

**STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES**

Dredging, Grading, Bridge/WQC Permit

IP-2006-N10001 through IP-2006-N11489

Enbridge Energy, LP, (“applicant”) is hereby granted under Sections 182.017, 30.12, 30.123, 30.19, 30.20, 281.15, 281.36, Wisconsin Statutes, and Chapters NR 102, 103, 115, 116, 117, 150, 299, 216, 320, 341, 345, Wisconsin Administrative Code, a permit to place temporary bridges and related structures in or adjacent to navigable waterways listed in Table 1, a permit to grade in excess of 10,000 sq. ft. on the bank of navigable waterways, a permit to remove materials from below the ordinary high water mark of navigable waterways, and a wetland water quality certification to discharge fill in wetlands listed in Table 1, for the purpose of constructing a 321 mile long, 42” diameter petroleum pipeline and 20” diluent return pipeline from Superior to Whitewater, Wisconsin.

PERMIT CONDITIONS

General Conditions

1. This permit is predicated on a worst-case analysis of impacts and thus the most protective measures practicable for each waterway and wetland crossing are prescribed. Changes to the prescribed crossing techniques may occur only if approved by the Department in writing as described in conditions below.
2. You shall hire Independent Environmental Monitors (IEM) approved by the Department.
3. You must supply a copy of this permit to every contractor associated with this project.
4. You must post a copy of this permit at a conspicuous location on the project web site for at least five days prior to construction, and remaining at least five days after construction. You must also keep a copy of the permit and approved plan available at all times until the project is complete at all field offices and construction sites. All employees, consultants and contractors who are working on the project must be made aware of the permit and its conditions and all appropriate managers and supervisors in charge of or working on construction or compliance must be provided with copies of the permit.
5. You must submit a detailed Environmental Construction Plan (ECP) to the Department for written approval before work begins for each spread.

6. You shall submit no more than 15 ECPs. The ECP for each spread shall include, at a minimum:
 - A. Any proposed modifications to the construction activities by this approved permit.
 - B. Final construction plan including proposed method (including blasting locations), final sequencing plan, and narrative, detailing additional measures to avoid or minimize waterway or wetland impacts;
 - C. ECPs must be collated by county for distribution to Department field offices;
 - D. Alignment Sheets, showing workspace overlap with Arrowhead-Weston to minimize temporary workspace (TWS) impacts in wetlands;
 - E. Endangered resources management plan;
 - F. Final wetland restoration plan that addresses soil compaction, surface area and species diversity of wetlands disturbed by construction within the spread;
 - G. Invasive species management plan;
 - H. 10-year post-construction restoration and monitoring plan.
7. The Department will issue a decision to approve or require changes to the ECP within 60 days of receipt. Upon receipt of an ECP for any spread, the Department will meet with the applicants within 30 days to provide comments and work with the applicants to resolve any issues.
8. If the applicant needs to modify the approved ECP, the applicant must submit an updated ECP to the Department for review and written approval. The Department can modify permit conditions as needed based on the Department review and approval of the ECP.
9. You shall post an electronic version of all final plans and ECPs on the applicant's project website for public review on or before the hard copy documents are submitted to the Department. These plans shall remain on the website until the project is completed.
10. 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.
11. Site specific waterway and wetland restoration and management plans that are approved by the Department must be implemented by the permittee.

