

State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

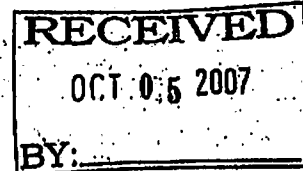
Jim Doyle, Governor
Matthew J. Frank, Secretary

Northeast Region Headquarters
2984 Shawano Ave.
Box 10448
Green Bay, Wisconsin 54307
Telephone 920-662-5453
FAX 920-662-5413
TTY 920-492-5912

October 3, 2007

IP-NE-2007-360465LB, IP-NE-2007-360466LB, IP-NE-2007-360467LB,

Scott Kindness
1736 N. 2nd Street
Milwaukee, WI 53212



Dear Mr. Kindness:

We have reviewed your application for a permit to place a structure, install steel sheet piling and riprap, and place a pier on the bed of the Manitowoc River, located in the City of Manitowoc, Manitowoc 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 920-662-5453.

Sincerely,

Carrie Webb
Water Management Specialist

cc: Todd Vesperman, Project Manager, (920)448-2824, Green Bay, WI, U.S. Army Corps of Engineers
City of Manitowoc Clerk
Conservation Warden Ryan Volenberg
Mark Weseloh, Workshop Architects, 1736 N. 2nd St. Milwaukee, WI 53212

STATE OF WISCONSIN**Pier PERMIT****DEPARTMENT OF NATURAL RESOURCES IP-NE-2007-360465LB, IP-NE-2007-360466LB, IP-NE-2007-360**

Scott Kindness is hereby granted under Section 30.12(1), Wisconsin Statutes, a permit to place a structure on the bed, a permit to install sheet piling and riprap on the shoreline, and a permit to place a pier on the bed of the Manitowoc River, at 2 North 8th St, City of Manitowoc, Manitowoc County, also described as the NW $\frac{1}{4}$ Section 29, T19N, R24E, subject to the following conditions:

PERMIT

1. You must notify Carrie Webb at phone 920-662-5453 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 October 3, 2010. 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 dated September 26, 2007, 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 or 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. To protect spawning fishes and nursery habitat, no construction shall occur between March 1 or "ice-out", whichever is earlier and July 1 of any year.
12. You are required to properly install a turbidity barrier in the waterway around your project if the project is to be completed during open water conditions. The barrier shall be designed for rough water conditions and be installed prior to commencement of any work and shall remain in place for 48 hours upon completion.
13. The retaining wall must be constructed to conform as nearly as possible to the existing shoreline sea wall.
14. The entire riverwalk (excluding piers used for private slips) shall be open to the public for fishing and other appropriate uses at all times. Any benches, tables, and chairs located on the riverwalk may not be reserved for private use and shall be available to the public on a first come, first served basis.
15. Construction 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.
16. Erosion control measures must be in place at the end of each working day.
17. 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.
18. This permit and plans must be encased in plastic and legibly displayed along the water's edge during construction.
19. The pier must allow the free movement of water and must not entrap vegetation.
20. The pier must not enclose any portion of the navigable waterway.
21. This permit authorizes future maintenance to the piers; however, no change can be made to the type of materials, number of slips, or pier configuration without written approval from the Department or amendment of this permit.
22. This pier must not interfere with the rights of other riparians.
23. As shown on the plans, 8 slips will be provided for public use.
24. You must charge no more than a reasonable fee for the slip (or mooring) rentals. Reasonable fees are moorage fees charged the general public at similar facilities in the vicinity.

25. You must initially notify the public of the availability of slips by advertising in the Herald Times Reporter for a period of not less than seven days. Thereafter, you must seasonally advertise the availability of slips in the same paper whenever the waiting list is depleted.

26. You must maintain a first-come, first-served waiting list and advise those individuals on the list of any available slips.

27. You must not cover the piers or slips, or allow any buildings or other structures to be placed or constructed on the piers.

28. You must provide adequate upland access, including parking, for the general public consistent with the number of slips offered for rental to the general public.

29. The use of the public slips shall only be limited by the payment of reasonable fees for the dockage and storage of boats. The use of the public slips shall not be conditioned upon membership in a private club or organization, purchase of a parcel of property, purchase of a boat, or other similar factors.

30. The Department reserves the right to further restrict the number of moorings or modify or revoke this permit if it finds that the designated public slips are not being offered for rental to the public.

31. The open water area inside the marina remains open to the public and boaters have a legal right to enter for protection from storm events and to fish, etc. They do not have a right to interfere with marina operations or other boats or boaters that may be using the marina.

32. You are responsible for the maintenance and upkeep of the permitted project and project site, including cleanup of any debris in or out of the water. This includes daily monitoring of the site for debris in and around the pier structures.

33. Electrical, fueling, and waste handling facilities must comply with applicable safety and environmental protection regulations.

34. 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. **Specific disinfection measures are required on infested waters and must be taken prior to moving to another waterbody. The most current de-contamination protocols and a list of infested waters can be found at the following website <http://dnr.wi.gov/> under the Topic "VHSV".**

If your project is on a non-infested water, 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.

a. Inspect and remove aquatic plants, animals, and mud from your equipment.

MAINTENANCE

- b. **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
- c. **Dispose of aquatic plants, animals in the trash.** Never release or transfer aquatic plants, animals or water from one waterbody to another.
- d. **Wash your equipment with hot (>104° F) and/or high pressure water OR allow your equipment to Dry thoroughly for 5 days.**

FINDINGS OF FACT

1. Scott Kindness has filed an application for a permit to place a structure on the bed, install riprap and steel sheet piling on the shoreline, and place a pier on the bed of the Manitowoc River, located in the City of Manitowoc, Manitowoc County, at 2 N. 8th St., also described as in the NW¼ of Section 29, Township 19 North, Range 24 East.
2. The project will consist of installing a 260 foot long wharf to be used by the public for a riverwalk. Six piers perpendicular to the wharf, and 1 pier adjacent to the wharf will provide 14 boat slips, with 8 slips available to the public. The wharf will have tables and chairs located on the wider, eastern end that will be available to the public at any time. The project also consists of the replacement and addition of steel sheet piling along the entire project length.
3. The Department has completed an investigation of the project site and has evaluated the project as described in the application and plans.
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. The project will not affect wetlands if constructed in accordance with this permit.
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, 30.12(1), Wisconsin Statutes and Chapters NR 102, 103, 115, 116, 117, 150, 299, 326, and 328 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.

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 Northeast Region Headquarters, Wisconsin on October 3, 2007.

STATE OF WISCONSIN DEPARTMENT OF NATURAL RESOURCES

For the Secretary

By


Carrie Webb

Water Management Specialist