BURNS McDONNELL

Erosion Control and Storm Water Management Plan

NTEC

South Shore Energy, LLC, Dairyland Power Cooperative, and Nemadji River Generation, LLC

Nemadji Trail Energy Center Project – Phase 1
Project No. 101798

7/28/2022

Erosion Control and Storm Water Management Plan

prepared for

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Douglas County, Wisconsin

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7/28/2022

prepared by

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Kansas City, Missouri

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LIST OF ABBREVIATIONS

Abbreviation	Term/Phrase/Name
APE	Area of Potential Effect
BGEPA	Bald and Golden Eagle Protection Act
BMPs	best management practices
CFR	Code of Federal Regulations
City	City of Superior, Wisconsin
Dairyland	Dairyland Power Cooperative
ER Reviews	Endangered Resource Reviews
HDD	horizontal directional drilling
IPaC	Information for Planning and Consultation
IR	inadvertent return
kV	kilovolt
MBTA	Migratory Bird Treaty Act
NLEB	northern long-eared bat
NOI	Notice of Intent
NOT	Notice of Termination
NRHP	National Register of Historic Places
NTEC	Nemadji Trail Energy Center
NRG LLC	Nemadji River Generation, LLC
Permit	WPDES General Permit No. WI-S067831-6
Plan	Erosion Control and Storm Water Management Plan
Project	Nemadji Trail Energy Center Project
SAMPs	Special Area Management Plans

Abbreviation	Term/Phrase/Name
SDS	Safety Data Sheet
SPCC Plan	Spill Prevention, Control, and Countermeasure Plan
SSE	South Shore Energy, LLC
SWL&P	Superior Water Light & Power
TSS	total suspended solids
USACE	U.S. Army Corps of Engineers
USFWS	U.S. Fish and Wildlife Service
WAC	Wisconsin Administrative Code
WDNR	Wisconsin Department of Natural Resources
WisDOT	Wisconsin Department of Transportation
WPDES	Wisconsin Pollutant Discharge Elimination System

1.0 INTRODUCTION

In the State of Wisconsin, projects that will disturb 1 or more acres of land must obtain coverage under the Wisconsin Pollutant Discharge Elimination System (WPDES) General Permit No. WI-S067831-6 (Permit), which authorizes the discharge of storm water associated with land-disturbing construction activities into State waters. Coverage under the Permit is obtained by developing an Erosion Control and Storm Water Management Plan (Plan) and submitting an electronic Notice of Intent (NOI) to the Wisconsin Department of Natural Resources (WDNR). South Shore Energy, LLC (SSE), Dairyland Power Cooperative (Dairyland), and Nemadji River Generation, LLC (NRG LLC) must submit a NOI prior to the start of construction activities associated with the Nemadji Trail Energy Center (NTEC) Project (Project). A copy of the Permit is provided in Appendix A.

The Plan described herein establishes procedures to manage the quality of storm water runoff from construction activities associated with the Project and was developed in accordance with the requirements and guidelines specified in the Permit, the storm water construction and post-construction technical standards, and applicable performance standards in NR 151.11, 151.121 to 128, 216.46, and 216.47 Wisconsin Administrative Code (WAC). The Plan must be used by onsite construction personnel to reduce soil erosion and limit the potential for sediment and other onsite pollutants to leave the Project site and enter waters of the State of Wisconsin. Best management practices (BMPs) will be installed, maintained, moved, added, or redesigned as necessary to control erosion and sedimentation to the extent practicable.

1.1 Local Requirements

Land-disturbing construction activities within the boundaries and jurisdiction of the City of Superior, Wisconsin (City) must obtain an Erosion Control/Grading Permit and Storm Water Management Permit from the Public Works Department in accordance with the City's *Site Erosion Control Ordinance* (Article XII), *Long-Term Stormwater Management Ordinance* (Article XIII), and *Stormwater Management Permitting Program*. In addition to WDNR requirements, this Plan meets the City requirements for erosion and sediment control and storm water management on the Project site.

1.2 Overall Project Description and Location

The overall Project consists of a 625-megawatt natural gas-fired, 1x1 combined-cycle gas turbine generating facility in the City of Superior, Douglas County, Wisconsin as well as a new electric transmission line and switching station, and new natural gas pipeline lateral; see Project Phases Map in Appendix B. The generating facility site is located east of the existing Enbridge Energy Superior

Terminal Facility, on the banks of the Nemadji River in Section 31, Township 49N, Range 13W (46° 41' 18.36" N, 92° 2' 52.96" W). This site is accessible from U.S. Highway 2/U.S. Highway 53 via 31st Street from the northeast and via 24th Avenue and roads within the Enbridge facility from the west.

This Plan addresses only construction activities associated with Phase 1 of the Project, including the following:

- Expansion of the existing storm water management pond on the generation facility site
- General site clearing for the generation facility and adjacent laydown area
- Fiber optic line relocation work

Phase 2 of the Project will include construction of the generation facility, new water supply and wastewater pipelines, relocation of an existing 10-inch natural gas pipeline, transmission line relocations, and installation of a portion of the new 16-inch natural gas pipeline beneath the Nemadji River. The remainder of the new 16-inch natural gas pipeline lateral and a new electric transmission line and switching station will be constructed in Phase 3. The Phase 2 and 3 Project components are addressed in separate plans; a separate NOI will be filed for each Project phase. The Project activities described in this Plan are scheduled to start in fall 2022. The entire Project (Phases 1-3) is scheduled for completion in 2026.

1.3 Phase 1 Project Description

During Phase 1 work, utility work will include relocation of an existing CenturyLink fiber optic line between terminal points at 39th Avenue S/18th Street and the tower on Stinson Avenue. The fiber optic line relocation will span approximately 4,800 feet, of which about 1,900 feet must be installed beneath the Nemadji River. The entire fiber optic line will be installed via horizontal directional drilling (HDD), and the diameter of the fiber installation conduit will be 2 inches. Other Phase 1 activities will include tree clearing at the generation facility/laydown site and expansion of the existing storm water management pond. The storm water management pond is designed to be a permanent wet detention basin but will function as a sediment basin during Phase 2 construction of the generation facility.

1.4 Owner and Operator

The Project will be 100-percent owned by SSE, a subsidiary of ALLETE, Inc., Dairyland, and NRG LLC, a subsidiary of Basin Electric Power Cooperative. SSE, Dairyland, and NRG LLC are jointly responsible for Project construction, start-up testing, and operations and maintenance. The contact information for these entities is provided below:

South Shore Energy, LLC
30 West Superior
Duluth, Minnesota 55802
Phone: (218) 355-3515

Dairyland Power Cooperative
3200 East Avenue South
PO Box 817
La Crosse, Wisconsin 54602-0817
Phone: (608) 788-4000

Nemadji River Generation, LLC
1717 East Interstate Avenue
Bismarck, North Dakota 58503
Phone: (701) 223-0441

During construction, the responsibility for Plan implementation will be shared by SSE, Dairyland, NRG LLC, and the contractor/subcontractors. As responsibilities are assigned to implement Plan and Permit requirements, Table 1-1 will be updated.

Table 1-1: Storm Water Management Responsibility Matrix

Name/Title	Company	Area(s) of Responsibility	Contact Information
		• Conduct periodic records and inspection audits during construction • Conduct periodic inspection and maintenance after construction and final stabilization	
		Spill contact	
Environmental Inspector	TBD	• Conduct pre-construction meeting • Conduct weekly and rain event inspections and complete inspection log • Describe required maintenance or repairs • Document and close-out follow-up actions • Revise Erosion and Sediment Control and Storm Water Management Plan (as needed) and document revisions	

Name/Title	Company	Area(s) of Responsibility	Contact Information
Allyson Myers	Burns & McDonnell	• Engineering design (plans and specifications) • BMP design and modeling (hydrology, hydraulics, and water quality)	
John O'Donnell	Burns & McDonnell	Environmental permitting	
Contractor	TBD	Installation, inspection, and maintenance of BMPs during construction	
		Long-term maintenance of permanent storm water BMPs	
HDD Contractor	TBD	Inadvertent return response	

1.5 Location of the Plan

Prior to construction, a copy of this Plan will be provided to the contractor(s), Project manager/representative responsible for overseeing construction, and the environmental inspector conducting the required inspections as outlined in Section 8.1 of this document. This Plan, including all changes to it, and inspections and maintenance records will be kept at the Project site throughout construction. It will be kept in either a field office or in an onsite vehicle during normal working hours. The contractor is responsible for providing awareness of Plan responsibilities to subcontractors prior to starting construction for the subcontractor's portion of the work.

2.0 CONSTRUCTION ACTIVITIES AND SITE DESCRIPTION

The following sections include a description of the Phase 1 construction activities as well as information regarding the natural and biological resources located on and adjacent to the Project site.

2.1 Site Description

The NTEC generation facility will be in an industrial area of the City of Superior. It is comprised of wooded and forage grassland vegetation with a parking lot and small storm water management pond in the southwest corner. Three existing transmission lines and a gas pipeline extend through the parcel; see Nemadji River Site Map in Appendix B.

The Project site occupies a gently, undulating plateau, overlooking the Nemadji River from the north and west. Existing grades atop the plateau vary within elevations 644 to 634 feet. The Nemadji River lies approximately 40 vertical feet below the plateau. Slopes generally descend from the plateau to the river at gradients between 4:1 and 2:1 (horizontal:vertical).

2.2 Description and Sequence of Phase 1 Construction Activities

Phase 1 construction activities at the generation facility site will include tree clearing, expansion of the existing storm water management pond, and fiber optic line relocation work. Existing vegetation will be preserved where practicable, and disturbed portions of the Project will be stabilized as soon as practicable. In areas that will be seeded and mulched for stabilization, topsoil will be stripped and stockpiled for later use, and vehicular traffic will be limited to minimize soil compaction. Erosion and sediment control BMPs will be installed prior to the start of land-disturbing construction activities and will be maintained (repaired and replaced as necessary) throughout construction until permanent stabilization is established.

The general sequence of Phase 1 activities is listed below.

1. Install erosion and sediment control BMPs prior to land-disturbing activities.
2. Notify the City after the installation of BMPs. The City must inspect installed BMPs for compliance with the Plan prior to the start of construction.
3. Clear trees within Project limits. Stumps will be removed only as required within Phase 1 construction areas.
4. Expand the existing storm water management pond and establish new grades and slopes. The storm water pond will be used as a sediment basin during Phase 2 construction activities.
5. Complete relocation work for fiber optic line via HDD.

6. Complete temporary or permanent stabilization measures as each portion of the site reaches either final grade or the work in an area ceases and is not expected to recommence for 14 days or longer. Apply a polymer and dormant seed mix to disturbed areas if outside the growing season. Seed and mulch disturbed areas during the growing season.
7. The City must inspect the Project site to verify final stabilization has been achieved.
8. Remove temporary BMPs within 24 hours upon establishment of final stabilization.
9. Submit Notice of Termination (NOT) request to the City's Environmental Services Division of Public Works.
10. Within 45 days after final stabilization of the site or continued Permit coverage for Phase 2 disturbance areas, complete and submit the NOT to WDNR.
11. Submit record drawings or "as-built" drawings, certified by a licensed professional engineer, to the City.

2.3 Estimate of Land Area to be Disturbed

The generation facility site is approximately 22 acres. The estimated acreage to be disturbed during Phase 1 construction is 4.4 acres for modifications to the storm water management pond. The pre- and post-construction impervious surface areas for the Phase 1 work areas are 0.41 acre and 0.84 acres, respectively.

No new impervious surface will be associated with fiber optic line removal and relocation work.

2.4 Required Permits Summary

The Federal, State, and local permits and authorizations included in Table 2-1 will be required for Project construction.

Table 2-1: Federal, State, and Local Permits Required for the Project

Permit/Authorization	Issuing Agency
Certificate of Public Convenience and Necessity	Public Service Commission of Wisconsin
Permit for Objects that May Affect Navigable Airspace	Federal Aviation Administration
Clean Water Act – Section 404 Individual Permit	U.S. Army Corps of Engineers
Construction and Operating Air Permits and Acid Rain Permit	Wisconsin Department of Natural Resources
Pretreatment facilities construction approval	Wisconsin Department of Natural Resources
Pretreatment Program Permit	City of Superior
General Permit for Storm Water Associated with Industrial Activity (Tier 2)	Wisconsin Department of Natural Resources

Permit/Authorization	Issuing Agency
General Permit for Storm Water Associated with Land Disturbing Construction Activity	Wisconsin Department of Natural Resources
Chapter 30 Pond Construction Permit	Wisconsin Department of Natural Resources
Erosion Control/Grading Permit	City of Superior
Storm Water Management Permit	City of Superior
Protected Species Clearance	U.S. Fish and Wildlife Service, Wisconsin Department of Natural Resources
Approval and inspection of buildings (Wisconsin Statutes 101.12 and 101.17)	Wisconsin Department of Safety and Professional Services
Section 106 of National Historic Preservation Act Compliance	State Historical Society of Wisconsin
Finding of No Significant Impact	USDA, Rural Utilities Service
Oversized Equipment Delivery Permit	Wisconsin Department of Transportation

2.5 Potential Pollutants

The primary pollutant sources within the Project site will be disturbed soils and subsequent storm water runoff. Other potential pollutants that may be present onsite are included in Table 2-2.

Table 2-2: Potential Project-Related Pollutants

Material/Chemical	Physical Description	Storm Water Pollutants	Location
Antifreeze/coolant	Clear green/yellow liquid	Ethylene glycol, propylene glycol, heavy metals (copper, lead, zinc)	Leaks or broken hoses from equipment
Concrete	White solid/grey liquid	Limestone, sand, pH, chromium, suspended solids, lead, iron, and zinc	Structure foundations
Diesel fuel	Clear, blue-green to yellow liquid	Petroleum distillate, oil & grease, naphthalene, and xylenes	Staging area
Drilling fluid/mud	Brown liquid	Drilling additives, bentonite	HDD staging areas
Fertilizer	Liquid or solid grains	Nitrogen and phosphorous	Newly seeded areas
Gasoline	Colorless, pale brown, or pink petroleum hydrocarbon	Benzene, ethyl benzene, toluene, xylene, and methyl tertiary butyl ether	Staging area
Hydraulic oil/fluids	Brown, oily petroleum hydrocarbon	Mineral oil	Leaks or broken hoses from equipment
Sanitary toilets	Various colored liquid	Bacteria, parasites, and viruses	Portable, on Project site

2.6 Soils

According to the U.S. Department of Agriculture, Natural Resources Conservation Service, Web Soil Survey of Douglas County, Wisconsin (retrieved on April 27, 2022), the soil types listed in Table 2-3 are found in the Phase 1 Project areas, as shown on the Soil Map in Appendix F.

Table 2-3: Soil Types in the Phase 1 Project Areas

Soil Type	Map Symbol	Drainage Type	Erosion Factor K[1]
Amnicon-Cuttre complex, 0 to 4 percent slopes	262B	Moderately well drained	0.32
Arnheim mucky silt loam, 0 to 1 percent slopes, frequently flooded	5A	Poorly drained	0.32
Bergland-Cuttre complex, 0 to 3 percent slopes	347A	Poorly drained	----
Lupton, Cathro, and Tawas soils, 0 to 1 percent slopes	405A	Very poorly drained	----
Moquah fine sandy loam, 0 to 3 percent slopes, frequently flooded	6A	Moderately well drained	0.15
Udorthents, ravines and escarpments, 25 to 60 percent slopes	92F	----	----

Source: U.S. Department of Agriculture, Natural Resources Conservation Service, Web Soil Survey of Douglas County, Wisconsin. Retrieved from http://websoilsurvey.sc.egov.usda.gov/App/WebSoilSurvey.aspx on April 27, 2022.
(1) Erosion factor K, with possible values ranging from 0.02 to 0.69, signifies how susceptible a soil is to sheet and rill erosion by water. The larger the K value, the more susceptible the soil is to erosion.

The *Geotechnical Evaluation Report* for the NTEC generation facility site was completed in November 2020 by Braun Intertec Corporation. The geotechnical survey found that the Phase 1 Project area is host to a thick sequence of lacustrine deposits over glacial till. Though locally interbedded with silts and sands, the lacustrine soils are comprised mainly of fat clay. The underlying glacial till typically consists of silty sand. Borings in the vicinity of the storm water management pond indicate the presence of clay, predominantly fat clay (CH), to >80 feet below existing grade. It is not anticipated that sand will be uncovered during construction of the storm water management pond.

2.7 Receiving Waters

Storm water runoff on the Project site generally drains to the southwest corner of the site to the existing storm water management pond. This pond drains south to the Nemadji River via an existing pipeline. Storm water runoff along 31st Avenue East drains to the City's storm sewer system. There is also an unnamed intermittent stream on the generation facility site that drains some storm water runoff directly to the Nemadji River. This stream also drains storm water and wastewater from the adjacent Enbridge facility. The Nemadji River (WBIC2835300) is classified by the WDNR as an impaired water for sediment/total suspended solids (TSS). A Total Maximum Daily Load has not been developed for this impairment.

The Nemadji River is not classified as an Outstanding Resource Water or Exceptional Resource Water. The Project will not establish a new storm water discharge of pollutants to a fish and aquatic life water, as

defined in Sections 4.2.2.1 and 4.3 of the Permit. The BMPs described in Chapter 3.0 will be installed in areas of disturbance to limit erosion and sedimentation into receiving waters.

2.8 Wetlands

Wetland field surveys were conducted in September 2016, October 2017, and August 2018, where SSE had secured surveying access within the Survey Area. In areas where surveying access was unavailable, or access was logistically infeasible, results of the desktop analysis were used in conjunction with supplemental adjacent field delineation data to complete the wetland delineation within the entire Survey Area. According to the Wetland Rapid Assessment Methodology assessment, the wetlands in the Project area have low-to-medium functional value because they are dominated by invasive wetland plant species, have low vegetative diversity, are degraded due to adjacent existing roads and industrial facilities, and no threatened, endangered, or species of concern were observed.

Special Area Management Plans (SAMPs) are broadly defined in the Coastal Zone Management Act as "plans which provide for increased specificity in protecting significant natural resources, reasonable coastal-dependent economic growth, improved protection of life and property in hazardous areas, including those areas likely to be affected by land subsidence, sea level rise, or fluctuating water levels of the Great Lakes, and improved predictability in governmental decision making." The City has a SAMP for specific unique and significant wetlands within its jurisdictional boundary; however, none of the City's SAMP wetlands occur within the Project area. Additionally, no other special wetland designations, as outlined in Wisconsin Chapter NR 103.04, are assigned to wetlands in the vicinity of the Project site. As a result, none of the wetlands within the Project area are considered significant. Additionally, no water bodies would be crossed for access purposes at the generation facility site. SSE, Dairyland, and NRG LLC will obtain the required State and Federal permits for wetland disturbance. Wetland impacts associated with the Project will be authorized by a Section 404 Individual Permit from the U.S. Army Corps of Engineers (USACE), St. Paul District. Wetland and stream maps provided to the WDNR and USACE are included in Appendix C. Agency correspondence will be provided in Appendix D, as it becomes available.

2.8.1 Wetland Impact Avoidance

Despite efforts to completely avoid wetland impacts, the region is considerably dense with large wetland areas such that avoidance is not entirely feasible. Accordingly, minimization efforts will be utilized to the extent practicable, where wetland impacts are unavoidable. Construction activities will be prioritized during winter months to take advantage of ground freeze and use of ice roads to limit ground disturbance. Outside of winter months, matting will be used in wetland areas to distribute heavy vehicle loads and

minimize soil disturbance. Additionally, low ground pressure vehicles will be used to the extent practicable to further distribute out vehicle loads throughout wetland areas with matting.

2.8.2 Wetland Restoration and Monitoring

Immediately following the removal of wetland matting, the ground surface will be regraded, as needed, to match pre-construction contours. During late summer or early fall months, restoration areas will be surveyed to document where bare soil or invasive and noxious species are prevalent. Invasive and noxious species will be spot treated with a glyphosate-based herbicide, and bare soil/herbicide spray areas will be reseeded. An initial broadcast native seed mix will occur at a rate appropriate per the final approved seed mix. USACE and WDNR feedback is requested for preferred native seed mix for emergent wetland restoration. In lieu of no agency feedback, Minnesota Department of Transportation's Seed Mix 34-171 for Wetland Rehabilitation will be used.

