

**STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES**



**GENERAL PERMIT FOR SMALL SCALE DREDGING OF
LAKES AND STREAMS**

PERMITTEE: The General Public in Wisconsin

PERMIT NO.: GPXX-2017-WI (WDNR-GPXX-2017)

ISSUING OFFICE: Waterways & Wetland Protection Section, Bureau of Watershed Management, Water Division, Wisconsin Department of Natural Resources (DNR or Department)

ISSUANCE DATE: XX/XX/2017

EXPIRATION DATE: XX/XX/2012

GENERAL PERMIT AUTHORIZATIONS:

In compliance with the provision(s) of Wis. Stats. 30.20(1)(b), no person may remove any material from the bed of a natural navigable lake or navigable stream unless an individual or a general permit has been issued under s. 30.20 or authorization has been granted by the legislature.

Wis. Stats. s. 30.206(1)(a) requires and authorizes the Department to issue general permits that authorize any person in the State of Wisconsin to perform work in accordance with the terms and conditions of the general permit specified below after satisfying all applicable permit terms and conditions. Please refer to the following sections of this permit for the specific eligibility standards, application requirements, certification requirements and responsibilities, conditions, findings of fact, conclusions of law, and definitions required by WDNR-GPXX-2017.

Note: Projects involving the removal and lease or sale of any material from the bed of any navigable lake or of any outlying waters are ineligible for this general permit and must obtain a contract from the department under Wis. Stats. 30.20(2)(a) and (b).

OTHER AUTHORIZATIONS NECESSARY: WDNR-GPXX-2017 authorizations are subject to all applicable terms and conditions specified in this permit. However, **WDNR-GPX-2017 authorizations are provisional and require that project proponents obtain any other local, state or federal permits before any work may proceed.** The U.S. Army Corps of Engineers may require permits for dredging projects that affect Section 10 Navigable Waters under the Rivers and Harbor Act of 1899 or projects that will result in a discharge under the Clean Water Act.

PROJECT DESCRIPTION AND LOCATION: WDNR-GPXX-2017 applies to small scale dredging of lakes and rivers.

The removal of material from the beds of navigable waters is regulated under Wis. Stats. subs. 30.20 (1), (1g), (1m), (1t) and (2). Any person that intends to remove material from the bed of a navigable lake or stream must obtain a permit from the Department.

GENERAL PERMIT COVERAGE: Unless notified by the Department to the contrary, the effective date of coverage under this general permit is 30 calendar days after a complete

notification package has been received by the designated DNR office. A list of offices and addresses to send your complete notification package (based on the county where the project is located) can be found at http://dnr.wi.gov/waterways/about_us/county_contacts.html. **WDNR-GPXX-2017 permit coverage is valid for a period of 5 years from the date the Department determines the activity is authorized by this general permit or until the authorized activity has been completed, whichever occurs first.** Thereafter, permit coverage terminates unless another complete notification package is submitted to retain coverage under this permit or a reissued version of this permit.

State of Wisconsin Department of Natural Resources
For the Secretary

Watershed Bureau Director

Date Permit Signed

DRAFT

TABLE OF CONTENTS

Page(s)

SECTION 1	ELIGIBILITY STANDARDS	3-5
SECTION 2	APPLICATION REQUIREMENTS	6-7
SECTION 3	CERTIFICATION & RESPONSIBILITIES	7-8
SECTION 4	GENERAL PERMIT CONDITIONS	8-11
SECTION 5	FINDINGS OF FACT	11
SECTION 6	CONCLUSIONS OF LAW	11
SECTION 7	DEFINITION OF TERMS	11-13

WDNR-GPXX-2017 TERMS AND CONDITIONS

The following sections describe the general permit authorization procedures implemented by the DNR in WDNR-GPXX-2017. Projects must meet all the terms and conditions of this permit to be eligible for coverage under WDNR-GPXX-2017.

NOTE: The term "you" and its derivatives, as used in this general permit, means the person who submitted and signed the complete notification package for coverage under the General Permit or the person who removes material from the bed of a navigable lake or stream under coverage of this General Permit. The term "the Department" or "this office" refers to the appropriate Wisconsin Department of Natural Resources (DNR) Service Center, DNR Region or Central Office headquarters of the Wisconsin DNR having jurisdiction over the authorized activity or the appropriate official of that office acting under the authority of the Secretary of the Department.

