



May 18, 2018

IP-NE-2018-45-00782-00784

Lin Family, LLC  
c/o Der-Hua Lin  
2845 Creekwood Ct  
Green Bay, WI 54311-4617

Town Greenville  
c/o Joel Gregozeski  
W6860 Parkview Drive  
Greenville, WI 54911

Dear Mr. Lin:

The Department of Natural Resources has completed its review of your after-the-fact application for a permit to change the stream course of, place miscellaneous structures on the bed of, and dredge the unnamed stream (WBIC 5021475) in the Town of Greenville, Outagamie 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 construction and again after your project is complete.

If you have any questions, please call (715) 526-4232 or email [scott.koehnke@wisconsin.gov](mailto:scott.koehnke@wisconsin.gov) .

Sincerely,

Scott Koehnke  
Water Management Specialist

cc: Nick Domer - COE  
Tim Roach - Outagamie County Zoning Administrator  
Greenville Town Clerk  
Tom Sturdivant – Conservation Warden  
Nick Vande Hey - consultant  
Tony Fischer, JaNelle Merry, Karl Roovers – WDNR  
Anna Wildeman – WDOJ  
Mike Harer – N1132 Churchill Road, Greenville, WI  
James Julius – N679 Julius Drive, Appleton, WI  
Chris Halweg – N1127 Churchill Road, Greenville, WI  
Mike Woods – N1754 Greenwood Road, Greenville, WI  
Rainie Wasmund – Robert J. Immel Excavating, Inc.  
WZ - file

**STATE OF WISCONSIN  
DEPARTMENT OF NATURAL RESOURCES**

**Changing stream course, dredging, structure PERMIT  
IP-NE-2018-45-00784**

Lin Family, LLC c/o Der-Hua Lin is hereby granted under Sections 30.195, 30.12 & 30.20, Wisconsin Statutes, an after-the-fact permit to change the stream course of, place miscellaneous structures on the bed of, and dredge the unnamed stream (WBIC 5021475), in the Town of Greenville, Outagamie County, also described as being in the SE1/4 of the NE1/4 of Section 22, Township 21 North, Range 16 East, subject to the following conditions:

**PERMIT**

1. You must notify Scott Koehnke at (715) 526-4232 or email [scott.koehnke@wisconsin.gov](mailto:scott.koehnke@wisconsin.gov) 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 08/31/2018**. 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. 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.
3. This permit does not authorize any work other than what you specifically describe in your application and revised plans dated April 3, 2018, 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. 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.
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, 5-year monitoring period or permit compliance.
6. 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.
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 completing 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. 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](http://dnr.wi.gov/topic/stormwater/standards/const_standards.html) .
12. 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**.

13. A pre-construction meeting in which the contractor, consultant, Town, County and Department of Natural Resources must be present for, shall be conducted at least one week before work begins on the site.

## **WETLAND RESTORATION**

14. The seeding mix and rates submitted in the 3/5/18 restoration plan must be followed. Final site stabilization requires the re-establishment of vegetation with non-aggressive, native species and should not contain invader species such as Reed Canary Grass (*Phalaris arundinacea*).
15. The wetland must be restored to its original topsoil condition. All fill material must be removed down to the original hydric soil layer. No mounding or excess fill is allowed unless specified in this permit. Once the fill material has been removed, the exposed ground shall be scarified before planting.
16. You are not allowed to temporarily or permanently stockpile excavated or fill material in the wetland.