Wetland monitoring will be conducted after one full year of restoration in impacted wetlands. Predetermined 3-square-foot plots, spread evenly at a rate of 5 per acre, will be evaluated for species composition, coverage, and bare ground exposure. Based on the largely degraded nature of the existing wetlands within the existing utility rights-of-way, it is assumed that restoration would be reasonably achieved if native species account for at least 40-percent coverage during the final monitoring event, with less than 20 percent of bare ground exposure. Compared to the current typical condition of wetlands within existing utility rights-of-way, it is assumed that a minimum 40-percent displacement of invasive species, in favor of native species, would be considered a net gain in wetland quality and health. During restoration, additional measures will be taken to address invasive and noxious species control; see Section 2.9.3.

2.9 Protected Species

According to the U.S. Fish and Wildlife Service (USFWS) Information for Planning and Consultation (IPaC) website, there are seven threatened or endangered species protected under the Endangered Species Act that are known or likely to occur in Douglas County. Four of the federally listed species are also listed by the WDNR as either endangered or threatened.

In addition to the seven federally listed threatened or endangered species, nesting migratory birds, which are protected under the Migratory Bird Treaty Act (MBTA), and bald and golden eagles, which are protected under the Bald and Golden Eagle Protection Act (BGEPA), could occur in the Project area. Habitat assessment surveys were conducted in the 2016, 2017, and 2018 field season. Endangered Resources Reviews (ER Reviews) of the Project area were completed by a Wisconsin-certified

environmental reviewer. The ER Reviews were submitted to the WDNR Bureau of Endangered Resources, and responses, including the Certified ER Reviews (ER Log numbers 18-980 and 18-982), were received on December 26, 2018. An ER Review of the entire Project was renewed on December 10, 2021 (ER Log #20-415).

The following sections describe the avoidance, minimization measures, and WDNR-identified actions for the Project to help conserve federally protected species, Wisconsin's rare species, and high-quality natural communities. Agency correspondence is provided in Appendix D.

2.9.1 Northern Long-eared Bat

Reproductive northern long-eared bat (NLEB) females and their young are highly vulnerable to mass mortality during their maternity period (June 1 – July 31) because they aggregate in maternity colonies. Young NLEBs start flying by 18 to 21 days after birth and, therefore, cannot leave the roost for several weeks after birth. To follow the USFWS 4(d) rule for the federally threatened NLEB, one of the following options should be implemented to avoid take of the NLEB:

1. Assume the bats are present within suitable habitat and avoid removal of known occupied maternity roost trees or any trees within 150 feet of a known occupied maternity roost tree from June 1 to July 31. For suitable habitat that occurs outside of 150 feet of a known occupied maternity roost tree or outside of 0.25 mile of a NLEB hibernaculum, implement the avoidance measures outlined in the Cave Bat Broad Incidental Take Permit and Authorization. According to the WDNR, if the Project can implement these avoidance measures, there will not be any further Project restrictions related to the State-threatened NLEB. If the Project cannot completely avoid take of the NLEB, WDNR recommends that the Incidental Take Coordinator from the WDNR Bureau of Natural Heritage Conservation be contacted to determine possible Project-specific avoidance measures. If take cannot be avoided, consultation with the USFWS will be necessary.

2. Not assume the NLEB is present within suitable habitat and have a qualified biologist conduct surveys to determine if the NLEB is present. According to the WDNR, if the NLEB is not found within the Project area during the surveys, there will be no Project restrictions related to these species. If surveys are conducted and the NLEB or maternity colonies are detected, option 1 must be followed. Survey results should be submitted to the Endangered Resources Utility Liaison.

2.9.2 Eagles

While the bald eagle was removed from the Federal Endangered Species list in August 2007, it is still federally protected by the BGEPA and the MBTA. Golden eagles are considered a nonbreeding,

infrequent inhabitant in Wisconsin. Eagles can be sensitive to human disturbance, especially during the breeding and nesting seasons. Per the 2007 *USFWS National Bald Eagle Management Guidelines*, human activity within 660 feet of an active nest should be avoided from January 15 – July 30. No bald eagle nests were observed during field surveys that occurred within the Project area; however, if a bald eagle nest should be identified within the Project area, the USFWS *National Bald Eagle Management Guidelines* would be followed.

2.9.3 Invasive Species

In compliance with WAC Chapter NR 40 *Invasive Species Identification, Classification and Control Rule*, the potential to spread invasive plant species must be mitigated during Project activities. Invasive plant species locations will be shown on the construction plans and flagged onsite to avoid during construction, where feasible. In areas where impacts to the invasive plant species are unavoidable, equipment will be cleaned prior to moving from an infested area to a non-infested area.

Equipment cleaning will primarily be conducted by brush, broom, or other hand tools. Equipment may periodically be cleaned by compressed air. Equipment used during ground-disturbing activities will be cleaned prior to leaving the Project site to reduce the risk of spreading invasive plant species beyond the Project limits. Construction equipment brought onsite must also be free of muck and invasive species.

At the start of spring (or during the growing season immediately following removal of wetland matting), impacted wetlands will be assessed for invasive and noxious species regrowth. Herbicide spot treatments will be performed in areas with documented invasive species regrowth. Herbicide will be glyphosate-based and approved for use near aquatic areas. Bare soil/herbicide spray areas will be reseeded. In accordance with Wisconsin Department of Agriculture, Trade and Consumer Protection Chapter 20, WAC, seed mixtures that contain potentially invasive species or species that may be harmful to native plant communities must be avoided.

2.9.4 Migratory Birds

The MBTA prohibits the take of migratory birds and their eggs, young, or active nests. The loss of plant and animal habitat within the footprint of the proposed Project, would primarily occur adjacent to existing areas that have already been developed or are associated with existing utility and public road rights-of-way. The generation facility site is adjacent to an existing tank farm and utility corridors, and this area has experienced some level of habitat fragmentation associated with development in and around the City. During Project construction, trees that will be removed will be done so outside of the migratory bird nesting period for Wisconsin (May 15 to August 1) to avoid impacts to nesting migratory birds.

2.9.5 Rare Plants

A WDNR ER Review for the Project (ER Log #20-415) identified 13 rare plant species that may occur within the footprint of the Project and require field surveys to evaluate habitat suitability and/or determine presence or probable absence within the Project area. Rare plant surveys took place in summers of 2020 and 2021 within the generation facility footprint where potential habitat was identified. No rare plants were identified within the surveyed areas. Additional rare plant surveys will be conducted in summer 2022.

2.10 Cultural Resources

The background literature review and records search for the Project were completed intermittently between August 2016 and December 2018. The intensive survey was conducted in four deployments occurring between September 2016 and May 31, 2018. The intensive survey included an area larger than the Project's Area of Potential Effect (APE). The survey resulted in the discovery of four new historic-aged archaeological sites (sites 47DG188, 47DG189, 47DG190, and 47DG192). Both 47DG188 and 47DG189 are within the APE. All four sites were recommended not eligible for National Register of Historic Places (NRHP) listing in a report submitted to the Rural Utilities Service and the State Historic Preservation Office. Both agencies agreed with this recommendation and concluded the Project would have no effect on historic properties. No further work was recommended by the reviewing agencies. See Appendix D for correspondence with the Wisconsin Historical Society.

If buried cultural resources are encountered during Project construction, workers must stop work immediately and notify SSE, Dairyland, NRG LLC, and the construction office upon discovery of items with potential historical significance, including but not limited to, arrowheads, bones, old bottles or building materials, building foundations, and suspected gravesites. If human remains are unearthed during excavation work, then the area must be secured, and the local law enforcement agency must be contacted immediately.

3.0 BEST MANAGEMENT PRACTICES FOR CONSTRUCTION

Soil erosion and sediment control BMPs are used to reduce the amount of soil particles carried from a land area and deposited in receiving waters. To meet the requirements of the Permit and City, the BMPs on the Project site must be designed and placed to limit the sediment load carried in storm water runoff to no more than 5 tons per acre per year from initial grading to final stabilization.

Based on field conditions at the time of construction, the authorized contractor or subcontractor may adjust the locations and types of BMPs so that erosion and sedimentation are controlled to the extent practicable. If adjustments are made, then this Plan must be modified, accordingly; however, in no case will modifications to the Plan result in less stringent erosion and sediment control BMPs than specified herein. Design drawings for onsite erosion and sediment control are provided in Appendix E.

The following sections include information regarding the erosion and sediment control BMPs to be used on the Project site during construction, as appropriate, until final stabilization is established. Upon final stabilization of disturbed areas, temporary BMPs must be removed.

3.1 Pre-Construction

Before land-disturbing activities occur, several principles must be followed to help control erosion and sedimentation, including the following:

- Areas not to be disturbed, including vegetative buffer zones and the limits of construction, should be clearly labeled with flags, stakes, or other equivalent markers.
- Install down slope and side slope perimeter controls.
- Prohibit disturbance in any area until it is necessary for construction to proceed.
- Schedule construction activities to limit impact from seasonal climate changes or weather events.
- Proactively plan to cover or stabilize disturbed areas as soon as practicable.

3.2 Sediment Control

Sediment control BMPs must be installed before land-disturbing activities begin. Timing the installation of BMPs may be adjusted to accommodate short-term activities such as passage of vehicles and site mobilization.

The WDNR Construction Site Soil Loss and Sediment Discharge Calculation Tool was used to determine if a reduction in soil loss is required for the Project. The result from the calculation tool indicated no

additional reduction in soil loss is required for the Project. A copy of the calculation tool is included in Appendix F.

3.2.1 Street Sweeping

Cleaning tracked sediment and debris from paved roads and other surfaces helps limit unwanted materials from washing into surface waters and improves the appearance and safety of public roadways. Paved roads connected to construction entrances/exits should be inspected at the end of each day, and tracked sediment must be removed within 24 hours of discovery. If sediment is spilled, washed, or tracked onto paved roadways, it must be removed through sweeping or shoveling, not flushing.

3.2.2 Stabilized Construction Entrance/Exit

To limit the tracking of mud and dirt offsite, a stabilized pad of stone aggregate or a tracking pad will be installed along 31st Avenue East where construction traffic will egress the Project site.

If a tracking pad is used, it must be installed prior to any traffic leaving the site. The aggregate for tracking pads must be 3- to 6-inch clear or washed stone. The aggregate shall be placed in a layer at least 12 inches thick. On sites with a high-water table, or where saturated conditions are expected during the life of the practice, stone tracking pads should be underlain with a Wisconsin Department of Transportation (WisDOT) Type R geotextile fabric to limit migration of underlying soil on the stone. The tracking pad must be the full width of the egress point and a minimum of 50 feet long. Storm water flow must be diverted away from the pad or conveyed beneath it. See location and installation specifications for a rumble plate construction entrance in Appendix E. WDNR Technical Standard 1057 – Trackout Control Practices is provided in Appendix G.

3.2.3 Perimeter Controls

Perimeter control BMPs must be installed downslope from construction activities before land disturbance begins to reduce the slope length of the disturbed area and to intercept and retain sediment carried by sheet flow. These BMPs should be placed perpendicular to the direction of water flow and as close to the topographic contours as possible, with the ends extending upslope. Common forms of perimeter control include silt fence, fiber logs, and straw bale barriers. Fiber logs are typically used in areas of concentrated flow, such as swales and shallow ditches; silt fence should not be used in concentrated flow areas. Perimeter controls should also be placed around soil stockpiles that will be present for more than 7 days. Accumulated sediment must be removed from behind controls when it reaches one-half the height of the barrier. Location and installation details for perimeter controls are provided in Appendix E. See WDNR Technical Standards 1055 – Sediment Bale Barrier and 1056 – Silt Fence in Appendix G.

3.2.4 Ditch Checks

Ditch checks (also known as rock check dams) may be used to reduce storm water velocity, filter concentrated flows, and limit the amount of sediment that travels downstream. Ditch checks are commonly composed of riprap or other rock, biorolls, or straw bales. These barriers must be placed so the elevation of the outside channel edge is higher than the top of the barrier in the middle of the channel. Ditch checks must be maintained to remain effective, and sediment must be removed from behind the device on a regular basis. If rock ditch checks are used, an erosion control blanket should be inserted underneath the ditch check to limit erosion of the ditch bottom when installing and removing the structure. Location and installation details are provided in Appendix E. Ditch checks must be installed and maintained per WDNR Technical Standard 1062 – Ditch Check in Appendix G.

3.2.5 Culvert Protection

Where appropriate, culvert protection should be installed on the upstream end of a culvert to limit sediment from traveling through the system. An energy dissipation measure should be placed at the downstream end of a culvert to limit the potential for scour and erosion when water exits the culvert. Riprap is typically effective at the culvert outlet for energy dissipation. When installing culvert protection, the measure should surround the culvert entrance/exit completely. When riprap is used, geotextile filter fabric should be placed underneath the rock to limit erosion when installing and removing the rock.

3.2.6 Sediment Basin

The expanded storm water management pond (i.e., wet detention basin, see Section 4.1.1) will be used as a sediment basin during Project construction to remove sediment loads from storm water runoff in accordance with WAC NR 151.11(6m)(b)2, which states that construction sites may discharge no more than 5 tons per acre per year, or to the maximum extent practicable, of the sediment load carried in runoff from initial grading to final stabilization. The sediment basin will be routinely inspected, and sediment will be removed to maintain the minimum 3-foot depth of the treatment surface area and the flow capacity of the outlet structure. Any sediment removed will be disposed of in an upland area, as appropriate, and properly stabilized or hauled offsite. The outlet must be cleaned regularly to avoid clogging. See location and installation details in Appendix E. See WDNR Technical Standard 1064 – Sediment Basin in Appendix G.

3.2.7 Dewatering

During excavation and other construction activities, dewatering may be required to facilitate construction in areas with surface water or a high-water table to limit erosion and sediment transport and/or to limit groundwater pollution. Water from the area to be dewatered must be discharged to upland areas and must

pass through a sediment control device or trap to capture sediment before the water is discharged. Sediment traps are small, temporary ponding areas, usually with gravel outlets, that detain sediment-laden runoff and allow debris to settle out of the water. Sediment traps typically apply to areas that drain 5 acres or less and should be periodically cleaned out to maintain at least 50 percent capacity. If filter bags are used, they must be replaced when they become sediment-laden and are no longer effective in filtering water. Dewatering devices will be sized and operated to allow pumped water to flow through the device without exceeding its design criteria. Any water that contains oil or grease must be passed through an oil-water separator or suitable filtration device prior to discharging the water. If an oil/water separator is required, a separate WPDES general permit for pit/trench dewatering may be required. Dewatering practices must comply with WDNR Technical Standard 1061 – Dewatering Practices for Sediment Control in Appendix G.

3.2.8 Dust Control

Preventative measures must be taken during times when exposed soil is susceptible to wind erosion. In areas where bare soil is exposed, water or other dust palliatives may need to be applied to the soil to minimize wind erosion. Soil stockpiles may need to be covered with tarps to minimize the chance for wind erosion. Precautions must be taken not to over-water and erode soils. In addition, appropriate speed limits should be established on the Project site, and any haul trucks must be covered to minimize the generation of dust. Construction sequencing can greatly reduce the amount of fugitive dust. Dust control measures must comply with WDNR Technical Standard 1068 – Dust Control on Construction Sites in Appendix G.

3.3 Erosion Control

Erosion control is any action taken or measure used to minimize the destructive effects of wind and water on surface soil. The following BMPs may be used to control erosion on the Project site to the extent practicable.

3.3.1 Preservation of Existing Vegetation

Preserving existing vegetation provides buffer zones and stabilization, which help control erosion, trap sediment, and enhance aesthetic benefits. This practice is beneficial near sensitive resources, including wetlands and surface waters. Vegetative buffer areas must be clearly marked as areas of no disturbance, including vehicular traffic. See WDNR Technical Standard 1054 – Vegetative Buffer for Construction Sites in Appendix G.

3.3.2 Temporary Seeding

Temporary seeding will be applied to areas of exposed soil where the establishment of vegetation is desired, but the areas have not been brought to final grade; land-disturbing activities will not be performed for a period greater than 30 days; and vegetative cover is required for less than 1 year.

Temporary seeding requires a seedbed of loose soil to a minimum depth of 2 inches. Fertilizer application is generally not required for temporary seeding. However, application of fertilizer or lime shall be based on soil testing results. The soil shall have a pH range of 5.5 to 8.0.

Seed mixtures must be selected to produce dense vegetation based on soil and site conditions, along with intended final use. Seeds must conform to the requirements of WDNR Technical Standard 1059 – Seeding for Construction Site Erosion Control (Appendix G) and Chapter ATCP 20.01, WAC regarding noxious weed seed content and labeling. Seed mixtures that contain potentially invasive species or species that may be harmful to native plant communities must be avoided. Seed must not be used later than 1 year after the test date that appears on the label. Seed must be tested for purity, germination, and noxious weed seed content, and must meet the minimum requirements prescribed in the current edition of *Rules for Testing Seed*, published by the Association of Official Seed Analysts. Seed may be broadcast, drilled, or hydroseeded, as appropriate for the site. WisDOT Seed Mix No. 20 is an example seed mix that may be used in upland areas adjacent to roads, etc.

Areas needing protection during periods when permanent seeding is not applied must be seeded with annual species for temporary protection. Seeding must take place when soil temperatures remain consistently above 53 °F. Dormant seeding should be completed when the soil temperature is consistently below 53 °F (typically November 1 until snow cover). Seed must not be applied on top of snow.

If construction activity will not occur in an area for 14 calendar days, a cover crop of an annual grass species that germinates quickly will be applied to reduce the risk of soil erosion per NR 151.11(8)(d). Oats will be used for a spring or summer seeding, winter wheat for a fall seeding.

3.3.3 Mulching

Mulch protects exposed soil from erosion caused by rainfall and overland water flow and promotes growth of seeded areas by protecting the seed and fostering germination. Mulch should be applied to bare or exposed soil, slopes with high erosion potential, or disturbed areas where plants are slow to develop.

Mulch materials shall consist of natural biodegradable material such as plant residue (including but not limited to straw, hay, wood chips, bark, and wood cellulose fiber) or other equivalent materials of

sufficient dimension (depth or thickness) and durability to achieve the intended effect for the required period. Mulch shall be environmentally harmless to wildlife and plants and shall be free of diseased plant residue, noxious weed seeds, harmful chemical residues, heavy metals, hydrocarbons, and other known environmental toxicants. Straw and hay mulch that will be crimped shall have a minimum fiber length of 6 inches. Wood chips or wood bark are not recommended, particularly on steep slopes.

Mulch shall cover a minimum of 80 percent of the soil surface for unseeded areas. For seeded areas, mulch shall be placed loose and open enough to allow sunlight to penetrate and air to circulate, but still cover a minimum of 70 percent of the soil surface. Mulch shall be applied at a uniform rate of 1.5 to 2 tons per acre for sites that are seeded and 2 to 3 tons per acre for sites that are not seeded. See WDNR Technical Standard 1058 – Mulching for Construction Sites in Appendix G.

Anchoring of mulch shall be based on the type of mulch applied and site conditions, and it shall be accomplished by one of the following techniques:

- Crimping: Immediately after spreading, mulch shall be anchored by a mulch crimper or equivalent device consisting of a series of dull flat discs with notched edges spaced approximately 8 inches apart. The mulch shall be impressed in the soil to a depth of 1 to 3 inches.
- Polypropylene plastic or biodegradable netting: Apply plastic netting over mulch application and staple according to manufacturer's recommendations.
- Tackifier: Tackifier shall be sprayed in conjunction with mulch or immediately after the mulch has been placed. Tackifiers must be selected from those that meet the WisDOT Erosion Control Product Acceptability List. Asphalt-based products shall not be applied.

3.4 Site-Specific Measures

The following practices will be followed by the Project contractor or authorized subcontractor in or near waters of the U.S.

3.4.1 Steep Slopes

Land-disturbing activities on slopes of 20 percent or greater or near sensitive features or ditch/channel crossings must adhere to the following prescriptive measures, as appropriate.

1. Provide stable diversion of offsite runoff around the slope.
2. Provide slope interruption devices in accordance WDNR Technical Standard 1071 – Interim Manufactured Perimeter Control and Slope Interruption Products (see Appendix G).
3. Design and implement approved soil stabilization measures per WDNR technical standards.

