



**DEPARTMENT OF THE ARMY**  
**U.S. ARMY CORPS OF ENGINEERS, ST. PAUL DISTRICT**  
**180 FIFTH STREET EAST, SUITE 700**  
**ST. PAUL, MN 55101-1678**

July 19, 2019

Regulatory File No. 2019-00893-KJH

Dan Kleinertz  
Wisconsin Department of Transportation SW Region  
3550 Mormon Coulee Road  
La Crosse, Wisconsin 54601

Dear Mr. Kleinertz:

This correspondence is in regard to a pre-construction notification (PCN) by the Wisconsin Department of Transportation requesting Department of the Army authorization to discharge fill material into 0.30 acres of wetlands adjacent to the Coon Creek for the replacement of bridge B-62-09 on State Highway 35 (WisDOT Project ID: 5163-09-71). The project site is in Section 20, Township 13 North, Range 7 West, in Vernon County, Wisconsin.

Certain minor activities are eligible for authorization by general permits, which include Regional General (RGP) permits. Your single and complete linear project as shown on the enclosed figures labeled 2019-00893-KJH Page 1 of 3 through Page 3 of 3 is authorized by the Transportation RGP, category 2.

In order for this verification to be valid, you must ensure the work is performed in accordance with the enclosed general permit terms, General Conditions, and the Wisconsin Department of Natural Resources' 401 Water Quality Certification Conditions. In addition, this verification is subject to the following special conditions:

1. To offset the unavoidable loss of 0.30 acre of aquatic bed wetland, you shall withdraw 0.30 credit of wet meadow from the Mill Bluff Wetland Mitigation Bank. The Corps has received the Wetland Impact Tracking Form documenting that the credit transaction has occurred.

You are also required to complete and return the enclosed Compliance Certification form within 30 days upon completion of your project in accordance with your permit conditions. Please mail the completed form to the Corps contact identified in the last paragraph.

This verification is valid until February 20, 2023, unless the general permit is modified, suspended, or revoked. If the work has not been completed by that time, you should contact this office to verify that the permit is still valid. Furthermore, if you commence or are under contract to commence this activity before the date of general permit expiration, modification, or revocation, you will have 12 months from the date of expiration, modification or revocation to complete the activity under the present terms and conditions of the general permit.

Our verification of this permit is based on the project description and construction methods provided in your PCN. You are cautioned that a change in the location or plans may invalidate this verification. Proposed changes should be coordinated with this office prior to construction. Failure to comply with all terms and conditions of this permit verification invalidates this verification and could result in a violation of Section 301 of the Clean Water Act or Section 10 of

the Rivers and Harbors Act. You must also obtain all local, State, and other Federal permits that apply to this project.

No jurisdictional determination was requested or prepared for this project. While not required, you may request a jurisdictional determination from the Corps contact indicated below.

If you have any questions, please contact Kerrie J. Hauser in our La Crescent office at (651) 290-5903 or [kerrie.j.hauser@usace.army.mil](mailto:kerrie.j.hauser@usace.army.mil). In any correspondence or inquiries, please refer to the Regulatory file number shown above.

