

NOTICE OF MEETING

SHEBOYGAN COUNTY PLANNING, RESOURCES, AGRICULTURE AND EXTENSION COMMITTEE

January 13, 2026 3:30 PM

UW Extension Office
UW Sheboygan Campus
5 University Drive
Sheboygan, WI
Room 5024

Remote Access:

(312) 626-6799

Meeting ID: 956 6404 0989

Passcode: 856197

<https://zoom.us/j/95664040989?pwd=dGJrYlZ5Tmx2RVcvRDFsdU5Ld0IXZz09>

*** AGENDA ***

Call Meeting to Order

Certification of Compliance with Open Meeting Law

Approval of December 9, 2025 Minutes

Correspondence

Public Hearing

To consider an application from Montgomery Trapper Sexton to rezone a total of approximately .0186 acres of wetlands located in part of Government Lot 3, Section 17, T13N-R23E, Town of Holland, from the "Shoreland-Wetland District" to the "Shoreland District" to allow for the construction of a new residential building in the Shoreland jurisdiction of Lake Michigan and a Lake Michigan Tributary Stream, pursuant to Section 72.09(4) of the *Sheboygan County Shoreland Ordinance*.

Close Public Hearing

Consideration of ORDINANCE NO. _____ (2025/2026) Amending Shoreland Ordinance in Section 17, Town of Holland (0.01864 Acres of Property – Construction of a New Residential Building)

Planning & Conservation –

Consideration of Conservation Poster Contest Judging

NRCS Update- Mike Patin

Other Department Project and Program Management Updates- *This report is a summary of key activities in the Department. No action will be taken resulting from the report unless it is a specific item on the agenda.*

Consideration and Approval of Attendance at Other Meetings/Functions
Travel Report and Report of Meetings and Functions Attended by Committee Members
Review and Approve Vouchers

Adjournment

Next scheduled meetings -January 27, 2026 at 3:30 PM (UW-Extension Focus)
-February 10, 2026 at 3:30 PM (Planning & Conservation Focus)

Prepared by:
Sharon Harvey, Recording Secretary
(920) 459-1370

Approved by:
Rebecca Clarke, Chairperson
(920) 395-6609

- NOTE: The Committee welcomes all visitors to listen & observe, but only Committee members & those invited to speak will be permitted to do so, except for the Public Hearing portion of this meeting where any interested person can speak. Person with disabilities needing assistance to attend or participate should contact the County Planning & Conservation Department at 920/459-1370 prior to the meeting so that accommodations may be arranged.
- NOTE: A majority of the members of the County Board of Supervisors or any of its committees may be present at this meeting to listen, observe and participate. If a majority of any such body is present, their presence constitutes a "meeting" under the Open Meeting Law as interpreted in *State ex rel. Badke v. Greendale Village Board*, Wis. 2d 553 (1993), even though the visiting body will take no action at this meeting.

**SHEBOYGAN COUNTY PLANNING, RESOURCES, AGRICULTURE & EXTENSION
COMMITTEE MINUTES**

Sheboygan County UW-Extension Office
5 University Drive
Sheboygan, WI
Room 5024

December 9, 2025

Called to Order: 3:30 PM

Adjourned: 4:26 PM

MEMBERS PRESENT: Chairman Rebecca Clarke, Supervisor John Nelson, Supervisor Henry Nelson, Supervisor David Otte, Ag Community Member Travis Luedke

MEMBERS ABSENT: Supervisor Joe Liebau Jr

OTHERS PRESENT: Aaron Brault, Tyler Betry, Laura Grunwald-Rentmeester, Sharon Harvey, Ellen Schleicher, Jayna Hintz, Patrick Hughes, Mike Gumieny, Judy Gumieny, Clint Gumieny, Tom Awe, Tim Allman, Via Zoom- Stephanie

Chairperson Clarke called the meeting to order at 3:30 PM and verified the meeting notice had been posted on December 5, 2025 at 3:15 PM and the meeting complied with the Wisconsin Open Meeting Law.

Correspondence: None

Chairperson Clarke opened the public hearing at 3:31 PM.

To consider an application for a variance from the Sheboygan County Subdivision Ordinance for the property at N7972 Deer Run Lane, Section 28, Town of Rhine, to allow the creation of lots without a minimum of sixty-six feet of frontage on a public street as required under Section 71.22(2)(a) of said Ordinance.

Mr. Betry presented the staff report for the proposed variance to the subdivision ordinance.

Chairperson Clarke invited the members of the public in attendance to speak. Several neighbors asked questions and voiced their concerns regarding the variance request. The applicant answered questions from the Committee and the public.

Ms. Harvey noted that the public hearing notice was posted on November 21st and November 28th in compliance with state statute.

Public Hearing closed at 3:55 PM.

Supervisor Otte made a motion to approve the variance to the ordinance as proposed and with the conditions recommended by the staff report. Supervisor John Nelson seconded the motion.

The committee voted to approve the variance. The motion carried with Supervisor Henry Nelson voting nay.

Register of Deeds-

Consideration of Register of Deeds Third Quarter Variance Report- Ms. Schleicher presented and took questions on the Register of Deeds Third Quarter Variance Report. Supervisor John Nelson motioned and Supervisor Henry Nelson seconded to approve the variance. Motion carried with no opposition.

UW Extension-

UW Extension Department Report- Ms. Hintz provided an update on the semi-annual educator reports published by UW-Extension.

Planning & Conservation-

Consideration of Resolution to Apply for a WDNR Grant- Mr. Brault provided information on the department obtaining a grant from the WDNR for the purpose of the annual Clean Boats Clean Waters Program and/or Lake Monitoring and Protection Network Grants. Supervisor Henry motioned and Supervisor John Nelson seconded to approve the resolution. Motion carried with no opposition.

Consideration of Farmland Preservation Plan Update Resolution- Ms. Grunwald-Rentmeester presented the updates made to the County Farmland Preservation Agreement and answered questions from the committee. Supervisor John Nelson motioned and Supervisor David Otte seconded to approve the resolution. Motion carried with no opposition.

Consideration of Department Comp Time Policy- Mr. Brault presented and took questions on the revised Planning & Conservation Department Compensatory Time Policy. Supervisor Henry Nelson motioned and Supervisor John Nelson seconded to approve the policy. Motion carried with no opposition.

Consideration and Approval of Attendance at Other Meetings/Functions. None.

Travel Report and Report of Meetings and Functions Attended. Chairman Clarke reported on the Towns Association Meeting and Supervisor Otte reported on the Rural Broadband Meeting.

Review and Approve Vouchers. Supervisor Henry Nelson motioned and Ag Community Member Travis Luedke seconded to approve the vouchers. Motion carried with no opposition.

Supervisor David Otte motioned to adjourn the meeting. Ag Community Member Travis Luedke seconded the motion. Motion carried with no opposition. Meeting adjourned at 4:26 PM.

Next meetings-

(Planning & Conservation Focus) is scheduled for January 13, 2026 at 3:30 PM.
(UW Extension Focus) is scheduled for January 27, 2026 at 3:30 PM.

Sharon Harvey
Recording Secretary

John Nelson
Committee Secretary

SHEBOYGAN COUNTY PLANNING & CONSERVATION DEPARTMENT

Administration Building, 3rd Floor
 508 New York Avenue
 Sheboygan, WI 53081-4126
 (920) 459-3060

APPLICATION FOR REZONING OF WETLANDS

Applicant or Agent MONTGOMERY Trapper Sexton

Mailing Address N1453 Cottage Dr, Oostburg 53070 Phone (920) 889-7885

Owner of Property MONTGOMERY SEXTON / Paula SEXTON

Mailing Address " " Phone " "

LOCATION / LEGAL DESCRIPTION OF PROPERTY

Project Address N1453 Cottage Dr, Oostburg, 53070 Tax Key Number 59006075340

1/4, 1/4 of Section _____ Town of Holland T# _____

Subdivision _____ Block _____ Lot _____

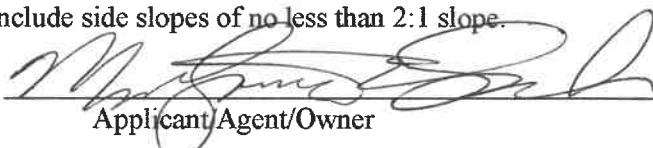
Lot Size 0.36 Size of Area to be Rezoned * 0.0186 0.0186

Present Use forest and random wetland.

Proposed Use Residence (New Address) - personal use

Reasons for Rezoning Request (Parcel opposite N1453 on the west side of
Cottage Dr.) To comply with DNR/ACE permit/approval for
wetland fill to prepare for garage/residential building

* Size of area to be rezoned shall include depth of fill; if driveway is proposed, width should include side slopes of no less than 2:1 slope.

Date 16 DEC 2025 Signed 

Applicant/Agent/Owner

ATTACH THE FOLLOWING:

1. Map and/or Plot Plan defining area involved and project dimensions.
2. Photographs of property.

SUBMIT ORIGINAL & 7 COPIES OF APPLICATION AND 8 SETS OF ATTACHMENTS

Date received by Department 12/16/25 Staff Initials KF

DEPARTMENT ATTACHMENTS:

- | | |
|-------------------------------------|-------------------|
| 1. Shoreland-floodplain-Wetland Map | 4. Floodplain Map |
| 2. Soil Survey | 5. Aerial Photo |
| 3. Topo Map | |

HEARING NOTICE

SHEBOYGAN COUNTY PLANNING, RESOURCES,
AGRICULTURE & EXTENSION COMMITTEE

Tuesday, January 13, 2026 3:30 P.M.

UW Extension Office, UW Sheboygan Campus
5 University Drive, Sheboygan
Room 5024

Please Take Notice: That the Sheboygan County Planning, Resources, Agriculture & Extension Committee of the Sheboygan County Board will hold public hearings pursuant to Wis. Stat. § 59.69, 59.694, and 59.69(5), Section 72.32 of the Sheboygan County Shoreland Ordinance at the time, date, and location set forth above for the following purposes:

- (1) To consider an application from Montgomery Trapper Sexton to rezone a total of approximately .0186 acres of wetlands located in part of Government Lot 3, Section 17, T13N-R23E, Town of Holland, from the "Shoreland-Wetland District" to the "Shoreland District" to allow for the construction of a new residential building in the Shoreland jurisdiction of Lake Michigan and a Lake Michigan Tributary Stream, pursuant to Section 72.09(4) of the *Sheboygan County Shoreland Ordinance*.

All interested persons are invited to attend the hearings and be heard. The Ordinance text is available for review at the Sheboygan County Planning and Conservation Department (Room 335, County Administration Building, 508 New York Avenue, Sheboygan WI 53081). Written comments may be submitted to the Sheboygan County Planning and Conservation Department at the above address or to plancon@sheboygancounty.com before 2:00 PM, January 13, 2026.

SHEBOYGAN COUNTY PLANNING, RESOURCES,
AGRICULTURE & EXTENSION COMMITTEE


John Nelson, Secretary

JN/sh

Dated at Sheboygan, Wisconsin, this 18th day of December 2025

NOTE: The Committee welcomes all visitors to listen & observe, but only Committee members & those invited to speak will be permitted to do so, except for the Public Hearing portion of this meeting where any interested person can speak. Person with disabilities needing assistance to attend or participate should contact the County Planning & Conservation Department at 920/459-3060 prior to the meeting so that accommodations may be arranged.

NOTE: A majority of the members of the County Board of Supervisors or any of its committees may be present at this meeting to listen, observe and participate. If a majority of any such body is present, their presence constitutes a "meeting" under the Open Meeting Law as interpreted in *State ex rel. Badke v. Greendale Village Board*, Wis. 2d 553 (1993), even though the visiting body will take no action at this meeting.



Sheboygan County Planning & Conservation Department

Administration Building

P: (920) 459-3060

E: plancon@sheboygancounty.com

508 New York Avenue

P: (920) 459-1370

Sheboygan, WI 53081-4126

F: (920) 459-1371

Director

Aaron C. Brault

Staff Report

DATE: January 7, 2026

TO: Chairperson Clarke and Members of the Planning, Resources, Agriculture, & Extension Committee

C: Montgomery Trapper Sexton
Town of Holland
Aaron Brault, County Planning & Conservation Director
Kathleen Kramasz, WDNR

FROM: Kathryn Fabian, Zoning Administrator *VF*

RE: December 16, 2025 Application for Rezoning of Wetlands by Montgomery Trapper Sexton, requesting approximately .0186 acres (810 square feet) of wetland be rezoned from the Shoreland-Wetland District to the Shoreland District. The rezoning is requested to allow for the construction of a residential building within the Shoreland jurisdiction of Lake Michigan and a navigable tributary stream. The wetlands are located west of the property at N1453 Cottage Drive, in the NE ¼ of the SW ¼, Government Lot 3, Section 17, Town of Holland.

A. Background

Property Owner: Montgomery Trapper and Paola Jean Sexton
N1453 Cottage Drive
Oostburg, WI 53070

Sheboygan County's shoreland and floodplain zoning jurisdiction applies to the unincorporated areas of the County that fall within 1,000 feet of the ordinary high water mark (OHWM) of navigable lakes, ponds, and flowages, within 300 feet of the OHWM of navigable rivers, streams, and intermittent streams, or to the landward edge of the floodplain (whichever is greater). The shoreland-wetlands impacted by the proposed project are within the shoreland district of Lake Michigan and a navigable Lake Michigan tributary Stream. When considering an application for a wetland rezoning, Section 72.09(4)(b) of the *Sheboygan County Shoreland Ordinance* (hereinafter referred to as "Shoreland Ordinance") states a wetland or portion thereof in the Shoreland-Wetland District shall not be rezoned if the proposed rezoning may result in a significant adverse impact upon any of the following:

1. Storm and flood water storage capacity.
2. Maintenance of dry season stream flow, the discharge of groundwater to a wetland, the recharge of groundwater from a wetland to another area, or the flow of groundwater through a wetland.
3. Filtering or storage of sediments, nutrients, heavy metals, or organic compounds that would otherwise drain into navigable waters.
4. Shoreline protection against soil erosion.
5. Fish spawning, breeding, nursery or feeding grounds.

