



State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Jim Doyle, Governor
Matthew J. Frank, Secretary
Gloria L. McCutcheon, Regional Director

Waukesha Service Center
141 NW Barstow, Room 180
Waukesha, Wisconsin 53188
Telephone 414-229-0800
FAX 414-229-0810

12/5/2008

IP-SE-2007-68-0018

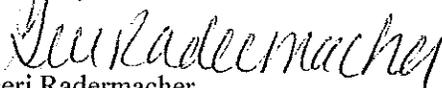
Mr. Tom Hafner
City of Delafield
500 Genesee Street
Delafield, WI 53018

Dear Mr. Hafner:

The Department of Natural Resources (Department) has reviewed the City of Delafield's (City's) Chapter 30 permit application to remove material from the bed of Nagawicka Lake, located in the City of Delafield, Waukesha County. The permit has been approved. Attached is a copy of the Chapter 30 permit. Please read the permit conditions carefully so that you are fully aware of what is expected of you. There are a number of items that must be completed prior to dredging.

If you have any questions about your permit, please call me at 262-574-2137.

Sincerely,


Geri Radermacher
Water Management Specialist

cc: Dale Pfeiffle, ACOE
Waukesha County
Conservation Warden Groenier
Foth Infrastructure and Environment, LLC

STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES

Dredging PERMIT
IP-SE-2007-68-0018

The City of Delafield is hereby granted under Section 30.20(2), Wisconsin Statutes, authorization to remove materials from the bed of Nagawicka Lake, located in the City of Delafield, Waukesha County, also described as the Sections 5, 8, 9, 16, 17, Township 7 North, Range 18 East, subject to the following conditions:

PERMIT

1. You must notify Geri Radermacher at phone 262-574-2137 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 December 31, 2010. If you will not complete the project by this date, you must submit a written request for an extension prior to the expiration date of the permit. Your request must identify the requested extension date and the reason for the extension. A permit extension may be granted, for good cause, by the Department. You may not begin or continue construction after the original permit expiration date unless the Department grants a new permit or permit extension in writing.
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. Approved plans and application materials are dated May 2008, with an October 2008 revision to pages 15, 16, 18, 19, 22 and 29 of the application materials and an October 2008 revision to Figures 3, 4, 9A and 9B. If you wish to alter the project or permit conditions, you must first obtain written approval of the Department.
4. You are responsible for obtaining any permit or approval that may be required for your project by local zoning ordinances and by the U.S. Army Corps of Engineers before starting your project.
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 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 shall post multiple copies of this permit one on the dredge barge, one at the staging area visible from the road, one on the pier at the staging area and one at the dewatering/disposal site. The copies shall be posted throughout the dredging season. You must also have a copy of the permit and approved plans 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 shall submit a series of photographs to the Department, within one week of completion of work on the site. The photographs must be taken from different vantage points and depict all work authorized by this permit.

10. You shall supply a copy of this permit to every contractor associated with this project.
11. 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, Wisconsin Statutes or this permit.
12. Erosion control measures shall meet or exceed the standards in the State of Wisconsin's Construction Site Erosion and Sediment Control Technical Standards.
13. You shall hold a pre-dredging meeting similar to a preconstruction meeting. All contractors and sub-contractors shall attend this meeting. A Department staff person shall attend this meeting. You shall notify the Department of the date of the meeting in writing a minimum of 14-days prior to the date of the meeting.

Project Specific Dredge Conditions

14. The removal of bed material is limited to use of a hydraulic dredge.
15. With the exception of Zastrow's Bay, dredging may not occur between July 1st and October 15th of the calendar year. Dredging may occur any time of year in Zastrow's Bay.
16. Removal shall not exceed the amounts or the locations shown on the approved plans and in the approved application materials.
17. You shall only dredge to the elevations shown on the approved plans and in the approved application materials.
18. You shall perform bathymetric surveys within seven days of completion of dredging in a specific area to confirm attainment of the elevations outlined in the approved plans and approved application materials. Target elevations shall be measured to one-tenth of one foot.
19. You shall mark the location and width of all dredge areas prior to dredging. The marked dredge areas shall be approved by the Department. Once approved the dredge locations shall be located by GPS equipment. You may commence dredging once you GPS locate the Department approved dredge locations.
20. You shall GPS locate the new dredge area to confirm dredging matched pre-dredge GPS located information.
21. The removal shall be made to provide a relatively level bottom condition in the dredge areas and shall have a minimum 5-foot setback from the shoreline, maximum side slope of the dredge cut of 4H:1V and a maximum post water depth of five feet, except for the proposed sediment trap at the Bark River Inlet, which will have a maximum post dredge water depth of 6.5 feet.
22. You shall not dredge or otherwise disturb native hard pan bottom materials at any location. Removal is limited to soft sediment only.