4. Schedule land disturbance activities to limit exposure of bare soil in accordance with the following:
    a. For areas where the slope drains to a sediment basin or sediment trap, the maximum period of bare soil exposure should be limited to 90 calendar days year-round.
    b. In all other areas, the maximum period of bare soil exposure should be limited to:
        i. 60 calendar days when the land disturbance occurs between September 16th and May 1st.
        ii. 30 calendar days when the land disturbance occurs between May 2nd and September 1st.

Project areas with slopes greater than 20 percent are shown on the Project Plan drawings in Appendix E. WDNR Erosion Control Technical Standards in Appendix G are provided in the event additional BMPs are determined necessary based on field conditions.

3.4.2 Work in or near Waters and Streams

Construction crews must exercise caution when equipment is within 50 feet of waterways and shall not drive equipment through surface waters. Any buffer zones of preserved vegetation must be delineated by orange safety fence or silt fence. Other perimeter control devices will be used for added protection, as necessary. Buffer zones will be measured from the top of a stream bank.

During construction, exposed soil areas must be stabilized as soon as possible to limit soil erosion, but no later than 7 days after the construction activity in that portion of the site has temporarily or permanently ceased.

3.4.3 Work in or near Wetlands

Construction impacts must be minimized to preserve wetland characteristics to the extent practicable. Clearing and grading within wetlands must be limited to areas approved in the USACE and WDNR permit(s), as appropriate. The contractor must comply with all requirements of the permit(s). Soil stockpiles must not be placed in existing wetlands. To preserve wetland hydrology, construction activities must be minimized in wetlands, and low ground pressure equipment must be used to reduce soil compaction.

3.4.3.1 Composite Mats

Composite mats are made of high-density polyethylene that can be used year-round during all weather conditions. They are usually 8 by 14 feet, designed with an overlapping lip, and secured with a drop-in locking pin feature. The composite mat acts as one continuous part in the field and reduces equipment slippage or movement. The mat thread pattern improves traction for load-bearing vehicles and heavy equipment.

3.4.3.2 Wood Mats

Wood mats are individual cants (logs with one squared side), sawn dense hardwood (oak), or round logs cabled together to make a single-layer crossing. Wood mats provide a surface that protects wetlands during hauling or equipment-moving operations. A 10-foot-long, 4- by 4-inch center log is the recommended minimum size. If the surface of the crossing becomes slippery, expanded metal grating may be added to provide traction.

4.0 PERMANENT STORM WATER MANAGEMENT

Phase 1 of the Project will convert approximately 20 acres of mostly wooded and forage areas to grassed open space in preparation for construction of the generation facility in Phase 2. To address the land use change and resulting changes in storm water quality and flow rate, permanent storm water management BMPs will be installed to comply with NR 216.47 WAC; to meet State peak flow, TSS, and infiltration requirements; and to meet the performance standards in the City's *Long-Term Stormwater Management Ordinance* and *Stormwater Management Permitting Program*.

4.1 Permanent BMPs

The permanent BMPs proposed for long-term storm water management on the NTEC generation facility site are discussed below. The wet detention basin will be installed during Phase 1, and the storm sewer network will be installed during Phase 2 work with the remainder of the generation facility.

4.1.1 Wet Detention Basin

The existing storm water management pond near the southwest boundary of the site will be expanded to treat storm water runoff and attenuate post-construction flows to pre-development conditions. The existing pond will continue to discharge via the existing underground pipe to the Nemadji River. During construction, the storm water management pond will be used as a sediment basin.

Following Phase 2 site stabilization, the sediment basin will be converted to a wet detention basin. The basin was designed per WDNR Technical Standard 1001 – Wet Detention Pond and checked to meet the requirements of 1064 – Sediment Basin. Sediment removal from the basin may be subject to the requirements of NR 528 WAC. The detention basin was designed to reduce the TSS load by at least 80 percent. The detention basin will have a primary outlet structure and weir to control discharges from the pond and includes an emergency spillway in the southeast corner. The location and installation details for the wet detention basin are provided in Appendix E, and supporting design calculations are provided in Appendix F.

4.1.2 Storm Sewer Network

During Phase 2 work, a storm sewer network will be constructed within the power block to capture storm water runoff in operational areas and direct it to the permanent wet detention pond. It will be comprised of a series of catch basins, located throughout the generation facility site, that will drain storm water runoff to a series of connected below grade pipelines that will converge at a single point and drain to the permanent wet detention basin on the west end of the site.

Permanent storm water BMPs must be maintained after Permit termination in accordance with the long-term maintenance agreement with the City and NR 216.005 WAC. A copy of the maintenance agreement is provided in Appendix J.

4.2 Demonstration of Compliance with Performance Standards

Detailed design drawings for storm water management and calculations are provided in Appendix E and Appendix F, respectively. The 15.26-acre site receives approximately 31 inches of rainfall each year which equates to 39.42 acre-feet of total rainfall volume. HydroCAD version 10.00-24 was used to determine runoff volumes and peak flow rates for the pre- and post-construction site. See Table 4-1 below and the Soil Loss & Sediment Discharge Calculation Tool results in Appendix F.

Table 4-1: HydroCAD Output Parameters Summary

Peak runoff for 1-year storm event (cubic feet per second)	Pre-construction	0.40
	Post-construction	0.27
Peak runoff for 2-year storm event (cubic feet per second)	Pre-construction	0.47
	Post-construction	0.30
Runoff volume for 1-year storm event (acre-feet)	Pre-construction	0.20
	Post-construction	2.0
Runoff volume for 2-year storm event (acre-feet)	Pre-construction	0.26
	Post-construction	2.4

The applicable post-construction performance standards in NR 151 WAC are summarized below.

4.2.1 Peak Flow Control

The peak flow performance standard at NR 151.123 WAC requires a Project to maintain peak runoff rates to pre-development conditions for up to the 1- and 2-year, 24-hour storm events. Discharges from the site will be controlled using a wet detention pond as noted in the above sections of the Plan. Storm water quantity modeling was completed with HydroCAD and Bentley FlowMaster Connect computer software, using TR-55 methodologies for analyzing storm water runoff and related BMPs. These calculations are provided in Appendix F.

4.2.2 TSS Control

The TSS control performance standard at NR 151.122 WAC requires that TSS in runoff be reduced by an annual average of 80 percent compared to no sediment or erosion control devices post-construction. The wet detention pond was designed to meet this criterion. With the implementation of the stabilization

measures described in Sections 3.3 and 4.3, including vegetative cover and riprap, the Project site meets the storm water quality TSS criteria. Results are summarized in Appendix F.

4.2.3 Infiltration

The infiltration performance standard at NR151.124 WAC requires that infiltration meet 60 percent of the pre-development infiltration volume; however, soils with an infiltration rate less than 0.6 inches/hour (as measured at the bottom of the infiltration system) are exempt from this performance standard.

Fat clay soils encompass the generation facility site. According to *Table 2: Design Static Infiltration Rates for Soil Textures Receiving Stormwater* in WDNR's Technical Standard 1002 – Site Evaluation for Stormwater Infiltration, clay has a design infiltration rate of 0.07 inches/hour. Clay soils are listed in NR 151.124(4)(c)2 WAC as meeting the infiltration rate exemption criteria. The Project site is, therefore, exempt from the infiltration requirements.

4.3 Permanent Stabilization

Final stabilization is defined as the completion of soil-disturbing activities and a uniform perennial vegetation cover with a density of 70 percent or greater of the natural surrounding cover.

4.3.1 Turf Establishment

Seed mixes must be approved by SSE, Dairyland, and NRG LLC. Seeding methods including, but not limited to, broadcasting, drilled, or hydroseeding are acceptable, as deemed appropriate for the site. For additional information see WDNR Technical Standard 1059 – Seeding for Construction Site Erosion Control (Appendix G). WisDOT Seed Mix No. 20 is shown in Table 4-2 as an example seed mix that may be used in upland areas adjacent to roads.

Table 4-2: WisDOT Seed Mix for Permanent Stabilization

Species	Mixture Proportions Percentage
Tall fescue	40
Hard fescue	24
Red fescue	15
Perennial ryegrass	15
Kentucky bluegrass	6

Source: WisDOT Seed Mix No. 20 – Upland Areas

The seedbed should be prepared to a depth of 4 inches to support a dense vegetative cover. Slopes steeper than 2:1 should not require loosening if the slopes are stabilized as they are opened or created. Soil tests are recommended to determine the appropriate fertilizer analysis and application rate. Prepare a tilled,

fine, but firm seedbed. Rocks, twigs, foreign material, and clods over 2 inches that cannot be broken down must be removed. The soil should have a pH range of 5.5 to 8.0, and seed should be applied when soil temperatures remain consistently above 53 °F. Mulching details were previously discussed in Section 3.3.5.

4.3.2 Turf Maintenance

Turf areas must be maintained until the site has achieved final stabilization, which should include reseeding and reapplying mulch as needed. Seeded areas must be protected from traffic or other uses by warning signs, temporary fencing, or tape. Surface rills and gullies or other damage must be repaired by regrading or reseeding within 24 hours of discovery. Care of turf may extend into the next growing season.

5.0 GOOD HOUSEKEEPING

The practices described below must be followed by the Project contractor and subcontractors to protect storm water and surrounding surface waters from contamination by potential construction-related pollutants.

5.1 Material Handling

Construction materials posing a potential contamination threat to storm water (e.g., petroleum products, solvents) will be managed to minimize exposure to storm water. Materials will be kept in secure containers and properly labeled. The Safety Data Sheet (SDS) for each product used during Project construction must be maintained onsite or be accessible from the site.

5.2 Solid and Liquid Waste Disposal

Solid and liquid waste (including sediment, asphalt, concrete millings, floating debris, paper, plastic, fabric, and construction and demolition debris) must be disposed of in accordance with applicable disposal requirements. Solid or liquid wastes must not be disposed of onsite (e.g., buried or poured), but must be taken offsite for proper disposal. Waste containers must be inspected regularly and will be in a designated area. Steps must be taken to minimize waste material contact with storm water to the extent practicable.

5.3 Hazardous Waste

Hazardous or toxic waste must be separated from construction and domestic waste and must be stored in sealed containers constructed of suitable materials to avoid leakage or corrosion. These containers should be stored within appropriately sized secondary containment. Hazardous waste material must be disposed of in the manner specified by the manufacturer and by local, State, and Federal regulations. If contaminated soils are encountered on the Project site, a plan will be devised to manage and dispose of the material in accordance with local, State, and Federal regulations. Spills must be cleaned up immediately and in accordance with protocols outlined in Chapter 6.0. Site personnel must be made aware of these requirements.

5.4 Sanitary Waste

The contractor and subcontractors must comply with portable toilet regulations. Each contractor or subcontractor must provide sanitary facilities for its crews on the Project site for the duration of construction activities. These facilities must be securely anchored to prevent tipping and must not be

placed in low-lying areas or near a waterbody. Sanitary facilities should be used by construction personnel and must be serviced regularly.

5.5 Water Source

Water used to establish and maintain grass, to control dust, and for other construction purposes must originate from a public water supply or private well approved by the State of Wisconsin or local health department. Potable water must adhere to local and State water quality regulations.

5.6 Vehicle Washing

If vehicle washing is required onsite, then a designated area will be selected where runoff can be contained. If wash waters will be discharged onsite, then additional treatment may be required as well as authorization under a separate WPDES permit.

5.7 Concrete Washout

Concrete washout areas are either a prefabricated unit or a designed measure to contain concrete washout. These systems are typically used to contain washout water when chutes and hoppers are rinsed following concrete delivery and are implemented to reduce the discharge of pollutants through consolidation of solids and retention of liquids. Uncured concrete and associated liquids are highly alkaline. Without containment measures, these materials could leach into the soil and contaminate groundwater or discharge to a surface waterbody or wetland. See location and installation details in Appendix E.

6.0 HDD PROCEDURES

Phase 1 construction's relocation of the CenturyLink fiber optic line will be installed via HDD to avoid impacts to the Nemadji River and floodplain and impacts along 31st Avenue. The following monitoring and response procedures for an inadvertent drilling fluid return (IR) must be implemented during HDD activities.

6.1 Monitoring for Inadvertent Release

During HDD operations, the HDD contractor will continuously monitor the volume and pressure of drilling fluids to detect drilling fluid loss and minimize the risk of IR, with on-foot visual monitoring performed every 2 to 4 hours while drilling. The drill path and stream banks will be visually inspected (on foot) by the HDD contractor and a third-party inspector. If the HDD contractor suspects a loss of drilling fluid returns, surface monitoring frequency will be increased to more quickly identify if an IR has occurred. If the HDD contractor suspects an IR, surface monitoring will be immediately performed.

Due to streambank vegetation and overhead obstacles (e.g., trees, power lines), the best and most effective method to monitor for IRs is by foot, along the drill path, streambanks, and Project right-of-way. The HDD crossings are readily accessible up to the edge of the Nemadji River; the need for special equipment due to steep slopes is not anticipated.

6.2 IR Response Procedures

If an IR is observed, the HDD contractor will determine the amount of drilling fluid being released and potential for the release to reach wetlands, waterbodies, etc. Response measures will vary based on the IR location, as further detailed below for upland, wetland, and waterbody locations. In the event of an IR, the HDD contractor will document the location, size of release, and date of release. The HDD contractor or third-party inspector will photograph the release site and include with inspection reporting. The HDD contractor and Project owners will coordinate containment, cleanup, and reporting activities with the applicable agencies.

6.2.1 Upland Release

Response procedures in the event of a drilling fluid release in upland locations include the following:

- The HDD contractor will evaluate the release to determine if containment structures are warranted and if they will effectively contain the release.

- If the amount of the surface release is not great enough to allow the practical physical collection from the affected area, it will be diluted with clean water, and/or the fluid will be allowed to dry and dissipate naturally.
- Earthen or sandbag berms will be installed to contain small releases and prevent migration of drilling fluid.
- The HDD contractor will remove excess drilling fluid at a rate suitable for preventing an uncontrolled release.
- If the amount of the surface release exceeds that which can be completely contained with hand-placed barriers, collection sumps may be used (with approval from Project owners) to remove released drilling fluid using portable pumps and hoses.
- Recovered fluid will be stored in a temporary holding tank or other suitable structure out for reuse or eventual disposal at an approved offsite location.
- The Project owners will consult with the appropriate regulatory agencies to evaluate the circumstances of the release, discuss additional containment or cleanup requirements, and determine whether and under what conditions the HDD may proceed.

6.2.2 Wetland Release

Response procedures in the event of a drilling fluid release in wetlands or adjacent areas (e.g., stream banks or steep slopes, where drilling fluid releases could quickly reach surface waters) are provided as follows:

- The HDD contractor will evaluate the release, and the appropriate containment measures will be implemented.
- The HDD contractor will evaluate the recovery measures to determine the most effective collection method.
- If the amount of the surface release exceeds that which can be contained with hand-placed barriers, small collection sumps (less than 5 cubic yards) may be utilized to collect released drilling fluid for removal using portable pumps and hoses.
- Low ground pressure equipment will conduct limited passes to assist personnel carrying containment materials to the release location. Temporary access will be supported by construction matting installed during clearing within the wetland areas.
- If the amount of the surface release is not great enough to allow the practical physical collection from the affected area without causing additional impacts, with approval from the Project owners,

the drilling fluid may be diluted with clean water and/or the fluid will be allowed to dry and dissipate naturally.

- Excess fluid will be held within the containment area and removed using pumps or other appropriate measures at a rate sufficient to maintain secure containment.
- Recovered fluid will be stored in a temporary holding tank or other suitable structure, located outside of the floodplain and/or wetland, for reuse or eventual disposal at an approved offsite location.
- The Project owners will consult with the appropriate regulatory agencies to evaluate the circumstances of the release, discuss additional containment or cleanup requirements, and determine whether and under what conditions the HDD may proceed.

6.2.3 Waterbody Release

In the event of a drilling fluid release in a waterbody, the following procedures will be implemented:

- The HDD contractor will evaluate the release, and the appropriate containment measures will be implemented.
- The HDD contractor will evaluate the recovery measures to determine the most effective collection method.
- The Project owners will consult with the appropriate regulatory agencies to evaluate the circumstances of the release, discuss additional containment or cleanup requirements, and determine whether and under what conditions the HDD may proceed.

The containment methods utilized will depend on the size of release, water depth, flow velocity, and location of the release. In aquatic environments, bentonite may harden, effectively sealing the IR location. In this event, response activities will be limited or unnecessary. However, if drilling fluid were to enter the water column, the typical response tactic will be to erect an isolation containment environment using devices such as sandbag isolation structures, turbidity curtains, geotextile fabric or plastic sheeting, temporary vertical culverts, or their equivalent, to facilitate the crew's ability to contain and collect excess drilling fluid. Containment is not always feasible for in-stream releases, especially in waterbodies with significant currents. However, the Project owners must ensure that all releases are addressed as rapidly and thoroughly as possible.

Drilling fluid recovery methodology in waterbodies is not as variable as containment measures. When such measures effectively isolate the release from the stream flow, pumps or other appropriate measures are used to recover drilling fluid. When the release location cannot be isolated after initial in-stream

containment installation, drilling fluid that has settled from the water column typically collects in the acute upstream angle of the containment device, and recovery efforts will be localized to that location.

Project site contacts for IR response will be listed in Table 1-1 prior to the start of construction.

6.3 Disposal Procedures

Containment and disposal of drilling fluids and cuttings is the responsibility of the HDD Contractor and must be conducted in compliance with all relative environmental regulations. Testing of drilling fluids may be required prior to disposal at an offsite facility. The type of drilling fluid and additives will be determined by the HDD Contractor. Safety Data Sheets for HDD fluids and additives are provided in Appendix K. WDNR maintains a list of approved well drilling and filling sealing products at Approved Drilling and Filling Sealing Products List including Heat Exchange Drillhole Products (wi.gov) that may contain products appropriate for use in HDD. WDNR has determined that the following additives in Table 6-1 should be used only if absolutely needed to complete Project work.

Table 6-1: HDD Additives Recommended by WDNR for Limited Use

Manufacturer	Product Name	Use
DCS Fluid Solutions	Clay Breaker	Clay stabilizer
DCS Fluid Solutions	TorqBreaker	Surfactant additive
Bentonite Performance Materials	Polyselect Power Thin	Additive
Northstar Fluid Solutions	Lubra-Star Plus	Water-soluble lubricant

7.0 SPILL CONTROL AND RESPONSE

This chapter describes measures to avoid, control, and minimize impacts from a spill of a hazardous, toxic, or petroleum substance during Project construction. It also describes the transport, storage, and disposal procedures for the potentially hazardous or toxic materials to be used on the Project site and outlines the procedures to be followed in the event of a spill of a contaminating or toxic substance.

As per 40 Code of Federal Regulations (CFR) 112, a Spill Prevention, Control, and Countermeasure Plan (SPCC Plan) must be prepared if the Project will have 1,320 gallons of aboveground petroleum storage capacity in 55-gallon-sized or larger containers (or 42,000 gallons in underground storage not regulated by underground storage tank rules). This includes temporary tanks or fueling trucks used to "store" petroleum onsite. The truck would be subject to the SPCC Plan rules when parked on the construction site and used for "storage."

If the cumulative petroleum quantity stored onsite by a subcontractor or contractor exceeds 1,320 gallons, then the contractor or subcontractor must maintain a certified SPCC Plan in accordance with 40 CFR 112.

7.1 Material Management Practices

The proper use and storage of materials and equipment, along with the use of common sense, greatly reduce the potential for contaminating storm water runoff. The following list of good housekeeping practices should be implemented during the Project.

- Hazardous materials, chemicals, fuels, and oils should not be stored within 100 feet of a stream bank, wetland, water supply well, spring, or other waterbody.
- Fueling of construction equipment should not be conducted within 100 feet of a stream bank, wetland, water supply well, spring, or other waterbody.
- The minimum amount of hazardous or toxic materials should be stored onsite.
- Onsite materials should be stored in a neat, orderly manner, in appropriate containers, and under a roof or other enclosure.
- Products should be kept in original containers with the original manufacturer's label.
- Substances should not be mixed with one another unless recommended by the manufacturer.
- Whenever possible, a container's contents should be used completely prior to container disposal.
- If surplus product must be disposed of, then the manufacturer's or local- and State-recommended methods for proper disposal should be followed.