6. Wildlife habitat.
7. Wetlands both within the boundary of designated areas of special natural resource interest and those wetlands which are in proximity to or have a direct hydrologic connection to such designated areas as defined in *Wisconsin Administrative Code*, Chapter NR 103.04.

B. Analysis

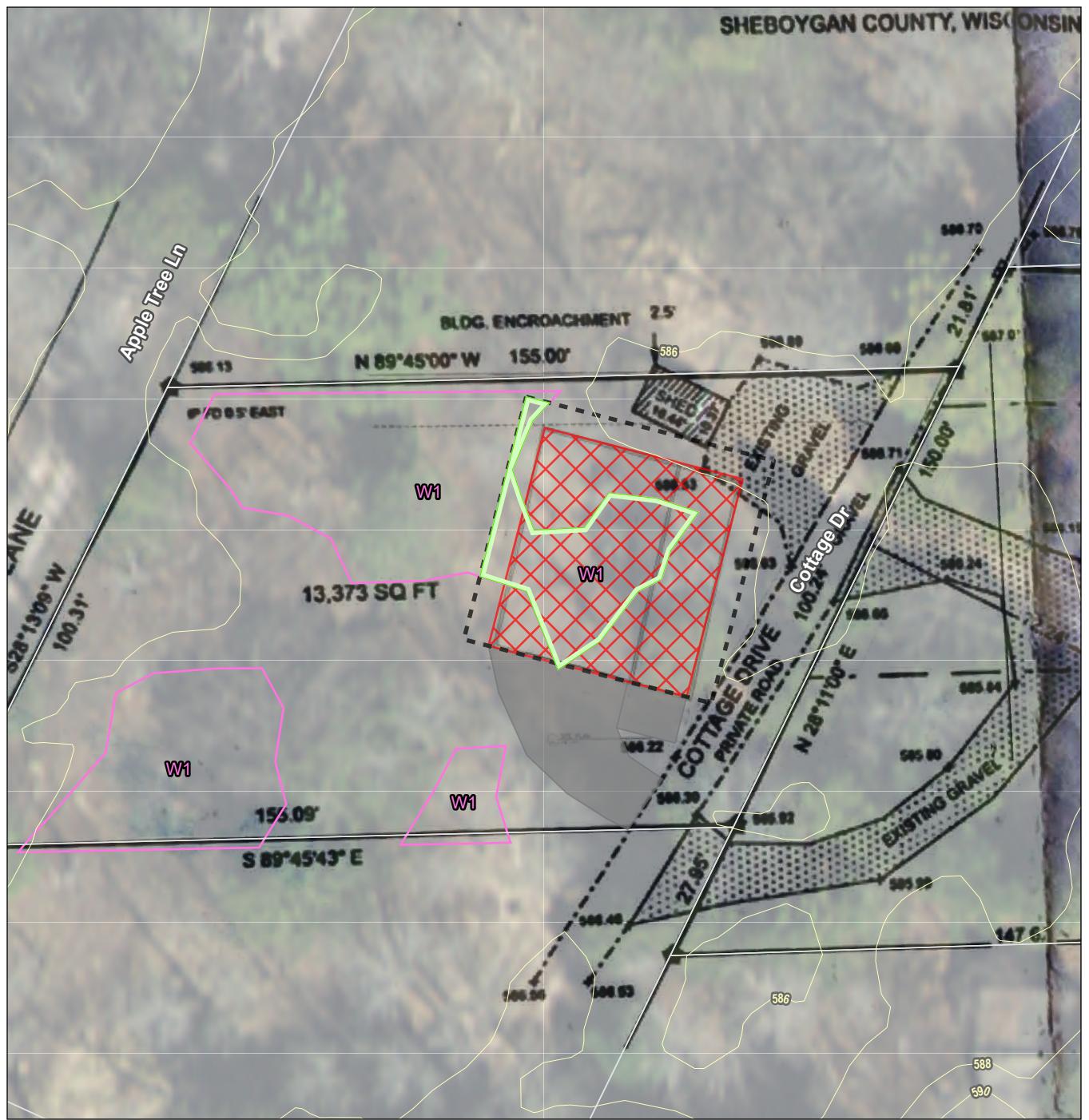
The proposed wetland disturbance is being requested for the construction of a residential building, just west of the owner's residence at N1453 Cottage Drive, approximately two hundred feet (200') from Lake Michigan and the tributary stream. Construction of the 44' by 40' building will result in .0186 acres, or approximately 810 square feet, of wetland disturbance. The site is currently vacant with the exception of a small storage shed and gravel parking area.

Please note the following:

- The subject property is 13,373 square feet in size.
- A wetland delineation was completed by Stantec Consulting Services Inc. in May 2025 on the Sexton property.
- The wetland delineation identified a forested wetland and mesic forest in the studied area. Wetlands cover approximately half of the property located between Cottage Drive and Apple Tree Lane.
- On October 10, 2025 the Wisconsin Department of Natural Resources approved a general permit to disturb .0186 acres of wetlands on the subject property.
- On November 17, 2025 the U.S. Army Corps of Engineers authorized the discharge of fill materials into .02 acres of wetlands.
- There is no mapped floodplain on the subject property.
- The property is zoned R-1, Single-Family Residence District, by the Town of Holland.
- Surrounding properties to the east are used for residential purposes. The properties immediately to the north, south, and west are currently vacant.
- The new structure will be connected to the existing septic system serving the residence at N1453 Cottage Drive as it is oversized for the existing two-bedroom residence.

C. Recommendation

If the Committee finds it appropriate to approve the requested wetland rezone, Department Staff recommends conditioning the approval on the applicant obtaining all necessary permits and approvals that may be required by local ordinance, or as may be required from the Wisconsin Department of Natural Resources and the U.S. Army Corps of Engineers.



Notes

- Notes

 1. Coordinate System: NAD 1983 StatePlane Wisconsin South FIPS 4803 Feet
 2. Data Sources: Stantec, Esri, USCB, USGS
 3. Background: NAIP 2022
 4. Proposed garage drawn on CSM, 2023

Legend

- Parcel Boundary
 - Proposed Garage (with proposed living space above the garage)
 - Gravel Garage Building Pad extends 5 ft. beyond walls.
 - Garage Driveway
 - Field Delineated Wetland, 0.1 acres
 - Impacted Wetland, 0.0186 acres
 - 2ft Elevation Contour
 - *No Features Within Data Frame

*No Features Within Data Frame

WI DNR 24k Hydrography

- ~ Perennial Stream*
- ~ Intermittent Stream
- ~ Waterbody

 Stantec

Project Location Prepared by AJS on 2025-08-29
T13N, R23E, S17 TR by RA on 2025-08-29
Sheboygan Co., WI DR by KD on 2025-08-29

Client/Project
Montgomery Sexton
Cottage Drive Wetland Delineation

Figure No.

5

Title

Proposed Garage Location

D & H LAND SURVEYS LLC
1628 GEORGIA AVENUE
SHEBOYGAN, WISCONSIN

N1453 COTTAGE DRIVE:
PARCELS 58006016340, 58006016340 AND 58006016340
BEING THE SOUTH HALF OF: LOT 12, ALL OF LOTS 13 AND 14 SHOREWOOD PLAT,
ALSO BEGINNING AT THE SOUTHWEST CORNER OF LOT 13 SHOREWOOD PLAT,
THENCE N 28°11'00" E., 100.11 FEET (S 28°11'00" W., 100.11 FEET (S 28°11'00" W., 100' REC);
THENCE S 28°13'00" E., 105.18 FEET (S 28°13'00" W., 105' REC);
THENCE N 28°11'00" E., 155.00 FEET (S 28°11'00" W., 155' REC);
THENCE N 28°11'00" E., 32.00 FEET TO THE POINT OF BEGINNING.
LOT 3 OF SECTION 17, T13N, R23E, TOWN OF HOLLAND,
SHEBOYGAN COUNTY, WISCONSIN.

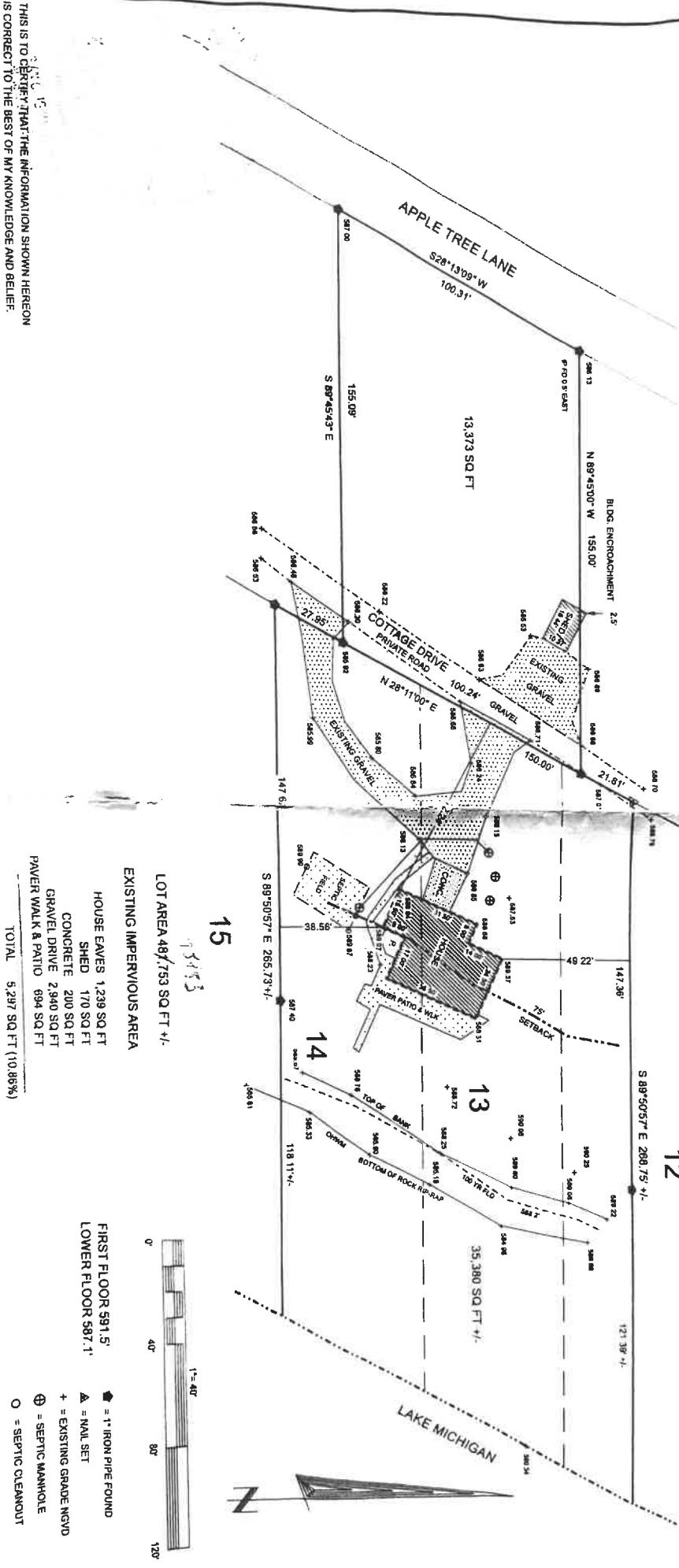




Photo 1. Approximate proposed garage location, Pan of area 1 of 3, facing west.



Photo 2. Approximate proposed garage location, Pan of area 2 of 3, facing southwest.



Photo 3. Approximate proposed garage location, Pan of area 3 of 3, facing south.



Photo 4. Approximate proposed garage location, facing west.



Photo 5. Approximate proposed garage location, facing northwest.



Photo 6. Property east of Cottage Drive, Pan of area 1 of 5, facing south.



Photo 7. Property east of Cottage Drive, Pan of area 2 of 5, facing southeast.



Photo 8. Property east of Cottage Drive, Pan of area 3 of 5, facing east.

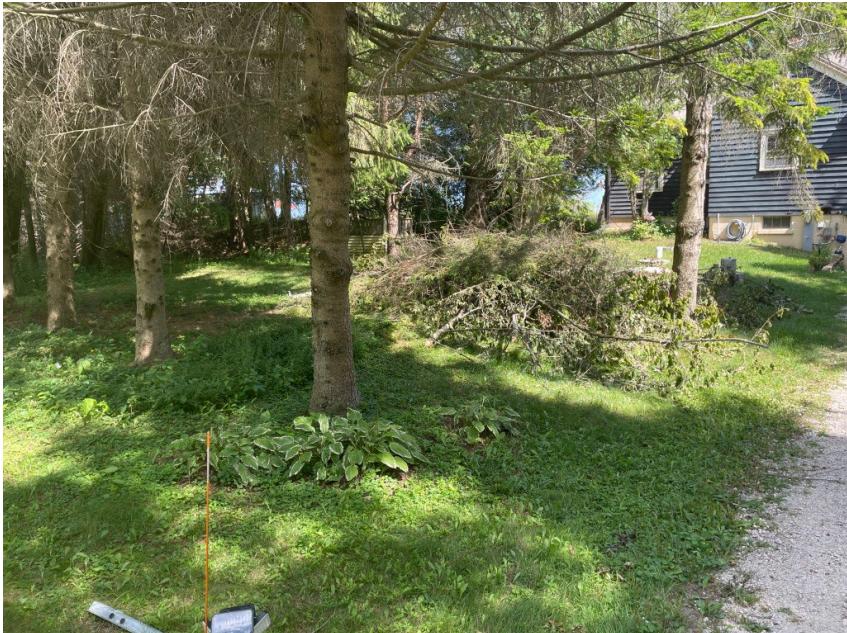


Photo 9. Property east of Cottage Drive, Pan of area 4 of 5, facing northeast.



Photo 10. Property east of Cottage Drive, Pan of area 5 of 5, facing north.

