

2011 Jr1 DRAFTING REQUEST

Assembly Amendment (AA-AB10)

Received: 01/26/2011

Received By: mglass

Wanted: As time permits

Companion to LRB:

For: Louis Molepske Jr (608) 267-9649

By/Representing: Abby Van de Bogert

May Contact:

Drafter: mglass

Subject: Nat. Res. - wet/shore/flood

Addl. Drafters:

Extra Copies:

Submit via email: YES

Requester's email: Rep.Molepske@legis.wisconsin.gov

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Conditions for wetland water quality certification; Brown county

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?							
/1	mglass 01/26/2011	kfollett 01/26/2011	phenry 01/26/2011	_____	mbarman 01/26/2011	mbarman 01/26/2011	

FE Sent For:

<END>

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/?	mglass	1/26 mf	y pH	1/26 pH			

FE Sent For:

<END>

Gibson-Glass, Mary

From: Van de Bogert, Abigail
Sent: Wednesday, January 26, 2011 1:19 PM
To: Gibson-Glass, Mary
Subject: Amendments to SS AB 10 from Rep. Molepske

Attachments: SSAB10_Bergstrom_Wetland_Permit.pdf

Hi Mary,

[REDACTED]

(1) Amend SS AB 10 to include requirements that the developer be subject to the conditions set forth by the WI DNR in the State Water Quality Certification Docket # IP-NE-2010-5-01621, dated July 15, 2010 (attached). There are eight conditions listed under the heading, "CONDITIONS."

(2) Amend SS AB 10 to include that this land is still legally considered wetland and to "make sure there is a [REDACTED]"

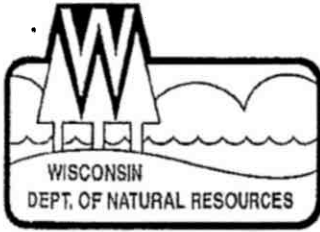
Of these, (1) is more important. Molepske wants to make sure that the company is still subject to the [REDACTED] that [REDACTED]

Thank you, Mary!



SSAB10_Bergstrom_Wetland_Permit..

Abby Van de Bogert
Office of Rep. Louis Molepske, Jr.
22 W, State Capitol
Madison, WI 53708
(608) 267-9649



State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Jim Doyle, Governor
Matthew J. Frank, Secretary
Ronald W. Kazmierczak, Regional Director

Northeast Region Headquarters
2984 Shawano Ave., P.O. Box 10448
Green Bay, Wisconsin 54307-0448
Telephone 920-662-5100
FAX 920-662-5413
TTY Access via relay - 711

July 15, 2010

IP-NE-2010-5-01621

Bergstrom Corporation
John Bergstrom
150 N. Green Bay Road
Neenah, WI 54956

CORRECTED VERSION
Replaces July 14, 2010 Version

Dear Mr. Bergstrom:

The Department has completed review of your proposal for a commercial development and wetland enhancement project in the Village of Ashwaubenon, Brown County. Enclosed is a State Water Quality Certification, which approves your project and lists the conditions which must be followed. Please read your certification carefully so that you are fully aware of what is expected of you.

As a condition of the State Water Quality Certification, state law requires that you:

- Publish the enclosed certification as a Class I Notice, at your expense, in the Green Bay Press Gazette.
- Obtain, and send to me at the above address, an affidavit of publication from the newspaper to provide proof of publication.

This Water Quality Certification decision becomes final 30 days after the date of publication, unless an objection is filed and a hearing is requested. We will contact you only if a hearing is requested.

If you have any questions, please call me at (608) 266-1902.

Sincerely,

Bruce Baker
Water Division Administrator

cc: Ginny Plumeau, Cedarburg Science
Heather Patti, RA Smith
Jon Brand, DNR-Green Bay
Cheryl Bougie, DNR-Green Bay
Linda Kurtz, U.S. Army Corps of Engineers
Steve Birr, Village of Ashwaubenon

Notice of Water Quality Certification
Docket # IP-NE-2010-5-01621

John Bergstrom, 150 N. Green Bay Road, Neenah, WI 54956, has filed an application with the Wisconsin Department of Natural Resources for water quality certification under Section 281.36, Wisconsin Statutes, Section 281.15, Wisconsin Statutes, and Chapter NR 299, Wisconsin Administrative Code.

The project is located in the in the NW1/4 of Section 33, Township 24 North, Range 20 East, Village of Ashwaubenon, Brown County. The property is a 20.83 acre parcel located immediately south of Lombardi Avenue, between US Highway 41 and Argonne Street. The property consists of 11.49 acres of upland, and 9.34 acres of wetland. The wetlands are located within a Special Wetland Inventory Study area.