17. All new tile located in the wetland areas must be solid pipe. All tile connections shall be made in upland locations. Any old/remaining tile located in the wetlands must either be removed or completely disabled.
18. You must survey the vegetation types within the wetland and buffer on an annual basis for a minimum of three years and up to five years within the wetland boundary for any growth of non-native exotic species. If exotic species are identified, you must eradicate the exotic species based on your restoration plan.
19. An annual report of findings must be submitted to Water Management Specialist, Scott Koehnke at 647 Lakeland Road, Shawano, WI 54166, no later than close of business, December 1 of each calendar year. The report will include (at a minimum) a detailed plant list, photo-documentation of site conditions from established reference locations/angles, a map indicating plots/transects and a description of invasive species control that has occurred.
20. The wetland hydrology condition for a wet meadow must be maintained post-construction. In addition to the requirement for a dominance of hydrophytic vegetation on site, the soil shall be saturated within 12" of the surface for a minimum of 14 consecutive days during the growing season and inundated only on a temporary basis.

## **EROSION CONTROL**

21. The first year of monitoring of the entire site will begin in 2019 and continue through 2020, 2021, 2022, 2023. If after year 3 of the monitoring, the site contains  $\geq 70\%$  aerial coverage of perennial WI Native species, including 10 or more different species, a written request to terminate the remaining years of monitoring can be submitted to the Department for approval.
22. A minimum of 40-foot wide buffer strip of WI Native vegetation must remain beginning at the top of the bank on each side of the waterway. The buffer strip must not be graded, planted, excavated, used for roads or disturbed in any manner. It may be mowed, burned or treated with herbicides as needed to maintain success criteria of buffer.
23. 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.
24. Any area where topsoil is exposed during construction must be immediately seeded and mulched or stabilized to prevent soil from being eroded and washed into the waterway.
25. Appropriate erosion control measures must be in-place and effective during every phase of this project.
26. Erosion control measures must be in place at the end of each working day.
27. 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.

28. The project site shall implement erosion and sediment control measures that adequately control or prevent erosion, and prevent damage to wetlands and waterways as outlined in NR 151.11(6m), Wis. Adm. Code.
29. 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.
30. Site stabilization between October 1 and April 15 requires sodding or seeding and mulching (with a non-toxic tackifier).
31. The bank slopes must be no steeper than 3 feet horizontal to one-foot vertical after construction.
32. Any de-watering plan must be approved by the Department in writing before any on-site de-watering may take place.
33. You are not allowed to do construction during periods of high water levels or between March 15 and May 15 of any calendar year unless a written waiver is provided by fisheries biologist.
34. 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.
35. You must not deposit or store any of the graded materials in any wetland or below the ordinary highwater mark of any waterway. All graded materials must be placed out of the floodway of any stream.
36. You must not operate any construction equipment below the ordinary highwater mark of any waterway.
37. You must supply a copy of this permit to every contractor associated with this project.

### **STREAM REALIGNMENT**

38. Development in conjunction with this project, such as construction or filling, must conform to State Floodplain Management Standards and local zoning regulations.
39. The bank slopes of the new channel must be in accordance with the approved revised plans dated April 3, 2018.
40. The new channel's banks must be stabilized before it is opened to flow. Stream flows shall be diverted around work areas as needed (installing cofferdam and by-pass pumping). The work area shall be selected by the contractor such that all restoration, reconstruction and permanent stabilization work can be completed within 10-14 days. The upstream and downstream end of the fill in the old channel must be protected from erosion in accordance with the revised plans dated April 3, 2018 and approved by this permit.
41. A certified as-built plan shall be provided within 30 days of completing the project.

42. Within 30 days after project completion, a floodplain analysis shall be revised with as-built cross-section data to compare proposed condition to final constructed conditions and must be in compliance with NR 116.

## **DREDGING**

43. All the removed materials must be placed in upland locations shown on applicant's revised plan dated April 3, 2018 and approved by the Department.
44. 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.
45. You must dredge downstream deposits to the dimensions and elevations approved during on-site meeting with Department staff.