State of Wisconsin
DEPARTMENT OF NATURAL RESOURCES
N7725 Hwy 28
Horicon, WI, 53032

Tony Evers, Governor
Karen Hyun, Ph.D., Secretary
Telephone 608-266-2621
Toll Free 1-888-936-7463
TTY Access via relay - 711



October 10, 2025

Montgomery Sexton
N1453 Cottage Drive
Oostburg, WI 53070
[sent electronically]

GP-SE-2025-60-02968

RE: Water Quality Certification for Wetland Disturbance for Residential, Commercial, Industrial Activities, located at N1453 Cottage Drive in the Town of Holland, Sheboygan County

Dear Mr. Sexton,

The Wisconsin Department of Natural Resources received a water quality certification request pursuant to 40 CFR Part 121, requested by Montgomery Sexton for a project located in the Town of Holland, Sheboygan County, WI.

The Wisconsin Department of Natural Resources (DNR) has examined this certification request as it relates to Clean Water Act Section 401, Wis. Stat. Chs. 30, 281, and 283, and Wis. Adm. Code Ch. NR 299. The DNR has determined the certification request satisfies the requirements under 40 CFR § 121.5. The DNR has also determined that the discharge from the proposed project will comply with water quality requirements. Therefore, **DNR will grant water quality certification without the need for special conditions.**

Please be aware that 401 Water Quality Certification does not release the permittee from obtaining all other necessary federal, state, and local permits, licenses, certificates, approvals, registrations, charters, or similar forms of permission required by law. Specifically, if the DNR has issued coverage under a state general permit for the project, the permittee is required to follow all eligibility requirements and permit conditions. In addition, this 401 Water Quality Certification does not limit any other state permit, license, certificate, approval, registration, charter, or similar form of permission required by law that imposes more restrictive requirements.

Please reach out to me at francesca.sanchez@wisconsin.gov or at (414) 531-0305 if you have any questions or concerns about this certification.

Sincerely,

Francesca Sanchez
Water Management Specialist

Email CC:
Timothy Orlowski, USACE Project Manager
Kurt Rubsam, Stantec
Brian Lennie, Stantec



October 10, 2025

Montgomery Sexton
N1453 Cottage Drive
Oostburg, WI 53070
[sent electronically]

GP-SE-2025-60-02968

RE: Coverage under the wetland statewide general permit (WDNR-GP1) for Wetland Disturbance - Residential/Commercial/Industrial, located in the Town of Holland, Sheboygan County

Dear Mr. Sexton,

Thank you for submitting an application for a General Permit for Wetland Disturbance - Residential/Commercial/Industrial located in the NE 1/4 of SW 1/4, Section 17, Township 13, Range 23E, Town of Holland, Sheboygan County. Based on the application information submitted, your project meets the eligibility criteria for this activity, so you may proceed with your project.

FINDINGS OF FACT

1. The applicant proposes to construct a 44x40 foot garage with a living space above it in a hardwood swamp wetland area. The wetland impacts from the construction will be 0.0186 acres.
2. The Department has completed an evaluation of the project site and plans and has determined that the project site and project plans as described in the submitted application meet the standards to qualify for this General Permit.
3. The proposed project, if constructed in accordance with this permit, will not adversely affect water quality, will not increase water pollution in surface waters, and will not cause environmental pollution as defined in s. 283.01(6m), Wis. Stats.
4. The wetland discharge resulting from the proposed activity will comply with water quality requirements as authorized by this document.
5. No practicable alternative exists which would avoid adverse impacts to wetlands, and the project will result in the least environmentally damaging practicable alternative taking into consideration practicable alternatives that avoid wetland impacts.
6. All practicable measures to minimize adverse impacts to the functional values of the wetland have been taken.
7. The proposed project will not result in significant adverse impacts to wetland functional values, significant impacts to water quality, or other significant adverse environmental consequences.

STANDARDS AND CONDITIONS

You are responsible for meeting all general permit eligibility standards and permit conditions. Please re-read the permit eligibility standards and conditions attached to this letter in the final statewide general permit document. This includes notifying the Department before starting the project and submitting photographs within one week of project completion. Please note your coverage is valid for 5 years from the date of the department's determination or until the activity is completed, whichever occurs first.

You are also responsible for obtaining any other local, state, tribal, or federal permits that are required before starting your project. Note that **U.S. Army Corps of Engineers and local zoning authorization for work in floodplains or shorelands may also be required for your project.**

EXPIRATION

This activity is authorized under WDNR-GP1-2023 for a period of 5 years from the date of this letter or until the activity is completed, whichever occurs first.

INSPECTIONS AND PROJECT MODIFICATIONS

The Department conducts routine and annual compliance monitoring inspections. Our staff may follow up and inspect your project to verify compliance with state statutes and codes and the requirements and conditions of this general permit.

NOTICE OF APPEAL RIGHTS

If you believe that you have a right to challenge this decision, you should know that the Wisconsin statutes and administrative rules establish time periods within which requests to review Department decisions shall be filed. To seek a contested case hearing under section 227.42, Wis. Stats., you have 30 days after the date of the decision to serve a petition for hearing on the Department. For judicial review of a decision pursuant to sections 227.52 and 227.53, Wis. Stats., you have 30 days after the decision is mailed, or otherwise served by the Department, to file your petition with the appropriate circuit court and serve the petition on the Department. Such a petition for judicial review shall name the Department of Natural Resources as the respondent.

If you have questions about this letter or need to modify your project, please contact me, your local Water Management Specialist, Francesca Sanchez, at (414) 531-0305 or at francesca.sanchez@wisconsin.gov to discuss your proposed modifications and determine next steps.

Sincerely,



Francesca Sanchez
Water Management Specialist

Email CC:

Janelle Kaiser, Town of Holland Zoning Administrator
David Bennett, WDNR Conservation Warden
Timothy Orlowski, USACE Project Manager
Kurt Rubsam, Stantec
Brian Lennie, Stantec

**WISCONSIN DEPARTMENT OF NATURAL RESOURCES
WETLAND GENERAL PERMIT
FOR COMMERCIAL, RESIDENTIAL, AND INDUSTRIAL ACTIVITIES**



Permittee: The General Public in Wisconsin

Permit #: WDNR-GP1-2023

Issuing Office: Waterway and Wetlands Section, Bureau of Waterways,
Wisconsin Department of Natural Resources (Department)

Issuance Date: June 30, 2023

Expiration Date: June 30, 2028

GENERAL PERMIT AUTHORIZATIONS

In compliance with the provision(s) of section 281.36(3b)(b), Wis. Stats., no person may discharge/place dredged or fill material into a wetland unless the discharge is authorized by a wetland general permit or individual permit issued by the Department of Natural Resources (Department) or the discharge is exempt under s. 281.36., Wis. Stats.

The Department has authority to issue general permits under s. 281.36(3g), Wis. Stats. Pursuant to s. 281.36(3b)(a), Wis. Stats., a wetland general permit issued by the Department constitutes the water quality certification required by 33 USC 1341(a) (Clean Water Act section 401) for federal permits that authorize the discharge of dredged or fill material into wetlands regulated under 33 USC 1344(a) (Clean Water Act section 404) and have not already been certified through a previous Department action.

Section 281.36(3g)(a)4., 5. and 6., Wis. Stats., authorizes any person in the State of Wisconsin to perform work in accordance with the terms and conditions of the general permit specified below after satisfying all applicable permit terms and conditions. Please refer to the following sections of this permit for the specific eligibility standards, application requirements, certification requirements and responsibilities, conditions, findings of fact, conclusions of law, and definitions required by WDNR-GP1-2023.

Note: Coverage under this permit authorizes the permittee to undertake specified activity/activities in compliance with the above statutes and the terms of this permit but does not authorize a permittee to undertake any activity prohibited by other applicable federal, state, or local law.

OTHER AUTHORIZATIONS NECESSARY

WDNR-GP1-2023 authorizations are subject to all applicable terms and conditions specified in this permit. However, **WDNR-GP1-2023 authorizations do not supersede any other local, state or federal authority so additional permits may be required before any work may proceed.** U.S. Army Corps of Engineers Clean Water Act s. 404 permits are required for discharges of dredged or fill material to Waters of the United States, including discharges to federal wetlands. Rivers and Harbors Act Section 10 permits are required for work including the placement of structures and dredging in navigable waters of the United States. Floodplain permits (ch. NR 116, Wis. Adm. Code) or other local zoning permits may

be required. Please contact your local zoning authority; county zoning administrator contact information is available at <https://www.wccadm.com/wcca-contacts>.

Additional waterway and wetland permitting may also be necessary depending on the project size, scope, and purpose and need. Please visit <https://dnr.wisconsin.gov/>, keyword “water permitting” for more information.

This permit does not supersede any applicable easement(s) within the project boundary. It is the responsibility of the applicant to ensure that the proposed project does not conflict with existing land use or development restrictions, including easements, applicable to the property. This permit also does not authorize flooding or impeding drainage of the adjacent properties or upstream properties. It is the responsibility of the applicant to secure any necessary easements or other permissions from affected landowner(s).

PROJECT DESCRIPTION AND LOCATION

WDNR-GP1-2023 applies to certain wetland activities undertaken as part of a project with a commercial, residential, or industrial purpose.

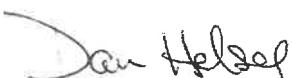
The following activities are eligible for coverage under WDNR-GP1-2023:

WDNR-GP1-2023 applies to certain discharges affecting up to 10,000 square feet in size, of dredged and/or fill material into wetlands if the discharge is for commercial, residential, or industrial purposes, as described herein, in the state of Wisconsin, except for proposed tribal activities located within the exterior boundary of a reservation. Discharges to wetlands are regulated under section 281.36 (3b), (3g), (3m), (4), (4n), (4r), and (5), Wis. Stats.

GENERAL PERMIT COVERAGE

Unless notified by the Department to the contrary, the effective date of coverage under this general permit is 30 calendar days after a complete application package has been received by the Department at the office designated in the permit application materials provided by the Department. **WDNR-GP1-2023 permit coverage is valid for 5 years after the date the coverage is granted by the department, or until the discharge has been completed, whichever occurs first.** If the project is not completed within 5 years after the date of coverage another application must be submitted. If the project scope changes within the valid period of the permit coverage the department may require a new application or modify coverage if the project continues to meet all eligibility criteria. The 5 year timeline is based on the date coverage is granted by the department, not the expiration date of **WDNR-GP1-2023**.

State of Wisconsin Department of Natural Resources
For the Secretary



June 30, 2023

Daniel Helsel – Director
Bureau of Waterways

Date

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WDNR-GP1-2023 TERMS AND CONDITIONS

The following sections describe the general permit authorization procedures implemented by the DNR in WDNR-GP1-2023. Projects must meet all the terms and conditions of this permit to be eligible for coverage under WDNR-GP1-2023.

Note: The term "you" and its derivatives, as used in this general permit, means the permittee, which is the landowner or easement holder or otherwise has the legal authorization to proceed. The term "the Department" or "this office" refers to the appropriate Wisconsin Department of Natural Resources (WDNR or DNR) Service Center, DNR Region or Central Office headquarters of the WDNR having jurisdiction over the authorized activity or the appropriate official of that office acting under the authority of the Secretary of the Department.

The project must meet all the following standards to be eligible for coverage and authorization under this general permit. Persons proposing to do work should note that s. 281.36 (3g)(h), Wis. Stats., requires applicants to demonstrate that adverse impacts to wetland functions and values have been avoided and minimized to the maximum extent practicable.

Note: Projects that do not meet all standards below are not eligible for this general permit and are therefore excluded from coverage under WDNR-GP1-2023. In these cases, persons may apply for an Individual Permit as outlined in s. 281.36(3m), Wis. Stats. The Department also has authority under s. 281.36(3g)(i), Wis. Stats., to require an individual permit in lieu of a general permit if the Department has determined that conditions specific to the site require additional restrictions on the discharge to provide reasonable assurance that no significant adverse impacts to wetland functional values and floristic integrity will occur.

Note: Projects that may impact tribal lands or a legally recognized treaty right, and any project occurring within the exterior boundary of a reservation may require additional coordination with the affected tribe before coverage can be granted.

SECTION 1. ELIGIBILITY CRITERIA

Note: Applicant must provide detailed plans and narrative information that demonstrates that the proposed project meets all of the eligibility criteria listed below.

1. The discharge will cause only minimal adverse environmental effects.
2. Construction shall be accomplished in such a manner as to minimize erosion and siltation into surface waters and wetlands. All erosion control measures shall meet or exceed the department approved technical standards listed under subchapter 3 of ch. NR 151, Wis. Adm. Code. The technical standards are found at <https://dnr.wisconsin.gov/>, keyword "stormwater technical standard."
3. No activity is authorized which is likely to jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act and/or State law or which is likely to destroy or adversely modify the critical habitat of a species as identified under the Federal Endangered Species Act.
4. The activity shall not result in significant adverse impacts to fishery spawning habitat, including obstruction of fish passage, or adversely affect bird breeding areas or substantially disrupt the movement of species that normally migrate from open water to upland or vice versa (i.e. amphibians, reptiles and mammals) as determined by the department.
5. The activity will not result in adverse impacts to historical or cultural resources and will comply with s. 44.40, Wis. Stats., as determined by the department.
6. The project will follow the most recent department approved washing and disinfection protocols and department approved best management practices to avoid the spread of invasive species as outlined in ch. NR 40, Wis. Adm. Code. These protocols and practices can be found on the Department website at <https://dnr.wisconsin.gov/>, keyword "invasive species BMPs."
7. The project purpose is to conduct construction activities to build or expand commercial, residential, or industrial development associated with a *single and complete project*, (as defined in section 7).
8. The purpose of the project is not to fill wetlands to create a buildable lot to be sold and/or developed at a later date for commercial, residential or industrial development.
9. If the project is associated with the development for a residential subdivision, the discharge cannot affect more than 10,000 square feet (0.23 acre) of wetlands. This includes any aggregate effects to wetlands associated with the development of roads, infrastructure, individual subdivision lots, etc.
10. The project applicant is the landowner or easement holder or otherwise has legal authorization to proceed.
11. The project is not eligible for authorization under a "Superior SAMP" permit reviewed by the City of Superior, Wisconsin.
12. The project discharge does not affect (as defined in section 7) more than 10,000 square feet (0.23 acre) of wetland as part of a *single and complete project* (as defined in section 7).
13. The proposed project cannot practicably avoid wetland impacts.

