



March 20, 2014

IP-NE-2013-5-03674

Brown County Port & Resource Recovery Dept.  
Attn: Dean Haen  
2561 S. Broadway  
Green Bay, WI 54304  
*[sent electronically]*

Dear Mr. Haen:

The Department of Natural Resources has completed its review of your application for a permit to place a structure on the bed of Green Bay, in the City of Green Bay, Brown County. You will be pleased to know your application is approved with a few limitations.

I am attaching a copy of your permit, which lists the conditions that must be followed. 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 you are required to 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 after your project is complete. If you have any questions about your permit, please call me at (920) 662-5466 or email [Crystal.VonHoldt@wisconsin.gov](mailto:Crystal.VonHoldt@wisconsin.gov).

Sincerely,

Crystal von Holdt  
Water Management Specialist

cc: Joey Shoemaker & Ann Nye, Project Manager, ACOE  
Matt Heyroth, Brown County Zoning Administrator (email)  
Steve Grenier, City of Green Bay DPW (email)  
Mark Walter, Brown Co Port & Res. Recovery Business Dev. Manager (email)  
Michelle Lehner, WDNR Wetlands & Waterways Supervisor (email)  
Andy Hudak, WDNR Water Quality Biologist (email)  
Chris Groth, WDNR Conservation Warden (email)  
Steve Hogler, WDNR Fisheries Biologist (email)  
James Robaidek, WDNR Wildlife Biologist (email)  
Miles Winkler, WDNR Water Management Engineer (email)

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**STATE OF WISCONSIN  
DEPARTMENT OF NATURAL RESOURCES**

**Miscellaneous structure PERMIT  
IP-NE-2013-5-03674**

Dean Haen of Brown County Port & Resource Recovery Department is hereby granted under Section 30.12(3m), Wisconsin Statutes, a permit to place a structure on the bed of Green Bay, in the City of Green Bay, Brown County, also described as in the NW1/4 of the SE1/4 of Section 19, Township 24 North, Range 21 East, subject to the following conditions:

**PERMIT**

1. You must notify Crystal von Holdt at phone (920) 662-5466 or email [Crystal.VonHoldt@wisconsin.gov](mailto:Crystal.VonHoldt@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 March 20, 2017**. 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 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 final plans dated February 10, 2014, 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 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](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 (>104° F) and/or high pressure water,  
- OR -  
Allow your equipment to **dry thoroughly for 5 days.**

## INDIVIDUAL PERMIT CONDITIONS

13. The box culvert is to be installed immediately upon authorization with consideration of condition #14 for fish spawning concerns. If the box culvert is not able to be installed **by September 30, 2014**, please contact the Department to discuss options for construction timelines.
  - a. The box culvert must have an actual opening of no less than 16ft and the bottom of the box culvert is to be installed to match the surrounding lakebed elevations.
14. No work can be done in the water between April 1<sup>st</sup> and June 30<sup>th</sup> annual to protect spawning fish.
15. Proper *best management practices* (BMPs) to protect water quality must be installed and in-place prior to any work in the water (which includes removal of the causeway section for installation of the box culvert). Examples of proper practices include turbidity barrier, silt curtain, etc. to protect water quality from sediment disturbance and/or movement during construction. The required BMP's will need to be installed prior to the start of work and must completely surround/contain the area to be disturbed.
  - a. Since the westerly side of the existing causeway has greater erosion/energy potential due to wave fetch and wind direction, the west side will require more protection (such as a double-layer silt curtain/turbidity barrier).
16. An Erosion Control Plan (ECP) with details of the proposed BMPs mentioned above (in condition #15) is to be **submitted for Department review and approval** as soon as possible so that an approved ECP is on file prior to the start of construction.
17. Heavy equipment must not be used below the ordinary high water mark during construction or for maintenance.
18. Maintenance activities may not result in the discharge or deposition of materials (for example paint, sand or abrasives, metal or chemicals) into the waterway.
19. The box culvert shall be maintained in good repair by the Owner.
20. You are not authorized to place any fill on the lake or stream bed, or cause any other alteration of the waterway, which might require a Department of Natural Resources permit.
21. You assume all responsibility and liability for a direct or indirect damage caused or resulting from the presence of the box culvert and hold the State of Wisconsin, and its employees, harmless.