SECTION 1 – WDNR-GPXX-2017 ELIGIBILITY STANDARDS AUTHORIZATION

Any person who conducts dredging of material from navigable lake or stream is required to obtain a permit under Wis. Stats. s. 30.20(1t)(a), and must meet all of the following standards to be eligible for coverage and authorization under this general permit.

NOTE: Projects that do not meet all standards are not eligible for this general permit and are therefore excluded from coverage under WDNR-GPXX-2017. For projects that do not qualify for WDNR-GPXX-2017, you may apply for an Individual Permit as outlined in Wis. Stats. s. 30.208(2). Wis. Stats. Further, s. 30.206(3r), Wis. Stats. allows the Department to require an individual permit in lieu of a general permit if the Department determines that the proposed activity is not authorized under WDNR-GPXX-2017 or conducts an investigation and visits the site and determines that conditions specific to the site require restrictions on the activity in order to prevent significant adverse impacts to the public rights and interest, environmental pollution, as defined in Wis. Stats. s. 299.01 (4), or material injury to the riparian rights of any riparian owner.

A. ELIGIBILITY STANDARDS APPLICABLE TO ALL PROJECTS

1. Projects involving the lease or sale of any material removed from the bed of any navigable lake or of any outlying waters are not eligible for this general permit. The lease or sale of dredged material from a navigable lake or outlying water requires a dredging contract from the Department under Wis. Stats. s. 30.20(2)(a).
2. If the project location is within the riparian zone, the applicant is the riparian owner or has the permission of the riparian owner to dredge the bottom material.
3. The dredging may not be associated with any metallic or nonmetallic mining project.
4. The dredging may not be located in an area of special natural resource interest as defined in Wis. Stat. §30.01(1am).
5. The dredging may not be located in a public rights feature as defined in Wis. Admin Code NR 1.06(5)
6. The applicant shall provide information that the dredged material does not contain any hazardous substance if
 - a) the proposed dredging site is listed or immediately adjacent to a site on the Bureau for Remediation and Redevelopment Tracking System (BRRTS) website or other county, state, or federal web-based data system that tracks the presence of a hazardous substances, or
 - b) The Department advises the applicant that it has specific information that indicates the potential that hazardous substance may be present in the material proposed to be dredged *and* there is a need to verify that the hazardous substance is actually present. **[Note:** There may be cases where the Department already has specific information about the presence of a hazardous substance in a waterbody and can waive the sampling requirement since no verification is needed]
Specific information could include but is not limited to:
 1. The collection and laboratory analysis of the dredged material in compliance with Ch. NR 347, Wis. Adm. Code; or
 2. The review of historical dredge material information from the vicinity of the proposed project that was collected and analyzed in accordance with Ch. NR 347, Wis. Adm. Code; or
 3. Assessment of the potential for hazardous substances to be present based upon the characteristic of the watershed, industrial and municipal discharges to the waterbody and dredge material data from similar waterways.
7. Projects involving the removal of material where a sediment cap, cover, installed barrier or where other engineering controls have been installed as part of a federal or state environmental remediation to manage contaminated sediment are ineligible for this general permit. Examples of environmental remediation programs are the

Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or Superfund), the Resource Conservation and Recovery Act (RCRA), Great Lakes Legacy, and a Spill Response under Wis. Stats. Ch. 292 or Wis. Admin. Code Ch. NR 700 or both.

8. Projects that involve the removal of material from waters that were ammunition fall areas for gun ranges or projects that involve the removal of hazardous substances are ineligible for this general permit.
9. Fish Spawning. To minimize adverse impacts on fish movement, fish spawning, and egg incubation periods, the removal of material may not occur during the following time periods.
 - a) September 15th through May 15th for all trout streams; and upstream to the first dam or barrier on the Root River (Racine County), 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>
 - b) March 1st through June 15th for ALL OTHER waters.

The regional Department Fisheries Biologist may waive or modify these timing restrictions in writing. To request in writing a waiver or modification of fish spawning timing restrictions for your project please use the checklist listed as Appendix 1 and the WDNR website at: <http://dnr.wi.gov/topic/Waterways/contacts.html> to find the county contact for your project to send the requested information.

10. The project shall be conducted in a manner that prevents the dispersal of sediment away from the project site. Temporary control measures such as silt curtains shall be used as needed, and shall be installed prior to dredging and removed from the waterbody no more than 24 hours after dredging is complete. Any temporary control measures shall follow all state lighting requirements and may not obstruct navigation.