Sincerely,

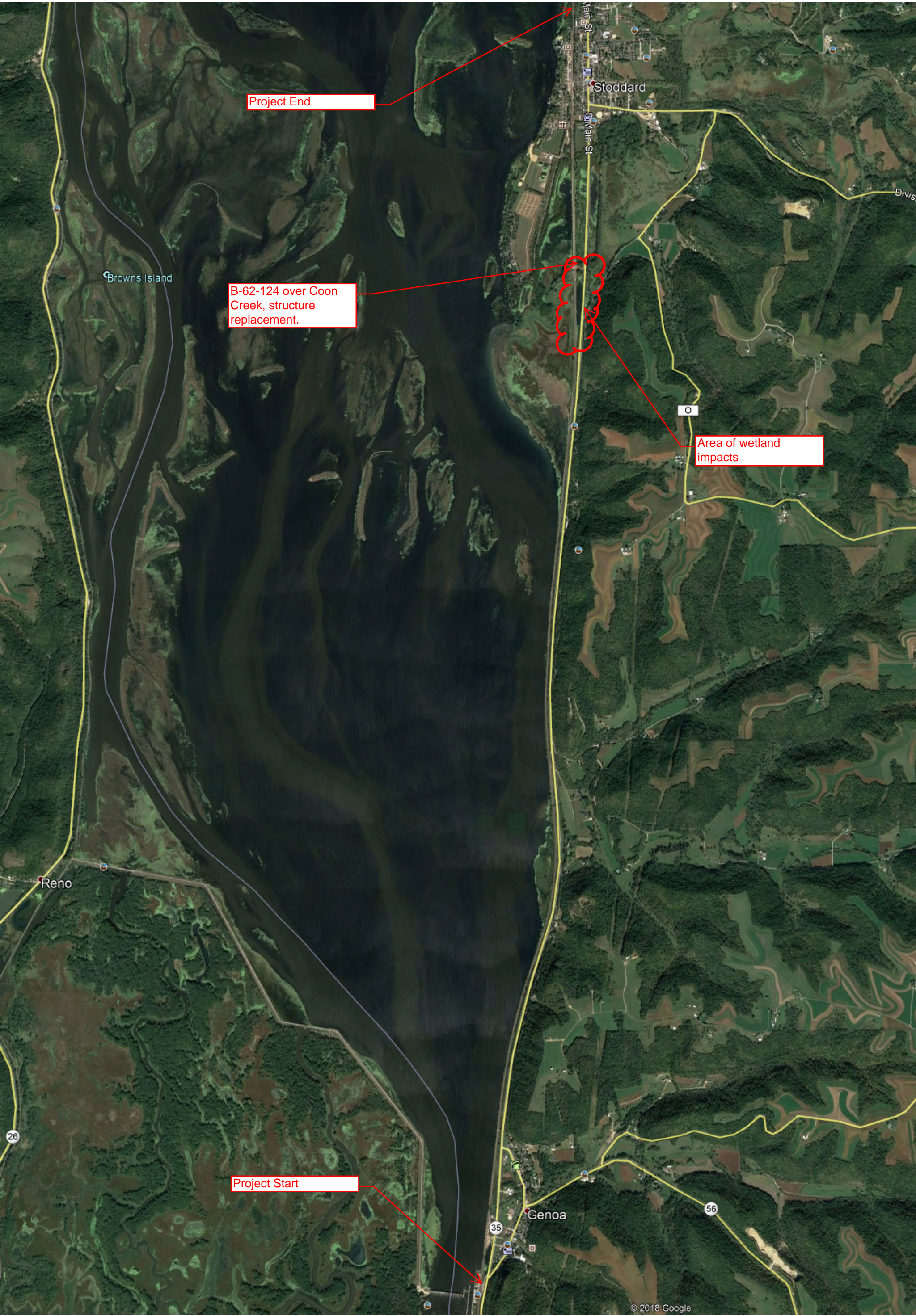
A handwritten signature in cursive script that reads "Kerrie J. Hauser".

Kerrie J. Hauser  
Project Manager

Enclosures

cc: WDNR, Karen Kalvelage Transportation Liaison  
WisDOT, Steve Vetsch Environmental Coordinator