7.1.1 Non-Petroleum Products

Due to the chemical makeup of specific products, certain handling and storage procedures are required to promote the safety of handlers and limit the possibility of pollution. Care should be taken to follow directions and warnings for products used on the Project site. Pertinent information can be found on the SDS for each product. The SDS must be accessible from the site.

7.1.2 Petroleum Products

Onsite vehicles should be monitored for leaks and receive regular maintenance to reduce the chance of leakage. Inspections for leaks or spillage must occur during the inspection of BMPs. Petroleum products must be stored in tightly sealed, clearly labeled containers. If feasible, the containers should be stored in a covered truck or trailer that provides secondary containment.

Bulk storage tanks with a capacity of greater than 55 gallons must have secondary containment. Containment can be provided by temporary earthen berms lined with plastic sheeting or other means approved by SSE, Dairyland, and NRG LLC. After each rainfall event, the site inspector must inspect the contents of the secondary containment area for excess water. If no sheen is visible, then the collected water can be pumped to the ground in a manner that does not cause scouring. If sheen is present, then the water must be treated prior to discharge or transported and disposed of offsite in accordance with local, State, and Federal requirements.

Bulk fuel or lubricating oil dispensers should not have a self-locking mechanism that allows for unsupervised fueling. Fueling operations should be observed to immediately detect and contain spills.

No waste oil or other petroleum-based products will be disposed of onsite (e.g., buried or poured), but must be taken offsite for proper disposal.

7.2 Spill Response

In addition to the material management practices discussed previously, the following spill control and cleanup practices must be used to limit storm water pollution in the event of a spill.

- The contractor and subcontractors must make onsite personnel aware of cleanup procedures and the location of spill equipment.
- Spills must be contained and cleaned up immediately after discovery.
- Manufacturer’s methods for spill cleanup of a material must be followed, as described on the material’s SDS.

- Materials and equipment needed for cleanup procedures must be kept readily available onsite, either at an equipment storage area or on the contractor's or subcontractors' trucks; equipment to be kept onsite will include, but not be limited to, brooms, dust pans, shovels, granular absorbents, sand, sawdust, absorbent pads and booms, plastic and metal trash containers, gloves, and goggles.
- Toxic, hazardous, or petroleum product spills, required by regulation to be reported, must be documented to the appropriate local, State, and Federal agencies.
- Spills must be documented, and record of spills must be kept with this Plan or be accessible from the site.
- Material management and spill response procedures associated with HDD is provided in Chapter 6.0.

The Federal reportable spill quantities for hazardous materials are listed in 40 CFR Part 302.4, *List of Hazardous Substances and Reportable Quantities*. A procedure for determining a reportable spill is included in Appendix H of this Plan, along with a copy of the Spill Report Form and Spill Log to be completed in the event of a reportable spill. The reportable spill quantities for hazardous materials in the State of Wisconsin follow the Federal reportable quantities in 40 CFR Part 302.4.

The Federal reportable spill quantity for petroleum products is defined in 40 CFR 110 as an oil spill that violates applicable water quality standards, causes a film or sheen upon or discoloration of the water surface or adjoining shoreline, or causes a sludge or emulsion to be deposited beneath the surface of the water or adjoining shorelines. In the State of Wisconsin, a reportable spill is defined as: (1) 1 or more gallons of gasoline spilled on a pervious surface or runs off an impervious surface or (2) 5 or more gallons of other petroleum products spilled on a pervious surface or runs off an impervious surface.

If a spill occurs onsite, then the contractor's or subcontractor's superintendent must initiate spill response, including measures to localize the spill impact via containment. The contractor's or subcontractor's superintendent must notify the Project owners, who will implement the spill response procedures to document the spill and provide the contractor guidance and support necessary to remediate the spill. Spill-reporting guidelines and forms are provided in Appendix H. The Project owners will contact the following authorities, as necessary:

- Federal - EPA, Region 5, 24-hour Emergency Response: (312) 353-2318
- State - WDNR Spill Emergency 24-hour Hotline: 1-800-943-0003

8.0 GENERAL PROVISIONS

The following provisions must be implemented in accordance with the Permit.

8.1 Inspections

Site inspections must be conducted at least once every 7 calendar days and within 24 hours of rainfall events that produce more than 0.5 inch of rain in a 24-hour period or a snowmelt event that causes surface erosion. A "rainfall" event is the total amount of rainfall recorded in any continuous 24-hour period.

Routine inspections must include:

- Areas disturbed by construction activity and areas used for storage of materials that are exposed to precipitation.
- Discharge locations, and where those are inaccessible, nearby downstream locations to the extent practicable.
- Locations where vehicles enter or exit the site and may result in offsite sediment tracking.

Records must be kept for each inspection and maintenance activity and must contain the following information:

- Date, time, and exact location of the inspection
- Name of the individual who performed the inspection
- Assessment and photo documentation of the condition of erosion and sediment control BMPs
- Description of any installation or maintenance of BMPs performed in response to the inspection
- Description of the present phase of construction at the site
- Inspector's signature

A copy of the Construction Site Inspection Report form is provided in Appendix I.

8.2 Maintenance

BMPs must be kept in working order throughout Project construction. Maintenance must be performed in accordance with technical standards developed pursuant to Subchapter V of NR 151 WAC. Where BMPs are not in accordance with technical standards, a description of the procedures used to maintain effective operating conditions of vegetation, BMPs, and other protective measures must be identified in the Plan. Regular maintenance procedures must include the following:

- Sediment must be routinely removed from sediment basins to maintain a 3-foot depth of the treatment surface area, as measured from the invert of the principal outlet.
- Excess sediment collected behind sediment barriers and diversion berms must be removed and properly disposed of when sediment reaches one-half the height of the barrier or berm.
- Tracked sediments must be removed from paved surfaces at the end of each day.
- Vegetative buffers that have become covered in silt, contain rills, or are otherwise ineffective, must incorporate additional sediment control BMPs. Eroded areas must be repaired and stabilized as soon as practicable with consideration to the site conditions. Dense vegetation must be maintained to a height of 3 to 12 inches.
- If sediment is determined to have reached surface water, it must be removed, and the pollutant source stabilized within 7 days of discovery. If sediment reaches an impaired water, stabilization should occur immediately.
- Vehicle tracking pad performance must be maintained by scraping or top-dressing with additional aggregate. A minimum 12-inch-thick pad must be maintained.

The maintenance of temporary BMPs and implementation of additional controls must be performed as necessary within 24 hours of an inspection or notification indicating a repair or replacement is needed. Maintenance must be performed in accordance with Section 2.9.4 of the Permit.

8.3 Stabilization

If land-disturbing construction activities have temporarily ceased and will not resume for a period exceeding 14 calendar days, a cover crop of an annual grass species that germinates quickly will be applied to reduce the risk of soil erosion at the Project site per NR 151.11(8)(d). Oats will be used for a spring or summer seeding and winter wheat for a fall seeding. This cover crop will establish quickly, providing additional erosion control throughout construction, along with protection of permanent vegetation during its establishment period. Exceptions to this timeframe are specified below:

- Where the initiation of stabilization measures is precluded by snow cover or frozen conditions, stabilization measures shall be initiated as soon as practicable.
- In areas where construction activity has temporarily ceased and will resume after 14 days, a temporary stabilization method may be used (see WDNR Technical Standards 1050: Land Application of Additives for Erosion Control and 1058: Mulching for Construction Sites in Appendix G.)

Turf areas must be maintained until the site has achieved final stabilization. Turf maintenance will include watering, reseeding, and re-applying mulch, as needed. Final stabilization is defined as the completion of land-disturbing construction activities at the site and the establishment of a uniform perennial vegetative cover with a density of at least 70 percent of the cover for unpaved areas and areas not covered by permanent structures or that employ equivalent permanent stabilization measures. Temporary BMPs and accumulated sediments must be removed within 45 days after the site has achieved final stabilization. Grading and stabilization activities must be recorded on the Grading and Stabilization Activities Log in Appendix I.

8.4 Plan Modification

The Plan must accurately reflect site features and operations. If it is observed that control measures are not effective in minimizing pollutant discharge from the site, then the Plan must be updated or changed. Plan revisions must be completed within 7 calendar days following an inspection where it is determined that additional BMPs are needed or existing BMPs must be modified. If WDNR deems a revision necessary, the revision must be completed in the allotted time frame delegated by the WDNR. Plan modifications must be recorded on the Record of Revisions in Appendix I.

8.5 Record Retention

The Plan must be retained at the Project site from the date of Project initiation to the date of final stabilization. Information submitted to obtain Permit coverage must be maintained as part of the Plan for at least 3 years from the date the Permit is terminated or expires. Applicable documentation includes the following:

- Copy of the Plan and any Plan amendments
- NOI
- NOT
- Training documentation
- Inspection and maintenance records
- Permanent operation and maintenance agreements
- Calculations for the design of temporary and permanent storm water management systems
- Other reports submitted to obtain Permit coverage

APPENDIX A - GENERAL PERMIT

STATE OF WISCONSIN DEPARTMENT OF NATURAL RESOURCES

GENERAL PERMIT TO DISCHARGE UNDER THE WISCONSIN POLLUTANT DISCHARGE ELIMINATION SYSTEM
WPDES Permit No. WI-S067831-6

In compliance with the provisions of ch. 283, Wis. Stats., and chs. NR 151 and 216, Wis. Adm. Code, a landowner of a construction site engaging in land disturbing construction activities including clearing, grading and/or excavating, but excluding storm water discharges within Indian Country, that discharges

STORM WATER ASSOCIATED WITH LAND DISTURBING CONSTRUCTION ACTIVITY

is authorized to discharge storm water to waters of the state provided that the discharge is in accordance with the conditions set forth in this permit.

Unless notified in writing by the Department of Natural Resources (department) to the contrary, the effective date of coverage under this permit is 14 working days after an applicant's complete Notice of Intent has been received by the department.

Permit coverage continues until submittal of a Notice of Termination for a project and terminates upon written confirmation by the department. The maximum period of permit coverage for any project is limited to 3 years per Notice of Intent. Therefore, after 3 years of initial permit coverage, the permittee is no longer authorized to discharge under this permit unless another Notice of Intent for the original project including the application fee 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

By _____ September 30, 2021
Brian Weigel, Director Date
Bureau of Watershed Management

PERMIT EFFECTIVE DATE: October 1, 2021 **EXPIRATION DATE:** September 30, 2026

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1. APPLICABILITY CRITERIA

1.1 Eligibility

1.1.1 Subject to the provisions of sections 1.1.3, 1.1.4 and 1.2.1 through 1.2.6:

1.1.1.1 Under the applicability criteria in s. NR 216.42, Wis. Adm. Code, this general Wisconsin Pollutant Discharge Elimination System (WPDES) permit is applicable to all new and existing storm water discharges from land disturbing construction activity occurring after the effective date of this permit until permit coverage is terminated in accordance with section 2.7 or automatically terminates under section 2.8. Construction activities eligible for coverage by this permit are those that involve land disturbing construction activity affecting or anticipated to affect one acre or more of land.

1.1.1.2 The department may require the landowner of any storm water discharge associated with land disturbing construction activity to apply for and obtain a storm water discharge permit if the storm water discharge is contributing to the violation of a water quality standard or contributing significant pollution to waters of the state.

1.1.2 This permit also authorizes pit and trench dewatering discharges at a construction site covered under this permit subject to the following conditions:

1.1.2.1 Dewatering is from a trench or pit not meeting the definition of a well as defined under s. 281.34(1)(h), Wis. Stats., and regulated under ch. NR 812, Wis. Adm. Code.

1.1.2.2 Dewatering discharge is treated in accordance with the department's sediment control dewatering technical standard 1061 or equivalent methodology.

1.1.2.3 Dewatering is not from an area subject to remedial action operations or from an area containing contamination that would be subject to remedial action operations.

Note[1]: Examples of some dewatering activities that may be regulated by this permit include dewatering of construction pits, sewer extension construction, pipe trenches, and other similar operations. The department's sediment control dewatering technical standard 1061 is available at: https://dnr.wi.gov/topic/stormwater/standards/const_standards.html.

Note[2]: Dewatering well systems with a combined pumping capacity of 70 gallons per minute or more may require temporary high capacity dewatering well approval. Dewatering well systems must meet the requirements of ch. NR 812, Wis. Adm. Code.

Note[3]: Discharges from dewatering well systems may require coverage under a wastewater general permit for dewatering operations. The wastewater permit for dewatering operations is available at: https://dnr.wisconsin.gov/sites/default/files/topic/Wastewater/WI0049344permit.pdf.

Note[4]: Dewatering discharges at construction sites or properties where there is environmental pollution and/or a discharge of a hazardous substance subject to regulation under chs. 289 or 292, Wis. Stats, may require additional approvals and be subject to the Contaminated Groundwater from Remedial Action Operations General Permit (WI-0046566-07-0). Chapter 292, Wis. Stats., defines "remedial action."

1.1.3 This permit authorizes storm water discharges from land disturbing construction activities

that may become mixed with other storm water discharges. Subject to compliance with the terms and conditions of this permit, storm water discharges from temporary support activities such as portable concrete or asphalt batch plants, equipment staging yards, material storage areas, excavated material disposal areas, and borrow areas are authorized under this permit provided that the support activity is directly related to and part of the construction site covered under this permit. The erosion control plan required under section 3.1 of this permit shall include provisions to prevent and control the discharge of pollutants to waters of the state from any temporary support activity. This permit does not authorize a support activity that is a commercial operation serving multiple unrelated construction sites or that operates beyond the completion of the permitted construction site associated with the support activity. Other storm water or wastewater discharges that require coverage under another general or individual WPDES permit are not authorized under this permit such as wastewater discharges from washout and cleanout of stucco, paint, form release oils, curing compounds and other construction materials; fuels, oils and other pollutants used in vehicle operation and maintenance; and soaps or solvents used in vehicle and/or equipment washing.

1.1.4 Storm water discharges associated with industrial activity that are subject to an industrial storm water WPDES permit or which are issued an individual WPDES construction site storm water discharge permit are not authorized by this permit.

Note: For example, non-metallic mining is an industrial activity that includes land disturbance as a normal part of its operation and such land disturbance is regulated under an industrial stormwater permit for that activity. If an industrial facility underwent construction or expanded its operations and land disturbance is not a normal part of its operations, then coverage under this permit would be applicable.

1.1.5 This general permit does not apply to construction sites otherwise eligible for this permit where the department determines, pursuant to s. NR 216.51(5), Wis. Adm. Code, that coverage under an individual WPDES storm water discharge permit is more appropriate. The department may require individual permit coverage for storm water discharge from a construction site otherwise eligible for coverage under this permit if any of the following occur:

1.1.5.1 The storm water discharge from a construction site is determined to be a significant source of pollution and more appropriately regulated by an individual WPDES storm water discharge permit.

1.1.5.2 The storm water discharge from a construction site is not in compliance with the terms and conditions of this general permit or subch. III of ch. NR 216, Wis. Adm. Code.

1.1.5.3 A change occurs in the availability of demonstrated technology or best management practices (BMPs) for the control or abatement of pollutants from the storm water discharge.

1.1.5.4 Effluent limitations or standards are promulgated for a storm water discharge from the construction site different from the conditions contained in ch. 216, Wis. Adm. Code.

1.2 Exclusions

The following are not eligible for coverage under this permit:

1.2.1 Storm water discharges within Indian Country.

Note: Indian County is defined under 18 USC §1151 and includes all lands within the exterior boundaries of federally recognized Indian reservations and on lands held in federal trust status. Facilities that are located within Indian Country should contact the United States Environmental Protection Agency (USEPA) to apply for permit coverage. Dischargers that previously held permit coverage under previous versions of this permit are no longer eligible for coverage under this permit and must contact USEPA to apply.

USEPA's website contains information on the Construction General Permit: https://www.epa.gov/npdes/stormwater-discharges-construction-activities. Proposed discharges within Indian country who are seeking coverage under the NPDES construction permit should verify eligibility for coverage under the general permit. Discharges not eligible may require individual permits from USEPA.

1.2.2 Land disturbing construction activity and associated storm water discharges that affect wetlands, unless the department determines that the land disturbing construction activity and associated storm water discharges comply with the wetland water quality standards provisions in ch. NR 103, Wis. Adm. Code. A landowner applying for permit coverage under section 2.1 shall provide information to the department with the application documenting whether wetlands are present in the project area and how the presence or absence of wetlands was determined. The storm water management plan in section 3.4.3 shall include the technical basis for the chosen BMPs and describe how the chosen practices do not cause adverse impacts to receiving water quality.

Note: The department's wetland screening and delineation procedures are available at: https://dnr.wi.gov/topic/stormwater/construction/.

1.2.3 Land disturbing construction activity and associated storm water discharges that affect endangered and threatened resources, unless the department determines that the land disturbing construction activity and associated storm water discharges comply with the endangered and threatened resource protection requirements of s. 29.604, Wis. Stats., and ch. NR 27, Wis. Adm. Code.

1.2.4 Land disturbing construction activity and associated storm water discharges that affect any historic property that is listed property, or on the inventory or on the list of locally designated historic places under s. 44.45, Wis. Stats., unless the department determines that the land disturbing construction activity and associated storm water discharges will not have an adverse effect on any historic property pursuant to s. 44.40(3), Wis. Stats.

1.2.5 Storm water discharges that the department, prior to authorization of coverage under this permit, determines will cause or have reasonable potential to cause or contribute to an excursion above any applicable water quality standard. Where such determinations have been made prior to authorization, the department may notify the applicant that an individual permit application is necessary.

1.2.6 Storm water discharges from transportation activity carried out under the direction and supervision of the Wisconsin Department of Transportation.

Note: "Transportation activity" has the meaning given in s. 30.2022(1g), Wis. Stats. Section 283.33(4m)(b)1., Wis. Stats., directs the Department of Natural Resources to issue a distinct general permit that authorizes the Department of Transportation to discharge storm water from

the site of a transportation activity.

1.3 Authorization

1.3.1 A landowner planning a land disturbing construction activity of one acre or more shall submit a completed Notice of Intent (NOI) to the department in accordance with the requirements of section 2.1 of this permit to be authorized to discharge storm water under this permit.

1.3.2 Only a landowner or person who becomes a qualified landowner, and who submits an NOI in compliance with section 2 of this permit is authorized to discharge storm water from a land disturbing construction activity of one acre or more under the terms and conditions of this permit.

1.4 More than One General Permit Can Apply

This permit may be issued to existing holders of general or individual WPDES permits, resulting in multiple WPDES permits for some sites. Facilities having other permits which do not regulate storm water discharges from land disturbing construction activities shall be subject to this permit when construction activities will disturb one acre or more of land at the site. However, storm water discharges from land disturbing construction activity associated with the normal operation of an industrial facility do not require coverage under this permit when it is regulated under an industrial storm water permit pursuant to subch. II of NR 216, Wis. Adm. Code.

1.5 Transfers

A permittee who does not intend to control the permitted activities on the site may transfer authorization under this permit to the person who will control the permitted activities. The transfer shall occur upon written notification, signed by both the current permittee and the proposed permittee and sent via certified or registered mail to the department. Unless the department notifies the permittee to the contrary, the department will recognize this permit coverage transfer upon receipt of written notification. The department may require additional information to be filed prior to granting the transfer of permit coverage. The department may, if appropriate, require an application for an individual WPDES storm water discharge permit.

Note: Transfer of permit coverage may not occur where the original landowner still owns a portion of the construction site that requires permit coverage. Where multiple landowners are required to have construction site permit coverage, each must file an NOI with the department. Multiple landowners may utilize the same erosion control and storm water management plans if the plans address the specific needs of the construction site that they own.

Note: The Transfer of Coverage form (Form 3400-222) is available on the department's website at: https://dnr.wisconsin.gov/topic/Stormwater/construction/forms.html.

1.6 Authorized Local Program

Section NR 216.415, Wis. Adm. Code, establishes the requirements for a municipal authorized local program. The landowner of a construction site regulated by an authorized local program shall comply with this section 1.6.

Note: Currently, Waukesha County is the only municipality with an authorized local program conditionally-approved by the department. The department will not approve any other municipal authorized local program until revisions to the applicable sections of ch. NR 216, Wis. Adm. Code, are promulgated.

