petitioner believes the project, as proposed, may result in a violation of Chapter 30, Wis. Stats.

3. A commitment by the petitioner to appear at the administrative hearing and present information supporting the petitioner's objection.

If the petition contains a request for a stay of the project, the petition must also include information showing that a stay is necessary to prevent significant adverse impacts or irreversible harm to the environment.

This determination becomes final in accordance with the provisions of s. NR 299.05(7), Wis. Admin. Code, and is judicially reviewable when final. For judicial review of a decision pursuant to ss. 227.52 and 227.53, Wis. Stats., you have 30 days after the decision becomes final to file your petition with the appropriate circuit court and to serve the petition on the Secretary of the Department of Natural Resources. The petition must name the Department of Natural Resources as the respondent.

Reasonable accommodation, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request.

Dated at Green Bay, Wisconsin, on February 2, 2024.

WISCONSIN DEPARTMENT OF NATURAL RESOURCES

For the Secretary

A handwritten signature in cursive script that reads "Crystal Von Holdt".

Crystal Von Holdt

WI Department of Natural Resources

State of Wisconsin
DEPARTMENT OF NATURAL RESOURCES
2984 Shawano Ave.
Green Bay, WI, 54313

Tony Evers, Governor
Adam N. Payne, Secretary
Telephone 608-266-2621
Toll Free 1-888-936-7463
TTY Access via relay - 711



February 2, 2024

IP-NE-2023-5-02989

Brown County Port & Resource Recovery
Attn: Mark Walter
2561 S Broadway
Green Bay, WI 54304
[sent electronically]

RE: Permit to construct a stormwater pond within 500ft of the Fox River, in the City of Green Bay, Brown County

Dear Mr. Walter,

The Department of Natural Resources has completed its review of your application for a permit to construct a stormwater pond within 500ft of Fox River located in the NW 1/4, SW 1/4, Section 19, Township 24, Range 21E, in the City of Green Bay, Brown County. You will be pleased to know your application is approved.

I am attaching a copy of your permit, which lists the many important conditions that must be followed to protect water quality and habitat. A copy of the permit must be posted for reference at the project site. Please read your permit conditions carefully so that you are fully aware of what is expected of you.

Please note you are required to submit photographs of the completed project within 7 days after you've finished construction. This helps both of us to document the completion of the project and compliance with the permit conditions.

Your next step will be to notify me of the date on which you plan to start construction and again your project is complete. If you have any questions about your permit, please call me at (920) 410-3181 or you can reach me by email at Crystal.VonHoldt@wisconsin.gov.

Sincerely,

Crystal Von Holdt
Water Management Specialist

Email CC:

Ryan Huber, U.S. ACOE
Jon LeRoy, City of Green Bay Zoning Adm.
Gaven Brault, DNR Conservation Warden
Kate Angel, WI Coastal Management Program
Connie Antonuk, DNR Field Integration Leader

Kyle Bretl, GEI
Jim Killian, DNR Water Resources
Tauren Beggs, DNR R&R Program
Sarah Anderson, DNR Stormwater Specialist

**STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES**

**POND INDIVIDUAL PERMIT
IP-NE-2023-5-02989**

Application of Mark Walter on behalf of Brown County Port & Resource Recovery, is hereby granted under Sections 30.19 and 30.208, Wisconsin Statutes, to construct a stormwater pond within 500ft of Fox River located in the NW 1/4, SW 1/4, Section 19, Township 24, Range 21E, in the City of Green Bay, Brown County, subject to the following conditions:

PERMIT

1. You must notify Crystal Von Holdt by phone at (920) 410-3181 or by email at Crystal.VonHoldt@wisconsin.gov before starting construction and again not more than 5 days after the project is complete.
2. You must complete the project as described **on or before February 2, 2027**. If you will not complete the project by this date, you must submit a written request for an extension **prior** to expiration of the initial time limit specified in the permit. Your request must identify the requested extension date. The Department shall extend the time limit for an individual permit or contract for no longer than an additional 5 years if you request the extension before the initial time limit expires. You may not begin or continue construction after the original permit expiration date unless the Department extends the permit in writing or grants a new permit.
3. This permit does not authorize any work other than what you specifically describe in your application and plans, and as modified by the conditions of this permit. If you wish to alter the project or permit conditions, you must first obtain written approval of the Department.
4. Before you start your project, you must first obtain all other permits or approvals that may be required for your project by local zoning ordinances and/or by the U.S. Army Corps of Engineers. You are responsible for contacting these local and federal authorities to determine if they require permits or approvals for your project. These local and federal authorities are responsible for determining if your project complies with their requirements.
5. Upon reasonable notice, you shall allow access to your project site during reasonable hours to any Department employee who is investigating the project's construction, operation, maintenance, or permit compliance.
6. The Department may modify or revoke this permit for good cause, including if the project is not completed according to the terms of the permit or if the Department determines the activity is detrimental to the public interest.
7. **You must post a copy of this permit at a conspicuous location on the project site**, visible from the waterway, for at least five days prior to construction, and remaining at least five days after construction. You must also have a copy of the permit and approved plan available at the project site at all times until the project is complete.
8. Your acceptance of this permit and efforts to begin work on this project signify that you have **read, understood, and agreed** to follow all conditions of this permit.
9. You must **submit a series of photographs** to the Department, within one week of completing work on the site. The photographs must be taken from different vantage points and depict all work authorized by this permit.