14. The proposed project minimizes wetland impacts to the greatest extent practicable.
15. The project will be constructed in a manner that will maintain wetland hydrology in the remaining wetlands.
16. The project will not result in the conversion of a wetland to a storm water treatment feature such as but not limited to a pond or infiltration basin.
17. Discharge will not occur in the following resources: Great Lakes ridge and swale complexes, interdunal wetlands, coastal plain marshes, emergent marshes containing wild rice, sphagnum bogs that are located in the area located south of a horizontal line drawn across the state based on the routes of STH 16 and STH 21 west of Lake Winnebago and on USH 151 east of Lake Winnebago, boreal rich fens, or calcareous fens.
18. This permit does not authorize impacts to navigable waterways waterward of the ordinary high water mark (*as defined in section 7*).
Note: This does not preclude eligibility of waterway exemptions or eligibility of other general or individual permits. Waterway permitting information is available online at <https://dnr.wisconsin.gov/> keyword "waterway permit."
19. The project will not occur in a mapped floodplain (official Federal Emergency Management Agency (FEMA) or local zoning map), or if the project is located in a regulated floodplain, the applicant has certified that they are working to or have obtained applicable floodplain permits from the local zoning authority.

SECTION 2. APPLICATION REQUIREMENTS

1. After you have carefully confirmed the proposed discharge of dredged and/or fill material into wetlands meets all the terms and conditions of this permit you must submit a complete application package to the Department as outlined in item 6 below. Pursuant to s. 281.36(3g)(h), Wis. Stats., the complete application package should be received a minimum of 30 calendar days before the desired project start date. Permit application materials can be found and submitted online at <https://dnr.wisconsin.gov/>, keyword "water permit."
2. Unless notified by the Department to the contrary, the effective date of coverage under this permit is 30 calendar days after the designated DNR office receives a complete application package.
3. The Department has one opportunity to request that you provide additional information necessary to verify compliance with the terms and conditions of this permit. If additional information is needed, the Department will notify you within 30 calendar days after receiving your application package. If the Department makes a request for additional information, the 30-day period is paused on the date the person applying for authorization receives the request for additional information. The clock remains paused until the date that the Department receives all of the requested information at the designated DNR office, at which point the clock resumes from the point it was initially stopped.
4. If adverse weather conditions prevent the Department from conducting an accurate on-site inspection or assessing the potential for site-specific impacts during the 30-day application period, the Department shall give notice to the applicant of this condition and shall complete the inspection as soon as weather conditions permit.
5. As provided under s. 281.36 (3g)(i), Wis. Stats., the Department may determine the project is not eligible for this general permit and require the project be reviewed through the individual permit process outlined in s. 281.36(3m), Wis. Stats. If the Department determines your project is not eligible for this permit, you will be notified within 30 calendar days after your complete application package is received by DNR.

6. A complete application package must include all of the following information:
 - a. Complete and Signed Application Form certifying the project meets the terms and conditions of WDNR-GP1-2023. This form can be found at <https://dnr.wisconsin.gov/>, keyword “water permit.”
 - b. Application fees as shown on the fee sheet at <https://dnr.wisconsin.gov/>, keyword “Waterway Permit Fee.”
 - c. A copy of the deed or similar proof of ownership of the site where the activity will occur. If you do not own the site, also include proof of any notice(s) and permission(s) required under wetland general permit WDNR-GP1-2023 eligibility criterion for condition 10 stated above.
 - d. A signed permit checklist that confirms the applicant understands the eligibility standards specified in Section 1.
 - e. Project plans and narrative that include and describe final project design and construction including a project diagram that shows all of the following:
 - The final proposed project plans relative to wetland boundaries with the location and size of all proposed wetland impacts clearly identified and quantified in square feet. Project plans must clearly differentiate between proposed permanent and temporary wetland impacts. Where applicable, provide the project location relative to any Ordinary High-Water Mark (OHWM) of navigable waterways.
 - Detailed documentation that clearly demonstrates why any proposed wetland impacts cannot be avoided, the practicable alternatives that were considered, and how the impact to the wetland will be minimized as required by s. 281.36(3g)(h)1, Wis. Stats.
 - The methods, materials, and equipment that will be used to carry out the project.
 - The location and type of silt fences or any other sediment/erosion control devices.
 - Top, side, and cross section plan profiles with appropriate measurements for the proposed project.
 - The construction schedule and sequence of work.
 - For disturbance or fill, a description of type, composition, and quality of materials.
 - If temporary impacts are proposed, provide a detailed restoration plan.
 - The location of any stockpiled materials or disposal area for dredged or excavated materials, if applicable.
 - Maps of the project site with information that includes: most recent Soil Survey map, WI Wetland Inventory map, topographic map, floodplain information, and aerial photographs. All maps must show basic map elements (e.g., scale) and clear directions to the project site with project and property boundaries clearly labeled. The aerial photo shall also show the locations of all proposed wetland fill or discharge clearly labeled.
 - Current photographs that represent existing site conditions where the project will occur. Photos must show a clear and unobstructed view of the wetland within the project area. (not covered in snow/ice/thick vegetation, etc.)
 - A copy of a wetland delineation concurrence, a wetland delineation conducted by an assured wetland delineator, or a waiver by the WDNR Water Management Specialist (WMS) stating that a delineation is not needed.
 - Documentation verifying the project will not result in an adverse impact to cultural/historical

resources.

- Documentation verifying the project will not result in an adverse impact to federal or state threatened/endangered resources. Documentation options include:
 - i. An ER Review Verification Form showing that the project is covered by the Broad Incidental Take Permit for no/low impact activities and therefore does not require a review.
 - ii. An ER Preliminary Assessment from the NHI Public Portal stating that no further actions are necessary or that further actions are recommended. The NHI Public Portal is located at <https://dnr.wisconsin.gov/>, keyword "NHI public portal".
 - iii. If the ER Preliminary Assessment from the NHI Public Portal shows that "further actions are required" then submit one of the following:
 - A Department or Certified ER Review letter. The request form for an ER Review letter and a list of Certified Reviewers is located at <https://dnr.wisconsin.gov/>, keywords "ER review request."

SECTION 3. CERTIFICATION & RESPONSIBILITIES

You certify and agree that upon submittal of a complete application package to DNR, the wetland project will be conducted in compliance with all the terms and conditions of WDNR-GP1-2023.

SECTION 4. GENERAL PERMIT CONDITIONS

The applicant agrees to comply with the following conditions:

1. Application. You shall submit a complete application package to the Department as outlined in the application requirements (section 2) section of this permit. If requested, within a reasonable timeframe you shall furnish the Department any information it needs to verify compliance with the terms and conditions of this permit.
2. Certification. Acceptance of coverage under general permit WDNR-GP1-2023 and efforts to begin work on the activities authorized by this general permit signifies that you have certified the project meets all eligibility standards outlined above and that you have read, understood, and agreed to follow all terms and conditions of this general permit.
3. Reliance on Applicant's Data. The determination that a confirmation of authorization is not contrary to wetland water quality standards will be based upon the information provided by the applicant and any other information required by the Department.
4. Project Plans. This permit does not authorize any work other than what is specifically described in the application package and plans submitted to the Department and is certified by you to comply with the terms and conditions of WDNR-GP1-2023.
5. Expiration. The time limit for completing an activity authorized by the provisions of WDNR-GP1-2023 ends 5 years after the date on which the activity is considered to be authorized under WDNR-GP1-2023 or until the activity is completed, whichever occurs first. The Department's use of general permit WDNR-GP1-2023 established under s. 281.36(3g), Wis. Stats., expires on June 30, 2028.'
6. Written authorization for modification of scope. Any modification to the wetland impacts authorized under this general permit must be approved by the Department in writing to ensure that the project continues to meet the general permit eligibility in section 1. Separate permitting is necessary if the modified project scope no longer meets general permit eligibility.
7. Authorization Distribution. You must supply a copy of the permit coverage authorization to every contractor working on the project.

8. Project Start. You shall notify the Department using the information provided on the confirmation of coverage letter you receive before starting any activity and again not more than 5 days after each activity is completed.
9. Project Completion. Within one week after completing the regulated activity, you shall submit to the Department a statement certifying the project complies with all the terms and conditions of this permit, and photographs of the activities authorized by this permit. This statement must reference the Department-issued docket number and be submitted to the Department staff member that authorized coverage.
10. Permit Posting. You must post a copy of this permit coverage letter at a conspicuous location on the project site before beginning the permitted activity. The copy of the permit coverage letter must remain posted at that location until at least five days after the area where the activity took place is stabilized. You must also keep a copy of the permit coverage letter and the approved plan available at the project site at all times until the project is complete.
11. Permit Compliance. The department may revoke coverage of this permit if it is not constructed in compliance with the terms and conditions of this permit. Any act of noncompliance with this permit constitutes a permit violation and is grounds for enforcement action.
12. Construction Timing. Once wetland work begins, all construction activities in those wetlands must be continuous to the extent practicable. During periods of inactivity in wetlands, the site must be stabilized until the work is resumed and completed.
13. Construction. No other area of the wetland may be disturbed beyond the area designated in the submitted plans.
14. Proper Maintenance. You must maintain the activity authorized by WDNR-GP1-2023 in good condition and in conformance with the terms and conditions of this permit using best management practices. Any structure or fill authorized shall be properly maintained to ensure no additional impacts to the remaining wetlands and waterways.
15. Site Access. Upon reasonable notice, you shall allow access to the site to any Department employee who is inspecting the project's construction, operation, maintenance or permit compliance with the terms and conditions of WDNR-GP1-2023 and applicable laws.
16. Erosion and Siltation Controls. The project site shall implement erosion and sediment control measures that adequately control or prevent erosion and prevent damage to wetlands as outlined in s. NR 151.11(6m), Wis. Admin. Code. These standards can be found at the following website: <https://dnr.wisconsin.gov/>, keyword "stormwater technical standards." Any areas of exposed soil during the project should be immediately seeded and mulched to stabilize disturbed areas and prevent soils from being eroded and washed into the waterway.
17. Equipment Use. The equipment used in the wetlands must be low ground weight equipment as specified by the manufacturer specifications.
18. Wetland Protection. You shall not store any vegetation, material, or equipment in wetlands unless authorized to do so through an approved project design. The project will be constructed in a manner that will maintain wetland hydrology in the remaining wetland complex, if applicable.
19. Invasive Species. All project equipment shall be decontaminated for removal of invasive species prior to and after each use on the project site by using best management practices to avoid the spread of invasive species as outlined in NR 40, Wis. Adm. Code. These protocols and practices along with a fact sheet for equipment operators can be found on the Department website at <https://dnr.wisconsin.gov/> Keyword: "invasive species bmps."

20. Federal and State Threatened and Endangered Species. WDNR-GP1-2023 does not affect the Department's responsibility to ensure that all authorizations comply with Section 7 of the Federal Endangered Species Act, s. 29.604, Wis. Stats., and applicable state laws. No Department authorization under this permit will be granted for projects found not to comply with these acts/laws. No activity is authorized which is likely to jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act and/or state law or which is likely to destroy or adversely modify the critical habitat of a species as identified under the Federal Endangered Species Act.
21. Special Concern Species. If the Wisconsin National Heritage Inventory lists a known special concern species to be present in the project area you will take reasonable action to prevent significant adverse impacts or to enhance the habitat for the species of concern.
22. Historic Properties and Cultural Resources. WDNR-GP1-2023 does not affect the Department's responsibility to ensure that all authorizations comply with Section 106 of the National Historic Preservation Act and s. 44.40, Wis. Stats. No Department authorization under this permit will be granted for projects found not to comply with these acts/laws. Information on the location and existence of historic resources can be obtained from the State Historic Preservation Office and the National Register of Historic Places. If cultural, archaeological, or historical resources are unearthed during activities authorized by this permit, work must be stopped immediately, and the State Historic Preservation Officer must be contacted for further instruction.
23. Preventive Measures. Measures must be adopted to prevent potential pollutants from entering a wetland or waterbody. Construction materials and debris, including fuels, oil, and other liquid substances, will not be stored in the construction area in a manner that would allow them to enter a wetland or waterbody as a result of spillage, natural runoff, or flooding. **If a spill of any potential pollutant should occur, it is the responsibility of the permittee to remove such material, to minimize any contamination resulting from this spill, and to immediately notify the State Duty Officer at 1-800-943-0003.**
24. Suitable Fill Material. All fill authorized under this permit must consist of clean suitable soil, as defined by s. NR 500.03(214), Wis. Adm. Code, free from hazardous substances as defined by s. 289.01(11), Wis. Stats., and free from solid waste as defined by s. 289.01(33), Wis. Stats.
25. Standard for Coverage. Wetland impacts from the project will cause only minimal adverse environmental impacts as determined by the Department.
26. Transfers. Coverage under this permit is transferable to any person upon prior written approval of the transfer by the Department.
27. Reevaluation of Decision. The Department may suspend or revoke authorization of any previously authorized activity and may take enforcement action if the following occur:
 - a. The applicant fails to comply with the terms and conditions of WDNR-GP1-2023.
 - b. The information provided by the applicant in support of the permit application proves to have been false, incomplete, or inaccurate.

SECTION 5. FINDINGS OF FACT

1. Pursuant to s. NR 299.04(1), Wis. Adm. Code, the Department has reasonable assurance that projects that meet the eligibility criteria and conditions and are granted coverage under this general permit will meet all applicable water quality standards.
2. The Department has determined pursuant to wetland water quality standards under s. NR 103.03,

Wis. Adm. Code, and s. 281.36(3g)(d), Wis. Stats., that projects that meet the eligibility criteria and conditions and are granted coverage under this general permit individually and cumulatively will only result in minimal adverse environmental effects.