1.6.1 Unless otherwise directed by the department, a landowner regulated by an authorized local program shall comply with the ordinances established by the authorized local program and reviewed by the department as part of the establishment and management of the authorized local program. For Waukesha County, the ordinances are contained in Chapter 14, article VIII of the County Code of Ordinances (available at: https://www.waukeshacounty.gov/globalassets/parks--land-use/land-conservation/stormwater/final-2005-storm-water-ordinance---waukesha-co-web-version.pdf).

1.6.2 Notwithstanding the establishment of an authorized local program, a landowner regulated by an authorized local program who has submitted a permit application in accordance with section 1.6.3 shall comply with this permit. The department may enforce against the landowner of a construction site for a violation of this permit.

1.6.3 A landowner regulated by an authorized local program shall comply with the application requirements established by the authorized local program under s. NR 216.415(6), Wis. Adm. Code.

1.6.4 If an authorized local program is terminated pursuant to s. NR 216.415(10), Wis. Adm. Code, the department will notify an affected landowner in writing with instructions on how to remain in compliance with this permit.

2. NOTICE OF INTENT, NOTICE OF TERMINATION, AND MINIMUM CONTROL REQUIREMENTS

2.1 Application Procedures

2.1.1 Except as provided in section 1.6.3, a person required to obtain coverage under this permit (applicant) for storm water discharge from a construction site shall submit a completed NOI to the department in accordance with the requirements of subch. III of ch. NR 216, Wis. Adm. Code. At a minimum, the applicant shall submit the completed NOI to the department in accordance with the requirements of this section, at least 14 working days prior to beginning any land disturbing construction activities. The department may confer permit coverage within the 14 working days or may withhold permit coverage beyond 14 working days to request additional information or to review project compliance with erosion control, storm water management, wetland protection, endangered and threatened resources, or historic property requirements. In either case, the department will notify the applicant in writing. The applicant shall submit the NOI electronically through the department's construction site electronic application process. The Notice of Intent requires applicants to provide information on the applicant, facility location, and applicable information pursuant to ss. NR 216.46 and NR 216.47 Wis. Adm. Code.

Note: The department's construction site electronic application process webpage is available at: http://dnr.wi.gov/topic/Stormwater/construction/forms.html. For applicants with no computer capability, the department may accept a paper version of the NOI application on a case-by-case basis. The paper application must be obtained directly by contacting the department at 888-936-7463 or by writing to the Wisconsin DNR, Storm Water Program – WT/3, Box 7921, Madison, Wisconsin 53707-7921. Submittal of the paper application must be accompanied by a letter from the department approving its use.

2.1.2 The applicant shall submit erosion control and storm water management plans as described in Section 3 of this permit to the department as required by s. NR 216.44(2), Wis. Adm. Code, with the NOI.

2.1.3 The applicant shall submit the application fee to the department in accordance with s. NR 216.43(2), Wis. Adm. Code.

2.1.4 The NOI form shall be signed in accordance with s. NR 216.43(3), Wis. Adm. Code.

2.2 Permit Certificate

The permittee shall post the permit certificate (DNR Publication # WT-813 rev. 10/11) in a conspicuous place on the construction site. The department will provide the permit certificate to the permittee with the letter of permit coverage.

Note: The requirement to post the permit certificate in a conspicuous place on the construction site is intended to provide the public an easily accessible and viewable document with contact information for the construction site. The department recommends posting the certificate near each main entrance to the construction site in a location where it is legible from a public right-of-way. Permittees should consider providing sufficient weather protection to avoid the certificate from becoming unreadable.

2.3 Failure to Notify

Persons who fail to notify the department of their intent to be covered under this permit and who discharge storm water to waters of the state associated with land disturbing construction activities of one acre or more, are in violation of ch. 283, Wis. Stats., ch. NR 216, Wis. Adm. Code. Failure to

obtain permit coverage may result in forfeitures of up to $10,000 per day, pursuant to s. 283.91(2), Wis. Stats.

2.4 Incomplete Notice of Intent
Within 14 working days after the date the department receives the NOI, the department may require an applicant to submit data necessary to complete any deficient NOI or may require the applicant to submit a complete new NOI when the deficiencies are extensive or the appropriate application process has not been used.

2.5 Date Coverage Effective
Unless notified by the department to the contrary, applicants who submit a complete NOI in accordance with the provisions of subch. III of ch. NR 216, Wis. Adm. Code, are authorized to discharge storm water from land disturbing construction sites under the terms and conditions of this permit 14 working days after the date the department receives the NOI. The department may deny coverage under this permit and require submittal of an application for an individual WPDES permit based on a review of the completed NOI or other information.

2.6 Use of Information
All information contained in the NOI other than that specified as confidential by the department shall be available to the public. Confidential treatment will be considered only for information identified in documents submitted by the applicant separate from non-confidential information which meets the requirements of s. 283.55(2)(c), Wis. Stats., and for which written application for confidentiality has been made pursuant to s. NR 2.19, Wis. Adm. Code.

2.7 Notice of Termination
Permittees shall submit a Notice of Termination (NOT) to the department within 45 days after a construction site has undergone final stabilization, temporary sediment control practices have been removed and all land disturbing construction activities that required coverage under this permit have ceased. The NOT shall be submitted consistent with all of the following:

2.7.1 The permittee shall submit the NOT on the electronic form available from the department.

Note: Electronic forms are available at https://dnr.wisconsin.gov/topic/Stormwater/construction/forms.html. For applicants with no computer capability, the department may accept a paper version of the NOT on a case-by-case basis. The paper form must be obtained directly by contacting the department at 888-936-7463 or by writing to the Wisconsin DNR, Storm Water Program – WT/3, Box 7921, Madison, Wisconsin 53707-7921. Submittal of the paper form must be accompanied by a letter from the department approving its use.

2.7.2 The Permittee shall sign the NOT form in accordance with s. NR 216.43(3), Wis. Adm. Code.

2.7.3 The department shall use the information submitted with the NOT as basis for confirming or denying termination of coverage.

2.7.4 The department shall provide written confirmation of permit coverage termination to the permittee. Termination of coverage shall not be effective until the department provides confirmation to the permittee.

2.8 Permit Coverage Renewal and Automatic Termination

The maximum period of permit coverage for any project is limited to three years per NOI. After three years of initial permit coverage, the permittee is no longer authorized to discharge under this permit unless renewal of coverage is granted by the department. A permittee may request renewal of coverage under this permit or a reissued version of this permit by submitting an electronic form to the department and paying the application fee for the total area of project disturbance. Reapplication for coverage must occur prior to the end of the three-year period. Unless a permittee renews permit coverage, the department may automatically terminate the initial permit coverage after three years. The permittee is responsible for determining whether a renewal of permit coverage is necessary.

2.9 Minimum Control Requirements

The permittee shall design, install, and maintain BMPs to meet the applicable performance standard in either s. NR 151.11, Wis. Adm. Code, for construction sites that are not transportation facilities or s. NR 151.23, Wis. Adm. Code, for transportation facility construction sites.

2.9.1 Evaluation and implementation of BMPs

The permittee shall utilize the following BMPs:

2.9.1.1 Limiting the size and duration of exposed soil areas subject to erosion via staging of land disturbance. This includes temporary stabilization of areas that will not be subject to further land disturbance during winter months.

2.9.1.2 Develop a spill prevention and response plan.

2.9.1.3 Encourage infiltration through maintaining natural buffers around surface waters and directing storm water to vegetated areas.

2.9.1.4 Utilizing BMPs for which the department has developed technical standards or equivalent methodology.

Note**:** The storm water technical standards are available on the department's internet site at: https://dnr.wi.gov/topic/stormwater/standards/.

2.9.2 BMP Design

The permittee shall consider all of the following factors when designing BMPs:

2.9.2.1 The expected amount, frequency, intensity, and duration of precipitation.

2.9.2.2 The nature of storm water runoff and run-on at the site. Factors such as expected flow from impervious surfaces, slopes, and site drainage features shall be considered. Best Management Practices shall be designed to meet the applicable requirements for erosion and sediment control and post- construction storm water management.

2.9.2.3 The soil type and range of soil particle sizes expected to be present on the site.

2.9.2.4 Both existing and proposed topography.

Note**:** Clearing, grubbing, and topsoil stripping are types of land disturbance that usually occur before mass grading. Therefore, temporary controls are needed for features that are present in existing topography that may not be present in proposed topography.

2.9.2.5 The proposed construction schedule, if known.

2.9.2.6 Good engineering design practices, including use of applicable technical standards or their or equivalent methodology.

2.9.3 Installation of BMPs

The permittee shall install the following by the time each phase of construction activities has begun:

2.9.3.1 Before land disturbing construction activities in any portion of the site begins, install and direct water to any erosion or sediment controls that prevent or treat discharges from the initial site clearing, grading, excavating, and other land disturbing construction activities.

Note: The requirement to install BMPs prior to each phase of construction activities for the site does not apply to the land disturbance associated with the actual installation of these BMPs. The permittee shall take all reasonable actions to minimize the discharges of pollutants during the installation of storm water BMPs.

2.9.3.2 Following the installation of these initial controls, install and direct water to all BMPs needed to control discharges prior to subsequent land disturbing activities.

2.9.4 Maintenance of BMPs

The permittee shall ensure that all BMPs are maintained and remain effective operating condition during permit coverage and are protected from activities that would reduce their effectiveness. The permittee shall**:**

2.9.4.1 Follow any specific maintenance requirements for the BMPs used to comply with this permit.

2.9.4.2 Initiate any needed maintenance work so that it is completed by the close of the next business day. The permittee shall repair or replace storm water BMPs as necessary within 24 hours of an inspection performed in accordance with section 4.5 of this permit or after notification by the department that repair or replacement is needed.

Note: A permittee's operator may assist a permittee to comply with these provisions where the operator has a contract or other agreement with the permittee to meet these requirements.

2.9.5 Corrective Actions

If a selected BMP is ineffective in meeting the requirements of this permit, the permittee shall comply with the corrective action requirements in section 3.3.

2.9.6 Compliance with Runoff Management Performance Standards

The permittee shall comply with the construction site performance standards in s. NR 151.11(6m), (7) and (8), Wis. Adm. Code, for construction sites that are not transportation facilities or s. NR 151.23(4m),(5) and (6), Wis. Adm. Code, for transportation facility construction sites. The BMPs installed to meet the performance standards shall be maintained to meet the control and/or treatment capability of the practice. In accordance with section 3.2.6 of this permit, the permittee shall ensure that any permanent structures installed to meet a post- construction performance standard in ss. NR 151.121 to 151.128, Wis. Adm. Code, or ss. NR 151.241 to 151.248, Wis. Adm. Code, are maintained to meet the treatment capability as designed.

2.9.7 Unauthorized Discharges

This permit authorizes storm water discharges from land disturbing construction activities that may become mixed with other storm water discharges. Other storm water or wastewater discharges that require coverage under another general or individual WPDES permit are not authorized under this permit such as wastewater discharges from washout and cleanout of concrete, paint, form release oils, curing compounds and other construction materials; fuels, oils and other pollutants used in vehicle operation and maintenance; and soaps or solvents used in vehicle and/or equipment washing.

3. EROSION CONTROL AND STORM WATER MANAGEMENT PLANS

3.1 Erosion Control Plan Requirements

The landowner or applicant shall develop a site-specific construction site erosion control plan for each construction site regulated under subch. III of ch. NR 216, Wis. Adm. Code. The erosion control plan shall include all of the following:

3.1.1 Description of the construction site and the nature of the land disturbing construction activity, including representation of the limits of land disturbance on a USGS 7.5-minute series topographical map or equivalent.

Note: The map requirement can be met for applicants using the department's electronic permit submittal process that includes an outline of the disturbed area on the surface water data viewer, or submits a shape file with the outline as required in the application process.

3.1.2 Description of the intended timing and sequence of major land disturbing construction activities for major portions of the construction site, such as grubbing, excavating, or grading.

Note: The department encourages inclusion of a staging map, dividing sites into smaller areas with proposed dates for start of land disturbance in each area, start of temporary stabilization, and final stabilization for each area on the map. This staging map is strongly encouraged for all projects expected to have more than 50 acres of land disturbance or land disturbance extending more than 24 months from initial disturbance to final stabilization.

3.1.3 Estimates of the total area of the construction site and the total area that is expected to be disturbed by construction activities.

3.1.4 Available data describing the surface soil as well as subsoils.

3.1.5 Name of immediate named receiving water from the USGS 7.5-minute series topographic maps or department surface water data viewer, and whether the receiving water is an outstanding resource water (ORW), exceptional resource water (ERW), or an impaired water. See Section 4.2 to 4.4 for additional requirements related to designated surface waters.

Note: ORWs and ERWs are listed in ss. NR 102.10 and 102.11, Wis. Adm. Code, respectively. Also, a list of ORWs and ERWs may be found on the department's internet site at: https://dnr.wi.gov/topic/surfacewater/orwerw.html.

3.1.6 Description of BMPs and actions that together meet the applicable performance standard in either s. NR 151.11, Wis. Adm. Code, for construction sites that are not transportation facilities or s. NR 151.23, Wis. Adm. Code, for transportation facility construction sites. If BMPs cannot be designed and implemented to meet the sediment reduction performance standard, the construction site erosion control plan shall include a written and site-specific explanation of why the performance standard is not attainable.

Note: Department-approved erosion and sediment control technical standards can be obtained through the department's storm water internet site at: https://dnr.wi.gov/topic/stormwater/standards/const_standards.html.

3.1.7 The construction site erosion control plan shall include a description of appropriate erosion and sediment control BMPs that will be installed and maintained at the construction site to prevent or reduce pollutants from reaching waters of the state. The construction site erosion control plan shall clearly describe the appropriate erosion and sediment control BMPs for each major land disturbing construction activity and the timing during the period of land disturbing construction activity that the erosion and sediment control BMPs will be implemented. Erosion and sediment control BMPs shall be implemented in accordance with either s. NR 151.11(8), Wis. Adm. Code, for construction sites that are not transportation facilities or s. NR 151.23(6), Wis. Adm. Code, for transportation facility construction sites. The description of erosion and sediment control BMPs shall include the following minimum requirements:

3.1.7.1 Description of interim and permanent stabilization practices, including a schedule for implementing the practices. The construction site erosion control plan shall ensure that existing vegetation is preserved where feasible and that disturbed portions of the construction site are stabilized as soon as practicable.

3.1.7.2 Description of any structural practices to divert flow away from exposed soils, store flows or otherwise limit runoff and the discharge of pollutants from the construction site.

3.1.7.3 Management of overland flow at all areas of the construction site, unless otherwise controlled by outfall controls.

3.1.7.4 Trapping of sediment in channelized flow.

3.1.7.5 Staging land disturbing construction activities to limit exposed soil areas subject to erosion.

3.1.7.6 Protection of downslope drainage inlets where they occur.

3.1.7.7 Prevent tracking of sediment from the construction site onto roads and other paved surfaces.

3.1.7.8 Prevent the discharge of sediment as part of site de-watering.

3.1.7.9 Protect separate storm drain inlet structures from receiving sediment.

3.1.7.10 Clean up of off-site sediment deposits.

3.1.7.11 Stabilization of drainage ways.

3.1.7.12 Prevent the discharge of sediment eroding from soil stockpiles existing for more than 7 days.

3.1.7.13 Prevent the transport by runoff into waters of the state of untreated wash water from vehicle and wheel washing.

3.1.7.14 Installation of permanent stabilization practices as soon as possible after final grading.

3.1.7.15 Description of erosion and sediment control practices put in place for the winter to prevent soil from leaving the construction site during periods of winter and spring thaw and rains.

3.1.7.16 Description of the expected level of sediment control on the construction site that achieves compliance with s. NR 151.11 or 151.23, Wis. Adm. Code, where applicable. The construction site erosion control plan shall document compliance with the 5 tons per acre per year sediment performance standard using the procedures provided by the department to estimate soil loss and sediment discharge from sheet and rill erosion and measures to limit sediment discharge from concentrated flows and steep slopes. This requirement is in addition to providing the minimum control measures in subsections of 3.1.7 of this permit and is not intended to result in reduction of erosion and sediment control measures.

Note: The department developed the Construction Site Soil Loss and Sediment Discharge Calculation Guidance, dated September 2017. This guidance document establishes a procedure to document compliance with the 5 tons per acre per year sediment performance standard for construction sites. The guidance is available on the department's internet site at: https://dnr.wi.gov/topic/stormwater/publications.html.

3.1.7.17 Use and storage of chemicals, cement and other compounds and materials used on the construction site shall be managed during the construction period to prevent their transport by runoff into waters of the state.

3.1.7.18 Minimization of dust to the maximum extent practicable.

3.1.7.19 Minimization of soil compaction and preservation of topsoil.

3.1.7.20 Minimization of land disturbing construction activity on slopes of 20% or more.

3.1.7.21 Spill prevention and response procedures.

3.1.7.22 Additional items necessary to address site-specific conditions.

3.2 Erosion Control Map The construction site erosion control plan shall include a site map with the following items:

3.2.1 Existing topography and drainage patterns, roads and surface waters.

Note: Contour maps at 1- or 2-foot intervals are preferred. Many counties have topographic information available in geographic information system format.

3.2.2 Boundaries of the construction site.

3.2.3 Drainage patterns and approximate slopes anticipated after major grading activities.

Note: Proposed contour maps at 1- or 2-foot intervals are preferred.

3.2.4 Areas of soil disturbance.

3.2.5 Location of erosion and sediment control BMPs identified in the construction site erosion control plan.

3.2.6 Location of areas where stabilization practices will be employed.

3.2.7 Areas that will be vegetated following land disturbing construction activities.

3.2.8 Area and location of wetland acreage on the construction site and locations where storm water is discharged to a surface water or wetland within one-quarter mile downstream of the construction site.

3.2.9 Areas that will be used for infiltration of post-construction storm water runoff.

3.2.10 A method of referencing locations within the site, such as an alphanumeric or equivalent coordinate system for the entire construction site.

3.2.11 Additional items necessary to depict site-specific conditions.

Note: The department encourages inclusion of notes communicating erosion and sediment control requirements to those working on the construction site. The department has a list of recommended notes at: https://dnr.wi.gov/topic/stormwater/documents/WTErosionControlNotes.pdf.

3.3 Erosion and Sediment Control Plan Implementation Requirements

The permittee or the permittee's representative shall implement and maintain, as required by this permit and subch. III of NR 216, Wis. Adm. Code, all BMPs specified in the construction site erosion control plan from the start of land disturbing construction activities until final stabilization of the construction site. Implementation shall include all of the following:

3.3.1 Sediment control BMPs shall be constructed and placed in operation prior to runoff entering waters of the state.

Note: While regional treatment facilities are appropriate for control of post-construction pollutants they should not be used for construction site sediment removal.

3.3.2 No solid materials, including building materials, may be discharged in violation of chs. 30 and 31, Wis. Stats., or 33 USC 1344 or a U.S. Army Corps of Engineers Section 404 permit issued under 33 USC 1344.

3.3.3 Velocity dissipation devices shall be placed at discharge locations and along the length of any outfall channel as necessary to provide a non-erosive flow from the structure to a watercourse so that the natural physical and biological characteristics and functions of the watercourse are maintained and protected.

3.3.4 Sediment basins and traps used for sediment removal shall be constructed and operated in accordance with good engineering practices and design standards.

Note: The department maintains technical standards for sediment basin and traps: https://dnr.wisconsin.gov/topic/Stormwater/standards/const_standards.html.

3.3.5 All maintenance shall be done in accordance with technical standards developed pursuant to subch. V of ch. NR 151, Wis. Adm. Code, and the erosion control plan. Where measures are not in accordance with the technical standards, a description of the procedures used to maintain effective operating conditions of vegetation, erosion and sediment control BMPs and other protective measures shall be identified in the erosion control plan.

Note**:** The storm water technical standards are available on the department's internet site at: https://dnr.wi.gov/topic/stormwater/standards/const_standards.html.

3.4 Storm Water Management Plan Requirements

3.4.1 A storm water management plan shall be developed to address pollution caused by storm water discharges from the site after construction is completed, including rooftops, parking lots, roadways and maintained landscaped or grassy areas. A storm water management plan shall be developed prior to submitting a NOI to the department.