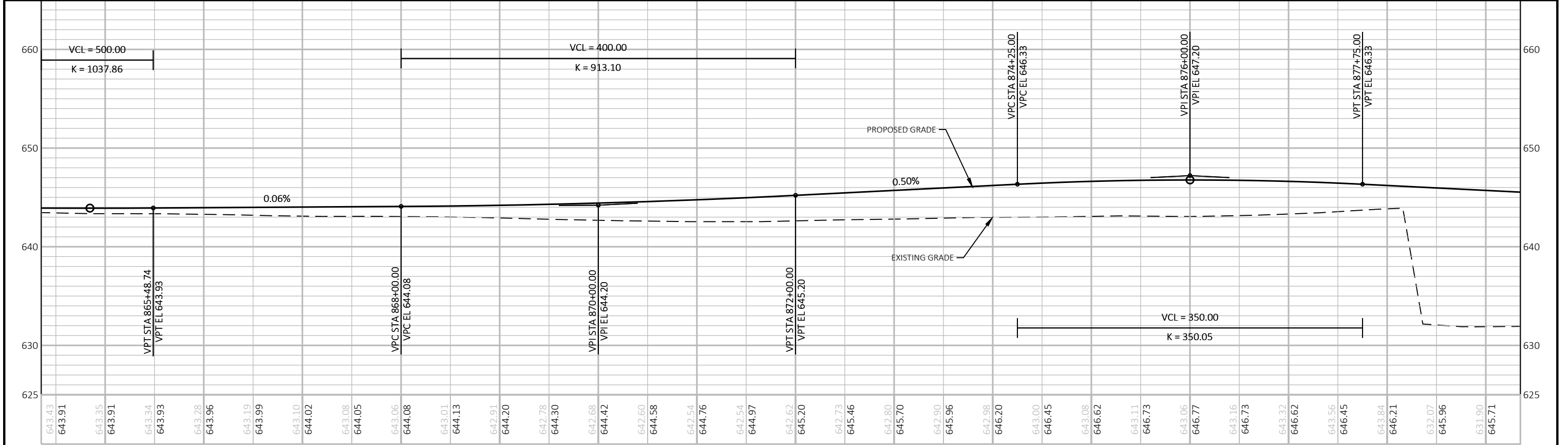
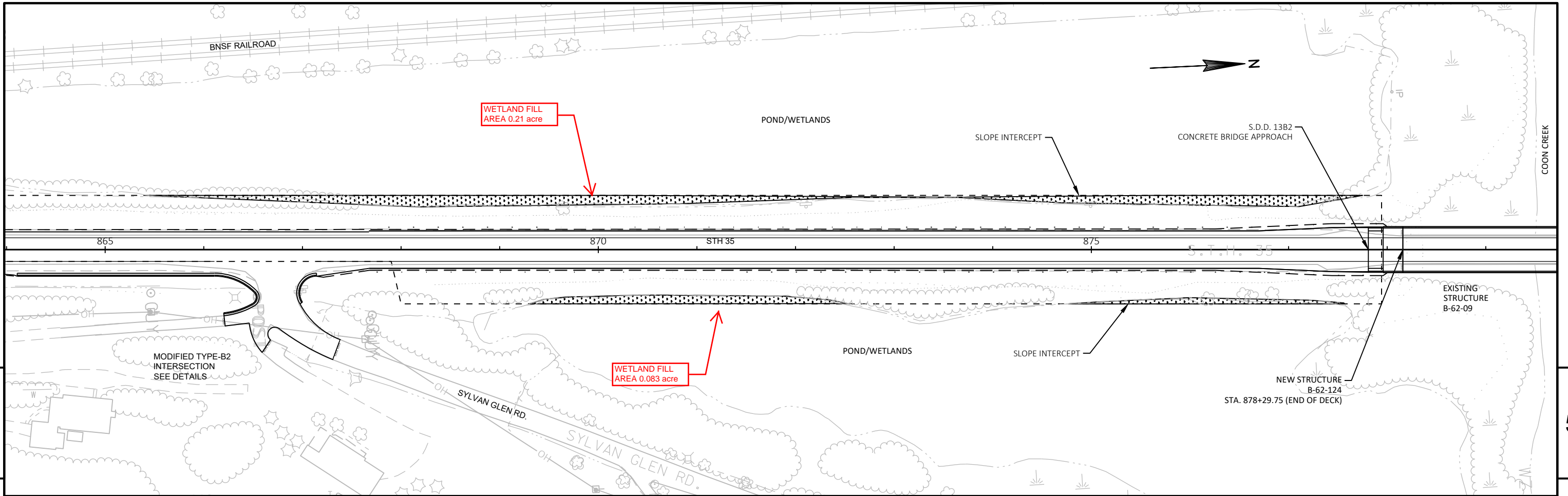












PROJECT NO: 5163-09-71	HWY: STH 35	COUNTY: VERNON	PLAN AND PROFILE: GENOA - STODDARD (RURAL)	SHEET 5
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St. Paul District Corps of Engineers, Regulatory Branch  
Transportation Regional General Permit

To qualify for regional general permit (RGP) authorization, the prospective permittee must comply with the following conditions, as applicable, in addition to any category-specific requirements and project-specific conditions imposed by the Corps.