3. The Department and the applicant have completed all procedural requirements, and projects that meet the eligibility criteria and conditions and are granted coverage under this general permit will comply with all applicable requirements of WDNR-GP1-2023, s. 281.36(3g) Wis. Stats., and chapters NR 102, 103, 150, 299, and 300 Wis. Adm. Code.

SECTION 6. CONCLUSIONS OF LAW

1. The Department has authority under s. 281.36, Wis. Stats., to issue this general permit.
2. The Department has determined that issuance of this general permit is a prior compliance action under s. NR 150.20(3), Wis. Adm. Code, based on the Environmental Analysis and Environmental Impact Statements prepared previously for statewide general permits. The Department has determined that on that basis it has complied with chapters NR 102 and 103, Wis. Adm. Code, and s. 1.11, Wis. Stats.
3. Issuance of coverage under this general permit constitutes federal Water Quality Certification under 33 U.S.C. s. 1341 if the project has not already been certified through a separate Department action.

SECTION 7. DEFINITION OF TERMS

For the purposes of this general permit, you accept the following definitions:

1. Affect includes direct impacts and secondary impacts to wetlands. Direct impacts to wetlands are temporary or permanent placement of dredged or fill material into the wetland and secondary impacts mean impacts associated with any adverse impact on wetland functions such as watershed hydrology (e.g. segmenting a wetland complex, severing a portion of a complex, reduction in flood capacity, etc.) that are causally linked to the proposed project.
2. Boreal rich fens are a rare open peatland community of northern Wisconsin that are associated with glacial moraines, or less commonly, outwash landforms, in which the underlying substrate includes calcareous materials.
3. Calcareous fens occur mostly in southern Wisconsin, on sites that are fed by carbonate-enriched groundwater and are often associated and can intergrade with more abundant and widespread wetland communities such as southern sedge meadow, wet prairie, shrub-carr, emergent marsh, and southern tamarack swamp.
4. Coastal plain marshes are an extremely rare wetland community that occupies the littoral zones and open shores of sand bottomed seepage ponds and lakes, mostly on outwash or glacial lakebed landforms in south central Wisconsin. The community is named for the presence of plants that are significantly disjunct from their core ranges in the Atlantic Coastal Plain of the eastern United States. Some, but not all, occurrences of this community are associated with the bed of extinct Glacial Lake Wisconsin.
5. Complete Application Package means a completed and signed application, the information specified in Section 2 of this permit, and any other information which can reasonably be required from an applicant that the department needs to make a decision.

6. Emergent marshes containing wild rice are typically emergent aquatic communities that have wild rice as a component. Substrates supporting wild rice usually consist of poorly- consolidated, semi-organic sediments. Water fertility is low to moderate, and a slow current is present.
7. Department means the Department of Natural Resources or WDNR.
8. Fill material has the meaning given in 33 CFR 323.2(e), and means material placed in wetlands where the material has the effect of replacing any portion of a wetland with dry land; or changing the bottom elevation of any wetland. Examples of such fill material include, but are not limited to: rock, sand, soil, clay, plastics, construction debris, wood chips, overburden from mining or other excavation activities, and materials used to create any structure or infrastructure in a wetland. The term fill material does not include trash or garbage.
9. Floodplain means land which has been or may be covered by flood water during the regional flood. It includes the floodway and flood fringe and may include other designated floodplain areas for regulatory purposes.
10. Great Lakes ridge and swale complexes are associated closely with Great Lakes shorelines and are a series of narrow sandy ridges alternate with low swales, parallel to the lakeshore. The vegetation mosaic can be extremely complex and includes marsh, sedge meadow, shrub swamp, hardwood swamp, and several conifer swamp communities.
11. Interdunal wetlands occupy wind-created hollows that intersect the water table within active dune fields along the Great Lakes shores. They may also occur where moving sand encroaches on nearby wetlands, surrounding and isolating all or portions of them.
12. Invasive Plants are non-native or native plant species that invade natural plant communities and wild areas replacing desirable native vegetation. For a listing of common invasive plants found in Wisconsin visit DNR's website at <https://dnr.wisconsin.gov/>, keyword "invasive plants."
13. Navigable waterway means any body of water with a defined bed and banks that is navigable under Wisconsin law. In Wisconsin, a body of water is navigable if it is capable of floating on a regularly recurring basis the lightest boat or skiff used for recreation or any other purpose. This incorporates the definition at s. 30.01(4m), Wis. Stats., and current case law, which requires a watercourse to have a bed and banks, Hoyt v. City of Hudson, 27 Wis. 656 (1871), and requires a navigable waterway to float on a regularly recurring basis the lightest boat or skiff, DeGayner & Co., Inc. v. DNR, 70 Wis. 2d 936 (1975); Village of Menomonee Falls v. DNR, 140 Wis. 2d 579 (Ct. App. 1987).
14. Ordinary high-water mark (OHWM) means the point on the banks or shore up to which the presence and action of water is so continuous as to leave a distinct mark either by erosion, destruction of terrestrial vegetation or other easily recognizable characteristic. More information can be found on the Department's website here: <https://p.widencdn.net/f06g6i/OHWMFactsheet>
15. Single and complete project means the total project proposed by the project proponent. For example, if construction of a residential development affects several different wetland areas, the cumulative total of all impacted areas is the basis for deciding the project's total wetland impact. For "phased" developments, each phase may constitute a single and complete project if it has independent utility and would accomplish its intended purpose, whether or not other phases were constructed.

16. Solid waste disposal means the discharge, deposit, injection, dumping or placing of any solid waste into or on any land or water. This term does not include the transportation, storage, or treatment of solid waste. This is the definition given in s. 289.01(34), Wis. Stats.
17. Southern sphagnum bogs are bogs that are located in the area located south of a horizontal line drawn across the state based on the routes of STH 16 and STH 21 west of Lake Winnebago and on USH 151 east of Lake Winnebago. They are typically composed of a carpet of living sphagnum moss growing over a layer of acidic peat. Sedges, forbs and/or the low shrubs of the heath family (Ericaceae) colonize the sphagnum moss mat.
18. Wetland has the meaning as defined in s. 23.32(1), Wis. Stats., and means an area where water is at, near or above the land surface long enough to be capable of supporting aquatic or hydrophytic vegetation and which has soils indicative of wetland conditions.
19. Wetland Functional Values means the physical, chemical and biological process or attributes that occur in a wetland and the benefit society derives from certain functions as listed in ss. NR 103.03(1) and 350.003(17), Wis. Admin. Code.
20. Wetland Floristic Integrity means the overall condition of the wetland plant community as a direct indicator of wetland quality, typically calculated using floristic quality assessment (FQA) methodology.



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, ST. PAUL DISTRICT
GREEN BAY OFFICE
320 NORTH BROADWAY SUITE 200
GREEN BAY WI 54303

November 17, 2025

Regulatory File No. MVP-2025-00998-TKO

Montgomery Sexton
N1453 Cottage Drive
Oostburg, WI 53070
montgomerysexton@hotmail.com

Dear Montgomery Sexton,

We are responding to your request for authorization to discharge fill material into wetlands associated with a residential development. The proposed work is located in Section 17, Township 13N, Range 23E, Sheboygan County, Wisconsin.

Project Authorization:

The regulated activities associated with this project are detailed on the attached drawings and include:

- Permanent discharge of fill material into 0.02-acre of wetland for the purpose of constructing a garage associated with a residential development.

We have determined that these activities are authorized by a Nationwide Permit (NWP), specifically, NWP 29, Residential Developments. Your project requires verification prior to starting work. This work is shown on the enclosed figures, labeled MVP-2025-00998-TKO Figures 1-3 of 3.

Conditions of Your Permit:

You must ensure the authorized work is performed in accordance with the enclosed applicable terms and conditions.

You are also required to complete and return the enclosed Compliance Certification form within 30 days of completing your project. Please email the completed form to the contact identified in the last paragraph.

A change in location or project plans may require re-evaluation of your project. Proposed changes should be coordinated with this office prior to construction. Failure to comply with all terms and conditions of this permit invalidates this authorization and could result in a violation of Section 301 of the Clean Water Act or Section 10 of the Rivers and Harbors Act. You must also obtain all local, State, Tribal, and other Federal permits that apply to this project.

Water Quality Certification:

You must also comply with the enclosed Water Quality Certification conditions associated with this General Permit.

Permit Expiration:

The 2021 NWP is valid until March 14, 2026 unless modified, suspended, or revoked. If the work has not been completed by that time, you should contact this office to verify that the permit is still valid. Furthermore, if you commence or are under contract to commence this activity before the date of General Permit expiration, modification, or revocation, you have 12 months to complete the activity under the present terms and conditions of the General Permit.

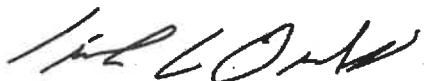
Jurisdictional Determination:

No jurisdictional determination was requested or prepared for this permit decision. While not required for this project, you may contact the Corps representative listed below with any questions concerning jurisdictional determinations.

Contact Information:

If you have any questions, please contact me in the Green Bay Office at 651-290-5010 or by email at Timothy.K.Orlowski@usace.army.mil.

Sincerely,



Tim Orlowski
Project Manager

Enclosures:

Figures labeled: MVP-2025-00998-TKO Figures 1-3 of 3, GP Conditions, WQC, Compliance Certification Form

CC:

Kurt Rubsam, Stantec

Francesca Sanchez, WI DNR (Docket # GP-SE-2025-60-02968)



**US Army Corps
of Engineers ®**
St. Paul District

COMPLIANCE CERTIFICATION

Regulatory File Number: MVP-2025-00998-TKO

Name of Permittee: Montgomery Sexton

County/State: Sheboygan, Wisconsin

Date of Issuance: 11/17/2025

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

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

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

Signature of Permittee

Date



Date Printed: 9/17/2025 11:13 AM

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This map is a product generated by a DNR web mapping application.

MVP-2025-00998-TKO Figure 2



Legend

- Approximate Project Boundary
- Sample Point
- Field Delineated Wetland
- 2ft Elevation Contour

WI DNR 24k Hydrography
 ~ Perennial Stream*
 / Intermittent Stream
 Waterbody

0 50 100 Feet
 (At original document size of 8.5x11)
 1:1200

 **Stantec**

Project Location
 T13N, R23E, S17
 Sheboygan Co., WI

Prepared by DGI on 2025-06-04
 TR by RA on 2025-06-04
 IR by Smm on 2025-06-05

Client/Project
 Montgomery Sexton
 Cottage Drive Wetland Delineation

103711393

Figure No.
 4

Title
 Field Collected Data

Page 1 of 1

Notes

1. Coordinate System: NAD 1983 StatePlane Wisconsin South FIPS 4803 Feet
2. Data Sources: Stantec, Esri, USCB, USGS
3. Background: NAIP 2022

*No Features Within Data Frame

Disclaimer: This document has been prepared based on information provided by others as cited in the Notes section. Stantec has not verified the accuracy and/or completeness of this information and shall not be responsible for any errors or omissions which may be incorporated herein as a result. Stantec assumes no responsibility for data supplied in electronic format, and the recipient accepts full responsibility for verifying the accuracy and completeness of the data.

29. Residential Developments. Discharges of dredged or fill material into non-tidal waters of the United States for the construction or expansion of a single residence, a multiple unit residential development, or a residential subdivision. This NWP authorizes the construction of building foundations and building pads and attendant features that are necessary for the use of the residence or residential development. Attendant features may include but are not limited to roads, parking lots, garages, yards, utility lines, storm water management facilities, septic fields, and recreation facilities such as playgrounds, playing fields, and golf courses (provided the golf course is an integral part of the residential development).

The discharge must not cause the loss of greater than 1/2-acre of non-tidal waters of the United States. This NWP does not authorize discharges of dredged or fill material into non-tidal wetlands adjacent to tidal waters.

Subdivisions: For residential subdivisions, the aggregate total loss of waters of United States authorized by this NWP cannot exceed 1/2-acre. This includes any loss of waters of the United States associated with development of individual subdivision lots.

Notification: The permittee must submit a pre-construction notification to the district engineer prior to commencing the activity. (See general condition 32.) (Authorities: Sections 10 and 404)

2021 Nationwide Permits (NWP)

St. Paul District Regional Conditions for Minnesota and Wisconsin

To qualify for NWP authorization, the prospective permittee must comply with the following regional conditions, as applicable, in addition to any case specific conditions imposed by the division engineer. The St. Paul District Regulatory website will provide current information regarding NWPs and the necessary 401 Water Quality Certifications at <https://www.mvp.usace.army.mil/missions/regulatory/nwp/>. Every person who wishes to obtain permit authorization under one or more NWPs, or who is currently relying on an existing or prior permit authorization under one or more NWPs, has been and is on notice that all of the provisions of 33 CFR 330.1 through 330.6 apply to every NWP authorization. Note especially 33 CFR 330.5 relating to the modification, suspension, or revocation of any NWP authorization.

The following NWPs have been revoked and are not available for use in St. Paul District: NWPs 8, 12, 14, 15, 21, 23, 24, 34, 48, 49, 50, 55, 56, 57, and 58.

Information on other permits available for use in St. Paul District can be found at: <https://www.mvp.usace.army.mil/Missions/Regulatory/Permitting-Process-Procedures/>.

Any regulated activity eligible for authorization under a St. Paul District Special Area Management Plan (SAMP) general permit is not eligible for authorization by NWPs.