Note: The requirements of sections 4.2 to 4.4 of this permit apply to erosion control and storm water management plans for all construction sites regulated under this permit.

3.4.2 The storm water management plan shall meet the applicable performance standards in ch. NR 151, Wis. Adm. Code, as follows:

3.4.2.1 For construction sites that are not transportation facilities, meet the applicable performance standards in ss. NR 151.121 through NR 151.128, Wis. Adm. Code.

3.4.2.2 For transportation facility construction sites, meet the applicable performance standards in ss. NR 151.241 through NR 151.249, Wis. Adm. Code.

3.4.3 The storm water management plan shall include a description of the BMPs that will be installed during the construction process to control total suspended solids and peak flow, enhance infiltration, maintain or restore protective areas and reduce petroleum in runoff that will occur after construction has been completed. The storm water management plan shall include an explanation of the technical basis used to select the BMPs

Note: Storm water management post-construction technical standards developed per Subch. V NR 151, Wis. Adm. Code, can be obtained at: https://dnr.wisconsin.gov/topic/Stormwater/standards/postconst_standards.html. For final stabilization after construction is completed the establishment of a perennial vegetative cover the procedures for permanent seeding in accordance with the department's seeding technical standard 1059 or equivalent methodology shall be followed.

3.4.4 When permanent infiltration systems are used, appropriate on-site testing shall be conducted to determine if seasonal high groundwater elevation or top of bedrock is within 5 feet of the bottom of the proposed infiltration system.

3.4.5 Storm water BMPs shall be adequately separated from wells to prevent contamination of drinking water, and the following minimum separation distances shall be met:

3.4.5.1 Storm water infiltration systems and ponds shall be located at least 400 feet from a well serving a community water system unless the department concurs that a lesser separation distance would provide adequate protection of a well from contamination.

3.4.5.2 Storm water BMPs shall be located with a minimum separation distance from any well serving a non-community or private water system as listed within s. NR 812.08, Wis. Adm. Code.

Note: Chapter NR 815, Wis. Adm. Code, regulates injection wells including storm water injection wells. Construction or use of a well to dispose of storm water directly into groundwater is prohibited under s. NR 815.11(5), Wis. Adm. Code.

3.4.6 For any permanent structures, provisions shall be made for long-term maintenance with the municipality or other responsible party. For an NOI submitted to the department, a copy of the signed long-term maintenance agreement shall be submitted to the department with the NOI unless the department agrees that it may be submitted by an alternative date prior to termination of permit coverage. The department may withhold permit coverage until the long-term maintenance agreement is submitted to the department.

Note: The long-term maintenance agreement is an important requirement and the department wants to ensure that appropriate steps are being taken to secure the agreement. The department encourages the landowner to obtain a municipal agreement for long-term maintenance of regional treatment structures. Long-term storm water BMPs should be maintained after permit termination in accordance with the maintenance agreement and NR 216.005, Wis. Adm. Code.

3.5 Amendments

3.5.1 The permittee shall amend the erosion control and/or storm water management plans if any of the following occurs:

3.5.1.1 There is a change in design, construction, operation or maintenance at the construction site, which has the reasonable potential for the discharge of pollutants and has not otherwise been addressed in the erosion control and storm water management plans.

3.5.1.2 There is a change in the sequence, schedule, or phasing of construction at the construction site which has a reasonable potential to cause an exceedance of the 5 tons per acre per year sediment performance standard.

3.5.1.3 The actions required by the erosion control and storm water management plans fail to reduce the impacts of pollutants carried by construction site storm water runoff.

3.5.2 For construction sites for which there has been earlier department review of the erosion control and storm water management plans, if the permittee identifies changes needed in either plan, the permittee shall notify the department regional storm water contact at least 5 working days prior to making the changes in the plan.

Note: Land disturbance outside the limits depicted in plans submitted to the department, an increase in proposed impervious area, or changes to the design of post-construction site treatment practices typically require changes to the erosion control or storm water management plans. The department may require a permittee to file a new notice of intent if the amended site requires resource screening of additional area, the amended site no longer meets an exemption from post-construction performance standards under ss. NR 151.121 to 151.125, Wis. Adm. Code, the plans do not meet one or more requirements of sub. III of NR 216, Wis. Adm. Code, or the conditions of a permit issued pursuant to this subchapter.

3.5.3 The department may, upon request of a permittee or upon finding of just cause, modify the compliance and reporting schedules or any requirement of a storm water discharge permit.

4. WATER QUALITY STANDARDS, MONITORING, AND RECORDS

4.1 Water Quality Standards

This permit specifies the conditions under which storm water may be discharged to waters of the state for the purpose of achieving water quality standards contained in chs. NR 102 through 105, NR 140, and NR 207, Wis. Adm. Code. For the term of this permit, compliance with water quality standards will be addressed by adherence to general narrative-type storm water discharge limitations, compliance with the applicable performance standards of subch. III or IV of ch. NR 151, Wis. Adm. Code, and implementation of the erosion control and storm water management plans and BMPs. A permittee with a construction site covered under this permit shall select, install, implement and maintain BMPs as necessary to meet applicable water quality standards. Unless notified by the department in writing to the contrary, compliance with the applicable performance standards of subch. III or IV of ch. NR 151, Wis. Adm. Code, shall be deemed as stringent as necessary to ensure that storm water discharges covered by this permit do not cause or contribute to an excursion above any applicable water quality standard.

4.2 Outstanding and Exceptional Resource Waters

4.2.1 Before beginning land-disturbing construction activity, the permittee shall determine whether any part of its construction or post-construction site storm water will discharge to an outstanding resource water (ORW) or exceptional resource water (ERW). ORWs and ERWs are listed in ss. NR 102.10 and 102.11, Wis. Adm. Code, respectively.

Note: The department recommends that an applicant for permit coverage check for ORWs and ERWs during project planning prior to submitting an NOI. A list of ORWs and ERWs may be found on the department's internet site at: https://dnr.wi.gov/topic/surfacewater/orwerw.html.

4.2.2 The permittee may not establish a new storm water discharge of pollutants directly to an ORW or an ERW unless the discharge of pollutants is equal to or less than existing levels of pollutants immediately upstream of the discharge site. The erosion control and storm water management plans required under section 3 of this permit shall include BMPs designed to meet this requirement for a new storm water discharge.

4.2.2.1 "New storm water discharge" means a storm water discharge that would first occur after the permittee's start date of coverage under this permit to a surface water to which the construction site or post-construction site did not previously discharge storm water.

4.2.3 The permittee's erosion control and storm water management plans required under this permit shall be designed to prevent the discharge of sediment and other pollutants to any ORW or ERW in excess of the background level within the water body. Unless notified by the department in writing to the contrary, compliance with the applicable performance standards of subch. III or IV of ch. NR 151, Wis. Adm. Code, shall be deemed in compliance with the requirements of this section. If the department has sufficient site-specific data to determine that the permittee's construction or post-construction site storm water will discharge a pollutant in excess of the background level within an ORW or ERW, then the department shall notify the permittee in writing that the permittee shall include a written section in the erosion control and storm water management plans that discusses and identifies the management practices and control measures the permittee will implement to prevent the discharge of any pollutant in excess of the background level within the water body. This section of the permittee's plans shall specifically identify control measures and practices that will collectively be used to prevent the discharge of a pollutant in excess of the background level within the water body.

Note: Reducing or eliminating surface water discharges to an ORW or ERW by infiltrating runoff is a method to help prevent the discharge of pollutants to an ORW or ERW in excess of background levels. It is expected that post-construction storm water management practices will be designed to maintain or increase infiltration rates for the site as compared to pre-development infiltration rates for areas that discharge to any ORW or ERW. However, prohibitions, exclusions, or exemptions from infiltrating runoff may apply to runoff from potential sources of contamination or into areas that are prone to groundwater contamination as identified in s. NR 151.12(5)(c)5. and 6., Wis. Adm. Code, or s. NR 151.124(3) and (4), Wis. Adm. Code. Infiltration systems shall be designed to comply with the groundwater quality standards contained in ch. NR 140, Wis. Adm. Code.

4.2.4 Protective areas of at least 75 feet shall be maintained adjacent to any ORW and ERW as required under ss. NR 151.12 (5)(d), NR 151.125, 151.24(6), or NR 151.245, Wis. Adm. Code.

4.3 Fish and Aquatic Life Waters

4.3.1 Before beginning land-disturbing construction activity, the permittee shall determine if the site will have a storm water discharge to a fish and aquatic life water as defined in s. NR 102.13, Wis. Adm. Code.

Note: The department recommends that an applicant check for fish and aquatic life waters during project planning prior to submitting an NOI. Most receiving waters of the state are classified as a fish and aquatic life water and this classification includes all surface waters of the state except ORWs, ERWs, Great Lakes system waters and variance water identified within ss. NR 104.05 to 104.10, Wis. Adm. Code. The department may be consulted if the applicant is not certain of the classification.

4.3.2 The permittee may not establish a new storm water discharge of pollutants to a fish and aquatic life water if the discharge will result in the significant lowering of water quality of the fish and aquatic life water. Significant lowering of water quality is defined within ch. NR 207, Wis. Adm. Code. If discharges result in the significant lowering of water quality, the procedures of s. NR 207.04 (c) 1., Wis. Adm. Code may apply, and the permittee shall include this as additional information pursuant to s. NR 216.48 (3), Wis. Adm. Code. Unless notified by the department in writing to the contrary, compliance with the applicable performance standards of subch. III or IV of ch. NR 151, Wis. Adm. Code, shall be deemed in compliance with the requirements of this section. “New storm water discharge” has the meaning given in section 4.2.2.1 of this permit.

4.4 Impaired Water Bodies and Total Maximum Daily Load Requirements

4.4.1 “Pollutant(s) of concern” means a pollutant that is contributing to the impairment of a water body.

4.4.2 Before beginning land-disturbing construction activity, the permittee shall determine whether any part of its construction or post-construction site storm water will discharge to an impaired water body listed in accordance with Section 303(d)(1) of the federal Clean Water Act, 33 USC §1313(d)(1)(C), and the implementing regulation of the US Environmental Protection Agency, 40 CFR §130.7(c)(1). Impaired waters are those that are not meeting applicable water quality standards.

Note: The list of Wisconsin impaired surface water bodies may be obtained by contacting the department or by searching for keyword “impaired waters” on the department’s internet site. The department updates the list approximately every two years. The updated list is effective upon

approval by the USEPA. The current list may be found on the department's Internet site at: https://dnr.wisconsin.gov/topic/SurfaceWater/ConditionLists.html.

4.4.3 A permittee that will discharge a pollutant of concern via storm water to an impaired water body shall include a written section in the erosion control and storm water management plans that specifically identifies control measures and management practices that will collectively be used to reduce, with the goal of eliminating, the storm water discharge of pollutant(s) of concern that contribute to the impairment of the water body and explain why these control measures and management practices were chosen as opposed to other alternatives. Unless notified by the department in writing to the contrary, compliance with the applicable performance standards of subch. III or IV of ch. NR 151, Wis. Adm. Code, shall be deemed to be compliance with the requirements of this section.

4.4.4 The permittee may not establish a new storm water discharge of a pollutant of concern to an impaired water body or increase an existing discharge of a pollutant of concern to an impaired water body unless the new or increased discharge causes the receiving water to meet applicable water quality standards, or the discharge is consistent with a USEPA approved total maximum daily load (TMDL) allocation for the impaired water body. Unless notified by the department in writing to the contrary, compliance with the applicable performance standards of subch. III or IV of ch. NR 151, Wis. Adm. Code, shall be deemed to be compliance with the requirements of this section. "New storm water discharge" has the meaning given in section 4.2.2.1 of this permit.

4.4.5 Before beginning land-disturbing construction activity, the permittee shall determine whether any part of its construction or post-construction site storm water will discharge a pollutant of concern via storm water to a water body included in a State and Federal approved TMDL. If so, the permittee shall assess whether the TMDL wasteload allocation for the facility's discharge will be met through the existing erosion control and storm water management plans and compliance with the applicable performance standards of subch. III or IV of ch. NR 151, Wis. Adm. Code, or whether changes to the plans are necessary.

Note: The department recommends that an applicant for permit coverage check for approved TMDLs during project planning prior to submitting an NOI. State and Federal approved TMDLs can be identified by contacting the department, or by searching for keyword "TMDL" on the department's internet site at dnr.wi.gov. The current State and Federal approved Final TMDLs may be found on the department's internet site at: https://dnr.wisconsin.gov/topic/TMDLs.

4.4.6 After determining whether the construction or post-construction site storm water discharge is included in a USEPA approved TMDL and determining that any TMDL wasteload allocation for the construction or post-construction site's discharge is not being met, the permittee shall amend the erosion control and storm water management plans. The amended plans shall include the necessary control measures to meet the requirements of the USEPA approved TMDL wasteload allocation for the construction or post-construction site. If a specific wasteload allocation has not been assigned to the construction or post-construction site under a TMDL, compliance with the applicable performance standards of subch. III or IV of ch. NR 151, Wis. Adm. Code, and this permit shall be deemed to be compliance with the TMDL.

4.5 Inspections and Maintenance
The permittee shall:

4.5.1 Conduct the following construction site inspections:

4.5.1.1 Weekly inspections of erosion and sediment control BMPs; and

4.5.1.2 Inspections of erosion and sediment control BMPs within 24 hours after a rainfall event of 0.5 inches or greater. A "rainfall event" may be considered to be the total amount of rainfall recorded in any continuous 24-hour period.

Note: More frequent visual monitoring is recommended for activities such as dewatering and trackout.

4.5.2 Repair or replace erosion and sediment control BMPs as necessary within 24 hours of an inspection or notification indicating that repair or replacement is needed.

4.5.3 Maintain, at the construction site or via an internet site, weekly written reports of all inspections conducted by or for the permittee. If an internet site method is used, the landowner shall provide the internet address to the department prior to its use. Weekly inspection reports shall include all of the following:

4.5.3.1 The date, time and exact location of the inspection.

4.5.3.2 The name of the individual who performed the inspection.

4.5.3.3 An assessment of the condition of erosion and sediment control BMPs.

4.5.3.4 A description of any erosion and sediment control installation or maintenance performed in response to the inspection.

4.5.3.5 A description of the present phase of construction at the site and any schedule modifications that may increase sediment discharge.

Note: The department has developed an inspection report form that includes the above items and it is available through the department's storm water Internet site at: https://dnr.wisconsin.gov/topic/Stormwater/construction/forms.html.

4.5.4 Submit the information maintained in accordance with section 4.5.3 to the department upon request.

4.6 Records

4.6.1 The permittee shall retain records of all construction site inspections, copies of all reports and plans required by this permit, and records of all data used to obtain coverage under this permit. Minimum periods of retention are as follows:

4.6.1.1 If there is a secure location, such as a construction site trailer, the erosion control and storm water management plans and amendments to the erosion control and storm water management plans shall be retained at the construction site until permit coverage is terminated.

4.6.1.2 All reports required by subch. III of ch. NR 216, Wis. Adm. Code, or information submitted to obtain coverage under this permit, including the erosion control and storm water management plans, amendments, and background information used in their preparation, shall be kept by the permittee for a period of at least 3 years from the date of termination of permit coverage.

4.6.2 A landowner operating a construction site under approved municipal erosion and sediment plans, grading plans, or storm water management plans shall also submit signed copies of the NOI to the local agency approving the plans. If storm water from the construction site discharges to a municipal separate storm sewer system that is operating pursuant to a municipal storm water discharge permit issued pursuant to subch. I of ch. NR 216, Wis. Adm. Code, then a signed copy of the NOI shall also be sent to the operator of the system.

4.6.3 Upon request by the department the permittee shall provide a copy of the erosion control and storm water management plans, construction site inspections and any additional data requested, within 5 working days to the department, to the operator of the municipal storm sewer system that receives the discharge, and any municipal agency approving erosion and sediment plans, grading plans or storm water management plans. Additional information may be requested by the department for resource waters that require additional protection such as outstanding or exceptional resource waters, or other sensitive water resources.

4.7 Compliance with Other Applicable Regulations

4.7.1 The erosion control and storm water management plans shall document other applicable municipal regulatory provisions, compliance with which will also meet the requirements of this permit. Subject to the requirements for uniform statewide standards established by the department under s. 281.33(3), Wis. Stats., if these municipal provisions are more stringent than those provisions appearing in this permit issued pursuant to subch. III of ch. NR 216, Wis. Adm. Code, the erosion control and storm water management plans shall also include a description of how compliance with the municipal provisions will be achieved.

4.7.2 The erosion control and storm water management plans shall comply with applicable state plumbing regulations.

4.8 Department Actions

4.8.1 The department may notify the permittee at any time that the erosion control and storm water management plans do not meet one or more of the minimum requirements of subch. III of ch. NR 216, Wis. Adm. Code, or this permit, for reducing and preventing the discharge of pollutants. The notification shall identify those provisions that are not being met by the erosion control and storm water management plan and identify which provisions of the plan require modification in order to meet the requirements. Within the time frame identified by the department in its notification, the permittee shall make the required changes to the erosion control and storm water management plans, perform all actions required by the revised plans, and submit to the department a written certification that the requested changes have been made and implemented, and such other information the department requires. The department may revoke coverage under this permit for failure to comply with this section or it may take action under s. 283.89, Wis. Stats., or both. The landowner of a construction site where the department has revoked coverage under this permit may not discharge storm water to waters of the state from the construction site unless an individual WPDES permit for storm water discharge is issued to the landowner.

4.8.2 The department shall withdraw a construction site from coverage under this permit and issue an individual WPDES permit upon written request of the discharger. This permit authorizing storm water discharges from the construction site remains in effect until the department acts on such a request and issues a specific individual WPDES permit.

4.8.3 The department may deny coverage under this permit and require submittal of an application for an individual WPDES storm water discharge permit based on a review of the completed NOI or other relevant information. The landowner of a construction site denied or revoked coverage under this permit may not discharge storm water to waters of the state from the construction site until an individual WPDES permit for storm water discharge is issued to the landowner.

4.8.4 The department may require the landowner of any storm water discharge covered by this permit, to apply for and obtain an individual WPDES storm water discharge permit if any of the following occur:

4.8.4.1 The storm water discharge is determined to be a significant source of pollution and more appropriately regulated by an individual WPDES storm water discharge permit.

4.8.4.2 The storm water discharge is not in compliance with the terms and conditions of subch. III of ch. NR 216, Wis. Adm. Code, or of this permit.

4.8.4.3 A change occurs in the availability of demonstrated technology or BMPs for the control or abatement of pollutants from the storm water discharge.

4.8.4.4 Effluent limitations or standards are promulgated for a storm water discharge that is different than the conditions contained in subch. III of ch. NR 216, Wis. Adm. Code.

4.8.5 Any person may submit a written request to the department that it take action under section 4.8.4 above.

5. GENERAL CONDITIONS

The general conditions in s. NR 205.07(1), (3), and (5), Wis. Adm. Code, are hereby incorporated by reference into this permit, except for s. NR 205.07(1)(n) and(3)(b), Wis. Adm. Code. Under s. NR 205.08(9), Wis. Adm. Code, dischargers covered under a storm water general permit are not required to submit an application for reissuance unless directed to do so by the department under s. NR 216.22(9), Wis. Adm. Code. The requirements for spill reporting are in section 5.5 below.

Note[1]: Chapter NR 205 is available at the following website: https://docs.legis.wisconsin.gov/code/admin_code/nr/200.

Note[2]: Activities performed in wetland areas, in floodplains, or near shorelands may require permits or approvals through applicable state law, state regulations, or county or local ordinances. Additionally, state permits and/or contracts required by chs. 30, 31 and 87, Wis. Stats. and s. 281.36, Wis. Stats. (or Wisconsin Administrative Code promulgated under these laws), and federal permits may be applicable.

5.1 Continuation of the Expired General Permit As provided in s. NR 205.08(9), Wis. Adm. Code, and s. 227.51, Wis. Stats., the terms and conditions of this general permit shall continue to apply until this general permit is reissued or revoked or until an individual permit is issued for the discharge to which the general permit applied.

5.2 Liabilities under Other Laws Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under Section 311 of the federal Clean Water Act (33 USC s. 1321), any applicable federal, state, or local law or regulation under authority preserved by Section 510 of the Clean Water Act (33 USC s. 1370).

