



State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Jim Doyle, Governor
Matthew J. Frank, Secretary
Gloria L. McCutcheon, Regional Director

Southeast Region Headquarters
2300 N. Dr. Martin Luther King, Jr. Drive
Milwaukee, Wisconsin 53212-3128
FAX 414-263-8606
Telephone 414-263-8500
TTY Access via relay - 711

November 30, 2010

IP-SE-2010-41-04863

Bishop's Creek Community Development Corporation
C/O Daren Daniels
4759 32nd Street
Milwaukee, WI 53209

Dear Mr. Daniels:

We have reviewed your application to remove materials from the bed of Lincoln Creek, located in the City of Milwaukee, Milwaukee County. You will be pleased to know your application is approved with a few limitations.

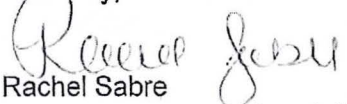
I am attaching a copy of your permit which lists the conditions which must be followed. A copy of the permit must be posted for reference at the project site. Please read your permit conditions carefully so that you are fully aware of what is expected of you.

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 (414) 263-8601.

Sincerely,


Rachel Sabre
Water Management Specialist

cc: U.S. Army Corps of Engineers, via email
Milwaukee County Zoning Administrator
City of Milwaukee
Giles Engineering Associates, Inc.: Kevin Bugel, via email
Quarles & Grady, George J. Marek, via email
Genesis Construction Management, via email
MMSD: Dave Fowler, via email
WDNR: Susan Eichelkraut, John Hnat, Jackie Fratrack, Deb Roszak, Saji Villoth, Sharon Gayan, Darsi Foss, Melissa Enoch, Jim Schmidt, Jim McNelly, Frank Schultz, via email

**STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES
Dredging Permit
IP-SE-2010-41-04863**

Bishops Creek Community Development Corporation is hereby granted under Section 30.20(2), Wisconsin Statutes, to remove materials from the bed of Lincoln Creek, located in the City of Milwaukee, Milwaukee County, also described as the in the Northwest $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ of Section 1, Township 7 North, Range 21 East, subject to the following conditions:

Permit Conditions

1. You must notify **Rachel Sabre** at phone **(414) 263-8601** 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 **November 30, 2011**. 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.
3. This permit does not authorize any work other than what you specifically describe in your application and plans *prepared by Giles Engineering Associates, Inc. by Kevin Bugel and P.E. stamped and signed by Tom Gilgenbach dated revised November 30, 2010, 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. You are responsible for obtaining any permit or approval that may be required for your project by local zoning ordinances and by the U.S. Army Corps of Engineers before starting your project.
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 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 completion of 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. **You shall hold a pre-construction meeting in which the applicants, consultants, all contractors, the City of Milwaukee, Milwaukee Metropolitan Sewerage District and Department Representatives are invited to attend. You shall notify the Department a minimum of 3 working days prior to the date of the meeting.**
12. You must supply a copy of this permit to every contractor associated with this project. You shall also supply a copy to each worker directly working removal of material on the bed of Lincoln Creek.
13. All equipment used for the project including but not limited to tracked vehicles, barges, boats, silt or turbidity curtain, 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 should 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 should not be used on other non-infested waters.

- **Inspect and remove aquatic plants, animals, and mud from your equipment.**
- **Drain all water from your equipment that comes in contact with infested waters, including but not limited to tracked vehicles, barges, boats, silt or turbidity curtain, hoses, sheet pile and pumps**
- **Dispose of aquatic plants, animals in the trash. Never release or transfer aquatic plants, animals or water from one waterbody to another.**
- **Wash your equipment with hot (>104° F) and/or high pressure water OR allow your equipment to Dry thoroughly for 5 days.**

Erosion Control Permit Conditions

14. All work shall be accomplished in such a manner as to minimize erosion and siltation into surface waters and as specified in the plans and procedures that are part of or approved pursuant to this permit. All erosion control measures must meet or exceed the approved Stormwater Construction Technical Standards found on the Department's Runoff Management Website
<http://dnr.wi.gov/org/water/wm/nps/stormwater/techstds.htm#Construction> developed by the Department under Wis. Admin. Code Ch. NR 151.31.
15. 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.

16. Appropriate erosion control measures must be in-place and effective during every phase of this project. Erosion control measures must be in place at the end of each working day.
17. Erosion control methods such as tracking pads shall be inspected **weekly** and within 24 hours after every precipitation event that produces ½ inch of rain or more during a 24-hour period to ensure they are functioning correctly.