The following regional conditions are applicable to all NWPs:

- A. **Linear Projects:** No linear utility or linear transportation projects are eligible for authorization by NWPs. These projects will be reviewed for authorization under the St. Paul District's regional general permits or an individual permit.
- B. **Temporary Impacts:** All regulated temporary impacts to waters of the U.S. must comply with the following criteria:
 - (1) If the temporary impacts in waters of the U.S., including wetlands, that occur as a result of the regulated activity would remain in place for longer than 90 days between May 15 and November 15, a PCN is required.
 - (2) Any PCN with temporary impacts must specify how long the temporary impact will remain and include a restoration and re-vegetation plan showing how all temporary fills and structures will be removed and the area restored to preconstruction contours and elevations. Native, non-invasive vegetation must be used unless otherwise authorized by a Corps NWP verification.
- C. **PCNs for Apostle Islands National Lakeshore and Madeline Island:** A project proponent must notify the District by submitting a PCN if the regulated activity would result in excavation, fill, or the placement of a new structure within the boundaries of Apostle Islands National Lakeshore and Madeline Island in Wisconsin. Regulated activities authorized under NWP 3 (Maintenance) are not subject to this condition unless they include bank shaping or excavation.
- D. **Calcareous fens:**
 - WISCONSIN:** No work in a calcareous fen is authorized by a NWP unless the Wisconsin Department of Natural Resources (WI DNR) has approved a permit for the proposed regulated activity. Project proponents must provide evidence of an approved permit to the District.
 - MINNESOTA:** No work in a calcareous fen is authorized by a NWP unless the Minnesota Department of Natural Resources (MN DNR) has approved a calcareous fen management plan specific to a project that otherwise qualifies for authorization by a NWP. Project proponents must provide evidence of an approved fen management plan to the District. A list of known Minnesota calcareous fens can be found at: http://files.dnr.state.mn.us/eco/wetlands/calcareous_fen_list.pdf.

E. Special Aquatic Resources: A project proponent must notify the District by submitting a PCN if a regulated activity would occur in any of the following aquatic resources:

- (1) State-designated wild rice waters^{1,2};
- (2) Bog wetland plant communities^{1,3};
- (3) Fens^{1,3};
- (4) Coastal plain marshes^{1,4};
- (5) Interdunal wetlands^{1,4};
- (6) Great Lakes ridge and swale complexes^{1,4};
- (7) Aquatic resources within Lake Superior National Estuarine Research Reserve;
- (8) Ramsar wetland sites, including: the Horicon Marsh, Upper Mississippi River Floodplain Wetland, Kakagon and Bad River Slough, Door Peninsula Coastal Wetlands, Chiwaukee Illinois Beach Lake Plain, and Lower Wisconsin Riverway. The complete up to date Ramsar list is available at <https://rsis.ramsar.org>.

The following regional conditions are applicable to a specific NWP:

F. NWP 52. Water-Based Renewable Energy Generation Pilot Projects: NWP 52 does not authorize structures or work in Lake Michigan and Lake Superior within the geographic regulatory boundaries of the St. Paul District.

G. NWP 3, 33, and 41. Aquatic Resource Impacts: A project proponent must notify the District by submitting a PCN if a regulated activity, including but not limited to, filling, flooding, excavating, or drainage of waters of the U.S., involves:

- (1) A permanent loss of greater than 1/10 acre of waters of the U.S. for NWP 3 and 41; or
- (2) over 1/2 acre of temporary impacts to waters of the U.S. for NWP 3, 33, and 41.

H. NWP 27. Aquatic Habitat Restoration, Establishment and Enhancement Activities: NWP 27 does not authorize the permanent conversion of forested, bog, fen, sedge meadow, or shrub-carr wetlands to other plant communities. A project proponent may request, in writing, a waiver from this condition from the District. The waiver will only be issued if it can be demonstrated that the conversion would restore wetland plant communities to the pre-settlement condition or a watershed approach and that the current landscape and hydrologic conditions would sustain the targeted community.

¹ Information about Wisconsin plant community types for 1-6 above may be obtained from: <http://dnr.wi.gov/topic/EndangeredResources/Communities.asp?mode=group&Type=Wetland>

² Information regarding wild rice waters and their extent may be obtained from: <https://www.dnr.state.mn.us/wildlife/shallowlakes/wildrice.html> and <https://gisdata.mn.gov/dataset/biota-wild-rice-lakes-dnr-wld> in Minnesota, <https://dnr.wisconsin.gov/topic/wildlifehabitat/rice.html> in Wisconsin, and an interactive map is provided at: <http://maps.glfwc.org/> (under Treaty Resources – Gathering).

³ Additional information on bog and fen communities can be found at: <http://www.mvp.usace.army.mil/missions/regulatory.aspx> and in Minnesota at <http://www.dnr.state.mn.us/npc/classification.html>.

⁴ Coastal plain marshes, interdunal wetlands, and Great Lakes ridge and swale complexes are specific to Wisconsin

2021 Nationwide Permit General Conditions

1. Navigation.

- (a) No activity may cause more than a minimal adverse effect on navigation.
- (b) Any safety lights and signals prescribed by the U.S. Coast Guard, through regulations or otherwise, must be installed and maintained at the permittee's expense on authorized facilities in navigable waters of the United States.
- (c) The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his or her authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

2. Aquatic Life Movements. No activity may substantially disrupt the necessary life cycle movements of those species of aquatic life indigenous to the waterbody, including those species that normally migrate through the area, unless the activity's primary purpose is to impound water. All permanent and temporary crossings of waterbodies shall be suitably culverted, bridged, or otherwise designed and constructed to maintain low flows to sustain the movement of those aquatic species. If a bottomless culvert cannot be used, then the crossing should be designed and constructed to minimize adverse effects to aquatic life movements.

3. Spawning Areas. Activities in spawning areas during spawning seasons must be avoided to the maximum extent practicable. Activities that result in the physical destruction (e.g., through excavation, fill, or downstream smothering by substantial turbidity) of an important spawning area are not authorized.

4. Migratory Bird Breeding Areas. Activities in waters of the United States that serve as breeding areas for migratory birds must be avoided to the maximum extent practicable.

5. Shellfish Beds. No activity may occur in areas of concentrated shellfish populations, unless the activity is directly related to a shellfish harvesting activity authorized by NWPs 4 and 48, or is a shellfish seeding or habitat restoration activity authorized by NWP 27.

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

7. Water Supply Intakes. No activity may occur in the proximity of a public water supply intake, except where the activity is for the repair or improvement of public water supply intake structures or adjacent bank stabilization.

8. Adverse Effects From Impoundments. If the activity creates an impoundment of water, adverse effects to the aquatic system due to accelerating the passage of water, and/or restricting its flow must be minimized to the maximum extent practicable.

9. Management of Water Flows. To the maximum extent practicable, the pre-construction course, condition, capacity, and location of open waters must be maintained for each activity, including stream channelization, storm water management activities, and temporary and permanent road crossings, except as provided below. The activity must be constructed to withstand expected high flows. The activity must not restrict or impede the passage of normal or high flows, unless the primary purpose of the activity is to impound water or manage high flows. The activity may alter the pre-construction course, condition, capacity, and location of open waters if it benefits the aquatic environment (e.g., stream restoration or relocation activities).

10. Fills Within 100-Year Floodplains. The activity must comply with applicable FEMA-approved state or local floodplain management requirements.

11. Equipment. Heavy equipment working in wetlands or mudflats must be placed on mats, or other measures must be taken to minimize soil disturbance.

12. Soil Erosion and Sediment Controls. Appropriate soil erosion and sediment controls must be used and maintained in effective operating condition during construction, and all exposed soil and other fills, as well as any work below the ordinary high water mark or high tide line, must be permanently stabilized at the earliest practicable date. Permittees are encouraged to perform work within waters of the United States during periods of low-flow or no-flow, or during low tides.

13. Removal of Temporary Structures and Fills. Temporary structures must be removed, to the maximum extent practicable, after their use has been discontinued. Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The affected areas must be revegetated, as appropriate.

14. Proper Maintenance. Any authorized structure or fill shall be properly maintained, including maintenance to ensure public safety and compliance with applicable NWP general conditions, as well as any activity-specific conditions added by the district engineer to an NWP authorization.

15. Single and Complete Project. The activity must be a single and complete project. The same NWP cannot be used more than once for the same single and complete project.

16. Wild and Scenic Rivers.

(a) No NWP activity may occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a "study river" for possible inclusion in the system while the river is in an official study status, unless the appropriate Federal agency with direct management responsibility for such river, has determined in writing that the proposed activity will not adversely affect the Wild and Scenic River designation or study status.

(b) If a proposed NWP activity will occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a "study river" for possible inclusion in the system while the river is in an official study status, the permittee must submit a pre-construction notification (see general condition 32). The district engineer will coordinate the PCN with the Federal agency with direct management responsibility for that river.

Permittees shall not begin the NWP activity until notified by the district engineer that the Federal agency with direct management responsibility for that river has determined in writing that the proposed NWP activity will not adversely affect the Wild and Scenic River designation or study status.

(c) Information on Wild and Scenic Rivers may be obtained from the appropriate Federal land management agency responsible for the designated Wild and Scenic River or study river (e.g., National Park Service, U.S. Forest Service, Bureau of Land Management, U.S. Fish and Wildlife Service). Information on these rivers is also available at: <http://www.rivers.gov/>.

17. Tribal Rights. No activity or its operation may impair reserved tribal rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights.

18. Endangered Species.

(a) No activity is authorized under any NWP which is likely to directly or indirectly jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act (ESA), or which will directly or indirectly destroy or adversely modify designated critical habitat or critical habitat proposed for such designation. No activity is authorized under any NWP which "may affect" a listed species or critical habitat, unless ESA section 7 consultation addressing the consequences of the proposed activity on listed species or critical habitat has been completed. See 50 CFR 402.02 for the definition of "effects of the action" for the purposes of ESA section 7 consultation, as well as 50 CFR 402.17, which provides further explanation under ESA section 7 regarding "activities that are reasonably certain to occur" and "consequences caused by the proposed action."

(b) Federal agencies should follow their own procedures for complying with the requirements of the ESA (see 33 CFR 330.4(f)(1)). If pre-construction notification is required for the proposed activity, the Federal permittee must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements. The district engineer will verify that the appropriate documentation has been submitted. If the appropriate documentation has not been submitted, additional ESA section 7 consultation may be necessary for the activity and the respective federal agency would be responsible for fulfilling its obligation under section 7 of the ESA.

(c) Non-federal permittees must submit a pre-construction notification to the district engineer if any listed species (or species proposed for listing) or designated critical habitat (or critical habitat proposed such designation) might be affected or is in the vicinity of the activity, or if the activity is located in designated critical habitat or critical habitat proposed for such designation, and shall not begin work on the activity until notified by the district engineer that the requirements of the ESA have been satisfied and that the activity is authorized. For activities that might affect Federally-listed endangered or threatened species (or species proposed for listing) or designated critical habitat (or critical habitat proposed for such designation), the pre-construction notification must include the name(s) of the endangered or threatened species (or species proposed for listing) that might be affected by the proposed activity or that utilize the designated critical habitat (or critical habitat proposed for such designation) that might be affected by the proposed activity. The district engineer will determine whether the proposed activity "may affect" or will have "no effect" to listed species and designated critical habitat and will notify the non-Federal applicant of the Corps' determination within 45 days of receipt of a complete pre-construction notification. For activities where the non-Federal applicant has identified listed species (or species proposed for listing) or designated critical habitat (or critical habitat proposed for such designation) that might be affected or is in the vicinity of the activity, and has so notified the Corps, the applicant shall not begin work until the Corps has provided notification that the proposed activity will have "no effect" on listed species (or species proposed for listing or designated critical habitat (or critical habitat proposed for such designation), or until ESA section 7 consultation or conference has been completed. If the non-Federal applicant has not heard back from the Corps within 45 days, the applicant must still wait for notification from the Corps.

(d) As a result of formal or informal consultation or conference with the FWS or NMFS the district engineer may add species-specific permit conditions to the NWPs.

(e) Authorization of an activity by an NWP does not authorize the "take" of a threatened or endangered species as defined under the ESA. In the absence of separate authorization (e.g., an ESA Section 10 Permit, a Biological Opinion with "incidental take" provisions, etc.) from the FWS or the NMFS, the Endangered Species Act prohibits any person subject to the jurisdiction of the United States to take a listed species, where "take" means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. The word "harm" in the definition of "take" means an act which actually kills or injures wildlife. Such an act may include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding or sheltering.

(f) If the non-federal permittee has a valid ESA section 10(a)(1)(B) incidental take permit with an approved Habitat Conservation Plan for a project or a group of projects that includes the proposed NWP activity, the non-federal applicant should provide a copy of that ESA section 10(a)(1)(B) permit with the PCN required by paragraph (c) of this general condition. The district engineer will coordinate with the agency that issued the ESA section 10(a)(1)(B) permit to determine whether the proposed NWP activity and the associated incidental take were considered in the internal ESA section 7 consultation conducted for the ESA section 10(a)(1)(B) permit. If that coordination results in concurrence from the agency that the proposed NWP activity and the associated incidental take were considered in the internal ESA section 7 consultation for the ESA section 10(a)(1)(B) permit, the district engineer does not need to conduct a separate ESA section 7 consultation for the proposed NWP activity. The district engineer will notify the non-federal applicant within 45 days of receipt of a complete pre-construction notification whether the ESA section 10(a)(1)(B) permit covers the proposed NWP activity or whether additional ESA section 7 consultation is required.

(g) Information on the location of threatened and endangered species and their critical habitat can be obtained directly from the offices of the FWS and NMFS or their world wide web pages at <http://www.fws.gov/> or <http://www.fws.gov/ipac> and <http://www.nmfs.noaa.gov/pr/species/esa/> respectively.

19. Migratory Birds and Bald and Golden Eagles. The permittee is responsible for ensuring that an action authorized by an NWP complies with the Migratory Bird Treaty Act and the Bald and Golden Eagle Protection Act. The permittee is responsible for contacting the appropriate local office of the U.S. Fish and Wildlife Service to determine what measures, if any, are necessary or appropriate to reduce adverse effects to migratory birds or eagles, including whether "incidental take" permits are necessary and available under the Migratory Bird Treaty Act or Bald and Golden Eagle Protection Act for a particular activity.

20. Historic Properties.

(a) No activity is authorized under any NWP which may have the potential to cause effects to properties listed, or eligible for listing, in the National Register of Historic Places until the requirements of Section 106 of the National Historic Preservation Act (NHPA) have been satisfied.