11. Erosion control measures must meet or exceed the technical standards for erosion control approved by the department under Wis. Admin. Code subch. V of Ch. NR 151. Any area where topsoil is exposed during construction must be immediately seeded and mulched or ripped to stabilize disturbed areas and prevent soils from being eroded and washed into the waterway. **Note:** These standards can be found at the following website: <http://dnr.wi.gov/topic/stormwater/standards/>.

12. Dredging shall be conducted to minimize the re-suspension of sediment to the maximum extent practicable to prevent total suspended solid concentrations in excess of 80 mg/l to waters immediately downstream of the project site

13. For perennial tributaries to trout streams, which are identified under s. NR 1.02(7) the total suspended solid concentrations may not exceed 40 mg/l immediately downstream of the project site

14. Dredged material may not be permanently or temporarily placed within a wetland, floodway, or re-deposited below the ordinary high water mark of a navigable waterway unless a plan is submitted and approved by the Department or unless the deposit is exempt under federal or state law. The plan shall identify the duration of placement, potential impacts to flood flows, and erosion control measures utilized to protect the wetland or navigable waterway. Permanent or temporary placement of dredged material into a wetland will require a wetland permit from the Department and potentially from the U.S. Army Corps of Engineers. Re-deposition of dredged material below the ordinary high water mark of a navigable waterway, shall meet the standards in Wis. Admin. Code s. NR 347.07(4) and a separate permit shall be obtained from the Department under Wis. Stats. s. 30.12.

15. Once coverage is granted by the Department under this general permit, the landowner cannot seek repeat coverage under this general permit until the full duration of coverage has expired (5 years).

B. ADDITIONAL ELIGIBILITY STANDARDS APPLICABLE TO DREDGING IN STREAMS

1. The removal of bottom material shall be for the purpose of improving navigation **or** recreation.
2. The dredging may not result in water depth greater than 5 feet as measured from the ordinary high water mark.
3. For each riparian property, the amount of bottom material dredged from a waterbody may not exceed 25 cubic yards over the course of this general permit coverage (5 years).
4. Dredging is not limited to a single location on the riparian property. Dredging can occur in multiple locations within the riparian property.
5. There is no limit to the number of times dredging can occur over the course of this general permit. Each dredging event must adhere to the terms and conditions, including eligibility standards, of this general permit
6. Before each dredging event the general permit holder shall **notify** the department with the following information:
 - a) Existing General Permit Docket or Identification number verifying existing coverage
 - b) Proposed volume amount
 - c) Proposed dimensional dredging area
 - d) Location of Dredging
 - e) Dredged spoil disposal location
7. The dredging shall not be associated with the straightening or realignment of the stream or the removal of instream habitat such as riffles or pools.

8. Dredging may not occur in an area of naturally occurring sand, rock, cobble or gravel bottom *unless the purpose of the dredging is for improving navigation only*
9. Native aquatic vegetation may be removed incidental to the dredging event *for the purpose of improving navigation only* under this general permit without needing an additional aquatic plant management permit as required by Wis. Admin Code NR 109 provided that:
 - a. Removal of native aquatic vegetation is limited to a single area with a maximum width of 30 feet measured along the shoreline.
 - b. Any aids to navigation (e.g., piers, boatlifts) are located within that 30-foot wide zone or immediately adjacent to the zone.
10. Removal of coarse woody debris, trees, or other fish and wildlife habitat structures placed below the OHWM as a result of Department authorization is prohibited.

C. ADDITIONAL ELIGIBILITY STANDARDS APPLICABLE TO DREDGING IN LAKES, PONDS, AND IMPOUNDMENTS

1. The removal of bottom material shall be for the purpose of improving navigation or recreation.
2. For each riparian property, the amount of bottom material dredged from an inland waterbody may not exceed 25 cubic yards over the course of this general permit.
3. For each riparian property, the amount of bottom material dredged from a Great Lakes waterbody may not exceed 100 cubic yards over the course of this general permit.
4. Dredging is not limited to a single location on the riparian property. Dredging can occur in multiple locations within the riparian property.
5. There is no limit to the number of times dredging can occur over the course of this general permit. Each dredging event must adhere to the terms and conditions, including eligibility standards, of this general permit.
6. Before each dredging event the general permit holder shall notify the department with the following information:
 - a. Existing General Permit Docket or Identification number verifying existing coverage
 - b. Proposed volume amount