12. You must notify the Department Water Management Specialist, Benjamin Callan, at phone (608) 266-3524, before starting construction and again not more than 5 days after the project is complete.
13. You must complete construction of the project, including site stabilization, as described in this permit, on or before **December 31, 2009**. If you will not complete the project by this date, you must submit a written request for an extension prior to the expiration date of the permit. Your request must identify the requested extension date and the reason for the extension. A permit extension may be granted, for good cause, by the Department. You may not begin or continue construction after the original permit expiration date unless the Department grants a new permit or permit extension in writing.
14. The applicant and/or its contractor shall provide financial assurance mechanism(s) in a form satisfactory to the Department and in an amount sufficient to assure performance of restoration and monitoring requirements of this permit.
15. You are responsible for obtaining any federal, state or local permits or approvals that may be required for your project.
16. You are not authorized to do any work other than what is specifically described in your application and supplemental materials submitted during the application review, and as modified by the conditions of this permit and reflected in Table 1. Final Department approved plans and accompanying documents, as well as plans developed and approved pursuant to conditions of this permit, are a part of, and are conditions of, this permit. If you wish to alter the project or permit conditions, you must first obtain written approval of the Department. Permit conditions are based on information included in the "Application for Utility Waterway Crossing Permits" (including all site specific plans and maps, and Binders 1 through 4), dated May 2006 (rev. August 2006), and Table 1.
17. You must follow field protocols for activities in proximity to known landfills and any solid waste encountered shall be disposed of in accordance with NR 500, solid waste regulations.
18. All construction activities shall be conducted in accordance with the avoidance and minimization measures for rare species agreed to by Enbridge and the Department and/or included in the Incidental Take Authorizations.
19. You shall allow access to your project site during reasonable hours to any Department employee or state-authorized monitor who is investigating the project's construction, operation, maintenance or permit compliance.
20. The Department may modify or revoke this permit 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.

21. 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.
22. Nothing in the plans, or the financial assurance mechanism(s) as specified in conditions above, substitutes for or restricts the Department statutory authority to enforce its permits or Wisconsin laws and environmental regulations, including its authority to require the cessation of unlawful activities causing environmental harm.
23. No more than 30 days after a spread is completed, you must submit to the Department (through the state-authorized independent environmental monitor (IEM)), photographs of all waterway crossings, in .jpg format on a CD or DVD.
23. This permit does not authorize any future work within the existing Right-of-way (ROW), TWS, or extra workspace (EWS).
24. You assume all responsibility and liability for any direct or indirect damage caused or resulting from the installation and maintenance of these pipelines and hold the State of Wisconsin, and its employees, harmless.
25. Upon completion of pipeline installation, all wetland elevations and streambed elevations must be restored to pre-existing conditions.
26. Dewatering of excavated work areas shall be conducted in accordance with the standards of the applicable general permit under Wisconsin's Pollutant Discharge Elimination System, measures in Wisconsin's Construction Site Best Management Practices handbook, or any Department approved technical standards, unless specified by plans or procedure that are part of this permit or approved in site-specific plans or on-site changes pursuant to this permit.
27. At no time shall dewatering activities directly discharge to wetlands or waterways without prior effective water quality treatment. No discharged water shall exceed 40 mg/l of Total Suspended Solids (TSS). If water is cloudy or exceeds 40 mg/l of TSS, you shall immediately stop dewatering and contact the IEM to determine an adequate dewatering method.
28. You are required to have all necessary equipment available on site prior to commencing any waterway or wetland crossing.
29. The fish restrictions in Table 1 only apply to waterways that have standing or flowing water.
30. You are required to maintain the pipelines to ensure that they cannot cause deleterious impacts to waterways, wetlands, and groundwater.

General Erosion Control – *in addition to conditions above*

31. Construction shall be accomplished in such a manner as to minimize erosion and siltation into surface waters and as specified in plans and procedures that are part of or approved pursuant to this permit. All erosion control measures must meet or exceed the standards in the Wisconsin Construction Site Best Management Practices Handbook, or any Department approved technical standards.
32. Any area where topsoil is exposed during construction shall be stabilized to prevent soil from being eroded and washed into a sensitive resource.
33. You must maintain a log of the erosion control inspections, repairs made, and rain events. This must be made available to any IEM and Department personnel upon request.
34. You may not remove vegetative cover earlier than authorized under the applicable ECP or on-site changes approved by the Department or the state-authorized monitor pursuant to this permit.
35. The removal of vegetative cover and exposure of bare ground must be restricted to the minimum amount necessary for construction. Areas where soil is exposed must be protected from erosion by seeding and mulching, sodding, diversion of surface runoff, installation of straw bales or silt screens, construction of settling basins, or similar methods as soon as possible after removal of the original ground cover as described in the Wisconsin Construction Site Handbook (BMP's) or any Department approved technical standards, or site-specific erosion control plan approved by the Department.
36. 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.
37. You must not deposit or store any of the dredged or graded materials in any wetland, below the ordinary high water mark, or in the floodway of any waterway unless specifically authorized by this permit or plans or on-site changes approved pursuant to this permit.
38. You must minimize the need to operate any construction equipment on the bed (below the ordinary high water mark) of any waterway.
39. Appropriate erosion control measures must be in-place and effective during every phase of this project.
40. Erosion control measures must be in place at the end of each working day.

