



January 11, 2018

IP-NO-2018-66-02936

Washburn County Highway Department
Frank Scalzo
1600 County Highway H
Spooner, WI 54801

Dear Mr. Scalzo:

The Department of Natural Resources has completed its review of your application for a proposed winter water drawdown on the Minong Flowage, in the Town of Minong, Washburn County. You will be pleased to know your application is approved.

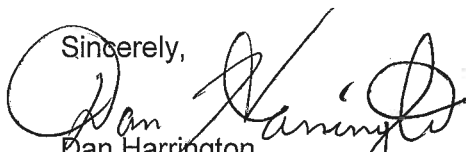
I am attaching a copy of your permit, which lists the many important conditions that must be followed to protect water quality and habitat. A copy of the permit must be posted for reference at the project site. Please read your permit conditions carefully so that you are fully aware of what is expected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

Please note 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 the drawdown and again after the desired water levels have been reached.

If you have any questions about your permit, please call me at (715) 635-4097 or email Dan.Harrington@wisconsin.gov.

Sincerely,



Dan Harrington
Water Management Specialist

Ecc: Bill Sande, U.S. Army Corps of Engineers
Washburn County Zoning Administration
Keith Patrick – WDNR Wausau
Steve LaValley – WNDR Superior
Pamela Toshner – WNR Spooner
Craig Roberts – WDNR Spooner
Nancy Christel – WDNR Spooner
Ryan Magana – WDNR Spooner
Mark Stephenson – WDNR Black River Falls
Consultant – David Blumer (dblumerleaps@gmail.com)
Minong Flowage Association – David Perrin (perrindavid1@gmail.com)
Minong Flowage Association – Dan Maxwell (dan.maxwell@comcast.net)

**STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES**

**Dam drawdown PERMIT
IP-NO-2018-66-02936**

Washburn County is hereby granted under Section 31.02, Wisconsin Statutes, a permit for a winter water drawdown on the Minong Flowage, in the Town of Minong, Washburn County, also described as being in the NW1/4 of the SE1/4 of Section 13, Township 42 North, Range 13 West, subject to the following conditions:

PERMIT

1. You must notify Dan Harrington at phone (715) 635-4097 or email Dan.Harrington@wisconsin.gov before starting the drawdown and again not more than 5 days after the drawdown is complete.
2. You must notify Dan Harrington at phone (715) 635-4097 or email Dan.Harrington@wisconsin.gov before beginning refilling the flowage and then again not more than 5 days after the flowage has reached normal pool elevations in the spring of 2020.
3. You must begin the drawdown no later than October 1, 2019.
4. Normal pool elevations shall be established no later than May 15, 2020.
5. You must complete the drawdown as described on or before November 1, 2019. 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.
6. 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.
7. 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.
8. 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.
9. 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.
10. 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.
11. 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.

12. 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.
13. 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.
14. 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.
15. 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**.

FINDINGS OF FACT

1. Washburn County filed an application for a permit for a proposed 2019-2020 winter draw down on the Minong Flowage in the Town of Minong, Washburn County, also described as being in the NW1/4 of the SE1/4 of Section 13, Township 42 North, Range 13 West.
2. The Department received the permit application for the proposed Minong Flowage drawdown project on August 23rd, 2018.
3. The application was deemed complete on September 4th, 2018.
4. A public meeting was held by the Lake Association on August 18, 2018 in Minong to lay out the Drawdown Plan and make a final decision to move forward with the drawdown.
5. The Department developed a "Frequently asked Questions" document for the public. This document was finalized on October 1, 2018.
6. The Department formally consulted with the Voigt Intertribal Task Force on October 24, 2018.
7. The legal notice for the "Notice of Pending Application" was provided to the applicant on October 2, 2018 and was published in the Spooner Advocate on October 18, 2018 and on the Department's SharePoint website on October 2, 2018.