- c. Proposed dimensional dredging area
 - d. Location of Dredging
 - e. Dredged spoil disposal location
7. Native aquatic vegetation may be removed incidental to the dredging event **for the purpose of improving navigation only** under this general permit without needing an additional aquatic plant management permit as required by Wis. Admin Code NR 109 provided that:
- a. Removal of native aquatic vegetation is limited to a single area with a maximum width of 30 feet measured along the shoreline.
 - b. Any aids to navigation (e.g., piers, boatlifts) are located within that 30-foot wide zone or immediately adjacent to the zone.
8. Dredging may not occur in an area of naturally occurring sand, rock, cobble or gravel bottom **unless the purpose of the dredging is for improving navigation only**.
9. Removal of coarse woody debris, trees, or other fish and wildlife habitat structures placed below the OHWM as a result of Department authorization is prohibited.

SECTION 2 – WDNR-GPXX-2017 APPLICATION REQUIREMENTS FOR COVERAGE

You are required to comply with the following application requirements:

1. If the project site is determined to have the potential for hazardous substances in accordance with Section 1. A.6., then to comply with the requirements in NR 347, Wisconsin Administrative Code and prior to submission of an application, applicants shall provide the department with preliminary dredging information including:
- a) Name of waterbody and location of project;
 - b) Volume of material to be dredged;
 - c) Brief description of dredging method and equipment, including any containment BMPs to be used.
 - d) Brief description of proposed disposal method and location and, if a disposal facility is to be used, size of the disposal facility;
 - e) Any previous sediment sampling (including field observations) and analysis data from the area to be dredged or from the proposed disposal site;
 - f) Copy of a map showing the area to be dredged, the depth of cut, the specific location of the proposed sediment sampling sites and the bathymetry of the area to be dredged; and
 - g) Anticipated starting and completion dates of the proposed project.

Utilizing the factors established in NR 347.05(2), the Department shall then make a determination within 30 business days if there is reason to believe that the material proposed to be dredged is contaminated. This initial evaluation by the Department

shall be used in specifying sediment sampling and analysis required under s. NR 347.06, Wis. Adm. Code.

2. After you have carefully confirmed that your project(s) meet(s) the purpose and all the terms and conditions of this permit, submit a *complete application package*, outlined in item 6 below, to the Department. The complete application package should be received a minimum of 30 calendar days before the desired project start date. DNR offices for paper application submittal can be found at http://dnr.wi.gov/topic/Waterways/about_us/county_contacts.html

NOTE: The Department will forward a copy of your application package to the U.S. Army Corps of Engineers for their review and determination regarding federal permit requirements and coverage.

3. Unless notified by the Department to the contrary, the effective date of coverage under this permit is 30 calendar days after the designated DNR office receives a complete application package.
4. The Department may request that you provide additional information necessary to verify compliance with the terms and conditions of this permit. The Department may make a request for additional information one time during the 30-day period. If the department makes a request for additional information, the 30-day period is paused on the date the person applying for authorization receives the request for additional information. The clock remains paused until the date on which the department receives the information, at which point the clock resumes from the point it was initially stopped.
5. The Department may determine the project is not eligible for this general permit and require that the project be reviewed through the individual permit process outlined in Wis. Stats Ch. 30.
6. To gain initial coverage under this general permit, submit a complete application package. A complete application package must include all of the following information:
 - a) A Complete Application form certifying that the project meets the terms and conditions of WDNR-GPXX-2017. This form can be found at <http://dnr.wi.gov/Permits/Water/> .
 - b) The appropriate application fee.
 - c) A copy of the deed or similar proof of ownership of the site where the activity will occur. If you do not own the site, also include proof of any notice(s) and permission(s) required by Section IA, standard 2 of this General Permit.
 - d) A project diagram that shows all of the following:
 - i. Project location relative to the Ordinary High Water Mark (OHWM).
 - ii. The location of erosion control measures to be utilized during the dredging operation and disposal of the material.
 - e) A copy of the results from any sediment sampling, required under NR 347, Wisconsin Administrative Code (IF APPLICABLE).
 - f) Maps of the project site that show and identify the location of all the following:
 - i. The riparian lines on both sides of the property extending from the OHWM to the line of navigation, and the riparian zone area from the OHWM to the line of navigation.