41. 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.
42. No portion of the bank or upland which is altered or disturbed, and as a result unstable, may remain unprotected for more than 7 days.
43. Site stabilization between October 1 and April 15 requires sodding or seeding and mulching (with a non-toxic tackifier).
44. The bank slopes must be no steeper than 2-feet horizontal to 1-foot vertical after construction.
45. After the site is 80% stabilized, or prior to at the direction of the Department, all temporary erosion control measures must be removed and disposed of properly. Any remaining temporary erosion control devices after this point constitute littering and may be enforced as determined necessary by the department.

Temporary Bridge Conditions – *in addition to conditions above*

46. This permit authorizes the placement of temporary bridges (TB) and is not an approval for channel relocation.
47. This permit does not authorize the removal of any material below the ordinary high water mark for the placement of temporary bridges (TB).
48. You must inspect the bridge openings periodically for debris, and following any rainfall exceeding 1/2 inch, and must remove any restriction of flow. Any debris must be deposited in an upland site and out of any floodplain.
49. You must securely anchor each bridge with cables or some other Department-approved method to prevent it from being transported downstream during flood conditions as specified in plans that are a part of this permit.
50. No approach fill shall be placed in the floodway or below the ordinary high water mark (OHWM) of any navigable waterway. If an approach must be located in the floodway, it shall be open ramp style construction only.
51. All bridges must be removed in compliance with timing restrictions, and no later than 7 days after the necessary waterway crossing activities have been completed.
52. All bridges across navigable waterways shall maintain a clearance of not less than 5 feet. (See s. NR320.04, Wis. Adm. Code, for other options. Requests for waiver must be submitted in a package organized by county).

53. All clear span bridges shall completely span the waterway from top of channel to top of channel with no support pilings in the waterway.
54. Construction or placement of all TBs shall minimize the removal of trees, shrubs and other shoreline vegetation.

Dredging Conditions – *in addition to conditions above*

55. 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.
56. The stream bed backfill material shall be consistent with the pre-existing and adjacent bed material. If the stream bed in the crossing location has a unique substrate feature, it shall be replaced (i.e. cobbles, boulders, riffles, etc).
57. You shall provide the Department with documentation that streambed elevations and slope have not changed due to the construction of this project.
58. All dewatering activities, including dredging, must comply with Department Technical Standard 1061 (<http://www.dnr.state.wi.us/org/water/wm/nps/stormwater/techstds.htm#Construction>).
59. If the water discharged from the dredge site exceeds the limits identified above, you shall submit a stream restoration plan that must be authorized by the Department in writing.
60. You shall not dredge deeper than 10 feet below pre-existing streambed elevation in any waterway unless approved by the IEM.
61. You shall not place any dredged material below the OHWM or in any wetland unless specifically authorized in the approved plans, the ECP or by the IEM.
62. You are not allowed to do construction during periods of high water levels if it could overwhelm the proposed crossing technique.
63. For each waterway crossing, the contractor shall have appropriate equipment available to handle high flow conditions.
64. Construction of the pipelines shall minimize the removal of trees, shrubs and other shoreline vegetation above the OHWM.
65. Spills of hazardous or toxic materials that pose a threat to human health, safety or the environment must be cleaned up to the extent practicable. All spills should be

reported immediately to the DNR using the 24-hour toll free hot line, **1-800-943-0003**. For more information, please visit the spills program web page: www.dnr.state.wi.us/org/aw/rr/spills/index.htm.