8. The legal notice for the public informational hearing was provided to the applicant on November 6, 2018 and was published in the Spooner Advocate on November 15, 2018 and on the Department's public hearing calendar on November 16, 2018.
9. This publication met the minimum 10-day notice to the public, for the public informational hearing held on December 13, 2018.
10. The Department of Natural Resources held a public informational hearing on December 13, 2018 at the Minong Town Hall, in Washburn County, WI with respect to the application submitted by Washburn County (the owner of the dam) for the proposed 2019-2020 winter drawdown on the Minong Flowage.
11. A total of 38 hearing slips were submitted. There were approximately 50 individuals present at the hearing.
12. DNR staff present at the hearing included Pamela Toshner, Dan Harrington, Keith Patrick, Jake Sedivy, Craig Roberts, and Jacob Druffner.
13. During the public comment period varying testimonies were heard including the following:
 1. Negative impacts to the fishery
 2. Negative and positive impacts to wild rice
 3. Possible negative impacts to drinking water wells
 4. Questions on who was going to financially reimburse Renewable World Energy for loss of power generation during the draw-down
 5. Both positive and negative impacts/effects of chemical treatment of EWM versus a winter draw down
 6. Negative impacts to near shore vegetation
14. Washburn County (the owner of the dam) has the ability under Ch. 31.02 Wis. Stats. to apply for an individual permit to lower water levels on the flowage outside of the permitted normal operating levels.
15. It is the intent of the Minong Flowage Association and Washburn County to implement a 5-foot winter drawdown of the Minong Flowage over the winter months 2019-2020 to control Eurasian watermilfoil (EWM) a non-native, aquatic invasive species present in the lake.
16. Stakeholders in the Town of Minong, Douglas County, Town of Wascott, Cranberry Lake Association, Gilmore Lake Association, local businesses and local sporting clubs have been contacted about this proposal.
17. The Minong Flowage Association, WDNR Fisheries, WDNR Water Resources, Washburn County Forest Department and Highway Department, Washburn County Lakes and Rivers Association, Great Lakes Indian Fish and Wildlife Commission, St. Croix Tribal Resources, and Renewable World Energies (the operators of the dam for power generation) have also been contacted and expressed their support for implementing a winter drawdown for the control of EWM.
18. The Department has completed an investigation of the project site and has evaluated the project as described in the application and plans.
19. Minong Flowage is a navigable water (and no bulkhead exists at the project site.)

20. 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.
21. The proposed project will not impact wetlands if constructed in accordance with this permit.
22. The proposed drawdown is an alternative method versus chemical control. If chemicals are directly applied in the rice beds, this could negatively impact wild rice. The previous drawdown associated with dam reconstruction has shown to benefit wild rice with substantial increases in density and distribution after the 2013-2014 drawdown.
23. Future proposed drawdowns will be reviewed after monitoring EWM during the summer months of 2020, along with evaluating wild rice bed density's.
24. Overwintering green frogs and mink frogs (if present) are likely to be impacted by this drawdown timing, although frogs can have frequent years of high reproduction and will be able to repopulate much more rapidly than turtles.
25. Beaver, muskrats, otter, and mink that den in the banks may be forced to move. Any negative impacts will be minimal because beaver and muskrat populations are healthy. There are potential human/wildlife negative impacts as the beaver and muskrat are forced to move elsewhere and potentially cause problems for neighboring landowners.
26. Recent fish surveys after the previous dam reconstruction and associated draw down have shown no dramatic decreases in fishery populations. It is anticipated with the 2019-2020 winter drawdown there will be less impacts to the gamefish and panfish populations due to the shorter duration and timing of the drawdown.
27. 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.
28. The Department of Natural Resources has completed all procedural requirements and the project as permitted will comply with all applicable requirements of sections 31.02, Wisconsin Statutes and Chapters NR 102, 103, 110 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.

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:

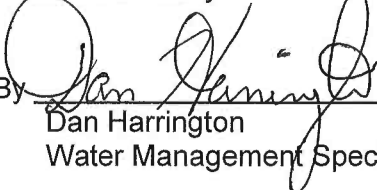
1. A description of the objection that is sufficiently specific to allow the department to determine which provisions of this section may be violated if the proposed permit or contract is allowed to proceed.
2. A description of the facts supporting the petition that is sufficiently specific to determine how the petitioner believes the project, as proposed, may result in a violation of Chapter 30, and Chapter 31 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 Northern Region Headquarters (Spooner), Wisconsin on 01/11/2019

STATE OF WISCONSIN DEPARTMENT OF NATURAL RESOURCES

For the Secretary

By 

Dan Harrington
Water Management Specialist