

State of Wisconsin
DEPARTMENT OF NATURAL RESOURCES
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Milwaukee, WI 53212

Tony Evers, Governor
Preston D. Cole, Secretary
Telephone 608-266-2621
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North Lake Management District
Attn: Mark Theisen
W315N7293 HWY 83
Hartland, WI 53029
[sent electronically]

IP-SE-2021-68-00113

RE: Permit #IP-SE-2021-68-00113 to dredge North Lake in the Town of MERTON, Waukesha County

Dear Mr. Theisen:

The Department of Natural Resources has completed its review of your application for a permit to dredge North Lake located in the NW 1/4, SE 1/4, Section 16, Township 08, Range 18E, in the Town of MERTON, Waukesha County. You will be pleased to know your application is approved.

I am attaching a copy of your permit, which lists the many important conditions that must be followed to protect water quality and habitat. A copy of the permit must be posted for reference at the project site. **Please read your permit conditions carefully so that you are fully aware of what is expected of you.**

Please note one of the conditions requires that you submit photographs of the completed project within 7 days after you've finished construction. This helps both of us to document the completion of the project and compliance with the permit conditions.

Your next step will be to notify me of the date on which you plan to start construction and again your project is complete.

If you have any questions about your permit, please call me at (262) 282-4740 or you can reach me by email at Theresa.Alvarez@wisconsin.gov.

Sincerely,

Theresa Alvarez
Water Management Specialist

Email CC:
U.S. Army Corps of Engineers, 2015-02954-MHK
Waukesha County/Local Zoning Administrator
WI DNR Conservation Warden
WI DNR NR Basin Supervisor

Application of Mark Theisen is hereby granted under Section 30.20(2), Wisconsin Statutes, a permit to dredge North Lake located in the NW 1/4, SE 1/4, Section 16, Township 08, Range 18E, in the Town of MERTON, Waukesha County, subject to the following conditions:

PERMIT

1. You must notify Theresa Alvarez by phone at (262) 282-4740 or by email at Theresa.Alvarez@wisconsin.gov before starting construction and again not more than 5 days after the project is complete.
2. You must complete the project as described on or before 6/23/2026. If you will not complete the project by this date, you must submit a written request for an extension **prior** to expiration of the initial time limit specified in the permit. Your request must identify the requested extension date. The Department shall extend the time limit for an individual permit or contract for no longer than an additional 5 years if you request the extension before the initial time limit expires. You may not begin or continue construction after the original permit expiration date unless the Department extends the permit in writing or grants a new permit.
3. This permit does not authorize any work other than what you specifically describe in your application and plans, and as modified by the conditions of this permit. If you wish to alter the project or permit conditions, you must first obtain written approval of the Department.
4. Before you start your project, you must first obtain any permit or approval that may be required for your project by local zoning ordinances and/or by the U.S. Army Corps of Engineers. You are responsible for contacting these local and federal authorities to determine if they require permits or approvals for your project. These local and federal authorities are responsible for determining if your project complies with their requirements.
5. Upon reasonable notice, you shall allow access to your project site during reasonable hours to any Department employee who is investigating the project's construction, operation, maintenance or permit compliance.
6. The Department may modify or revoke this permit for good cause, including if the project is not completed according to the terms of the permit or if the Department determines the activity is detrimental to the public interest.
7. **You must post a copy of this permit at a conspicuous location on the project site**, visible from the waterway, for at least five days prior to construction, and remaining at least five days after construction. You must also have a copy of the permit and approved plan available at the project site at all times until the project is complete.
8. Your acceptance of this permit and efforts to begin work on this project signify that you have read, understood and agreed to follow all conditions of this permit.
9. You must **submit a series of photographs** to the Department, within one week of completing work on the site. The photographs must be taken from different vantage points and depict all work authorized by this permit.
10. You, your agent, and any involved contractors or consultants may be considered a party to the violation pursuant to Section 30.292, Wis. Stats., for any violations of Chapter 30, Wisconsin Statutes, or this permit.
11. Construction shall be accomplished in such a manner as to minimize erosion and siltation into surface waters. Erosion control measures (such as silt fence and straw bales) must meet or exceed the technical standards of ch. NR 151, Wis. Adm. Code. The technical standards are found at: http://dnr.wi.gov/topic/stormwater/standards/const_standards.html.
12. All equipment used for the project including but not limited to tracked vehicles, barges, boats, hoses, sheet pile and pumps shall be de-contaminated for invasive and exotic viruses and species prior to use and after use. The following steps