23. You shall locate the sediment slurry pipe/hose alignment and booster pump as shown in the approved application materials and on the approved plans. You shall obtain written Department approval if modifying any in water aspects of this plan. All in water equipment shall be located to first avoid and then minimize impacts to navigation.
24. You shall properly mark all in water equipment, including but not limited to hoses, pumps, pipes to U.S. Coast Guard standards and State of Wisconsin standards for navigation. You shall obtain a Waterway Marker Permit prior to placing any buoys (Form 8700-058).
25. You shall pressure test the sediment slurry pipes/hoses weekly in order to detect any leaks. The tests shall be conducted weekly prior to initiating dredging for the week with the results recorded in a report kept at the project site. Leaks shall be properly repaired prior to dredging.
26. You shall immediately shut down the dredge pumps if a leak is detected in any hose/pipe. The leak shall be repaired and the system retested to ensure that the leak is properly repaired prior to commencing dredging. Leaks and repairs shall be recorded in a log which is kept at the project site. Any leak or spill of dredged material shall be reported to the Department within 24 hours of the occurrence.
27. You shall develop a spill prevention/response plan for Department review and approval prior to commencing any dredging. The plan shall expand on the contingency and spill prevention plan included in the approved application materials. This plan shall include a separate section on equipment refueling and backwashing of lines.
28. You are limited to one shoreline staging area referred to as the "Ridley Road" staging area on the approved plans and application materials. You shall install and maintain proper erosion control measures per the State of Wisconsin Technical Standards, install equipment storage containment measures to ensure fluids leaking from equipment do not enter the lake, and provide the Department an updated erosion control plan and equipment storage containment plan for review and approval prior to mobilizing this site.
29. You are authorized to place one temporary floating pier at the staging area site per the approved plans and application materials. The pier and associated watercraft may not impede public navigation.
30. You shall utilize the proposed Oakwood Road upland sediment dewatering and disposal site as shown in the approved plans and approved application materials. You shall update the erosion control plan for this site for review and approval prior to conducting any work. This erosion control plan shall include all aspects of the project, from initial land disturbance through final site stabilization, including management of the solids generated from the project. You shall not deposit or store any of the removed materials in any wetland, floodplain or waterway.
31. Solids generated from this project shall be retained at the Oakwood Road site and incorporated into the park development plan for landscaping. Sale to third parties is prohibited unless additional approvals are received from the Department.
32. Dewatering shall utilize geotextile dewatering tubes, a five-acre dewatering pad and associated trenches, sumps and screening equipment as indicated in the approved application materials and approved plans.
33. Carriage return water shall be discharged back to the lake in the location shown in the approved plans. The pipe/hose shall include energy dissipation measures to avoid scouring of the lake bed.

34. You shall develop an in-lake monitoring program to evaluate the discharge from the carriage return water pipe and associated zone of impact. This program will assess any biological impacts the carriage return water may be having on the lake and adjustments that may need to be made to the project. This plan shall be reviewed and approved by Department approval prior to commencing any dredging. This monitoring program shall include but not be limited to water clarity, total phosphorus, dissolved phosphorus, suspended solids, dissolved oxygen, pH, ammonia series, nitrogen series. The plan shall include locations of sampling, frequency of sampling and depths of sampling. This program is separate from the Department's Wastewater approval.
35. You shall obtain all necessary permits/approvals from all other Department programs, including, but not limited to, the Department's Wastewater program, Stormwater Program and Solid Waste Program prior to initiating any dredging.
36. You shall update the Aquatic Plant Restoration Methodology developed by LJ Reas Consulting included in the approved application material. Revisions shall be based on Department comment. The final Aquatic Plant Restoration Plan shall be approved in writing prior to commencing any dredging.
37. You shall provide financial assurance for the implementation of the Aquatic Plant Restoration Plan, which includes a minimum of five years of monitoring. Financial assurance maybe a bond or alternative financial assurance (cash, certificate of deposit, irrevocable letter of credit, irrevocable trust, an escrow account, or a government security)and shall be in the amount of \$150,000.
38. You shall not perform future maintenance dredging in the areas authorized by this permit without first obtaining a new Chapter 30 individual permit.
39. All equipment used for the project including but not limited to tracked vehicles, barges, boats, silt or turbidity curtain, hoses, sheet pile and pumps shall be de-contaminated for invasive and exotic viruses and species prior to use and after use. Specific disinfection measures are required on infested waters and must be taken prior to moving to another waterbody. The most current de-contamination protocols and a list of infested waters can be found at the following website <http://dnr.wi.gov/> under the Topic "VHSV".

The following steps should 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 should not be used on other non-infested waters.