10. You, your agent, and any involved contractors or consultants may be considered a party to the violation pursuant to Section 30.292, Wis. Stats., for any violations of Chapter 30, Wis. Stats., or this permit.
11. Construction above and below the ordinary high-water mark (OHWM) shall be accomplished in such a manner as to minimize erosion and siltation into surface waters. Erosion control measures (such as silt fence and straw bales) must meet or exceed the technical standards of ch. NR 151, Wis. Adm. Code. The technical standards are found at: http://dnr.wi.gov/topic/stormwater/standards/const_standards.html.
12. All equipment used for the project including but not limited to tracked vehicles, barges, boats, hoses, sheet pile and pumps shall be de-contaminated for invasive and exotic viruses and species prior to use and after use. 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 waters shall not be used on other non-infested waters.
 - a. **Inspect and remove** aquatic plants, animals, and mud from your equipment.
 - b. **Drain all water** from your equipment that comes in contact with infested waters, including but not limited to tracked vehicles, barges, boats, hoses, sheet pile, and pumps.
 - c. **Dispose** of aquatic plants, animals in the trash. Never release or transfer aquatic plants, animals, or water from one waterbody to another.
 - d. **Wash your equipment** with hot (>140° F) and/or high-pressure water, - OR - Allow your equipment to **dry thoroughly for 5 days**.

SPECIFIC STORMWATER POND CONDITIONS

13. Land disturbances at the site are to be minimized during annual spring and fall migration seasons (between March 15 - May 31 and August 1 – October 31).
14. Land disturbances exceeding 1 acre in size must obtain *Wisconsin Pollution Discharge Elimination System* (WPDES) coverage through the DNR's Stormwater Management Program. A Notice of Intent (NOI) is required to be submitted and coverage granted before land disturbances over 1 acre commence. For questions, please contact Stormwater Specialist Sarah Anderson (sarah.anderson@wisconsin.gov).
15. If dewatering is required, you will need to contact DNR Wastewater Specialist Sarah Adkins to determine if a dewatering permit is required. If a dewatering permit is required, you will need to obtain that permit/approval prior to any dewatering activities. Sarah can be reached at Sarah.Adkins@wisconsin.gov or by phone at 920-360-3309.
16. The stormwater pond must be constructed according to the design and dimensions described in the application and plans submitted 09/05/2023 and updated on 10/27/2023 and approved by the Department with this permit.
17. The permittee, heirs, successors, or assignees must comply with laws for platting of land and sanitation, and with local zoning ordinances, and with standards developed for shorelands and floodplains in NR 115 and NR 116, Wis. Adm. Codes.
18. The pond must not be associated with any metallic or non-metallic mining project.
19. You must not deposit or store any of the graded materials in any wetland or below the ordinary high-water mark of any waterway. All graded materials must be placed out of the floodway of any stream.