(b) Federal permittees should follow their own procedures for complying with the requirements of section 106 of the National Historic Preservation Act (see 33 CFR 330.4(g)(1)). If pre-construction notification is required for the proposed NWP activity, the Federal permittee must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements. The district engineer will verify that the appropriate documentation has been submitted. If the appropriate documentation is not submitted, then additional consultation under section 106 may be necessary. The respective federal agency is responsible for fulfilling its obligation to comply with section 106.

(c) Non-federal permittees must submit a pre-construction notification to the district engineer if the NWP activity might have the potential to cause effects to any historic properties listed on, determined to be eligible for listing on, or potentially eligible for listing on the National Register of Historic Places, including previously unidentified properties. For such activities, the pre-construction notification must state which historic properties might have the potential to be affected by the proposed NWP activity or include a vicinity map indicating the location of the historic properties or the potential for the presence of historic properties. Assistance regarding information on the location of, or potential for, the presence of historic properties can be sought from the State Historic Preservation Officer, Tribal Historic Preservation Officer, or designated tribal representative, as appropriate, and the National Register of Historic Places (see 33 CFR 330.4(g)). When reviewing pre-construction notifications, district engineers will comply with the current procedures for addressing the requirements of section 106 of the National Historic Preservation Act. The district engineer shall make a reasonable and good faith effort to carry out appropriate identification efforts commensurate with potential impacts, which may include background research, consultation, oral history interviews, sample field investigation, and/or field survey. Based on the information submitted in the PCN and these identification efforts, the district engineer shall determine whether the proposed NWP activity has the potential to cause effects on the historic properties. Section 106 consultation is not required when the district engineer determines that the activity does not have the potential to cause effects on historic properties (see 36 CFR 800.3(a)). Section 106 consultation is required when the district engineer determines that the activity has the potential to cause effects on historic properties. The district engineer will conduct consultation with consulting parties identified under 36 CFR 800.2(c) when he or she

makes any of the following effect determinations for the purposes of section 106 of the NHPA: no historic properties affected, no adverse effect, or adverse effect.

(d) Where the non-Federal applicant has identified historic properties on which the proposed NWP activity might have the potential to cause effects and has so notified the Corps, the non-Federal applicant shall not begin the activity until notified by the district engineer either that the activity has no potential to cause effects to historic properties or that NHPA section 106 consultation has been completed. For non-federal permittees, the district engineer will notify the prospective permittee within 45 days of receipt of a complete pre-construction notification whether NHPA section 106 consultation is required. If NHPA section 106 consultation is required, the district engineer will notify the non-Federal applicant that he or she cannot begin the activity until section 106 consultation is completed. If the non-Federal applicant has not heard back from the Corps within 45 days, the applicant must still wait for notification from the Corps.

(e) Prospective permittees should be aware that section 110k of the NHPA (54 U.S.C. 306113) prevents the Corps from granting a permit or other assistance to an applicant who, with intent to avoid the requirements of section 106 of the NHPA, has intentionally significantly adversely affected a historic property to which the permit would relate, or having legal power to prevent it, allowed such significant adverse effect to occur, unless the Corps, after consultation with the Advisory Council on Historic Preservation (AHP), determines that circumstances justify granting such assistance despite the adverse effect created or permitted by the applicant. If circumstances justify granting the assistance, the Corps is required to notify the AHP and provide documentation specifying the circumstances, the degree of damage to the integrity of any historic properties affected, and proposed mitigation. This documentation must include any views obtained from the applicant, SHPO/THPO, appropriate Indian tribes if the undertaking occurs on or affects historic properties on tribal lands or affects properties of interest to those tribes, and other parties known to have a legitimate interest in the impacts to the permitted activity on historic properties.

21. Discovery of Previously Unknown Remains and Artifacts. Permittees that discover any previously unknown historic, cultural or archeological remains and artifacts while accomplishing the activity authorized by an NWP, they must immediately notify the district engineer of what they have found, and to the maximum extent practicable, avoid construction activities that may affect the remains and artifacts until the required coordination has been completed. The district engineer will initiate the Federal, Tribal, and state coordination required to determine if the items or remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

22. Designated Critical Resource Waters. Critical resource waters include, NOAA-managed marine sanctuaries and marine monuments, and National Estuarine Research Reserves. The district engineer may designate, after notice and opportunity for public comment, additional waters officially designated by a state as having particular environmental or ecological significance, such as outstanding national resource waters or state natural heritage sites. The district engineer may also designate additional critical resource waters after notice and opportunity for public comment.

(a) Discharges of dredged or fill material into waters of the United States are not authorized by NWPs 7, 12, 14, 16, 17, 21, 29, 31, 35, 39, 40, 42, 43, 44, 49, 50, 51, 52, 57 and 58 for any activity within, or directly affecting, critical resource waters, including wetlands adjacent to such waters.

(b) For NWPs 3, 8, 10, 13, 15, 18, 19, 22, 23, 25, 27, 28, 30, 33, 34, 36, 37, 38, and 54, notification is required in accordance with general condition 32, for any activity proposed by permittees in the designated critical resource waters including wetlands adjacent to those waters. The district engineer may authorize activities under these NWPs only after she or he determines that the impacts to the critical resource waters will be no more than minimal.

23. Mitigation. The district engineer will consider the following factors when determining appropriate and practicable mitigation necessary to ensure that the individual and cumulative adverse environmental effects are no more than minimal:

(a) The activity must be designed and constructed to avoid and minimize adverse effects, both temporary and permanent, to waters of the United States to the maximum extent practicable at the project site (i.e., on site).

(b) Mitigation in all its forms (avoiding, minimizing, rectifying, reducing, or compensating for resource losses) will be required to the extent necessary to ensure that the individual and cumulative adverse environmental effects are no more than minimal.

(c) Compensatory mitigation at a minimum one-for-one ratio will be required for all wetland losses that exceed 1/10-acre and require pre-construction notification, unless the district engineer determines in writing that either some other form of mitigation would be more environmentally appropriate or the adverse environmental effects of the proposed activity are no more than minimal, and provides an activity-specific waiver of this requirement. For wetland losses of 1/10-acre or less that require pre-construction notification, the district engineer may determine on a case-by-case basis that compensatory mitigation is required to ensure that the activity results in only minimal adverse environmental effects.

(d) Compensatory mitigation at a minimum one-for-one ratio will be required for all losses of stream bed that exceed 3/100-acre and require pre-construction notification, unless the district engineer determines in writing that either

some other form of mitigation would be more environmentally appropriate or the adverse environmental effects of the proposed activity are no more than minimal, and provides an activity-specific waiver of this requirement. This compensatory mitigation requirement may be satisfied through the restoration or enhancement of riparian areas next to streams in accordance with paragraph (e) of this general condition. For losses of stream bed of 3/100-acre or less that require pre-construction notification, the district engineer may determine on a case-by-case basis that compensatory mitigation is required to ensure that the activity results in only minimal adverse environmental effects. Compensatory mitigation for losses of streams should be provided, if practicable, through stream rehabilitation, enhancement, or preservation, since streams are difficult-to-replace resources (see 33 CFR 332.3(e)(3)).

(e) Compensatory mitigation plans for NWP activities in or near streams or other open waters will normally include a requirement for the restoration or enhancement, maintenance, and legal protection (e.g., conservation easements) of riparian areas next to open waters. In some cases, the restoration or maintenance/protection of riparian areas may be the only compensatory mitigation required. If restoring riparian areas involves planting vegetation, only native species should be planted. The width of the required riparian area will address documented water quality or aquatic habitat loss concerns. Normally, the riparian area will be 25 to 50 feet wide on each side of the stream, but the district engineer may require slightly wider riparian areas to address documented water quality or habitat loss concerns. If it is not possible to restore or maintain/protect a riparian area on both sides of a stream, or if the waterbody is a lake or coastal waters, then restoring or maintaining/protecting a riparian area along a single bank or shoreline may be sufficient. Where both wetlands and open waters exist on the project site, the district engineer will determine the appropriate compensatory mitigation (e.g., riparian areas and/or wetlands compensation) based on what is best for the aquatic environment on a watershed basis. In cases where riparian areas are determined to be the most appropriate form of minimization or compensatory mitigation, the district engineer may waive or reduce the requirement to provide wetland compensatory mitigation for wetland losses.

(f) Compensatory mitigation projects provided to offset losses of aquatic resources must comply with the applicable provisions of 33 CFR part 332.

(1) The prospective permittee is responsible for proposing an appropriate compensatory mitigation option if compensatory mitigation is necessary to ensure that the activity results in no more than minimal adverse environmental effects. For the NWPs, the preferred mechanism for providing compensatory mitigation is mitigation bank credits or in-lieu fee program credits (see 33 CFR 332.3(b)(2) and (3)). However, if an appropriate number and type of mitigation bank or in-lieu credits are not available at the time the PCN is submitted to the district engineer, the district engineer may approve the use of permittee-responsible mitigation.

(2) The amount of compensatory mitigation required by the district engineer must be sufficient to ensure that the authorized activity results in no more than minimal individual and cumulative adverse environmental effects (see 33 CFR 330.1(e)(3)). (See also 33 CFR 332.3(f).)

(3) Since the likelihood of success is greater and the impacts to potentially valuable uplands are reduced, aquatic resource restoration should be the first compensatory mitigation option considered for permittee-responsible mitigation.

(4) If permittee-responsible mitigation is the proposed option, the prospective permittee is responsible for submitting a mitigation plan. A conceptual or detailed mitigation plan may be used by the district engineer to make the decision on the NWP verification request, but a final mitigation plan that addresses the applicable requirements of 33 CFR 332.4(c)(2) through (14) must be approved by the district engineer before the permittee begins work in waters of the United States, unless the district engineer determines that prior approval of the final mitigation plan is not practicable or not necessary to ensure timely completion of the required compensatory mitigation (see 33 CFR 332.3(k)(3)). If permittee-responsible mitigation is the proposed option, and the proposed compensatory mitigation site is located on land in which another federal agency holds an easement, the district engineer will coordinate with that federal agency to determine if proposed compensatory mitigation project is compatible with the terms of the easement.

(5) If mitigation bank or in-lieu fee program credits are the proposed option, the mitigation plan needs to address only the baseline conditions at the impact site and the number of credits to be provided (see 33 CFR 332.4(c)(1)(ii)).

(6) Compensatory mitigation requirements (e.g., resource type and amount to be provided as compensatory mitigation, site protection, ecological performance standards, monitoring requirements) may be addressed through conditions added to the NWP authorization, instead of components of a compensatory mitigation plan (see 33 CFR 332.4(c)(1)(ii)).

(g) Compensatory mitigation will not be used to increase the acreage losses allowed by the acreage limits of the NWPs. For example, if an NWP has an acreage limit of 1/2-acre, it cannot be used to authorize any NWP activity resulting in the loss of greater than 1/2-acre of waters of the United States, even if compensatory mitigation is provided that replaces or restores some of the lost waters. However, compensatory mitigation can and should be used, as necessary,

to ensure that an NWP activity already meeting the established acreage limits also satisfies the no more than minimal impact requirement for the NWPs.

(h) Permittees may propose the use of mitigation banks, in-lieu fee programs, or permittee-responsible mitigation. When developing a compensatory mitigation proposal, the permittee must consider appropriate and practicable options consistent with the framework at 33 CFR 332.3(b). For activities resulting in the loss of marine or estuarine resources, permittee-responsible mitigation may be environmentally preferable if there are no mitigation banks or in-lieu fee programs in the area that have marine or estuarine credits available for sale or transfer to the permittee. For permittee-responsible mitigation, the special conditions of the NWP verification must clearly indicate the party or parties responsible for the implementation and performance of the compensatory mitigation project, and, if required, its long-term management.

(i) Where certain functions and services of waters of the United States are permanently adversely affected by a regulated activity, such as discharges of dredged or fill material into waters of the United States that will convert a forested or scrub-shrub wetland to a herbaceous wetland in a permanently maintained utility line right-of-way, mitigation may be required to reduce the adverse environmental effects of the activity to the no more than minimal level.

24. Safety of Impoundment Structures. To ensure that all impoundment structures are safely designed, the district engineer may require non-Federal applicants to demonstrate that the structures comply with established state or federal, dam safety criteria or have been designed by qualified persons. The district engineer may also require documentation that the design has been independently reviewed by similarly qualified persons, and appropriate modifications made to ensure safety.

25. Water Quality.

(a) Where the certifying authority (state, authorized tribe, or EPA, as appropriate) has not previously certified compliance of an NWP with CWA section 401, a CWA section 401 water quality certification for the proposed discharge must be obtained or waived (see 33 CFR 330.4(c)). If the permittee cannot comply with all of the conditions of a water quality certification previously issued by certifying authority for the issuance of the NWP, then the permittee must obtain a water quality certification or waiver for the proposed discharge in order for the activity to be authorized by an NWP.

(b) If the NWP activity requires pre-construction notification and the certifying authority has not previously certified compliance of an NWP with CWA section 401, the proposed discharge is not authorized by an NWP until water quality certification is obtained or waived. If the certifying authority issues a water quality certification for the proposed discharge, the permittee must submit a copy of the certification to the district engineer. The discharge is not authorized by an NWP until the district engineer has notified the permittee that the water quality certification requirement has been satisfied by the issuance of a water quality certification or a waiver.

(c) The district engineer or certifying authority may require additional water quality management measures to ensure that the authorized activity does not result in more than minimal degradation of water quality.

26. Coastal Zone Management. In coastal states where an NWP has not previously received a state coastal zone management consistency concurrence, an individual state coastal zone management consistency concurrence must be obtained, or a presumption of concurrence must occur (see 33 CFR 330.4(d)). If the permittee cannot comply with all of the conditions of a coastal zone management consistency concurrence previously issued by the state, then the permittee must obtain an individual coastal zone management consistency concurrence or presumption of concurrence in order for the activity to be authorized by an NWP. The district engineer or a state may require additional measures to ensure that the authorized activity is consistent with state coastal zone management requirements.