must be taken every time you move your equipment to avoid transporting invasive and exotic viruses and species. To the extent practicable, equipment and gear used on infested waters shall not be used on other non-infested waters.

1. **Inspect and remove** aquatic plants, animals, and mud from your equipment.
2. **Drain all water** from your equipment that comes in contact with infested waters, including but not limited to tracked vehicles, barges, boats, hoses, sheet pile and pumps.
3. **Dispose** of aquatic plants, animals in the trash. Never release or transfer aquatic plants, animals or water from one waterbody to another.
4. **Wash your equipment** with hot (>140° F) and/or high-pressure water,
- OR -
Allow your equipment to **dry thoroughly for 5 days**.

DREDGING SPECIFIC CONDITIONS

13. An approved Low Hazard Grant of Exemption (LHE) from the WI DNR Waste Program is required to validate this permit.
14. All of the removed materials must be placed in the location shown on applicant's plan submitted to the Department on 1/19/2021 and approved by the Department.
15. Dredged materials shall not be sold to the public. If dredged materials are given to a landscape company, or similar type business, for individual use, review and approval from WI DNR is required as additional sediment sampling may be needed.
15. This permit complies with the substantive requirements of s. 23.24, Stats. and NR 109, Adm. Code.
16. Bottom materials must be removed by equipment, which is designed to minimize the amount of sediment that can escape into the water. Equipment must be properly sized so that excavation conforms to the plans submitted and allows the work to be done from the banks rather than in the waterway.
17. During excavation, earth if stockpiled, must be in an upland area separated from the waterway by a protective, vegetated buffer strip or a silt screen.
18. Removal must not exceed 50,000 cubic yards as specified in the application and plans submitted on 1/19/2021.
19. The water discharged from the disposal site cannot outlet into a wetland or floodplain. Erosion control methods shall be in place around any and all discharge pipes. Follow-up with the WI DNR Wastewater program to determine if WPDES requirements exist is required. Dredging cannot begin again until these steps have been made.
20. You are required to install a silt curtain in the waterway around your project.
21. You must dredge to the dimensions and elevations shown on your approved plans submitted on 1/14/2021.
22. You must not deposit or store any of the removed materials in any wetland or below the ordinary high watermark of any waterway. All removed materials must be placed out of the floodway of any stream.
23. You must place all of the removed materials in the location shown on the approved plans.
24. You must use clean, washed gravel/crushed stone as backfill material for the trench to replace the excavated material.
25. A copy of the plans and permit must be provided to every contractor working on the project.