66. Any proposed changes to approved waterway crossing method shall be approved by the IEM with Department concurrence.
67. If dry crossing is prescribed in Table 1 and the waterway has no flow during the entire crossing process, the IEM may authorize wet trench.

Dry Trench Conditions - *in addition to conditions above*

68. You must inspect and maintain the dam, pumps, and flumes daily for debris, and within 12 hours following any rainfall exceeding ½ inch.
69. You shall remove any restriction of flow affecting the stream bypass system. Any debris must be deposited in an upland site and out of any floodplain.
70. Pump intakes shall be placed to avoid the disturbance and removal of bed material.
71. Pump discharges shall have energy dissipation devices installed to prevent disturbance and scour of bed material.
72. Flume discharges shall be designed, installed and maintained to prevent bed disturbance and scour.
73. Quantity and placement of flumes must minimize the disturbance and scour of bed material.
74. No earthen coffer dams are allowed.
75. You must ensure that all machinery and equipment used for the project has been adequately de-contaminated for aquatic invasives prior to being used in non-infested waters of the state. All equipment that comes in contact with infested waters including, but not limited to, tracked vehicles, barges, boats, turbidity curtain, aquabarrier bladders, sheet pile, and pumps must be thoroughly disinfected.
76. You shall remove all coffer dams gradually, in such a way that minimizes the release of sediment and other downstream impacts.

Wet Trench Conditions - *in addition to conditions above*

77. Your justification in the ECP for wet trench shall include information about the characteristics of substrate to depth of trench, flow and potential impacts to habitat.

Wetland Conditions – *in addition to conditions above*

78. No wetlands may be disturbed other than where specifically authorized in the ECP or on-site changes pursuant to this permit.
79. The Temporary Work Space (TWS) for all wetlands shall be no more than 70 feet. The IEM may grant a waiver to use more if needed upon consultation and guidance from the Department.
80. Justification to modify approved wetland impacts must include, but is not limited to, characterizations of soil, hydrology, construction alternatives, and construction logistics.
81. All wetland boundaries will be staked in the field prior to clearing activities.
82. Unless conditions are frozen or stable (rutting < 6 inches), construction equipment passage in wetlands shall be limited and must travel on construction mats.
83. Mats placed in wetlands shall not be removed until final cleanup is complete.
84. For wetlands utilizing the push-pull technique, the TWS shall be no more than 50 feet, unless authorized by the IEM.
85. To the greatest extent practicable, trench spoils shall be placed over the existing pipelines to minimize TWS wetland impacts.
86. Any EWS in wetlands must be approved by the Department or state-authorized IEM.
87. You shall submit the final acreage of wetland impacts as displayed in Table 1.
88. This permit does not authorize placement of fill material in wetlands over existing pipelines that are exposed or have inadequate cover.

Wooded Wetland Conditions - *in addition to conditions above*

89. Wooded wetlands may not be cleared more than 70 feet without Department concurrence.
90. Any proposed TWS clearing beyond 50 feet in wooded wetlands must be authorized by the IEM prior to cutting.

91. Except for those dominated by Tamarack (*Larix laricina*) or Swamp White Oak (*Quercus bicolor*), deciduous wooded wetlands in the TWS shall be allowed to grow back by stump sprouting which means no stump grinding, cutting below grade, or herbicide treatment.
92. You shall plant the TWS in wetlands that contain Swamp White Oak at a rate two times the current density.
93. Black spruce (*Picea mariana*) and tamarack wetlands in the TWS shall be planted with their respective seedlings (900/acre). Any other coniferous wetland shall be planted with both black spruce and tamarack seedlings (900/acre).