1. **Compliance:** The permittee is responsible for ensuring that whomever performs, supervises or oversees any portion of the physical work associated with the construction of the project has a copy of and is familiar with all the terms and conditions of the RGP and any special (permit-specific) conditions included in any written verification letter from the Corps. The activity must also comply with any special conditions added by a state, tribe, or U.S. EPA in its Section 401 Water Quality Certification, or by the state in its Coastal Zone Management Act consistency determination. The permittee is ultimately responsible for ensuring compliance with all the terms and conditions of the RGP. Any authorized structure or fill must be properly maintained, including maintenance to ensure public safety and compliance with applicable RGP general conditions, as well as any activity-specific conditions added by the Corps to an RGP authorization.
2. **Compliance Certification:** Each permittee who receives an RGP verification letter from the Corps must provide a signed certification documenting completion of the authorized activity and implementation of any required compensatory mitigation. The Corps will provide the permittee the certification document with the RGP verification letter. The completed certification document must be submitted to the Corps within 30 days of completion of the authorized activity or the implementation of any required compensatory mitigation, whichever occurs later.
3. **Site Inspection:** The permittee shall allow representatives from the Corps to inspect the proposed project site and the authorized activity to ensure that it is being, or has been, constructed and maintained in accordance with the RGP authorization.
4. **Migratory Birds and Bald and Golden Eagles:** The permittee is responsible for ensuring their action complies with the Migratory Bird Treaty Act and the Bald and Golden Eagle Protection Act. The permittee is responsible for contacting appropriate local office of the U.S. Fish and Wildlife Service (FWS) to determine applicable measures to reduce impacts to migratory birds or eagles, including whether “incidental take” permits are necessary and available under the Migratory Bird Treaty Act or Bald and Golden Eagle Protection Act for a particular activity.
5. **Endangered Species:**
  - a. No activity is authorized under this RGP which is likely to directly or indirectly jeopardize the continued existence of a federally threatened or endangered species or a species proposed for such designation, as identified under the Endangered Species Act (ESA), 50 CFR 402, or which will directly or indirectly destroy or adversely modify the critical habitat of such species. No activity is authorized under the RGP which “may affect” a listed species or critical habitat, unless ESA Section 7 consultation addressing the effects of the proposed activity has been completed. Direct effects are the immediate effects on listed species and critical habitat caused by the RGP activity. Indirect effects are those effects on listed species and critical habitat that are caused by the RGP activity and are later in time, but still are reasonably certain to occur.
  - b. As a result of formal or informal consultation with the FWS, the Corps may add species-specific permit conditions to the RGP verification.
  - c. Information on the location of federally threatened and endangered species and their critical habitat can be obtained directly from the offices of the FWS on their web page at [www.fws.gov/ipac](http://www.fws.gov/ipac).
6. **Calcareous Fens:** The permittee may not complete regulated activities in a calcareous fen, unless the Wisconsin Department of Natural Resources has authorized the proposed regulated activity, or the Minnesota Department of Natural Resources has approved a calcareous fen management plan specific to the project. A list of known Minnesota calcareous fens can be found at: [http://files.dnr.state.mn.us/eco/wetlands/calcareous\\_fen\\_list.pdf](http://files.dnr.state.mn.us/eco/wetlands/calcareous_fen_list.pdf).
7. **Wild and Scenic Rivers:** The permittee may not complete regulated activities which may affect or are located in a designated portions of the National Wild and Scenic River System, or in a river officially designated by Congress as a “study river” for possible inclusion in the system while the river is in an official study status, unless the appropriate Federal agency with direct management responsibility for such river, has determined in writing that the proposed activity will not adversely affect the Wild and Scenic River designation or study status.