FINDINGS OF FACT

1. Mark Walter, on behalf of Brown County Port & Resource Recovery at 2561 S Broadway, Green Bay, WI 54304, filed an application with this Department on 09/05/2023, under sections 30.19 and 30.208, Wisconsin Statutes, to construct a stormwater pond within 500ft of Fox River located in the NW 1/4, SW 1/4, Sec. 19, T. 24, R. 21E, in the City of Green Bay, Brown County.
2. The proposed project includes dredging along the proposed dock wall to a depth that will allow vessels to access and dock along the site from the navigational channel with a proposal to remove 184,500 cubic yards of material. Some of the material will be transported to Bayport CDF and appropriate materials staying on site for reuse. The project proposes the construction of a stormwater management pond within 500ft of the riverbank. Additionally, the project is applying for state Water Quality Certification (WQC) for authorization of in-water impacts proposed within the established bulkhead line. The WQC will review for impacts from the proposed new dock wall construction along the riverbank and the placement of riprap along the shoreline on the lake. The overall project is for redevelopment and improvement of the site to be used for Port operations.
3. The other regulated activities as part of this project are regulated under records IP-NE-2023-5-02987 and IP-NE-2023-5-02988.
4. The Department has completed an investigation of the project site and has evaluated the project as described in the application and plans.
5. The Fox River is a navigable water, and a legally established bulkhead line is documented along the riverbank of the project site (west bank of the Fox River).
6. The proposed project, if constructed in accordance with this permit will not adversely affect water quality, will not increase water pollution in surface waters and will not cause environmental pollution as defined in s. 283.01(6m), Wis. Stats.
7. The proposed project will not impact wetlands if constructed in accordance with this permit.
8. The Department of Natural Resources has determined that the agency's review of the proposed project constitutes an integrated analysis action under s. NR 150.20(2), Wis. Adm. Code. The Department has considered the impacts on the human environment, alternatives to the proposed projects and has provided opportunities for public disclosure and comment. The Department has completed all procedural requirements of s. 1.11(2)(c), Wis. Stats., and NR 150, Wis. Adm. Code for this project.
9. The Department of Natural Resources and the applicant have completed all procedural requirements and the project as permitted will comply with all applicable requirements of Sections 30.20 and 30.208, Wis. Stats., and Chapters NR 102, 103, and 345, Wis. Adm. Codes.

The applicant was responsible for fulfilling the procedural requirements for publication of notices under s. 30.208(5)(c)1m., Wis. Stats., and was responsible for publication of the notice of pending application under s.30.208(3)(a), Wis. Stats. or the notice of public informational hearing under s.30.208(3)(c), Wis. Stats., or both. S. 30.208(3)(e), Wis. Stats., provides that if no public hearing is held, the Department must issue its decision within 30 days of the 30-day public comment period, and if a public hearing is held, the Department must issue its decision within 20 days after the 10-day period for public comment after the public hearing. S. 30.208(5)(bm), Wis. Stats., requires the Department to consider the date on which the department publishes a notice on its web site as the date of notice.

10. The activity will not cause environmental pollution as defined in s. 299.01(4).
11. No material injury will result to the riparian rights of any riparian owners of real property that abuts any water body that is affected by the activity.

CONCLUSIONS OF LAW

1. The Department has authority under the above indicated Statutes and Administrative Codes to issue a permit for the construction and maintenance of this project.
2. The Department has complied with s. 1.11, Wis. Stats.

NOTICE OF APPEAL RIGHTS

If you believe that you have a right to challenge this decision, you should know that the Wisconsin statutes and administrative rules establish time periods within which requests to review Department decisions shall be filed. For judicial review of a decision pursuant to sections 227.52 and 227.53, Wis. Stats., you have 30 days after the decision is mailed, or otherwise served by the Department, to file your petition with the appropriate circuit court and serve the petition on the Department. Such a petition for judicial review shall name the Department of Natural Resources as the respondent.

To request a contested case hearing of any individual permit decision pursuant to section 30.209, Wis. Stats., you have 30 days after the decision is mailed, or otherwise served by the Department, to serve a petition for hearing on the Secretary of the Department of Natural Resources, P.O. Box 7921, Madison, WI, 53707-7921. The petition shall be in writing, shall be dated and signed by the petitioner, and shall include as an attachment a copy of the decision for which administrative review is sought. If you are not the applicant, you must simultaneously provide a copy of the petition to the applicant. If you wish to request a stay of the project, you must provide information, as outlined below, to show that a stay is necessary to prevent significant adverse impacts or irreversible harm to the environment. If you are not the permit applicant, you must provide a copy of the petition to the permit applicant at the same time that you serve the petition on the Department.

The filing of a request for a contested case hearing is not a prerequisite for judicial review and does not extend the 30-day period for filing a petition for judicial review.

A request for contested case hearing must meet the requirements of section 30.209, Wis. Stats., and sections NR 2.03, 2.05, and 310.18, Wis. Admin. Code, and if the petitioner is not the applicant the petition must include the following information:

1. A description of the objection that is sufficiently specific to allow the department to determine which provisions of this section may be violated if the proposed permit or contract is allowed to proceed.
2. A description of the facts supporting the petition that is sufficiently specific to determine how the petitioner believes the project, as proposed, may result in a violation of Chapter 30, Wis. Stats.
3. A commitment by the petitioner to appear at the administrative hearing and present information supporting the petitioner's objection.

If the petition contains a request for a stay of the project, the petition must also include information showing that a stay is necessary to prevent significant adverse impacts or irreversible harm to the environment.

Dated at the Northeast Region Headquarters, Wisconsin on February 2, 2024.

STATE OF WISCONSIN DEPARTMENT OF NATURAL RESOURCES
For the Secretary

By:

A handwritten signature in cursive script that reads "Crystal Von Holdt".

Crystal Von Holdt
Water Management Specialist