FINDINGS OF FACT

1. On behalf of the North Lake Management District, W315N7293 HWY 83, Hartland, WI 53029, Mark Theisen, filed an application with this Department on 01/14/2021, under sections 30.20(2) and 30.208, Wisconsin Statutes, to dredge North Lake located in the NW 1/4, SE 1/4, Sec. 16, T. 08, R. 18E, Town of MERTON, Waukesha County.
2. On 1/14/2021 an application was submitted to the Department proposing to dredge approximately 50,000 cu yd from the bed of North Lake for the main concern of removing built-up sediment known to contain high phosphorus levels. Dredged materials to be dewatered via Geo Tubes, removed, and relocated to an approved off-site disposal site.
3. The Department has completed an investigation of the project site and has evaluated the project as described in the application and plans.
4. North Lake is a navigable water.
5. 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.
6. The proposed project will not impact wetlands if constructed in accordance with this permit.
7. The Department of Natural Resources has determined that the agency's review of the proposed project constitutes an equivalent analysis action under s. NR 150.20(2), Wis. Adm. Code. The Department has considered the impacts on the human environment, alternatives to the proposed projects and has provided opportunities for public disclosure and comment. The Department has completed all procedural requirements of s. 1.11(2)(c), Wis. Stats., and NR 150, Wis. Adm. Code for this project.
8. The Department of Natural Resources has completed all procedural requirements and the project as permitted will comply with all applicable requirements of Sections 30.20 and 30.208, Wisconsin Statutes and Chapters NR 102, 103, and 345 of the Wisconsin Administrative Code.

The applicant was responsible for fulfilling the procedural requirements for publication of notices under s. 30.208(5)(c)1m., Stats., and was responsible for publication of the notice of pending application under s.30.208(3)(a), Stats. or the notice of public informational hearing under s.30.208(3)(c), Stats., or both. S. 30.208(3)(e), Stats., provides that if no public hearing is held, the Department must issue its decision within 30 days of the 30-day public comment period, and if a public hearing is held, the Department must issue its decision within 20 days after the 10-day period for public comment after the public hearing. S. 30.208(5)(bm), Stats., requires the Department to consider the date on which the department publishes a notice on its web site as the date of notice.

9. The activity will not be detrimental to the public interest as the focus of the dredge is to remove high levels of phosphorus and improve water quality.
10. The activity will not cause environmental pollution as defined in s. 299.01(4).
11. No material injury will result to the riparian rights of any riparian owners of real property that abuts any water body that is affected by the activity.

CONCLUSIONS OF LAW

1. The Department has authority under the above indicated Statutes and Administrative Codes, to issue a permit for the construction and maintenance of this project.

NOTICE OF APPEAL RIGHTS

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

To request a contested case hearing of any individual permit decision pursuant to section 30.209, Wis. Stats., you have 30 days after the decision is mailed, or otherwise served by the Department, to serve a petition for hearing on the Secretary of the Department of Natural Resources, P.O. Box 7921, Madison, WI, 53707-7921. The petition shall be in writing, shall be dated and signed by the petitioner, and shall include as an attachment a copy of the decision for which administrative review is sought. If you are not the applicant, you must simultaneously provide a copy of the petition to the applicant. If you wish to request a stay of the project, you must provide information, as outlined below, to show that a stay is necessary to prevent significant adverse impacts or irreversible harm to the environment. If you are not the permit applicant, you must provide a copy of the petition to the permit applicant at the same time that you serve the petition on the Department.

The filing of a request for a contested case hearing is not a prerequisite for judicial review and does not extend the 30 day period for filing a petition for judicial review.

A request for contested case hearing must meet the requirements of section 30.209, Wis. Stats., and sections NR 2.03, 2.05, and 310.18, Wis. Admin. Code, and if the petitioner is not the applicant the petition must include the following information:

1. A description of the objection that is sufficiently specific to allow the department to determine which provisions of this section may be violated if the proposed permit or contract is allowed to proceed.
2. A description of the facts supporting the petition that is sufficiently specific to determine how the petitioner believes the project, as proposed, may result in a violation of Chapter 30, Wis. Stats.
3. A commitment by the petitioner to appear at the administrative hearing and present information supporting the petitioner's objection.

If the petition contains a request for a stay of the project, the petition must also include information showing that a stay is necessary to prevent significant adverse impacts or irreversible harm to the environment.

Dated at the Southeast Region Headquarters, Wisconsin on June 23, 2021.

STATE OF WISCONSIN DEPARTMENT OF NATURAL RESOURCES
For the Secretary



Theresa Alvarez, Water Management Specialist