The applicant proposed a project which consists of commercial development and wetland enhancement. The proposed commercial development includes construction of an outdoor recreational sports retail building, parking area, access roads and stormwater bioretention facilities. The original application proposed 2.51 acres of wetland fill in conjunction with the commercial development; the modified project plan involves a maximum of 1.65 acres of wetland fill. The proposed wetland enhancement includes management/removal of invasive plant species, maintenance of wetland hydrology, construction of walking paths and wetland educational signs, and deed restrictions for the remaining approximately 7.69 acres of wetland on the subject property. The applicant also proposes to create or restore 4 acres of wetland on a separate property in the vicinity.

The Department has evaluated this proposal and determined that this activity will meet the standards found in Section NR 299.04, Wis. Admin. Code, and certification is granted.

If you would like to know more about this project, contact Jon Brand, 2984 Shawano Avenue, Green Bay, WI 54313-6727. Reasonable accommodation, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request.

CONDITIONS

1. The applicant shall notify the Wisconsin Department of Natural Resources of the intent to start the discharge at least five business days prior to the beginning of the discharge. Within 5 business days after the completion of the discharge, the applicant shall notify the Department of Natural Resources of the completion of the discharge.
2. The applicant shall allow the Wisconsin Department of Natural Resources reasonable entry and access to the discharge site to inspect the discharge for compliance with the certification and applicable laws.
3. The applicant is responsible for obtaining any permit or approval required by municipal zoning ordinances or by the Corps of Engineers before starting the project.
4. Authorization hereby granted by the Department is not transferable for any other project or property owner.

5. The applicant shall submit an updated Commercial Development project plan by September 1, 2010, for Department review and approval. The updated plan shall further minimize wetland fill in the northwest portion of the northern wetland.

6. The applicant shall submit a Wetland Enhancement project plan for the northern and southern wetlands by September 1, 2010, for Department review and approval. The plan shall include the following:

- a. Invasive Species Management – a plan for removal of glossy buckthorn, reed canary grass and other identified invasive plant species, as well as long-term management to prevent introduction or reintroduction of invasive plant species.
- b. Wetland Hydrology – an updated stormwater management plan and supporting hydrologic analysis that ensure that existing wetland hydrology and associated wetland characteristics are maintained post-construction.
- c. Development Restriction – a plan describing how remaining wetland acres will be restricted from future development through conservation easement or deed restriction, and a timeline for completion.
- d. Wetland Education – a plan to establish wetland educational signs and public viewing areas and walkways, and a timeline for completion.
- e. Wetland Creation/Restoration – identification of the property and acreage where proposed wetland creation or restoration will occur, and a timeline for completion.

7. The applicant shall submit a status report showing progress on implementing the approved Wetland Enhancement project plan by December 31, 2010.

8. The applicant shall submit a final report showing completion of implementing the approved Wetland Enhancement project plan by December 31, 2011.

NOTICE OF APPEAL RIGHTS

If you believe that you have a right to challenge this decision, you should know that Wisconsin Statutes and administrative rules establish time periods within which requests to review Department decisions must be filed.

To request a contested case hearing pursuant to s. 227.42, Wis. Stats. and s. NR 299.05, Wis. Admin. Code, 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, PO Box 7921, Madison, WI 53707-7921.

A request for a contested case hearing must follow the service requirements found in s. NR 2.03 and the form prescribed in s. NR 2.05(5), Wis. Admin. 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. Specific information explaining why the petitioner's interests are adversely affected by the Department's determination;
4. Evidence of a lack of legislative intent that this interest is not to be protected;
5. 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;

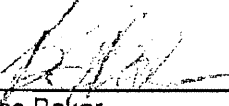
6. That there is a dispute of material fact, and what the disputed facts are;
7. The statute or administrative rule other than s. 227.42, Wis. Stats., which accords a right to a hearing;
8. Specific reasons why the proposed activity violates the standards under s. NR 299.04(1)(b), Wis. Admin. Code;
9. A statement that the petitioner will appear and present information supporting its objections in a contested case hearing.

This determination becomes final in accordance with the provisions of s. NR 299.05(7), Wis. Admin. Code, and is judicially reviewable when final. For judicial review of a decision pursuant to ss. 227.52 and 227.53, Wis. Stats., you have 30 days after the decision becomes final to file your petition with the appropriate circuit court and to serve the petition on the Secretary of the Department of Natural Resources. The petition must name the Department of Natural Resources as the respondent.

Reasonable accommodation, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request.

Dated at Madison, Wisconsin on July 15, 2010

WISCONSIN DEPARTMENT OF NATURAL RESOURCES
For the Secretary



Bruce Baker
Water Division Administrator



State of Wisconsin
2011 - 2012 LEGISLATURE

January 2011 Special Session



LRBa0364/S 1

MGG: kjf

RMR

NOW

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~
ASSEMBLY AMENDMENT ,
TO ASSEMBLY BILL 10

1 At the locations indicated, amend the bill as follows:

2 1. Page 3, line 15: substitute "or 2. and 3." for "or 2." ✓

3 2. Page 4, line 3: after that line insert: ✓

4 "3. The person who engages in the activity is meeting all of the conditions set
5 forth in the "Notice of Water Quality Certification" issued by the department and
6 dated July 15, 2010."

7 (END)