Dredging Permit Conditions

18. You are only allowed to dredge as shown on approved Giles Engineer Associates, Inc. application and plans. A maximum of 300 cubic yards of dredging may be conducted.
19. Dredging is allowed only by mechanical means. No hydraulic dredging is allowed.
20. No machinery can be operated on the bed of the Lincoln Creek, beyond the backhoe bucket, during the final removal of the material on the bed of Lincoln Creek.
21. Care should be taken to prevent any further contamination from the Bishop's Creek site from entering Lincoln Creek via the Temporary #3 Stone Road and Ramp on equipment.
22. All materials removed from the bed of Lincoln Creek shall be stored on Lot 3 as approved in the Giles Engineering Associates, Inc. application and plans for implementation of the proposed segregation, testing and final disposal of the removed material.
23. Any wet material be removed from Lincoln Creek must be placed into plastic-lined water tight containers for testing and final disposal in accordance with the approved Giles Engineering Associates, Inc. application and plans. No discharge of water from the material can occur into waters of the state without prior authorization from the Department. Please contact Jackie Fratrack at 262-574-2135 for questions about that permitting process.
24. Care must be taken to minimize spillage from backhoe buckets to transport and disposal trucks. All trucks leaving the site must be covered to prevent contaminants from spilling from the trucks in route to disposal facilities.
25. You must maintain a log of the disposal of contaminated materials, trucks hauling materials, and the amount of contaminated materials disposed of in each truck. This must be made available to Department personal upon request and must remain on the project site at all times work is being performed.
26. The contractor shall report any spills of hazardous substances or any transported materials to the Department's project coordinator John Hnat at 414-263-8644. In the event of any such spill or transport failure, you must follow all the requirements of Chapter NR 706 of the Wisconsin Administrative Code.
27. The contractor must contact the Rachel Sabre at 414-263-8601 immediately if at any time flood waters inundate the dredging area.
28. For work under this permit you shall comply with all other state regulations including, but not limited to, Wisconsin Admin. Code NR 116 floodplain zoning, NR 216 Stormwater

*Scott Ferguson
1/20*

Management, Solid Waste NR 500-600 series and NR 700 series. **This permit has not been reviewed for compliance with these regulations, this is your responsibility.**

29. Turbidity barriers are required to be installed and shall be inspected daily and repairs made immediately. Turbidity barriers will be installed in the waterway around proposed dredging area. The turbidity barrier shall remain in place until the water inside the barrier and in the river outside the barrier is visually the same.

FINDINGS OF FACT

1. Daren Daniels of Bishops Creek Community Development Corporation has filed an application for to remove materials from the bed of Lincoln Creek, located in the City of Milwaukee, Milwaukee County, also described as Northwest ¼ of the Northeast ¼ of Section 1 Township 7 North Range 21 East.
2. The project will consist of removal of 300 cubic yards of material from the bed of Lincoln Creek that accumulated from the July 22, 2010 storm events adjacent to the Milwaukee Metropolitan Sewerage District and Bishop's Creek sites. Materials removed on the bed of Lincoln Creek will be removed and temporarily stored on Lot 3 of the Bishop's Creek site for implementation of the approved plans for segregation, testing and final disposal.
3. The Department has completed an investigation of the project site and has evaluated the project as described in the application and plans. Lincoln Creek is a navigable waterway and many activities affecting the bed or banks of this navigable waterway are subject to the requirements of Chapter 30, Wisconsin Statutes. Lincoln Creek is primarily an urban stream at this location traversing through the City of Glendale, and City of Milwaukee in Milwaukee County and converging with the Milwaukee River before finally entering Lake Michigan. The land use contributing to the watershed is a mix of residential and other urban uses. This waterway is subject to rapid water level rises during rainstorms. Wildlife such as small mammals, ducks, geese, resident and migratory songbirds use the stream habitat and travel corridor. Most of the tributary streams in the Milwaukee County portion of the Southern Milwaukee River watershed are capable of supporting populations of more tolerant fish species. Non-native species such as rainbow trout, coho and chinook salmon migrate from Lake Michigan into the Milwaukee River during their seasonal spawning runs. The section of the river in the Milwaukee sub-watershed supports valuable sport fish populations and an intolerant to very tolerant forage fish community. A remediation project at the Blatz Pavilion has been completed and a larger scale remediation project on Lincoln Creek and the Lagoon area of Milwaukee River is the design and permitting stage downstream of this site.
4. 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.
5. No wetlands will be impacted if implemented in accordance with the approved plans.
6. 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, 30.20(2), Wisconsin Statutes and Chapters NR 102, 103, 115, 116, 117, 150, 299, 300, 310 and 345 of the Wisconsin Administrative Code.

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. 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. 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.

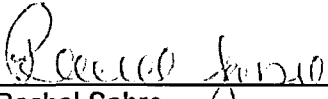
The filing of a request for a contested case hearing does not extend the 30 day period for filing a petition for judicial review.

A request for contested case hearing must meet the requirements of section 30.209, Wis. Stats., and section NR 310.18, 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; and,
2. A description of the objection to the decision that is sufficiently specific to allow the department to determine which provisions of Chapter 30, Wis. Stats., may be violated; and
3. A description of the facts supporting the petition that is sufficiently specific to determine how you believe the project may result in a violation of Chapter 30, Wis. Stats.; and,
4. Your commitment to appear at the contested case hearing, if one is granted, and present information supporting your objection.
5. 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 Southeast Region Headquarters, Wisconsin on November 30, 2010.

STATE OF WISCONSIN DEPARTMENT OF NATURAL RESOURCES
For the Secretary

By 
Rachel Sabre
Water Management Specialist