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8. **Historic Properties, Cultural Resources:**

- a. No activity which may affect historic properties listed or potentially eligible for listing on the National Register of Historic Places is authorized until the requirements of Section 106 of the National Historic Preservation Act (Section 106) have been satisfied. If PCN is required for the proposed activity, the federal project proponent should follow their own procedures for complying with the requirements of Section 106 and provide documentation of compliance with those requirements.
- b. Information on the location and existence of historic and cultural resources can be obtained from the State Historic Preservation Office, Tribal Historic Preservation Offices, and the National Register of Historic Places.
- c. Rock or fill material used for activities authorized by this permit must either be obtained from existing quarries or, if a new borrow site is excavated to obtain fill material, the Corps must be notified prior to the use of the new site to determine whether a cultural resources survey of the site is necessary.

9. **Discovery of Previously Unknown Remains and Artifacts:** If any previously unknown historic, cultural or archeological remains and artifacts are discovered while accomplishing the activity authorized by this permit, the Corps must immediately be notified of the findings. To the maximum extent practicable, construction activities must avoid that may affect the remains and artifacts until the required coordination has been completed. The Corps will initiate the federal, tribal, and state coordination required to determine if the items or remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

10. **Burial Sites:** Burial sites, marked or unmarked, are subject to state law (Wisconsin Statute 157.70 and Minnesota Statutes 306 and 307.08). Native American burial sites on federal or tribal land are subject to the provisions of Native American Graves Protection and Repatriation Act (NAGPRA). Regulated activities may not result in disturbance or removal of human remains until disposition of the remains has been determined by the appropriate authority under these laws, and the work is authorized by the Corps. Regulated activities which result in an inadvertent discovery of human remains must stop immediately, and the Corps, as well as the appropriate state and tribal authority, must be notified. Regulated work at inadvertent discovery sites requires compliance with state law and NAGPRA, as appropriate, prior to re-starting work.

11. **Federally Authorized Corps Civil Works projects:** A permittee is not authorized to begin any regulated activities described in this RGP if activities will alter or temporarily or permanently occupy or use a Corps federally authorized civil works project, unless the appropriate Corps office issues a Section 408 permission to alter, occupy, or use the Corps civil works project (pursuant to 33 U.S.C. 408) and the Corps issues written RGP verification. Examples of federal projects include, but are not limited to, works that were built by the Corps and are locally maintained (such as local flood control projects) or operated and maintained by the Corps (such as locks and dams).

12. **Dam Safety:** Permittees are not authorized to begin regulated activities unless they are able to demonstrate that the structures, when appropriate, comply with applicable state dam safety criteria or have been designed by qualified persons. The Corps may require documentation that the design has been independently reviewed by similarly qualified persons, and appropriate modifications are made to ensure safety.

13. **Suitable Material:** No activity may use unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.). Material used for construction or discharged must be free from toxic pollutants in toxic amounts (see Section 307 of the Clean Water Act).

14. **Restoration of Temporary Impacts:** All temporary impacts in waters of the US, including discharges resulting from side casting material excavated from trenching, that occur as a result of the regulated activity must be fully contained with appropriate erosion control or containment methods, be restored to preconstruction contours and elevations, and as appropriate, revegetated with native, non-invasive vegetation. In temporarily excavated wetlands, the top 6 to 12 inches of the excavation should normally be backfilled with topsoil originating from the wetland. No temporary excavation area, including, but not limited to trenches, may be constructed or backfilled in such a manner as to drain waters of the United States (e.g., backfilling with extensive gravel layers, creating a French drain effect).