- ii. The proposed disposal location.
 - g) Photographs that represent existing project site conditions at the disposal site and the site where the dredging will take place.
 - h) Documentation showing Endangered Resources (ER) under s. 29.604 will not be impacted. Please note: Documents associated with Endangered Resources are valid one year from the date they are prepared. Options include:
 - i. An ER Preliminary Assessment from the NHI Public Portal. The NHI Public Portal is located here: <http://dnr.wi.gov/topic/ERReview/PublicPortal.html>. If the ER Preliminary Assessment from the NHI Public Portal shows that "Further actions are required" then submit one of the following:
 - ii. A DNR ER Review letter. The request form for an ER Review letter is located here: <http://dnr.wi.gov/files/PDF/forms/1700/1700-047fillable.pdf>.
 - iii. A Certified ER Review letter. The list of Certified Reviewers is available here: <http://dnr.wi.gov/topic/ERReview/Documents/CertifiedReviewers.pdf>.
7. If coverage has already been conveyed, any additional dredging events or dredging locations on the riparian property are covered under this general permit. **To ensure coverage for any additional dredging events please provide the Department notification of intent to dredge by providing the following information:**
- a. Existing General Permit Docket or Identification number verifying existing coverage
 - b. Proposed volume amount
 - c. Proposed dimensional dredging area
 - d. Location of Dredging
 - e. Dredged spoil disposal location

SECTION 3 – WDNR-GPXX-2017 CERTIFICATION AND RESPONSIBILITIES

The applicant certifies and agrees to the following:

1. You agree to be the responsible party that supervises and oversees all aspects of the project to ensure compliance with the terms and conditions of WDNR-GPXX-2017.
2. Upon submittal of a complete application package to DNR, you have certified that the project will be conducted in compliance with all the terms and conditions of WDNR-GPXX-2017.

Note: See comment on General Permits]

SECTION 4 – WDNR-GPXX-2017 GENERAL PERMIT CONDITIONS

The applicant agrees to comply with the following conditions:

1. **Application.** You must submit a complete application package to the Department as outlined in Section 2 of this general permit. If requested, you must furnish to the Department within a reasonable timeframe any information the Department needs to verify compliance with the terms and conditions of this permit.
2. **Certification.** Acceptance of general permit WDNR-GPXX-2017 and efforts to begin work on the activities authorized by this general permit signifies that you have certified the project meets all eligibility standards outlined in Section 1 of this permit and that you have read, understood and agreed to follow all terms and conditions of this general permit.
3. **Project Plans.** This permit does not authorize any work other than the work that is specifically described in the notification package and plans submitted to the Department and that you certified is in compliance with the terms and conditions of WDNR-GPXX-2017.
4. **Expiration.** This WDNR-GPXX-2017 is valid for a period of 5 years from the date of issuance. Any activity that the Department determines is authorized by WDNR-GPXX-2017 remains authorized under WDNR-GPXX-2017 for a period of 5 years from the date of the Department's determination or until the activity is completed, whichever occurs first, regardless of whether WDNR-GPXX-2017 expired before the activity is completed.
5. **Other Permit Requirements.** You are responsible for obtaining any other state permits for the dewatering or disposal of the dredged material and any other permits or approvals that may be required for your project by local zoning ordinances and the U.S. Army Corps of Engineers (USACE) before starting your project. To locate the USACE staff responsible for review projects in Wisconsin please visit <http://www.mvp.usace.army.mil/Missions/Regulatory.aspx>
6. **Project Start.** You must notify the Department using the information provided on the confirmation of coverage letter you receive before starting any activity and again not more than 5 days after the activity is completed.
7. **Permit Posting.** You must post a copy of this permit at a conspicuous location on the project site for at least 5 days prior to the project starting, and the copy must remain posted on the project site at least five days after the project is complete. 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. **Permit Compliance.** The Department may revoke coverage of this permit if dredging is not carried out in compliance with the terms and conditions of this permit. Any act of noncompliance with this permit constitutes a permit violation and is grounds for enforcement action. Additionally, if any conditions of this permit are found to be invalid or unenforceable, authorization for all activities to which that condition applies is denied.
9. **Project Completion.** *Within one week* of project completion you must submit to the Department a statement certifying that the project is in compliance with all the terms and conditions of this permit and photographs of the work authorized by this permit.