5.3 Severability The provisions of this permit are severable, and if any provisions of this permit or the application of any provision of this permit to any circumstance is held invalid the remainder of this permit shall not be affected thereby.

5.4 Spill Reporting The permittee shall notify the department immediately of any release or spill of a hazardous substance to the environment in accordance with s. 292.11, Wis. Stats., and ch. NR 706, Wis. Adm. Code.

Note: The 24-hour toll free spills hotline number is (800) 943-0003. Information about hazardous substance spills is available from the department's website at: https://dnr.wisconsin.gov/topic/Spills.

5.5 Submitting Records Unless otherwise specified, any reports submitted to the department in accordance with this permit shall be submitted to the appropriate department regional storm water contact or to the Wisconsin DNR, Storm Water Program – WT/3, Box 7921, Madison, WI 53707-7921.

5.6 Enforcement Any violation of s. 283.33, Wis. Stats., ch. NR 216, Wis. Adm. Code, or this permit is enforceable under s. 283.89, Wis. Stats.

5.6.1 Upon becoming aware of any permit noncompliance that may endanger public health or the environment, the permittee shall report this information by a telephone call to the Department regional storm water specialist within 24 hours. A written report describing the noncompliance shall be submitted to the Department regional storm water specialist within 5 days after the permittee became aware of the noncompliance. The Department may waive the written report on a case-by-case basis based on the oral report received within 24 hours. The written report shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times; the steps

taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance; and if the noncompliance has not been corrected, the length of time it is expected to continue.

5.7 Petition to Move to Individual Permit Coverage Any person may submit a written request to the department to withdraw coverage under this general permit and to replace it with an individual storm water permit under s. NR 205.08(5), Wis. Adm. Code.

6. DEFINITIONS

Definitions for some of the terms found in this permit are as follows:

6.1 Authorized Local Program means a municipality that has received a conditional approval from the department pursuant to s. NR 216.415, Wis. Adm. Code.

6.2 Best Management Practices or BMPs means structural or non-structural measures, practices, techniques or devices employed to avoid or minimize soil, sediment or pollutants carried in runoff to waters of the state.

6.3 Construction Site means an area upon which one or more land disturbing construction activities occur that in total will disturb one acre or more of land, including areas that are part of a larger common plan of development or sale where multiple separate and distinct land disturbing construction activities may be taking place at different times on different schedules but under one plan such that the total disturbed area is one acre or more.

6.4 Department means the State of Wisconsin Department of Natural Resources.

6.5 Erosion means the process by which the land's surface is worn away by the action of wind, water, ice or gravity.

6.6 Final Stabilization means that all land disturbing construction activities at the construction 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.

6.7 Infiltration means the entry and movement of precipitation or runoff into or through soil.

6.8 Infiltration System means a device or practice such as a basin, trench, rain garden or swale designed specifically to encourage infiltration, but does not include natural infiltration in pervious surfaces such as lawns, redirecting of rooftop downspouts onto lawns or minimal infiltration from practices, such as swales or road side channels designed for conveyance and pollutant removal only.

6.9 Land Disturbing Construction Activity means any man-made alteration of the land surface resulting in a change in the topography or existing vegetative or non-vegetative soil cover that may result in storm water runoff and lead to increased soil erosion and movement of sediment into waters of the state. Land disturbing construction activity includes, but is not limited to, clearing and grubbing, demolition, excavating, pit trench dewatering, filling and grading activities.

6.10 Landowner means any person holding fee title, an easement or other interest in property that allows the person to undertake land disturbing construction activity on the property.

6.11 Municipality means any city, town, village, county, county utility district, town sanitary district, town utility district, school district or metropolitan sewage district or any other public entity created pursuant to law and having authority to collect, treat or dispose of sewage, industrial wastes, storm water or other wastes.

6.12 Performance Standard means a narrative or measurable number specifying the minimum acceptable outcome for a facility or practice.

6.13 Permittee means a person who has applied for and received WPDES permit coverage for storm

water discharge under NR 216, Wis. Adm. Code, and this permit.

6.14 Sediment means settleable solid material that is transported by runoff, suspended within runoff or deposited by runoff away from its original location.

6.15 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.

6.16 Storm Water means runoff from precipitation including rain, snow, ice melt or similar water that moves on the land surface via sheet or channelized flow.

6.17 Storm Water Management Plan means a comprehensive plan designed to reduce the discharge of pollutants from storm water, after the site has undergone final stabilization, following completion of the construction activity.

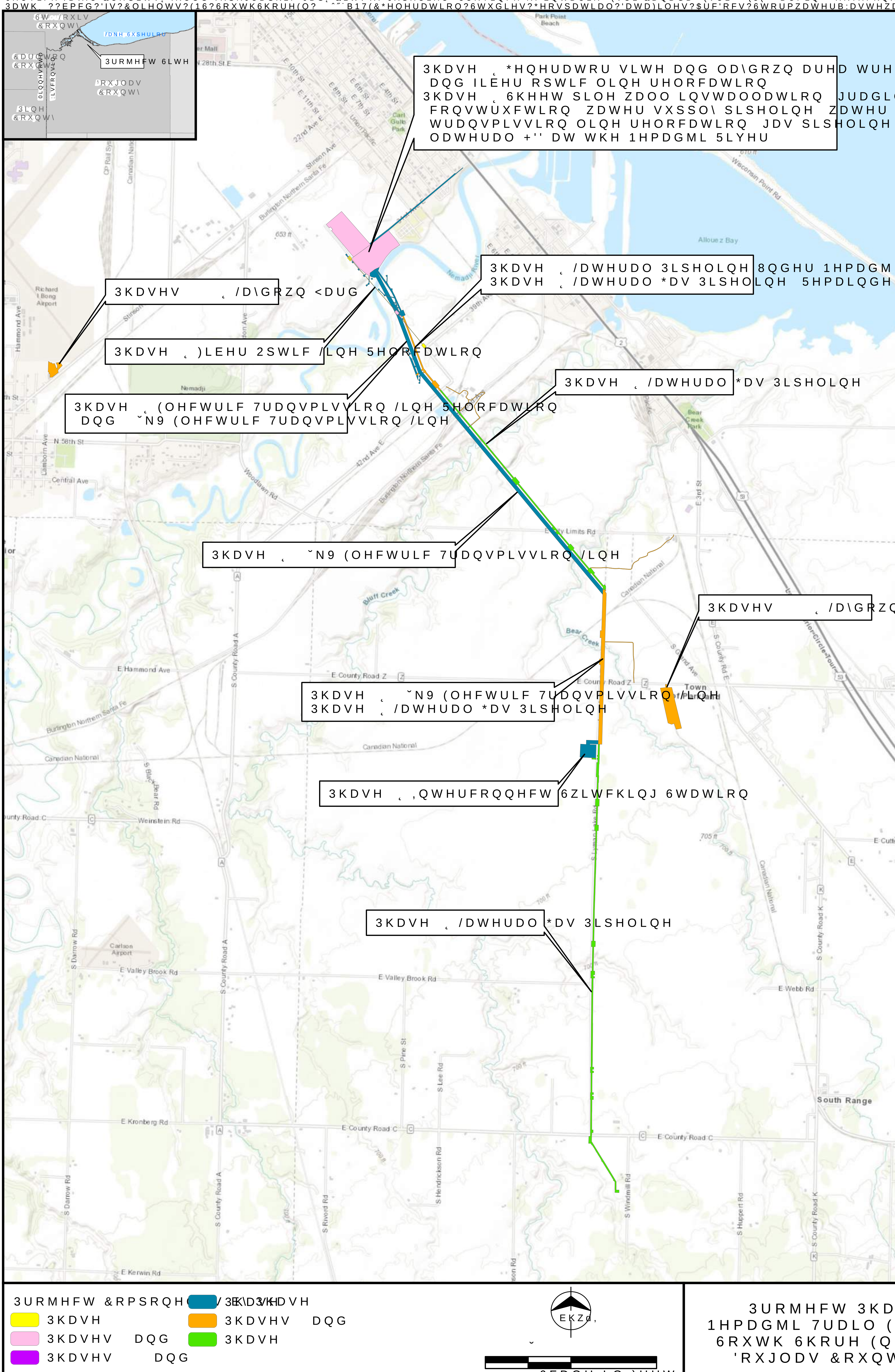
6.18 Waters of the State means those portions of Lake Michigan and Lake Superior within the boundaries of Wisconsin, all lakes, bays, rivers, streams, springs, ponds, wells, impounding reservoirs, marshes, water courses, drainage systems and other surface water or groundwater, natural or artificial, public or private within the state or under its jurisdiction, except those waters which are entirely confined and retained completely upon the property of a person.

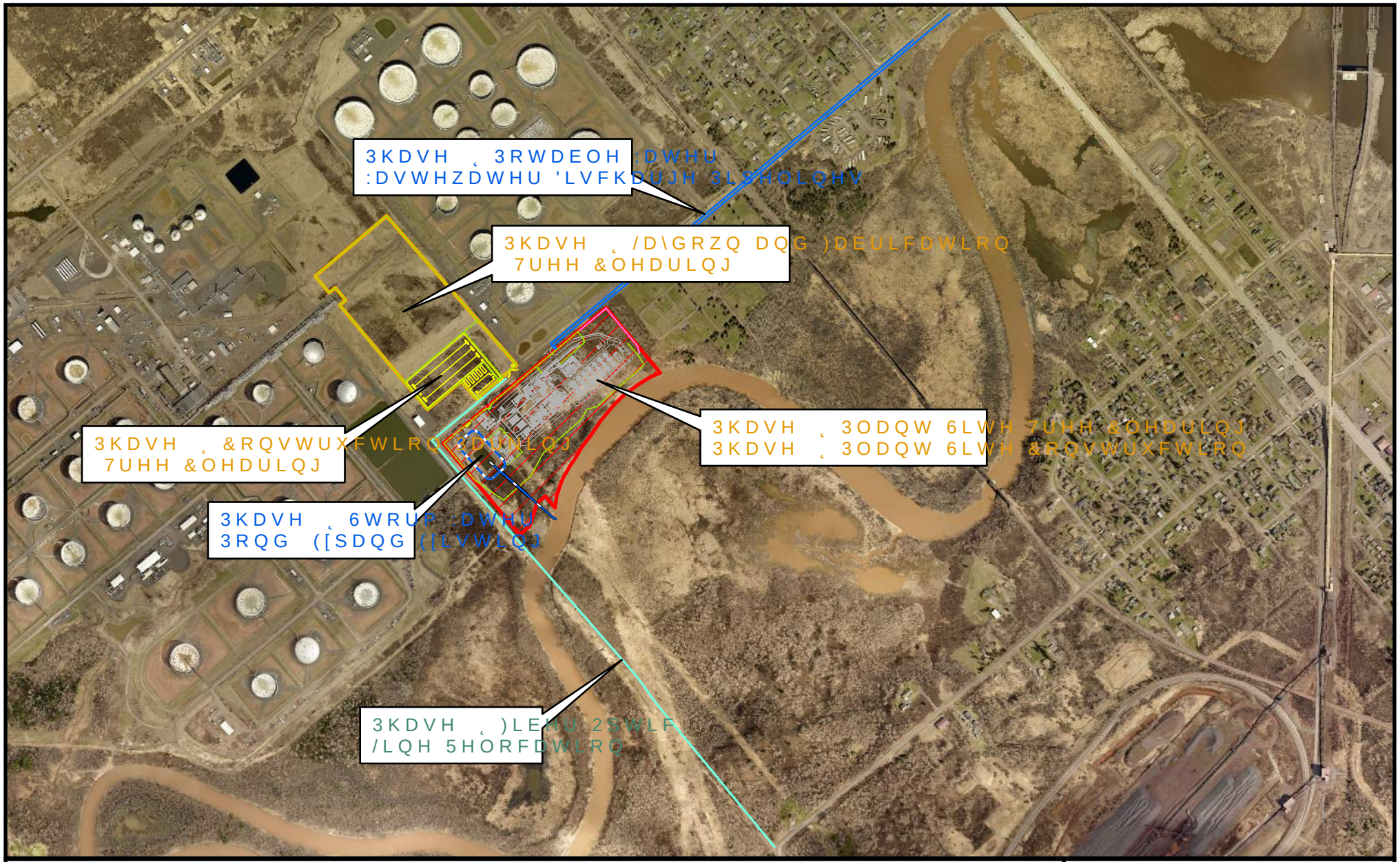
6.19 Working Day means any day except Saturday and Sunday and holidays designated in s. 230.35(4)(a), Wis. Stats.

6.20 WPDES Permit means a Wisconsin Pollutant Discharge Elimination System permit issued pursuant to ch. 283, Wis. Stats.

APPENDIX B - SITE FIGURES

6HUYLFH /D\HU &UHGLWV˛ :RUOG 7RSRJUDSKLF 0DS˛ &LW\ RI 6XSHULRU 3URYLQFH RI 2QWDULR (VUL &DQDGD (VUL +(5(*DUPLQ *HR7HFKQRORJ
3DWK˛ ??EPFG?'IV?&OLHQWV?(16?6RXWK6KRUH(Q? ˆ˝˙B17(&*HQHUDWLRQ?6WXGLHV?*HRVSDWLDO?'DWD)LOHV?$UF'RFV?6WRUPZDWHUB:DVWHZDWHU





3ODQW 6LWH 3RWDEOH :DWHU :DVWHZDWHU 'LVFKDUJH 3LSHOLQHV

7HPSRUDU\ /D\GRZQ 6WDJLQJ)LEHU 2SWLF /LQH 5HORFDWLRQ

EKZ¢,

6FDOH LQ)HHW

1HPDGML 5LYHU 6L
1HPDGML 7UDLO (QH
6RXWK 6KRUH (QH
'RXJODV &RXQW\ :L

APPENDIX C - WETLAND AND STREAM DELINEATION MAPS

Path: \\bmcd\Dfs\Clients\ENS\SouthShoreEn\101798_NTECGeneration\Studies\Geospatial\DataFiles\ArcDocs\Wetlands\Section404\Chapter_30\Fig10 - Impacts.mxd tbeemer 3/15/2021

NORTH

300 150 0 300

Scale in Feet

HWY 53

5000591

31st Ave E

2835300

The potable water and wastewater discharge pipelines will be installed via boring under the middle of the 31st Ave E. No wetland impacts are anticipated as a result.

WW-501f

2835300

W-501f

Project Area
TCSB
Open Trenching in Wetland
24k WDNR Flowline

Transmission Line Structure
Wetland Matting
Temporary Gravel in Staging Area
PFO or PSS Wetland Clearing
Permanent Wetland Impact

Delineated Features

PEM PSS
PFO PUB
PEM/PSS

Ephemeral Waterway
Intermittent Waterway
Perennial Waterway

*Label Demarcation: "d" - Aerial Interpretation; "f" - Field Delineated

Figure B-1.1
Wetland & Waterway Impacts
NTEC Project
Superior, Wisconsin

Source: City of Superior, WI (2019 Aerials), South Shore Energy, SWL&P, and Burns & McDonnell Engineering Company, Inc.

Issued: 3/15/2021

Path: \\bmcd\Dfs\Clients\ENS\SouthShoreEn\101798_NTECGeneration\Studies\Geospatial\DataFiles\ArcDocs\Wetlands\Section404\Chapter_30\Fig10 - Impacts.mxd tbeemer 3/15/2021

Wetland boundaries within the parking/staging area and generation facility area are updated per requests from WDNR and USACE during the May 2020 field verication visit

NORTH

300 150 0 300

Scale in Feet

Minor grading is anticipated near the downstream culvert under 31st Ave E, to allow sufficient upstream stormwater flow into WW-501f, upstream of the "navigable in fact" WDNR determination

The potable water and wastewater discharge pipelines will be installed via boring under the middle of the 31st Ave E. No wetland impacts are anticipated as a result.

Impacts to wetlands in the parking/staging area are currently intended to be temporary following guidance from WDNR and USACE

HDD Entry #1

The Nemadji River will not have impacts below OHWM. The gas pipeline will utilize HDD to go underneath, while the transmission line will span above.

HDD Exit #1

W-300f
W-302f
W-303f
W-304f
W-303f
W-305f
W-311f
W-301f
W-306f
W-300f
W-308f
W-307f
W-517f
WW-501f
W-310f
W-309f
31st Ave E
W-501f
W-504f
W-502f
W-505f
W-503f
W-709f
W-708f
W-705f
2835300
Nemadji River
WW-019f
W-061f
W-062f
W-061f
WW-018f
W-055f

Project Area
TCSB
Open Trenching in Wetland
24k WDNR Flowline
Transmission Line Structure
Wetland Matting
Temporary Gravel in Staging Area
PFO or PSS Wetland Clearing
Permanent Wetland Impact

Delineated Features

PEM
PSS
PFO
PUB
PEM/PSS
Ephemeral Waterway
Intermittent Waterway
Perennial Waterway

*Label Demarcation: "d" - Aerial Interpretation; "f" - Field Delineated

Figure B-1.2
Wetland & Waterway Impacts
NTEC Project
Superior, Wisconsin

Source: City of Superior, WI (2019 Aerials), South Shore Energy, SWL&P, and Burns & McDonnell Engineering Company, Inc.

Issued: 3/15/2021

APPENDIX D - AGENCY CORRESPONDENCE

HP-05-07 (8/15/03)

For SHPO Use Only. Case # 19-0101/DG

REQUEST FOR SHPO COMMENT AND CONSULTATION ON A FEDERAL UNDERTAKING

Submit one copy with each undertaking for which our comment is requested. Please print or type. Return to:

Wisconsin Historical Society, Division of Historic Preservation, Office of Preservation Planning, 816 State Street, Madison, WI 53706

RECEIVED
FEB 05 2019
BY:

Please Check All Boxes and Include All of the Following Information, as Applicable:

I. GENERAL INFORMATION

☑ **This is a new submittal.**
☐ **This is supplemental information relating to Case #:** _____ **and title:** _____
☐ **This project is being undertaken pursuant to the terms and conditions of a programmatic or other interagency agreement.**
The title of the agreement is _____

a. Federal Agency Jurisdiction (Agency providing funds, assistance, license, permit): Rural Utilities Service

b. Federal Agency Contact Person: Lauren Cusick Phone: 202-720-1414

c. Project Contact Person: Andrew Gottsfield Phone: 816-349-6674

d. Return Address: 9300 Ward Parkway, Kansas City, Missouri Zip Code: 64114

e. Email Address: agottsfield@burnsmcd.com

f. Project Name: Nemadji Trail Energy Center Project

g. Project Street Address: _____

h. County: Douglas City: Superior Zip Code: _____

i. Project Location: Township T49 and T48, Range 13W and 14W, E/(W) (circle one), Section numerous, Quarter Sections _____

j. Project Narrative Description—Attach Information as Necessary.

k. Area of Potential Effect (APE). Attach Copy of U.S.G.S. 7.5 Minute Topographic Quadrangle Showing APE.

II. IDENTIFICATION OF HISTORIC PROPERTIES

☐ Historic Properties are located within the project APE per 36 CFR 800.4. Attach supporting materials.
☑ Historic Properties are not located within the project APE per 36 CFR 800.4. Attach supporting materials.

III. FINDINGS

☑ No historic properties will be affected (i.e., none is present or there are historic properties present but the project will have no effect upon them). Attach necessary documentation, as described at 36 CFR 800.11.
☐ The proposed undertaking will have no adverse effect on one or more historic properties located within the project APE under 36 CFR 800.5. Attach necessary documentation, as described at 36 CFR 800.11.
☐ The proposed undertaking will result in an adverse effect to one or more historic properties and the applicant, or other federally authorized representative, will consult with the SHPO and other consulting parties to resolve the adverse effect per 36 CFR 800.6. Attach necessary documentation, as described at 36 CFR 800.11, with a proposed plan to resolve adverse effect(s).