Restoration and Monitoring - *in addition to conditions above*

94. All wetlands must be restored to pre-construction topographic elevations and flow regimes, with no mounding, unless specifically authorized by site-specific plans or on-site changes pursuant to this permit for the purposes of restoring pre-construction wetland functions.
95. You shall monitor and address all areas where stabilization techniques have been implemented after the first 3 months within the first growing season.
96. The restoration plan must address stabilization and revegetation of streambanks, wetlands, and uplands.
97. Final site stabilization in wetlands shall include an approved seed mix, and requires the re-establishment of vegetation at least 80 percent of the type, density, and distribution of the vegetation in adjacent wetland areas that were not disturbed during construction.
98. The monitoring plan outlined in Condition #6H shall include post-construction waterway and wetland monitoring. After completion of the project, all wetlands shall be monitored within 3 months after the first growing season to ensure that the vegetation in it has been properly stabilized. The monitoring plan shall propose specific waterways and wetlands requiring monitoring beyond the first year after construction. At a minimum 50% of the wetland crossings shall be monitored annually for 3 years. Several non-wooded wetlands shall be monitored for 5 years post construction. Several specific wooded wetland sites must have annual monitoring for at least 10 years. The monitoring plan shall outline the parameters to be measured each year of the plan and a clear timeline for annual monitoring report submittals to the Department.
99. You must submit a video recorded flyover (on CD or DVD) 1 year post-construction and again two years post-construction to document the status of restoration activities. Follow-up re-vegetation procedures must be developed and implemented in any problem areas.

Riprap

100. The Department cannot consider placement of new riprap unless the property owner is the co-applicant for a permit amendment.
101. Existing riprap banks must be restored to pre-construction conditions.

IEM Responsibilities - *in addition to conditions above*

102. IEM shall confirm wetland boundaries after they are marked by Enbridge.
103. IEM shall approve wetland clearing widths as described in conditions above prior to clearing activities.

Other Conditions – *in addition to conditions above*

104. You must ensure that all machinery and equipment used for the project has been adequately de-contaminated for invasive species prior to being used in non-infested areas of the state.
105. You are only authorized to utilize 30 feet of TWS in wetlands that are part of the Lac Courte Oreilles (LCO) re-route, unless authorized by the IEM.
106. This permit does not authorize any harvesting, collection, or possession of any wild rice plants.
107. IEM must approve construction technique and access at wetland WO-W3 (MP 167.6) prior to any work at this location.
108. All construction waste materials shall be removed from wetlands in a timely manner.
109. Spills which are below the following threshold quantities have to be cleaned up but do not have to be reported unless human health, safety or the environment is threatened. Spill reporting thresholds are:
 - Petroleum reportable quantities:
 - A. Lightweight petroleum (gasoline, kerosene, aviation fuel) - one gallon or more released must be reported.
 - B. Heavyweight petroleum (fuel oil, diesel, waste oil, hydraulic oil, mineral oil, etc) - five gallons or more released must be reported.
 - Agricultural Chemical reportable quantities:
 - A. 250 pounds or more of dry fertilizer is released
 - B. 25 gallons or more of liquid fertilizer is released

C. any pesticide which, when diluted per label instructions, would cover one acre or more for field application.

110. Pipeline easements must not include language that prevents waterway and wetland restoration and management activities as required by this permit.
111. You must notify the IEM within 15 minutes of any frac-out during directional drilling or directional boring.
112. You shall remove the existing culvert on Lynn Creek in Wood County.
113. You shall develop and submit a plan to restore the south bank of Big Wiergor Creek (RU-S1).
114. You are required to collect data on no fewer than 12 perennial streams for pre-construction, construction, and post-construction water quality monitoring (including at least: flow, TSS, BOD, conductivity). The streams selected must include a variety of sizes, substrates, flow regimes, and watershed types.
115. You shall provide sub-surface soil profiles along the route for every waterway and wetland.