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15. **Duration of Temporary Impacts:** Temporary impacts in waters of the U.S., including wetlands, must be avoided and limited to the smallest area and the shortest duration required to accomplish the project purpose.
  - a. Unless otherwise conditioned in a Corps RGP verification, temporary impacts may not remain in place longer than 90 days between May 15 and November 15. Before those 90 days have elapsed, all temporary discharges must be removed in their entirety.
  - b. If the temporary impacts would remain in place for longer than 90 days between May 15 and November 15, the PCN must include a request for a waiver from this condition and specify how long temporary impacts will remain and include a restoration plan showing how all temporary fills and structures will be removed and the area restored to pre-project conditions. The permittee must remove the temporary impacts in their entirety in accordance with the activity authorized their permit verification.
16. **Best Management Practices (BMPs):** To minimize adverse effects from soil loss and sediment transport that may occur as a result of the authorized work, appropriate BMPs must be implemented and maintained. For authorized work above an OHWM the BMPs must remain in place until the affected area is stabilized with vegetation or ground cover. For all authorized work below an OHWM, BMPs are required and must prevent or minimize adverse effects (e.g., total suspended solids or sedimentation) to the water column outside of the authorized work area. Heavy equipment working in wetlands or mudflats must be placed on mats, or other measures must be taken to minimize soil disturbance. All BMPs must be inspected and properly maintained following storm events to ensure they are operational. All exposed slopes and stream banks must be stabilized within 24 hours after completion of all tributary crossings.
17. **Culverts and Crossings:** Unless an RGP verification authorizes otherwise, replacement and installation of culverts or crossings authorized by an RGP are to follow (or be restored to) the natural alignment and profile of the tributary. The culverts or bridges must adequately pass low flow and bankfull events, bedload, sediment load, and provide site-appropriate fish and wildlife passage. Example design elements include recessing single culverts to accommodate natural bankfull width and adjusting additional culvert inverts at an elevation higher than the bankfull elevation.
18. **Aquatic Life Movements:** No regulated activity may substantially disrupt the necessary life cycle movements of those species of aquatic life indigenous to the waterbody, including those species that normally migrate through the area, unless the activity's primary purpose is to impound water.
19. **Spawning Areas:** Activities in spawning areas, during spawning seasons, must be avoided to the maximum extent practicable. Activities that result in the physical destruction (e.g., through excavation, fill, or downstream smothering by substantial sedimentation) of a designated or known spawning area are not authorized.
20. **Riprap:** For RGP categories that allow for the use of riprap material for bank stabilization, only rock must be used and it must be of a size sufficient to prevent its movement from the authorized alignment by natural forces under normal or high flows.
21. **Pollutant or Hazardous Waste Spills:** The permittee is responsible for removing pollutants and hazardous materials and for minimizing any contamination resulting from a spill in accordance with state and federal laws. In accordance with applicable state, tribal and federal laws and regulations, if a spill of any potential pollutant or hazardous waste occurs, it is the responsibility of the permittee to immediately notify the National Response Center at 1-800-424-8802 or [www.nrc.uscg.mil](http://www.nrc.uscg.mil) AND
  - IN WISCONSIN: the WI DNR Spills Team at 1-800-943-0003, or
  - IN MINNESOTA: the Minnesota State Duty Officer at 1-800-422-0798.
22. **Clean Construction Equipment:** All construction equipment must be clean prior to entering and before leaving the work site in order to prevent the spread of invasive species.
23. **Navigation:** No activity may cause more than a minimal adverse effect on navigation. Any safety lights and signals prescribed by the U.S. Coast Guard, through regulations or otherwise, must be installed and maintained at the permittee's expense on authorized facilities in navigable waters of the US. The permittee understands and agrees 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



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required, upon due notice from the Corps, 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.

24. **Fills Within 100-Year Floodplains:** The regulated activity must comply with applicable FEMA-approved state or local floodplain management requirements.
25. **Access Roads:** Access roads must be sized appropriately and must be constructed in such a way to minimize adverse effects on waters of the US and elevations must be as near as practicable to pre-construction contours and elevations (e.g., at grade corduroy roads or geotextile/gravel roads). All access roads constructed in waters of the US must be properly bridged or culverted to maintain surface flows.
26. **Tributary Modifications.** When stream channelization is performed with the construction of a road crossing, both activities should be considered as a single and complete project, which may be authorized by another form of authorization. The Corps does not consider installation of a culvert in a stream bed as stream channelization as long as those activities are conducted in accordance with the terms of the categories described in this permit. Unless the general permit verification authorizes otherwise, replacement and installation of culverts or crossings authorized are to follow (or be restored to) the natural alignment and profile of the tributary, see General Condition 17. Culverts and Crossings.
27. **Section 401 Clean Water Act, Water Quality Certification:** All regulated activities authorized by the Transportation RGP pursuant to Section 404 of the Clean Water Act require Section 401 Clean Water Act certification or waiver to be considered valid.
28. **Transfer of Regional General Permit Verifications:** If the permittee sells the property associated with a regional general permit verification, the permittee may transfer the regional general permit verification to the new owner by submitting a letter to the appropriate Corps district office to validate the transfer. A copy of the regional general permit verification must be attached to the letter, and the letter must contain the following statement and signature "When the structures or work authorized by this regional general permit are still in existence at the time the property is transferred, the terms and conditions of this regional general permit, including any special conditions, will continue to be binding on the new owner(s) of the property. To validate the transfer of this regional general permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below."