Authorized Signature: Erika Martin Seibert Date: 2/4/19

Type or print name: Lauren Cusick / Erika Martin Seibert, FPO

IV. STATE HISTORIC PRESERVATION OFFICE COMMENTS

☒ Agree with the finding in section III above.
☐ Object to the finding for reasons indicated in attached letter.
☐ Cannot review until information is sent as follows: _____

Authorized Signature: _____ Date: 3-14-19

United States Department of the Interior

FISH AND WILDLIFE SERVICE
Green Bay Ecological Services Field Office
2661 Scott Tower Drive
New Franken, WI 54229-9565
Phone: (920) 866-1717 Fax: (920) 866-1710

In Reply Refer To: September 02, 2020
Consultation Code: 03E17000-2020-TA-1290
Event Code: 03E17000-2020-E-06408
Project Name: Nemadji Trail Energy Center (NTEC) Project

Subject: Verification letter for the 'Nemadji Trail Energy Center (NTEC) Project' project under the January 5, 2016, Programmatic Biological Opinion on Final 4(d) Rule for the Northern Long-eared Bat and Activities Excepted from Take Prohibitions.

Dear Brian Roh:

The U.S. Fish and Wildlife Service (Service) received on September 02, 2020 your effects determination for the 'Nemadji Trail Energy Center (NTEC) Project' (the Action) using the northern long-eared bat (*Myotis septentrionalis*) key within the Information for Planning and Consultation (IPaC) system. This IPaC key assists users in determining whether a Federal action is consistent with the activities analyzed in the Service's January 5, 2016, Programmatic Biological Opinion (PBO). The PBO addresses activities excepted from "take"[1] prohibitions applicable to the northern long-eared bat under the Endangered Species Act of 1973 (ESA) (87 Stat.884, as amended; 16 U.S.C. 1531 et seq.).

Based upon your IPaC submission, the Action is consistent with activities analyzed in the PBO. The Action may affect the northern long-eared bat; however, any take that may occur as a result of the Action is not prohibited under the ESA Section 4(d) rule adopted for this species at 50 CFR §17.40(o). Unless the Service advises you within 30 days of the date of this letter that your IPaC-assisted determination was incorrect, this letter verifies that the PBO satisfies and concludes your responsibilities for this Action under ESA Section 7(a)(2) with respect to the northern long-eared bat.

Please report to our office any changes to the information about the Action that you submitted in IPaC, the results of any bat surveys conducted in the Action area, and any dead, injured, or sick northern long-eared bats that are found during Action implementation. If the Action is not completed within one year of the date of this letter, you must update and resubmit the information required in the IPaC key.

This IPaC-assisted determination allows you to rely on the PBO for compliance with ESA Section 7(a)(2) only for the northern long-eared bat. It **does not** apply to the following ESA-protected species that also may occur in the Action area:

- Canada Lynx, *Lynx canadensis* (Threatened)
- Fassett's Locoweed, *Oxytropis campestris var. chartacea* (Threatened)
- Gray Wolf, *Canis lupus* (Endangered)
- Piping Plover, *Charadrius melodus* (Endangered)
- Red Knot, *Calidris canutus rufa* (Threatened)

If the Action may affect other federally listed species besides the northern long-eared bat, a proposed species, and/or designated critical habitat, additional consultation between you and this Service office is required. If the Action may disturb bald or golden eagles, additional coordination with the Service under the Bald and Golden Eagle Protection Act is recommended.

---

[1]Take means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct [ESA Section 3(19)].

Action Description
You provided to IPaC the following name and description for the subject Action.

1. Name

Nemadji Trail Energy Center (NTEC) Project

2. Description

The following description was provided for the project 'Nemadji Trail Energy Center (NTEC) Project':

> The U.S. Department of Agriculture, Rural Utilities Service (RUS) is preparing an environmental assessment (EA) for the proposed Nemadji Trail Energy Center (NTEC) Combined-Cycle Project (Project). South Shore Energy, LLC (SSE), a subsidiary of ALLETE, Inc., and Dairyland Power Cooperative (Dairyland; collectively the Owners), are jointly constructing the Project in the City of Superior, Douglas County, Wisconsin. Dairyland is seeking financial assistance from RUS to finance their portion of the Project. Burns & McDonnell Engineering Company, Inc. (Burns & McDonnell) is assisting RUS with the preparation of the EA for the proposed Project. At the direction of RUS, Burns & McDonnell is obtaining this U.S. Fish & Wildlife Service (USFWS) Information for Planning and Consultation (IPaC) official species list to identify the threatened, endangered, proposed and candidate species, as well as proposed and final designated critical habitat, that may be affected by the Project.
>
> The Project includes the construction and operation of the approximately 625-megawatt (MW) gas turbine NTEC generation facility, natural gas supply pipeline, 345-kilovolt (kV) transmission line, new switching station, relocation of existing natural gas pipeline and transmission line, staging areas, and laydown yards. Pending regulatory approvals, construction activities are estimated to start in Q3 2020 and finish in 2025.
>
> The NTEC generation facility site for the Project would be east of the existing Enbridge Energy Superior Terminal Facility, along the northwest bank of the Nemadji River and southeast of the intersection of 31st Avenue East and Grand Avenue in the City of Superior. The NTEC site is approximately 26.3 acres in size. It is currently partially wooded with a parking lot and small stormwater pond in the northwest corner. Existing transmission lines and a natural gas pipeline cross the site.
>
> The Owners will construct a 345-kV transmission line between the generation facility north of the Nemadji River and a new, approximately 14-acre switching station (installed and owned by American Transmission Company [ATC]) located on the west side of Lyman Lake Road, approximately 1,680 feet south of the

intersection of Lyman Lake Road and County Road Z in the City of Superior. The 345-kV transmission line route is approximately 3.7 miles in length and would be constructed as a single-circuit 345-kV line or as a double-circuit 345/161-kV line with the existing 161-kV Line No. 160, which is owned by Superior Water, Light & Power (SWL&P), an ALLETE company. Existing ROW will be used where the proposed transmission line is double circuited with the existing 161-kV transmission line. Additional ROW of approximately 25 feet along portions of the existing ROW is expected to be required to accommodate the new transmission line.

SWL&P will construct a 16-inch diameter natural gas pipeline between the NTEC site north of the Nemadji River and an existing Great Lakes Gas Transmission Company (GLGT) natural gas transmission pipeline located south of County Route C and west of Windmill Road. The 16-inch diameter natural gas pipeline will be 100 percent owned and operated by SWL&P. The route is approximately 6.8 miles in length and occurs mostly in existing natural gas pipeline ROW corridors.

SWL&P will remove, abandon, and relocate an existing 10-inch diameter natural gas pipeline at the NTEC site.

To accommodate the new generation facility and new transmission line, the existing electric transmission lines that cross the NTEC generation facility site and the Nemadji River would be relocated. The relocation of the existing 115-kV (Line No. 132), 115-kV (Line No 761), and 161-kV (Line No 160) lines (the relocation routes) would occur prior to the start of construction for the generation facility.

Approximate location of the project can be viewed in Google Maps: https://www.google.com/maps/place/46.645494481286406N92.00558364495936W

Determination Key Result

This Federal Action may affect the northern long-eared bat in a manner consistent with the description of activities addressed by the Service's PBO dated January 5, 2016. Any taking that may occur incidental to this Action is not prohibited under the final 4(d) rule at 50 CFR §17.40(o). Therefore, the PBO satisfies your responsibilities for this Action under ESA Section 7(a)(2) relative to the northern long-eared bat.

Determination Key Description: Northern Long-eared Bat 4(d) Rule

This key was last updated in IPaC on May 15, 2017. Keys are subject to periodic revision.

This key is intended for actions that may affect the threatened northern long-eared bat.

The purpose of the key for Federal actions is to assist determinations as to whether proposed actions are consistent with those analyzed in the Service's PBO dated January 5, 2016.

Federal actions that may cause prohibited take of northern long-eared bats, affect ESA-listed species other than the northern long-eared bat, or affect any designated critical habitat, require ESA Section 7(a)(2) consultation in addition to the use of this key. Federal actions that may affect species proposed for listing or critical habitat proposed for designation may require a conference under ESA Section 7(a)(4).

Determination Key Result

This project may affect the threatened Northern long-eared bat; therefore, consultation with the Service pursuant to Section 7(a)(2) of the Endangered Species Act of 1973 (87 Stat.884, as amended; 16 U.S.C. 1531 et seq.) is required. However, based on the information you provided, this project may rely on the Service's January 5, 2016, *Programmatic Biological Opinion on Final 4(d) Rule for the Northern Long-Eared Bat and Activities Excepted from Take Prohibitions* to fulfill its Section 7(a)(2) consultation obligation.

Qualification Interview

1. Is the action authorized, funded, or being carried out by a Federal agency?

   Yes

2. Have you determined that the proposed action will have "no effect" on the northern long-eared bat? (If you are unsure select "No")

   No

3. Will your activity purposefully **Take** northern long-eared bats?

   No

4. [Semantic] Is the project action area located wholly outside the White-nose Syndrome Zone?

   Automatically answered
   No

5. Have you contacted the appropriate agency to determine if your project is near a known hibernaculum or maternity roost tree?

   Location information for northern long-eared bat hibernacula is generally kept in state Natural Heritage Inventory databases – the availability of this data varies state-by-state. Many states provide online access to their data, either directly by providing maps or by providing the opportunity to make a data request. In some cases, to protect those resources, access to the information may be limited. A web page with links to state Natural Heritage Inventory databases and other sources of information on the locations of northern long-eared bat roost trees and hibernacula is available at www.fws.gov/midwest/endangered/mammals/nleb/nhisites.html.

   Yes

6. Will the action affect a cave or mine where northern long-eared bats are known to hibernate (i.e., hibernaculum) or could it alter the entrance or the environment (physical or other alteration) of a hibernaculum?

   No

7. Will the action involve Tree Removal?

   Yes

8. Will the action only remove hazardous trees for the protection of human life or property?

   No

9. Will the action remove trees within 0.25 miles of a known northern long-eared bat hibernaculum at any time of year?

   No

10. Will the action remove a known occupied northern long-eared bat maternity roost tree or any trees within 150 feet of a known occupied maternity roost tree from June 1 through July 31?

    No

Project Questionnaire

If the project includes forest conversion, report the appropriate acreages below. Otherwise, type ‘0’ in questions 1-3.

1. Estimated total acres of forest conversion:

21.1

2. If known, estimated acres of forest conversion from April 1 to October 31

7.1

3. If known, estimated acres of forest conversion from June 1 to July 31

0

If the project includes timber harvest, report the appropriate acreages below. Otherwise, type ‘0’ in questions 4-6.

4. Estimated total acres of timber harvest

0

5. If known, estimated acres of timber harvest from April 1 to October 31

0

6. If known, estimated acres of timber harvest from June 1 to July 31

0

If the project includes prescribed fire, report the appropriate acreages below. Otherwise, type ‘0’ in questions 7-9.

7. Estimated total acres of prescribed fire

0

8. If known, estimated acres of prescribed fire from April 1 to October 31

0

9. If known, estimated acres of prescribed fire from June 1 to July 31

0

If the project includes new wind turbines, report the megawatts of wind capacity below. Otherwise, type ‘0’ in question 10.

10. What is the estimated wind capacity (in megawatts) of the new turbine(s)?
0

United States Department of the Interior

FISH AND WILDLIFE SERVICE
Green Bay Ecological Services Field Office
2661 Scott Tower Drive
New Franken, WI 54229-9565
Phone: (920) 866-1717 Fax: (920) 866-1710

In Reply Refer To: September 02, 2020
Consultation Code: 03E17000-2020-SLI-1290
Event Code: 03E17000-2020-E-06398
Project Name: Nemadji Trail Energy Center (NTEC) Project

Subject: Updated list of threatened and endangered species that may occur in your proposed project location, and/or may be affected by your proposed project

To Whom It May Concern:

The attached species list identifies any federally threatened, endangered, proposed and candidate species that may occur within the boundary of your proposed project or may be affected by your proposed project. The list also includes designated critical habitat if present within your proposed project area or affected by your project. This list is provided to you as the initial step of the consultation process required under section 7(c) of the Endangered Species Act, also referred to as Section 7 Consultation.

Section 7 of the Endangered Species Act of 1973 requires that actions authorized, funded, or carried out by Federal agencies not jeopardize federally threatened or endangered species or adversely modify designated critical habitat. To fulfill this mandate, Federal agencies (or their designated non-federal representative) must consult with the Service if they determine their project “may affect” listed species or critical habitat.

Under 50 CFR 402.12(e) (the regulations that implement Section 7 of the Endangered Species Act) the accuracy of this species list should be verified after 90 days. This verification can be completed formally or informally. You may verify the list by visiting the ECOS-IPaC website http://ecos.fws.gov/ipac/ at regular intervals during project planning and implementation and completing the same process you used to receive the attached list. As an alternative, you may contact this Ecological Services Field Office for updates.

Please use the species list provided and visit the U.S. Fish and Wildlife Service's Region 3 Section 7 Technical Assistance website at - http://www.fws.gov/midwest/endangered/section7/s7process/index.html. This website contains step-by-step instructions which will help you determine if your project will have an adverse effect on listed species and will help lead you through the Section 7 process.

For all **wind energy projects** and **projects that include installing towers that use guy wires or are over 200 feet in height (*e.g.*, communication towers)**, please contact this field office directly for assistance, even if no federally listed plants, animals or critical habitat are present within your proposed project or may be affected by your proposed project.

Although no longer protected under the Endangered Species Act, be aware that bald eagles are protected under the Bald and Golden Eagle Protection Act (16 U.S.C. 668 *et seq.*) and Migratory Bird Treaty Act *(*16 U.S.C. 703 *et seq*), as are golden eagles. Projects affecting these species may require measures to avoid harming eagles or may require a permit. If your project is near an eagle nest or winter roost area, see our Eagle Permits website at http://www.fws.gov/midwest/midwestbird/EaglePermits/index.html to help you determine if you can avoid impacting eagles or if a permit may be necessary.

We appreciate your concern for threatened and endangered species. The Service encourages Federal agencies to include conservation of threatened and endangered species into their project planning to further the purposes of the Act. Please include the Consultation Tracking Number in the header of this letter with any request for consultation or correspondence about your project that you submit to our office.

Attachment(s):

- Official Species List

Official Species List

This list is provided pursuant to Section 7 of the Endangered Species Act, and fulfills the requirement for Federal agencies to "request of the Secretary of the Interior information whether any species which is listed or proposed to be listed may be present in the area of a proposed action".

This species list is provided by:

Green Bay Ecological Services Field Office
2661 Scott Tower Drive
New Franken, WI 54229-9565
(920) 866-1717

Project Summary

Consultation Code: 03E17000-2020-SLI-1290

Event Code: 03E17000-2020-E-06398

Project Name: Nemadji Trail Energy Center (NTEC) Project

Project Type: POWER GENERATION

Project Description: The U.S. Department of Agriculture, Rural Utilities Service (RUS) is preparing an environmental assessment (EA) for the proposed Nemadji Trail Energy Center (NTEC) Combined-Cycle Project (Project). South Shore Energy, LLC (SSE), a subsidiary of ALLETE, Inc., and Dairyland Power Cooperative (Dairyland; collectively the Owners), are jointly constructing the Project in the City of Superior, Douglas County, Wisconsin. Dairyland is seeking financial assistance from RUS to finance their portion of the Project. Burns & McDonnell Engineering Company, Inc. (Burns & McDonnell) is assisting RUS with the preparation of the EA for the proposed Project. At the direction of RUS, Burns & McDonnell is obtaining this U.S. Fish & Wildlife Service (USFWS) Information for Planning and Consultation (IPaC) official species list to identify the threatened, endangered, proposed and candidate species, as well as proposed and final designated critical habitat, that may be affected by the Project.

The Project includes the construction and operation of the approximately 625-megawatt (MW) gas turbine NTEC generation facility, natural gas supply pipeline, 345-kilovolt (kV) transmission line, new switching station, relocation of existing natural gas pipeline and transmission line, staging areas, and laydown yards. Pending regulatory approvals, construction activities are estimated to start in Q3 2020 and finish in 2025.

The NTEC generation facility site for the Project would be east of the existing Enbridge Energy Superior Terminal Facility, along the northwest bank of the Nemadji River and southeast of the intersection of 31st Avenue East and Grand Avenue in the City of Superior. The NTEC site is approximately 26.3 acres in size. It is currently partially wooded with a parking lot and small stormwater pond in the northwest corner. Existing transmission lines and a natural gas pipeline cross the site.

The Owners will construct a 345-kV transmission line between the generation facility north of the Nemadji River and a new, approximately 14-acre switching station (installed and owned by American Transmission

Company [ATC]) located on the west side of Lyman Lake Road, approximately 1,680 feet south of the intersection of Lyman Lake Road and County Road Z in the City of Superior. The 345-kV transmission line route is approximately 3.7 miles in length and would be constructed as a single-circuit 345-kV line or as a double-circuit 345/161-kV line with the existing 161-kV Line No. 160, which is owned by Superior Water, Light & Power (SWL&P), an ALLETE company. Existing ROW will be used where the proposed transmission line is double circuited with the existing 161-kV transmission line. Additional ROW of approximately 25 feet along portions of the existing ROW is expected to be required to accommodate the new transmission line.

SWL&P will construct a 16-inch diameter natural gas pipeline between the NTEC site north of the Nemadji River and an existing Great Lakes Gas Transmission Company (GLGT) natural gas transmission pipeline located south of County Route C and west of Windmill Road. The 16-inch diameter natural gas pipeline will be 100 percent owned and operated by SWL&P. The route is approximately 6.8 miles in length and occurs mostly in existing natural gas pipeline ROW corridors.

SWL&P will remove, abandon, and relocate an existing 10-inch diameter natural gas pipeline at the NTEC site.

To accommodate the new generation facility and new transmission line, the existing electric transmission lines that cross the NTEC generation facility site and the Nemadji River would be relocated. The relocation of the existing 115-kV (Line No. 132), 115-kV (Line No 761), and 161-kV (Line No 160) lines (the relocation routes) would occur prior to the start of construction for the generation facility.

Project Location:

Approximate location of the project can be viewed in Google Maps: https://www.google.com/maps/place/46.645494481286406N92.00558364495936W

Counties: Douglas, WI

Endangered Species Act Species

There is a total of 6 threatened, endangered, or candidate species on this species list.

Species on this list should be considered in an effects analysis for your project and could include species that exist in another geographic area. For example, certain fish may appear on the species list because a project could affect downstream species.

IPaC does not display listed species or critical habitats under the sole jurisdiction of NOAA Fisheries[1], as USFWS does not have the authority to speak on behalf of NOAA and the Department of Commerce.

See the "Critical habitats" section below for those critical habitats that lie wholly or partially within your project area under this office's jurisdiction. Please contact the designated FWS office if you have questions.

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1. NOAA Fisheries, also known as the National Marine Fisheries Service (NMFS), is an office of the National Oceanic and Atmospheric Administration within the Department of Commerce.

Mammals

NAME	STATUS
Canada Lynx *Lynx canadensis* Population: Wherever Found in Contiguous U.S. There is **final** critical habitat for this species. Your location is outside the critical habitat. Species profile: https://ecos.fws.gov/ecp/species/3652	Threatened
Gray Wolf *Canis lupus* Population: U.S.A.: All of AL, AR, CA, CO, CT, DE, FL, GA, IA, IN, IL, KS, KY, LA, MA, MD, ME, MI, MO, MS, NC, ND, NE, NH, NJ, NV, NY, OH, OK, PA, RI, SC, SD, TN, TX, VA, VT, WI, and WV; and portions of AZ, NM, OR, UT, and WA. Mexico. There is **final** critical habitat for this species. The location of the critical habitat is not available. Species profile: https://ecos.fws.gov/ecp/species/4488	Endangered
Northern Long-eared Bat *Myotis septentrionalis* No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/9045	Threatened

Birds

NAME	STATUS
Piping Plover *Charadrius melodus* Population: [Great Lakes watershed DPS] - Great Lakes, watershed in States of IL, IN, MI, MN, NY, OH, PA, and WI and Canada (Ont.) There is **final** critical habitat for this species. Your location is outside the critical habitat. Species profile: https://ecos.fws.gov/ecp/species/6039	Endangered
Red Knot *Calidris canutus rufa* No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/1864	Threatened

Flowering Plants

NAME	STATUS
Fassett's Locoweed *Oxytropis campestris var. chartacea* No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/209	Threatened

Critical habitats

THERE ARE NO CRITICAL HABITATS WITHIN YOUR PROJECT AREA UNDER THIS OFFICE'S JURISDICTION.