FINDINGS OF FACT

1. Enbridge Energy, LP, a subsidiary Enbridge Energy Partners, LP, an affiliate of Enbridge Inc., (“Enbridge”) has filed an application for permits to place temporary clear span bridges across waterways, temporary bridges with supports or culverts in waterways, to grade in excess of 10,000 square feet on the bank of waterways, to dredge in waterways, to place riprap below the ordinary high water mark, to authorize equipment to drive on the bed of waterways, and to discharge fill in wetlands listed in Table 1 for the purpose of constructing a 42” diameter liquid petroleum pipeline, and a 20” diluent return pipeline.
2. The proposed project is to construct approximately 321 miles of new 42” diameter liquid petroleum pipeline and new 20” diluent return pipeline through Wisconsin as part of the “Southern Access Expansion Program – Stage 1” (“Southern Access”). The Wisconsin portion of the project will start at the terminal facility in Superior, and run in a generally southeast direction approximately 321 miles to the Delavan pump station near Whitewater. The line passes through part of Douglas, Washburn, Sawyer, Rusk, Chippewa, Taylor, Clark, Marathon, Wood, Adams, Marquette, Columbia, Dane, Jefferson, and Rock Counties.
3. Enbridge currently owns and operates two existing liquid petroleum pipelines within a permanent 80’ easement. The “6A” line is a 34” diameter pipe placed in 1968, and the “Line 14” pipe is a 24” diameter pipe placed in 1998. The two new pipelines will be placed within the existing 80’ right-of-way (ROW).

4. The fundamental project purpose stated by the applicant is to provide increased capacity on the Enbridge system to transport crude petroleum to markets in the United States from the growing crude oil production in Canada, and in turn, help satisfy increasing demand for refined petroleum products in the Midwestern United States and lessen reliance on overseas sources.
5. The Department provided Enbridge with information relative to Department authorities, the need to avoid or minimize waterway and wetland impacts, endangered and threatened species and habitats, and other areas of concern prior to the submittal of their application.
6. The Department informed Enbridge that additional permits or approvals may be necessary from the Army Corps of Engineers (ACOE), the National Park Service (NPS), and local units of government.
7. The Department had numerous pre-application meetings or discussions with Enbridge. ,
8. On May 30, 2006, the Department received application materials (under cover letter dated May 26, 2006), relative to a Chapter 30 permit and wetland water quality certification.
9. The Department issued a letter dated June 30, 2006, that the application appeared to be complete for purposes of initial review. This letter also indicated that Enbridge would be required to submit additional information before the Department could issue a permit decision.
10. The Department issued a letter, including a public notice, to Enbridge on September 5, 2006. The notice indicated that the Department determined the application complete, pursuant to s. 30.208, Wis. Stats., and chs. NR 103, 299, 300, 310, 320, and 345, Wis. Adm. Code. By requirement of the Department, the applicants published the notice as a Class 1 Notice in 19 local newspapers, and mailed the notice to more than 200 individual property owners.
11. The proposed wetland compensatory mitigation plan is intended to address federal requirements. The Department has not considered the proposed wetland mitigation under the requirements of NR103 and NR350. The Department has acted as a consulting agency to the ACOE on its review of the proposed wetland compensation mitigation plan.
12. The September 5, 2006, Public Notice included language regarding a tentative decision on WEPA compliance pursuant to s. 1.11, Wis. Stats., (WEPA) and ch. NR 150, Wis. Admin. Code.