10. **Site Access.** Upon reasonable notice, you must allow access to the site to any Department employee who is investigating the project's construction, operation, maintenance or compliance with the terms and conditions of WDNR-GPXX-2017 and applicable laws.
11. [This is repetitive of several prior sections.].
12. **Invasive Species.** To stop the spread of invasive species and viruses from one navigable waterway to another navigable waterway, all equipment or portions of equipment used for constructing, operating, or maintaining the project, including tracked vehicles, barges, boats, silt or turbidity curtains, hoses, sheet piles, and pumps, must be decontaminated for invasive species and viruses before and after use **or** prior to use within another navigable waterway. Follow the most recent Department approved washing and disinfection protocols and Department approved best management practices to avoid the spread of invasive species as outlined in Wis. Adm. Code Ch. NR 40. These protocols and practices can be found on the Department website at <http://dnr.wi.gov/topic/Invasives/bmp.html> Keyword: "equipment operator" or "invasive bmp" and at <http://dnr.wi.gov/topic/Invasives/documents/EquipOper.pdf>
13. **Federal and State Threatened and Endangered Species.** WDNR-GPXX-2017 does not affect the DNR's responsibility to ensure that all authorizations comply with Section 7 of the Federal Endangered Species Act, Wis. Stats. s. 29.604 and applicable State Laws. The project must either avoid impacts to endangered or threatened species in accordance with Wis. Stats. s. 29.604, or receive an incidental take authorization under Wis. Stats s. 29.604. No Department authorization under this permit will be granted for projects found not to comply with these laws. No activity is authorized that is likely to jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation as identified under the Federal Endangered Species Act or State law or both, or that is likely to destroy or adversely modify the critical habitat of a species as identified under the Federal Endangered Species Act.
14. **Historic Properties and Cultural Resources.** WDNR-GPXX-2017 does not affect the DNR's responsibility to ensure that all authorizations comply with Section 106 of the National Historic Preservation Act and Wis. Stats. s. 44.40. No Department authorization under this permit will be granted for projects found not to comply with these laws. The project must avoid impacts to archaeological sites or historic structures and is subject to Departmental and Wisconsin Historical Society review and approval before authorization under this general permit is valid. Information on the location and existence of historic resources can be obtained from the State Historic Preservation Office and the National Register of Historic Places. If cultural, archaeological, or historical resources are unearthed **during** activities authorized under this permit, work must be stopped immediately and the State Historic Preservation Officer must be contacted for further instruction.
15. **Preventive Measures.** Measures must be adopted to prevent potential pollutants from entering a wetland or water body. Construction materials and debris, including fuels, oil, and other liquid substances, may not be stored in the construction work area in a manner that would allow them to enter a wetland or water body as a result of spillage, natural runoff, or flooding. In addition, biodegradable hydraulic fluid

should be used in equipment that is operated below the Ordinary High Water Mark. If a spill of any potential pollutant should occur, it is the responsibility of the permittee to remove such material, minimize any contamination resulting from this spill, and immediately notify the State Duty Officer at **1-800-943-0003**.

16. **Property Rights.** This permit does not convey any property rights or interests of any sort or any exclusive privilege. The permit does not authorize any injury or damage to private property, any invasion of personal rights, or any infringement of federal, state or local laws or regulations.
17. **Limits of State Liability.** In authorizing work, the State Government does not assume any liability, including for any of 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 State 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 WDNR-GPXX-2017.
18. **Enforcement.** This office has the ability to undertake stepped enforcement actions if the applicant fails to comply with the terms and conditions of WDNR-GP=XX-2017
19. **Rescission.** This office has the ability to rescind coverage under this general permit if information provided by the applicant in support of the permit application proves to have been false, incomplete, or inaccurate.
 - a) .[Note: See comment on General Permits]

SECTION 5 – WDNR-GPXX-2017 FINDINGS OF FACT

1. The Department has determined that the project site and project plans meet the standards in WDNR-GPXX-2017 to qualify for this General Permit.
2. The dredging will not materially interfere with navigation, cause environmental pollution as defined in Wis. Stats. s. 299.01(4), or result in significant cumulative adverse environmental impacts, injury or significant adverse impacts to the public rights and interests in the waterway, material injury to the rights or riparian rights of any riparian owner, or adverse impacts to the riparian property rights of adjacent riparian owners, pursuant to Wis. Stats. s. 30.206(1)(ag) and (3r)(a)2.
3. The Department and the applicant have completed all procedural requirements, and the project as permitted will comply with all applicable requirements of WDNR-GPXX-2017 and Wis. Admin. Code chapters NR 102, 103, 150, 299, and 310.