1. Inspect and remove aquatic plants, animals, and mud from your equipment.
2. Drain all water from your equipment that comes in contact with infested waters, including but not limited to tracked vehicles, barges, boats, silt or turbidity curtain, hoses, sheet pile and pumps
3. Dispose of aquatic plants, animals in the trash. Never release or transfer aquatic plants, animals or water from one waterbody to another.
4. Wash your equipment with hot (>104° F) and/or high pressure water OR allow your equipment to Dry thoroughly for 5 days.

FINDINGS OF FACT

1. The City of Delafield has filed a Chapter 30 permit application for to remove materials from the bed of Nagawicka Lake, located in the City of Delafield, Waukesha County, also described as Sections 5,8,9,16, and 17, Town 7 North, Range 18 East.
2. The project will consist of hydraulically dredging five selected areas of Nagawicka Lake, the West Channels, the Northwest Channels, the Northeast Channels, the Bark River Inlet and Zastrow's Bay. The City's goals for the dredging are as follow: 1) Maintain and enhance aquatic habitat 2) Provide better public watercraft access for recreation 3) Maintain property values and the City's tax base 4) Maintain adequate public safety 5) Prevent/minimize further lake sedimentation. Dredging will follow the natural shoreline and will have a minimum five foot wetland setback. The dredge channel areas will have a maximum post-dredge water depth of 5 feet, a maximum bottom channel width of 25 feet and maximum side slope of the dredge cut of 4H:1V (Horizontal to Vertical). The proposed inlet sediment trap will have a maximum depth of six and one half feet and will not disturb native hard pan. The project includes dredging approximately 109,000 cubic yards of material.

The dredge slurry will be pumped into geotextile dewatering tubes located in the City owned property located off of Oakwood Road. The water collected from the dewatering tubes will be returned to Nagawicka Lake. The remaining sediment left in the tubes will remain on site and will be used when the City develops the property into a public park.

The project includes a native aquatic plant restoration component. All areas dredged will be replanted with native aquatic vegetation to aid in sediment stabilization as well as to aid in diversifying the native aquatic plant community. These areas will be monitored a minimum of five years to ensure adequate plant growth.

3. The City initially applied to dredge seven areas of Nagawicka Lake, the five areas approved by this permit as well as areas of St. Johns Bay and the Northern Kettle. The Department conducted numerous site investigations of these areas. Based on existing water depth, fish habitat, wildlife habitat, native plant diversity and minimal invasive aquatic vegetation the Department determined that the City's dredging goals would not be met in St. Johns Bay and the Northern Kettle. The Department also determined that dredging St. John's Bay, the Northern Kettle and portions of the Northeast and Northwest channels would have a negative impact on public interests in navigable waters. The Department conveyed it's findings to the City and stated that it was not likely to approve dredging in those areas. Subsequently the City revised it's application and removed dredging in St. Johns Bay, the Northern Kettle, and reduced dredging to four access channels (from the requested seven) to the Northwest Channels and reduced dredging to four channels in the Northeast Channel area.
4. This permit does not authorize or imply authorization for future maintenance dredging.
5. The Department has completed an investigation of the project site and has evaluated the project as described in the application and plans. The approved application materials and plans dated May 2008 with an October 2008 revision to pages 15, 16, 18, 19, 22 and 29 of the application materials and an October 2008 revision to Figures 3, 4, 9A and 9B. The October 2008 revision added dredging between parcels DELC0750032 and NASHV0750029 in the Northwest Channels.
6. The Department completed an Environmental Assessment for this project and held a public informational hearing on October 16, 2008. Approximately 69 members of the public completed hearing appearance slips of which 8 where opposed to the project, 38 were in support of the project, 16 had no comment on their

position and 7 requested modifications to the project. Public comment ranged from funding, why some areas are designated as sensitive, dredge locations, dredge dimensions, maintenance dredging, fisheries and contamination. The Department received an additional two written comments during the ten day public comment period. The Department reviewed all public comments and took them into account when making its permit decision.

7. 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.
8. 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 1.11, 30.20, Wisconsin Statutes and Chapters NR 102, 150, 345 and 347 of the Wisconsin Administrative Code.

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.

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. 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. 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.

A request for contested case hearing must meet the requirements of section 30.209, Wis. Stats., and section NR 310.18, Wis. Adm. Code, and must include the following information:

1. A description of the Department's action or inaction which is the basis for the request; and,
2. A description of the objection to the decision that is sufficiently specific to allow the department to determine which provisions of Chapter 30, Wis. Stats., may be violated; and
3. A description of the facts supporting the petition that is sufficiently specific to determine how you believe the project may result in a violation of Chapter 30, Wis. Stats.; and,

4. Your commitment to appear at the contested case hearing, if one is granted, and present information supporting your objection.
5. 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 Waukesha Service Center, Wisconsin on December 5, 2008.

STATE OF WISCONSIN DEPARTMENT OF NATURAL RESOURCES

For the Secretary

By 

Geri Radermacher

Water Management Specialist