13. Pursuant to s. 30.208, Wis. Stats., the Department scheduled three public informational hearings to receive public comment on the application. The hearings were held on Tuesday, September 19, 2006, Wednesday, September 20, 2006, and Thursday, September 21, 2006, at the Hayward Veterans Community Center, the University of Wisconsin – Marshfield/Wood County, and the Best Western Hotel in Portage, respectively.
14. To avoid disruption to fish species and their habitat, the Department has considered limiting construction timeframes or methods during specific time periods listed in Table 1.
15. On November 22, 2006, Ben Callan contacted Ben Bloemke (NRG) regarding use of aquatic equipment for water appropriation from the Wisconsin River and Lake Arrowhead. Callan informed Bloemke that machinery and equipment exposed to these waters requires zebra mussel decontamination prior to leaving the site or using in other waters.
16. In an email dated April 12, 2006, Enbridge has agreed to remove the existing culvert on Lynn Creek in Wood County.
17. Impacts to aquatic resources and wetlands are considered to be temporary, and the resources are expected to fully recover after pipeline installation.
18. The Department has reviewed and considered information presented in the application materials including: air photos of existing ROW and adjacent lands, proposed waterway crossing locations, wetland fill (stockpile and backfill) locations, TWS impacts associated with clearing and construction, EWS impacts associated with clearing and construction; DVD of a helicopter flight of the entire line route; and digital photos of specific access routes.
19. Department staff toured the entire line using the nearest legal access points to observe conditions. Department staff also consulted with Department resource staff, federal regulators, and pipeline construction and inspection experts.
20. This project will include 242 waterway crossings. Waterway crossings include placement of equipment bridges, dredging, grading on the bank, placement of the pipelines below the ordinary high water mark, backfilling to the pre-construction elevations with appropriate substrate, and bank restoration.
21. Pipeline construction across waterways can be completed by horizontal directional drill (HDD), directional bore, open-cut dry trench, and open-cut wet trench.
22. The approval of dredging for waterway crossings is limited to waterways within the project right-of-way that cannot be avoided by horizontal directional drill, directional bore, or jack and bore.

23. Work below the ordinary high water mark and the placement of temporary bridges (TB's) is limited to the timeframes established in NR320 and NR345, unless otherwise approved by the Department's local fisheries biologists.
24. In general, impacts to water quality and aquatic habitat are minimized if the construction zone is isolated from the waterway by HDD, directional bore, or dry trenching.
25. The benefits to water quality of silt curtains use during wet trench construction is limited in waterways where flow is 1 foot per second or faster.
26. Clear span bridges are expected to have less impact on water quality and stream flow patterns than the use of bridges with supports, culverts or fords.
27. The project will not result in the direct filling of wetlands. Total wetland impacts include 1,254 acres of temporary disturbance.
28. The project will involve no more than 525 acres of wetlands impacts for the cutting of trees and woody vegetation in forested wetlands (including clearing of approximately 260 acres of forested wetlands along new excavation), excavation and stockpiling of wetland soils, placement of a 42-inch diameter petroleum pipeline and a 20-inch diameter diluent pipeline, the backfilling of excavated soil over the pipelines, and impacts to wetland areas associated with construction equipment access.
29. Based on Department review of the application materials, modifications have been made in the construction footprint, construction techniques and restoration measures to avoid or minimize wetland impacts.
30. If constructed according to the permit, no wetlands will be converted to uplands. The impacts are of a temporary nature and the only fill will result from the pipes being placed in wetlands. The top of each pipe will be placed a minimum of 3 feet below ground surface.
31. Based on the information provided by the applicants and the conditions of this permit, the Department has determined that there are not practicable alternatives to the wetland impacts.
32. The project will impact 62 wetland areas associated with areas of special natural resource interest pursuant to s. NR 103.04. The Department considered the potential adverse impacts to these wetlands and determined that the impacts have been avoided and minimized to the greatest extent practicable if the provisions of this permit are met.
33. Pursuant to s. NR 103.08, Wis. Adm. Code, the proposed project, if constructed in accordance with this permit, will not result in significant adverse impacts to wetland

functional values, significant adverse impacts to water quality or other significant adverse environmental consequences.