SECTION 6 – WDNR-GPXX-2017 CONCLUSIONS OF LAW

1. The Department has authority under Wis. Stats. Ch. 30 to issue a permit for the completion of this project.

2. The Department has complied with Wis. Stats. s. 1.11.

SECTION 7 – WDNR-GPXX-2017 DEFINITION OF TERMS

You accept the following definitions for use with this general permit:

1. "Area of special natural resource interest" has the meaning in Wis. Stats. s. 30.01 (1am).
2. "De minimus" has the meaning in Wis. Admin. Code 345.03(2) and means the dredging of less than 2 cubic yards in a calendar year from a specific waterbody or disturbance of bottom material during the manual removal of aquatic plants that meet the requirements of s. [NR 109.06 \(2\)](#). **Note:** Where the bed material is privately owned, the permission of the property owner is required.
3. "Department" means the Department of Natural Resources.
4. "Dredged material" means any material removed below the Ordinary High Water Mark (OHWM) or from the bed of a navigable waterway by dredging. The bed of a navigable waterway extends landward to the OHWM.
5. "Dredging" means any part of the process of the removal or disturbance of material from below the OHWM or from the bed of a navigable waterway, transport of the material to a disposal, re-handling or treatment facility; treatment of the material; discharge of carriage or interstitial water; and disposal of the material. For the purpose of Ch. 30, Stats., dredging does not include "de minimus" activities.
6. "Final stabilization" means that all land disturbing construction activities at the site have been completed and that a uniform perennial vegetative cover has been established with a density of at least 70% of the cover for the unpaved areas and areas not covered by permanent structures or that employ equivalent permanent stabilization measures.
7. "Great Lakes water body" has the meaning given in Wis. Stats. s. 30.01(2m) and means Lake Superior or Lake Michigan and includes any bay or harbor that is part of Lake Superior or Lake Michigan.
8. "Hazardous substance" has the meaning given in Wis. Stats. s. 292.01(5) and means any substance or combination of substances including any waste of a solid, semisolid, liquid or gaseous form which may cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness or which may pose a substantial present or potential hazard to human health or the environment because of its quantity, concentration or physical, chemical or infectious characteristics. This term includes, but is not limited to, substances which are toxic, corrosive, flammable, irritants, strong sensitizers or explosives as determined by the Department.

9. "Line of navigation" means the depth contour where the water is 3 feet deep at its maximum depth based on the normal summertime low levels on the waterway or summer minimum levels where established by Department order. **Note:** Where a municipality has adopted an ordinance establishing a municipal pierhead line authorized under Wis. Stats. s. 30.13, the line of navigation is the municipal pierhead line.
10. "Navigable waterway" means any body of water with a defined bed and banks that is navigable under Wisconsin law. In Wisconsin, a body of water is navigable if it is capable of floating on a regularly recurring basis the lightest boat or skiff used for recreation or any other purpose. This incorporates the definition at Wis. Stats. s. 30.01(4m), and current case law, which requires a watercourse to have a bed and banks, *Hoyt v. City of Hudson*, 27 Wis. 656 (1871), and requires a navigable waterway to float on a regularly recurring basis the lightest boat or skiff, *DeGayner & Co., Inc. v. DNR*, 70 Wis. 2d 936 (1975); *Village of Menomonee Falls v. DNR*, 140 Wis. 2d 579 (Ct. App. 1987).
11. "Ordinary high water mark" (OHWM) means the point on the banks or shore up to which the presence and action of water is so continuous as to leave a distinct mark either by erosion, destruction of terrestrial vegetation or other easily recognizable characteristic.
12. "Outlying Waters" has the meaning given in s. 29.001(63) and means Lake Superior, Lake Michigan, Green Bay, Sturgeon Bay, Sawyer's Harbor and the Fox River from its mouth up to the dam at De Pere.
13. "Public Rights Feature" has the meaning given in NR 1.06(5).
14. "Riparian" means an owner of land adjacent to a navigable waterway.
15. "Riparian zone" means the area from the shore to the line of navigation adjacent to the riparian property.
16. "Stabilize" means the process of making a site steadfast or firm, minimizing soil movement by the use of practices such as mulching and seeding, sodding, landscaping, paving, graveling or other appropriate measures.