27. Regional and Case-By-Case Conditions. The activity must comply with any regional conditions that may have been added by the Division Engineer (see 33 CFR 330.4(e)) and with any case specific conditions added by the Corps or by the state, Indian Tribe, or U.S. EPA in its CWA section 401 Water Quality Certification, or by the state in its Coastal Zone Management Act consistency determination.

28. Use of Multiple Nationwide Permits. The use of more than one NWP for a single and complete project is authorized, subject to the following restrictions:

(a) If only one of the NWPs used to authorize the single and complete project has a specified acreage limit, the acreage loss of waters of the United States cannot exceed the acreage limit of the NWP with the highest specified acreage limit. For example, if a road crossing over tidal waters is constructed under NWP 14, with associated bank stabilization authorized by NWP 13, the maximum acreage loss of waters of the United States for the total project cannot exceed 1/3-acre.

(b) If one or more of the NWPs used to authorize the single and complete project has specified acreage limits, the acreage loss of waters of the United States authorized by those NWPs cannot exceed their respective specified acreage limits. For example, if a commercial development is constructed under NWP 39, and the single and complete project includes the filling of an upland ditch authorized by NWP 46, the maximum acreage loss of waters of the United States

for the commercial development under NWP 39 cannot exceed 1/2-acre, and the total acreage loss of waters of United States due to the NWP 39 and 46 activities cannot exceed 1 acre.

29. Transfer of Nationwide Permit Verifications. If the permittee sells the property associated with a nationwide permit verification, the permittee may transfer the nationwide permit verification to the new owner by submitting a letter to the appropriate Corps district office to validate the transfer. A copy of the nationwide permit verification must be attached to the letter, and the letter must contain the following statement and signature:

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

(Transferee)

(Date)

30. Compliance Certification. Each permittee who receives an NWP verification letter from the Corps must provide a signed certification documenting completion of the authorized activity and implementation of any required compensatory mitigation. The success of any required permittee-responsible mitigation, including the achievement of ecological performance standards, will be addressed separately by the district engineer. The Corps will provide the permittee the certification document with the NWP verification letter. The certification document will include:

- (a) A statement that the authorized activity was done in accordance with the NWP authorization, including any general, regional, or activity-specific conditions;
- (b) A statement that the implementation of any required compensatory mitigation was completed in accordance with the permit conditions. If credits from a mitigation bank or in-lieu fee program are used to satisfy the compensatory mitigation requirements, the certification must include the documentation required by 33 CFR 332.3(l)(3) to confirm that the permittee secured the appropriate number and resource type of credits; and
- (c) The signature of the permittee certifying the completion of the activity and mitigation.

The completed certification document must be submitted to the district engineer within 30 days of completion of the authorized activity or the implementation of any required compensatory mitigation, whichever occurs later.

31. Activities Affecting Structures or Works Built by the United States. If an NWP activity also requires review by, or permission from, the Corps pursuant to 33 U.S.C. 408 because it will alter or temporarily or permanently occupy or use a U.S. Army Corps of Engineers (USACE) federally authorized Civil Works project (a “USACE project”), the prospective permittee must submit a pre-construction notification. See paragraph (b)(10) of general condition 32. An activity that requires section 408 permission and/or review is not authorized by an NWP until the appropriate Corps office issues the section 408 permission or completes its review to alter, occupy, or use the USACE project, and the district engineer issues a written NWP verification.

32. Pre-Construction Notification.

- (a) *Timing.* Where required by the terms of the NWP, the prospective permittee must notify the district engineer by submitting a pre-construction notification (PCN) as early as possible. The district engineer must determine if the PCN is complete within 30 calendar days of the date of receipt and, if the PCN is determined to be incomplete, notify the prospective permittee within that 30 day period to request the additional information necessary to make the PCN complete. The request must specify the information needed to make the PCN complete. As a general rule, district engineers will request additional information necessary to make the PCN complete only once. However, if the prospective permittee does not provide all of the requested information, then the district engineer will notify the prospective permittee that the PCN is still incomplete and the PCN review process will not commence until all of the requested information has been received by the district engineer. The prospective permittee shall not begin the activity until either:

- (1) He or she is notified in writing by the district engineer that the activity may proceed under the NWP with any special conditions imposed by the district or division engineer; or
- (2) 45 calendar days have passed from the district engineer’s receipt of the complete PCN and the prospective permittee has not received written notice from the district or division engineer. However, if the permittee was required to notify the Corps pursuant to general condition 18 that listed species or critical habitat might be affected or are in the vicinity of the activity, or to notify the Corps pursuant to general condition 20 that the activity might have the potential to cause effects to historic properties, the permittee cannot begin the activity until receiving written notification from the Corps that there is “no effect” on listed species or “no potential to

cause effects" on historic properties, or that any consultation required under Section 7 of the Endangered Species Act (see 33 CFR 330.4(f)) and/or section 106 of the National Historic Preservation Act (see 33 CFR 330.4(g)) has been completed. If the proposed activity requires a written waiver to exceed specified limits of an NWP, the permittee may not begin the activity until the district engineer issues the waiver. If the district or division engineer notifies the permittee in writing that an individual permit is required within 45 calendar days of receipt of a complete PCN, the permittee cannot begin the activity until an individual permit has been obtained. Subsequently, the permittee's right to proceed under the NWP may be modified, suspended, or revoked only in accordance with the procedure set forth in 33 CFR 330.5(d)(2).

(b) *Contents of Pre-Construction Notification:* The PCN must be in writing and include the following information:

- (1) Name, address and telephone numbers of the prospective permittee;
- (2) Location of the proposed activity;
- (3) Identify the specific NWP or NWP(s) the prospective permittee wants to use to authorize the proposed activity;
- (4)
 - (i) A description of the proposed activity; the activity's purpose; direct and indirect adverse environmental effects the activity would cause, including the anticipated amount of loss of wetlands, other special aquatic sites, and other waters expected to result from the NWP activity, in acres, linear feet, or other appropriate unit of measure; a description of any proposed mitigation measures intended to reduce the adverse environmental effects caused by the proposed activity; and any other NWP(s), regional general permit(s), or individual permit(s) used or intended to be used to authorize any part of the proposed project or any related activity, including other separate and distant crossings for linear projects that require Department of the Army authorization but do not require pre-construction notification. The description of the proposed activity and any proposed mitigation measures should be sufficiently detailed to allow the district engineer to determine that the adverse environmental effects of the activity will be no more than minimal and to determine the need for compensatory mitigation or other mitigation measures.
 - (ii) For linear projects where one or more single and complete crossings require pre-construction notification, the PCN must include the quantity of anticipated losses of wetlands, other special aquatic sites, and other waters for each single and complete crossing of those wetlands, other special aquatic sites, and other waters (including those single and complete crossings authorized by an NWP but do not require PCNs). This information will be used by the district engineer to evaluate the cumulative adverse environmental effects of the proposed linear project, and does not change those non-PCN NWP activities into NWP PCNs.
 - (iii) Sketches should be provided when necessary to show that the activity complies with the terms of the NWP. (Sketches usually clarify the activity and when provided results in a quicker decision. Sketches should contain sufficient detail to provide an illustrative description of the proposed activity (e.g., a conceptual plan), but do not need to be detailed engineering plans);
- (5) The PCN must include a delineation of wetlands, other special aquatic sites, and other waters, such as lakes and ponds, and perennial and intermittent streams, on the project site. Wetland delineations must be prepared in accordance with the current method required by the Corps. The permittee may ask the Corps to delineate the special aquatic sites and other waters on the project site, but there may be a delay if the Corps does the delineation, especially if the project site is large or contains many wetlands, other special aquatic sites, and other waters. Furthermore, the 45-day period will not start until the delineation has been submitted to or completed by the Corps, as appropriate;
- (6) If the proposed activity will result in the loss of greater than 1/10-acre of wetlands or 3/100-acre of stream bed and a PCN is required, the prospective permittee must submit a statement describing how the mitigation requirement will be satisfied, or explaining why the adverse environmental effects are no more than minimal and why compensatory mitigation should not be required. As an alternative, the prospective permittee may submit a conceptual or detailed mitigation plan.
- (7) For non-federal permittees, if any listed species (or species proposed for listing) or designated critical habitat (or critical habitat proposed for such designation) might be affected or is in the vicinity of the activity, or if the activity is located in designated critical habitat (or critical habitat proposed for such designation), the PCN must include the name(s) of those endangered or threatened species (or species proposed for listing) that might be affected by the proposed activity or utilize the designated critical habitat (or critical habitat proposed for such designation) that might be affected by the proposed activity. For NWP activities that require pre-construction notification, Federal permittees must provide documentation demonstrating compliance with the Endangered Species Act;
- (8) For non-federal permittees, if the NWP activity might have the potential to cause effects to a historic property listed on, determined to be eligible for listing on, or potentially eligible for listing on, the National Register of Historic Places, the PCN must state which historic property might have the potential to be affected by the

proposed activity or include a vicinity map indicating the location of the historic property. For NWP activities that require pre-construction notification, Federal permittees must provide documentation demonstrating compliance with section 106 of the National Historic Preservation Act;

(9) For an activity that will occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a “study river” for possible inclusion in the system while the river is in an official study status, the PCN must identify the Wild and Scenic River or the “study river” (see general condition 16); and

(10) For an NWP activity that requires permission from, or review by, the Corps pursuant to 33 U.S.C. 408 because it will alter or temporarily or permanently occupy or use a U.S. Army Corps of Engineers federally authorized civil works project, the pre-construction notification must include a statement confirming that the project proponent has submitted a written request for section 408 permission from, or review by, the Corps office having jurisdiction over that USACE project.

(c) *Form of Pre-Construction Notification:* The nationwide permit pre-construction notification form (Form ENG 6082) should be used for NWP PCNs. A letter containing the required information may also be used. Applicants may provide electronic files of PCNs and supporting materials if the district engineer has established tools and procedures for electronic submittals.

(d) *Agency Coordination:*

(1) The district engineer will consider any comments from Federal and state agencies concerning the proposed activity's compliance with the terms and conditions of the NWPs and the need for mitigation to reduce the activity's adverse environmental effects so that they are no more than minimal.

(2) Agency coordination is required for: (i) all NWP activities that require pre-construction notification and result in the loss of greater than 1/2-acre of waters of the United States; (ii) NWP 13 activities in excess of 500 linear feet, fills greater than one cubic yard per running foot, or involve discharges of dredged or fill material into special aquatic sites; and (iii) NWP 54 activities in excess of 500 linear feet, or that extend into the waterbody more than 30 feet from the mean low water line in tidal waters or the ordinary high water mark in the Great Lakes.

(3) When agency coordination is required, the district engineer will immediately provide (e.g., via e-mail, facsimile transmission, overnight mail, or other expeditious manner) a copy of the complete PCN to the appropriate Federal or state offices (FWS, state natural resource or water quality agency, EPA, and, if appropriate, the NMFS). With the exception of NWP 37, these agencies will have 10 calendar days from the date the material is transmitted to notify the district engineer via telephone, facsimile transmission, or e-mail that they intend to provide substantive, site-specific comments. The comments must explain why the agency believes the adverse environmental effects will be more than minimal. If so contacted by an agency, the district engineer will wait an additional 15 calendar days before making a decision on the pre-construction notification. The district engineer will fully consider agency comments received within the specified time frame concerning the proposed activity's compliance with the terms and conditions of the NWPs, including the need for mitigation to ensure that the net adverse environmental effects of the proposed activity are no more than minimal. The district engineer will provide no response to the resource agency, except as provided below. The district engineer will indicate in the administrative record associated with each pre-construction notification that the resource agencies' concerns were considered. For NWP 37, the emergency watershed protection and rehabilitation activity may proceed immediately in cases where there is an unacceptable hazard to life or a significant loss of property or economic hardship will occur. The district engineer will consider any comments received to decide whether the NWP 37 authorization should be modified, suspended, or revoked in accordance with the procedures at 33 CFR 330.5.

(4) In cases of where the prospective permittee is not a Federal agency, the district engineer will provide a response to NMFS within 30 calendar days of receipt of any Essential Fish Habitat conservation recommendations, as required by section 305(b)(4)(B) of the Magnuson-Stevens Fishery Conservation and Management Act.

(5) Applicants are encouraged to provide the Corps with either electronic files or multiple copies of pre-construction notifications to expedite agency coordination.

SHEBOYGAN COUNTY ORDINANCE NO. _____ (2025/2026)

**Re: Amending Shoreland Ordinance in Section 17, Town of Holland (0.0186
Acres of Property – Construction of a New Residential Building)**

WHEREAS, Sheboygan County wishes to rezone 0.0186 acres of wetlands located in the NE $\frac{1}{4}$, SW $\frac{1}{4}$, Section 17, Township 13 North, Range 23 East, Town of Holland from "Shoreland-Wetland District" to "Shoreland District" to allow for the construction of a new residential building on a portion of parcel number 59006075340, and

WHEREAS, in compliance with the Shoreland Ordinance (Chapter 72, Sheboygan County Code), the required procedural steps have been properly completed and the public hearing held, and

WHEREAS, this Committee concludes that the public interest will be served by enactment of this Ordinance in that conservation and environmental protection interests will be carefully honored and monitored;

NOW, THEREFORE, the County Board of Supervisor of the County of Sheboygan does ordain as follows:

Section 1. **Amendment of Shoreland Zoning Map.** The "Shoreland Zoning Map, Sheboygan County, Wisconsin" referred to in Section 72.07 of the Sheboygan County Code of General Ordinances is hereby amended to reflect that the district use classification (boundaries) of the above-described property be changed from the "Shoreland-Wetland District" to the "Shoreland District."

Section 3. Effective Date. The herein Ordinance shall take effect upon publication.

Respectfully submitted this 20 day of January, 2026.

PLANNING, RESOURCES, AGRICULTURE, AND EXTENSION COMMITTEE*

Rebecca Clarke, Chairperson

Henry Nelson, Vice-Chairperson

John Nelson, Secretary

Joe Liebau

David Otte

Opposed to Introduction:

*County Board members signing only

Countersigned by:

Keith Abler, Chairperson