32. 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.
33. The proposed project, if constructed in accordance with this permit and protection measures required and recommended by the Department's Office of Energy and Bureau of Endangered Resources, will avoid or minimize impacts to endangered resources. Specifically, for state-listed threatened or endangered animals, where avoidance measures can be successfully implemented an incidental take authorization will not be required pursuant to Wisconsin's Endangered Species Law (29.604, Wis. Stats.). For state-listed threatened or endangered dragonflies, where avoidance measures cannot be successfully implemented, an incidental take authorization has been issued with measures that ensure incidental take has been minimized. Similarly, for other state-listed threatened or endangered animals where avoidance measures cannot be successfully implemented, the appropriate course of action will be pursued under Wisconsin's Endangered Species Law.
34. The Department developed an Environmental Assessment (EA) that provided a description of the proposed project, described the existing environment, evaluated alternatives, and described the socio-economic and environmental impacts expected from the various alternatives. After release of the EA on November 1, 2006, the Department received comments and responded to those comments in a document dated November 27, 2006, including an amended EA.
35. It is the final decision of the Department that preparation of an Environmental Impact Statement (EIS) is not required and that WEPA compliance has been completed pursuant to s. 1.11, Wis. Stats., (WEPA) and ch. NR 150, Wis. Admin. Code.
36. The Department and the applicants have completed all procedural requirements and the project as permitted will comply with all applicable requirements of Sections 1.11, 182.017, 30.12, 30.123, 30.19, 30.20, 281.15, 281.36, Wis. Stats., and Chapters NR 102, 103, 115, 116, 117, 150, 299, 320, 341, and 345 of the Wis. Adm. Code.
37. The attached Table 1 prescribes construction requirements for each waterway and wetland crossing.

CONCLUSIONS OF LAW

1. The Department and the applicant have completed all procedural requirements and the project as permitted will comply with all applicable requirements of Sections 1.11, 182.017, 30.12, 30.123, 30.19, 30.20, 281.15, 281.36, Wis. Stats., and Chapters NR 102, 103, 115, 116, 117, 150, 299, 320, 341, and 345 of the Wis. Adm. Code.

2. 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.

To request a contested case hearing pursuant to section 30.209, Wis. Stats., or section 227.42, 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.

A request for contested case hearing for the wetland water quality certification decision must follow the form prescribed in section NR 2.05(5), Wis. Adm. Code, and must include the following information:

1. A description of the Department's action or inaction which is the basis for the request;
2. The substantial interest of the petitioner which is injured in fact or threatened with injury by the Department's action or inaction;
3. Evidence of legislative intent that this interest is not to be protected;
4. An explanation of how the injury to the petitioner is different in kind or degree from the injury to the general public caused by the Department's action or inaction;
5. That there is a dispute of material fact, and what the disputed facts are.

To request a contested case hearing for the Chapter 30 decision under Section 30.209, Stats., the petition shall describe the petitioner's objection to the permit or contract and shall contain all of the following:

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

If you are seeking a stay under the provisions of Subsection 30.209(1m)(c), Wis. Stats., you must provide information in your petition to showing that a stay is necessary to prevent significant adverse impacts or irreversible harm to the environment.

If a party other than the applicant is requesting a hearing under Section 30.209, Wis. Stats., that party shall provide a copy of the petition to the applicant at the same time the petition is filed with the department. See subsection 30.209 (1m)(e), Wis. Stats.

You also have the right to file a petition for judicial review as provided in section 227.53, Wis. Stats. The petition must be filed within 30 days after the date of this decision. The Wisconsin Department of Natural Resources must be named as respondent in the petition for judicial review.

This notice is for the purpose of ensuring compliance with section 227.48 (2), Wis. Stats.

Dated at Madison, Wisconsin on November 27, 2006.

STATE OF WISCONSIN DEPARTMENT OF NATURAL RESOURCES

For the Secretary

By _____
Benjamin Callan
Water Management Specialist

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It is being held to represent Table 1 which lists each waterway and wetland with specific locations and construction method prescriptions. The table is 56 pages long, and therefore we chose to not include it in the mass mailing. If you wish to receive a copy of the table, contact one of the Office of Energy staff listed below. The table is separated by county, so please let us know if you are interested in entire table or a specific county.

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