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(Transferee)

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(Date)

**State of Wisconsin**  
DEPARTMENT OF NATURAL RESOURCES  
101 S. Webster Street  
Box 7921  
Madison WI 53707-7921

**Scott Walker, Governor**  
**Daniel L. Meyer, Secretary**  
Telephone 608-266-2621  
Toll Free 1-888-936-7463  
TTY Access via relay - 711



February 15, 2018

Chad Konickson  
U.S. Army Corps of Engineers  
St. Paul District - Regulatory  
180 5th St. East  
Suite 700  
St. Paul MN 55101

Subject: Water Quality Certification for the Regional General Permits in WI

Dear Mr. Konickson:

The Wisconsin Department of Natural Resources submits the attached water quality certification for U.S. Army Corps of Engineers' Regional General Permits for Beach Creation & Nourishment, Beach Raking, Minor Discharges, Piers and Docks, Wildlife Ponds, Transportation, and Utilities for projects in Wisconsin.

Please feel free to contact Cami Peterson or me with any questions.

Sincerely,

Benjamin Callan  
Chief, Integration Services Section

cc: Wendy Melgin, USEPA  
Jill Bathke, USACE  
Rebecca Graser, USACE

Attachment



## BEFORE THE WISCONSIN DEPARTMENT OF NATURAL RESOURCES

Application of the United States Department of the Army,)
Corps of Engineers, for Water Quality Certification for the)
Final Regulations Pertaining to the Issuance
of Regional General Permits for Beach Creation & Nourishment, Beach Raking, Minor
Discharges, Piers and Docks, Transportation, Utilities, Wildlife Ponds)

On December 20, 2017, the United States Department of the Army, Corps of Engineers (COE), published its final notice regarding the Issuance of seven Regional General Permits (RGPs) in the Federal Register. The publication includes new RGPs. Publication of these RGPs serves as the Corps' application to the State for water quality certification (WQC) under Section 401 of the Federal Clean Water Act (CWA).

The Wisconsin Department of Natural Resources (WDNR) has examined the final regulations pursuant to Section 401, CWA, and Chapter NR 299, Wisconsin Administrative Code (Wis. Adm. Code).

The WDNR has determined the following conditions for the RGPs are required to ensure compliance with state water quality standards enumerated in s. 299.04, Wis. Adm. Code. The certification contained herein shall expire on February 16, 2023.

Section 401 Certification does not release the permittee from obtaining all other necessary federal, state, and local permits, licenses, certificates, approvals, registrations, charters, or similar forms of permission required by law. It does not limit any other state permit, license, certificate, approval, registration, charter, or similar form of permission required by law that imposes more restrictive requirements. It does not eliminate, waive, or vary the permittee's obligation to comply with all other laws and state statutes and rules throughout the construction, installation, and operation of the project. This Certification does not release the permittee from any liability, penalty, or duty imposed by Wisconsin or federal statutes, regulations, rules, or local ordinances, and it does not convey a property right or an exclusive privilege.

This Certification does not replace or satisfy any environmental review requirements, including those under the Wisconsin Environmental Policy Act (WEPA) or the National Environmental Policy Act (NEPA).

**Note:** The specific language in the RGPs is not included in this document. Copies of complete regional general permits published in the Federal Register on December 20, 2017, may be obtained from your local COE field office.

### STATE CONDITIONS AND LIMITATIONS OF CERTIFICATION

#### GENERAL CONDITIONS:

1. The permittee shall allow the WDNR reasonable entry and access to the discharge site to inspect the discharge for compliance with the certification and applicable laws.

2. If any of these §401 water quality certification conditions are found invalid or unenforceable, the water quality certification is denied for all activities to which that condition applies.