22. You must periodically inspect the box culvert for debris, and must remove any restriction of flow. This material must be deposited in an upland site and out of any floodplain.
23. Dredging or flushing of the culverts according to the *culvert maintenance plan* will need to restrict activities to within the culvert dimensions. Any dredging or lakebed disturbance outside of the actual culvert structures must obtain Ch 30 authorization prior to the activity.
24. Three *fish sticks* (habitat) structures are proposed to be installed as habitat enhancement features with the overall causeway project. These structures will need to obtain separate Ch 30 permit authorization prior to construction.
  - a. The fish habitat (Ch 30 general permit) application is to be **submitted within 60 days from the date of permit issuance** for Department review and permitting. Construction of the fish habitat structures will then take place according to the permitted design and timeline.
25. Public fishing piers are proposed to be installed to improve public access and use of the island the surrounding resources. Before the public fishing piers are installed, a Department approved plan will need to be on file. The County will need to **submit a "Public Pier Plan" to the Department within 60 days from date of permit issuance** for review and approval. Once an approved plan is on file, the piers work can begin.
26. The location of the box culvert is to be placed at the north end of the causeway (toward the island) and is to be installed where the deepest water depth exists.
27. Appropriate erosion control measures must be in-place and effective during every phase of this project.
28. Erosion control measures must be in place at the end of each working day.
29. Erosion control measures must be inspected, and any necessary repairs or maintenance performed, after every rainfall exceeding 1/2 inch and at least once per week.
30. This permit has been issued with the understanding that any construction equipment used is the right size to do the job, and can be brought to and removed from the project's site without unreasonable harm to vegetative cover or fish or wildlife habitat.
31. You must maintain a log of the erosion control inspections, repairs made, and rain events. This must be made available to Department personal upon request and must remain on the project site at all times work is being performed.

32. You must not deposit or store any of the graded materials in any wetland or below the ordinary high water mark of any waterway. All graded materials must be placed out of the floodway of any stream.
33. You must not operate any construction equipment below the ordinary high water mark of any waterway.
34. You must supply a copy of this permit to every contractor associated with this project.

### FINDINGS OF FACT

1. Dean Haen of Brown County Port & Resource Recovery Department has filed an application for a permit to place a structure on the bed of Green Bay, in the City of Green Bay, Brown County, also described as NW1/4-SE1/4 S19, T24N, R21E.
2. The proposal is for authorization of the existing temporary causeway to remain as permanent with modifications. The causeway will be modified to include a 16ft free span box culvert at the deepest water depth along the causeway to allow adequate flow, passage, and navigation. The causeway is 850ft in length and approximately 100ft wide and includes two pre-existing pipe culverts that will remain. The causeway height will be lowered to an elevation of 585ft to facilitate future two-way traffic and the engineered width will be maintained for stability purposes. The project also includes future construction of fish spawning habitat to enhance the resource around the causeway in addition to public fishing access and fishing piers.
3. The existing temporary causeway has a lakebed impact of 1.95 acres (850ft by 100ft). The area of lakebed impact will remain essentially the same (with the exception of the area removed for a 16ft wide box culvert span) with the authorization of the causeway to remain as a permanent structure.
4. The County has proposed and agreed to the placement of three (3) fish sticks (habitat) projects with an additional fish rock reef. Application/plan details will be finalized and submitted to the Department.
  - a. The “sticks” structures will be located along the south side of the island immediately adjacent to the island for warm water fish habitat. One will be just east of the mooring facility, the second will be at mid-island, and the third will be at the east end of the island.
  - b. The “sticks” structures will be constructed on winter ice and allowed to drop through in the spring.
  - c. The application materials for a Ch 30 General Permit for fish “sticks” projects can be found online at <http://dnr.wi.gov/topic/Waterways/Permits/FishWildlifeGP.html>.
5. The County agrees to incorporate publish fishing areas into the development plans of Renard Island as a recreational facility. This will include conversion of the existing

unloading/mooring facility (directly east of where the causeway meets the island) into a public mooring facility for small watercraft that will be modified for handicap access. Plan details will be finalized and submitted to the Department.

6. The County will maintain all causeway culverts (two pipe culverts and one box culvert) according to the County's *culvert maintenance plan*. This plan is described in an earlier version of the plans dated January 28, 2014 and indicates the County agrees to annually inspect the culverts to ensure water flow. If any obstructions are present (such as accumulated sediment) more than 12 inches for longer than 6 months, the County will remove the sediment in the culverts and approaches by means of dredging or flushing the culverts.
7. Based on engineering reviews, the width of the causeway could not be reduced and still maintain a stable structure.
8. The Department has completed an investigation of the project site and has evaluated the project as described in the application and plans.
9. Green Bay is a navigable water (and no bulkhead exists at the project site).
10. 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.
11. The proposed project will not impact wetlands if constructed in accordance with this permit.
12. The Department of Natural Resources and the applicant have completed all procedural requirements and the project as permitted will comply with all applicable requirements of Sections 1.11, 30.12(3m), Wisconsin Statutes and Chapters NR 102, 103, 115, 116, 117, 150, 299 of the Wisconsin Administrative Code.
13. The structure will not materially obstruct navigation because the project has included a box culvert structure to accommodate navigational use of this waterbody.
14. The structure will not be detrimental to the public interest because the modifications to be completed on the causeway will accommodate adequate littoral drift and water flow, navigational use of the waterbody, and allow for passage of fish, wildlife, and other aquatic organisms.
15. The causeway and proposed box culvert structure will not increase the regulatory floodplain elevations and will not change the regulatory floodplain boundaries."

## 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 Northeast Region Headquarters, Wisconsin on March 20, 2014.

STATE OF WISCONSIN DEPARTMENT OF NATURAL RESOURCES  
For the Secretary

By

A handwritten signature in cursive script that reads "Crystal von Holdt".

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Crystal von Holdt  
Water Management Specialist