3. No discharges of dredged or fill material below the ordinary high water mark of a navigable stream as defined by s. 310.03(5), Wis. Adm. Code, may take place during fish spawning periods or times when nursery areas would be adversely impacted. These periods are:

- September 15<sup>th</sup> through May 15<sup>th</sup> for all trout streams and upstream to the first dam or barrier on the Root River (Racine County), the Kewaunee River (Kewaunee County), and Strawberry Creek (Door County). To determine if a waterway is a trout stream, you may use the WDNR website trout maps at <http://dnr.wi.gov/topic/fishing/trout/streammaps.html>.
- March 1<sup>st</sup> through June 15<sup>th</sup> for ALL OTHER waters.

4. Unless specifically exempt from state statute and federal Pre-Construction Notification (PCN) requirements, Applicants seeking authorization under these RGPs shall complete the Joint State/Federal Permit Application on the department e-permitting site at <http://dnr.wi.gov/Permits/Water/>.

#### Regional General Permits Granted Water Quality Certification:

- Beach Raking
- Minor Discharges
- Piers and Docks

#### Regional General Permits for which Water Quality Certification is Partially Denied

The specified activities authorized by the following RGP categories are denied WQC without prejudice and must apply to the WDNR for an individual 401 WQC. Activities that do not include the activities for which certification has been denied are certified subject to all applicable RGP general conditions.

- Utilities
  - WQC denied: Temporary access fill without PCN that is placed for 60 or more consecutive days between May 15 and November 15.
  - WQC certified: All other RGP activities.
- Transportation
  - WQC denied: Temporary access fill without PCN that is placed for 60 or more consecutive days between May 15 and November 15.
  - WQC certified: All other RGP activities.
- Beach Creation & Nourishment
  - WQC denied: Placement of sand for beach creation.
  - WQC certified: All other RGP activities.
- Wildlife Ponds
  - WQC denied: The project is located in a navigable water with stream history. (The Wisconsin Department of Natural Resources (WDNR) is responsible for interpretation of a navigable water with stream history. The point of contact for



questions relating to a navigable water with stream history is the local WDNR Water Management Specialist. Contact information can be found at <http://dnr.wi.gov/topic/Waterways/contacts.html> )

- WQC denied: If the project is located in existing wetland not in agricultural crops, not dominated by invasive species, or dominated by other than early successional hydrophyte species. (The WDNR is responsible for interpretation of these categories that are denied WQC. The point of contact for questions is the local WDNR Water Management Specialist. Contact information can be found at <http://dnr.wi.gov/topic/Waterways/contacts.html> )
- WQC certified: All other RGP activities.

#### NOTICE OF APPEAL RIGHTS

If you believe that you have a right to challenge this decision, you should know that Wisconsin Statutes and administrative rules establish time periods within which requests to review Department decisions must be filed.

To request a contested case hearing pursuant to section 227.42, Wisconsin Statutes, 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.

This determination becomes final in accordance with the provisions of s. NR 299.05(7), Wisconsin Administrative Code, and is judicially reviewable when final. For judicial review of a decision pursuant to Sections 227.52 and 227.53, Wisconsin Statutes, 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 Madison, Wisconsin

February 15, 2018

STATE OF WISCONSIN  
DEPARTMENT OF NATURAL RESOURCES

By Ed Elbrle  
for Daniel Meyer, Secretary



# US Army Corps of Engineers®

St. Paul District

## COMPLIANCE CERTIFICATION

Regulatory File Number: 2019-00893-KJH  
Name of Permittee: Wisconsin Department of Transportation (Dan Kleinertz)  
County/State: La Crosse County, Wisconsin  
Date of Issuance: July 19, 2019

Upon completion of the activity authorized by this permit and any mitigation required by the permit, sign this certification and return it to the Corps contact identified in your verification letter within 30 days.

Please note that your permitted activity is subject to a compliance inspection by a U.S. Army Corps of Engineers representative. If you fail to comply with this permit, you are subject to permit suspension, modification, or revocation.

By signing below, the permittee is certifying that the work authorized by the above referenced permit has been completed in accordance with the terms and conditions of the permit, and any required mitigation was completed in accordance with the permit conditions.

\_\_\_\_\_  
Signature of Permittee

\_\_\_\_\_  
Date