## **FINDINGS OF FACT**

1. Lin Family, LLC c/o Der Hau Lin has filed an after-the-fact application for a permit to change the stream course of, place miscellaneous structures on the bed of, and dredge the unnamed stream (WBIC 5021475), in the Town of Greenville, Outagamie County, also described as being in the SE1/4 of the NE1/4 of Section 22, Township 21 North, Range 16 East.
2. Lin Family, LLC Property Stream Restoration will include restoration of the stream channel, wetlands, floodplain and agricultural drain tile to 2015 condition with some modifications and improve habitat along stream corridor. Material that has been deposited on downstream properties as a result of the unauthorized work will be dredged to pre-disturbance conditions.
3. Unauthorized work was done between December 26, 2016 and January 12, 2017.
4. A notice of violation and notice of claim was sent to the Town, contractor, property owner and Mike Woods dated 2/27/17.
5. An enforcement conference was held on March 14, 2017 and was attended by Department, Outagamie County and Corps of Engineers staff along with Mike Woods, Immel representative and their attorney, Town Administrator and Sanitary Director and their attorney and an attorney representing Lin Family, LLC.
6. An enforcement conference summary letter was sent March 20, 2017 capturing a summary of the discussions during the EC and provided, among several other things, a list of restoration expectations with a timeline.
7. The project will include ~2800 linear feet of unauthorized dredging, realignment and wetland filling to be restored. Dredged bed material which was placed into the floodplain and wetlands adjacent to the waterway will be placed back into stream corridor to bring bed elevation back up to 2015 condition. The maximum side slope on either bank will not exceed 3:1. Work will include installation of coffer dams and require by-pass pumping. All work will commence in phases in an upstream to downstream manner. The contractor will

establish a work area (phase) that allows complete restoration, reconstruction and permanent stabilization of work within maximum of 10-14 days.

8. Each side of the waterway, starting at the top of the bank, will have a 40-foot, undisturbed, vegetated buffer. This buffer will be planted and maintained in WI Native species. A total of 5.0 acres of permanently vegetated stream corridor will be created. This buffer area cannot be used for agricultural activities.
9. Log vane grade control structures will be placed in the bed to prevent down-cutting along with the construction of pool/riffle/run stream habitat.
10. All fill material will be removed from 1.58 acres of adjacent wetlands down to the original hydric soil layer and wet meadow hydrology will be restored and maintained.
11. Unauthorized, perforated tile located in wetland areas will be removed and replaced with solid pipe – all connections will be done in uplands. The invert elevations of the new tile will be brought up to the previous 2015 elevations and not result in the draining of wetlands on the site.
12. Channel & non-channel erosion matting will be used to permanently stabilize the site along with planting of WI Native species – temporary seeding/mulching will occur during construction as needed.
13. The site will be monitored for invasive species 3-5 years with specific success criteria. An annual report will be submitted to Department, Water Management Specialist, Scott Koehnke by close of business December 1 each of the years from 2019-2023.
14. The Department has completed an investigation of the project site and has evaluated the project as described in the application and revised plans.
15. A review of the floodplain analysis titled “Lin Family, LLC Properties” was approved by WDNR, Water Management Engineer, Miles Winkler on March 22, 2018.
16. A public informational hearing was held on April 16, 2018 at the Town Hall in Greenville.
17. The unnamed stream (WBIC 5021475) is a navigable water and no bulkhead exists at the project site.
18. 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.
19. The proposed project will not adversely impact wetlands if constructed in accordance with this permit.
20. 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.

21. The Department of Natural Resources has completed all procedural requirements and the project as permitted will comply with all applicable requirements of sections 30.195, 30.12, 30.20 & 281.36, Wisconsin Statutes and Chapters NR 102, 103, 115, 116, 150, 151, 299, & 345 of the Wisconsin Administrative Code.
22. 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.
23. The structure or deposit will not materially obstruct navigation.
24. The structure or deposit will not be detrimental to the public interest.
25. The structure or deposit will not materially reduce the flood flow capacity of a stream.
26. The activity will not cause environmental pollution as defined in s. 299.01(4).
27. No material injury will result to the riparian rights of any riparian owners of real property that abuts any water body that is affected by the activity.

### **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.
2. The Department review complies with s. 1.11, Wis. Stats.

### **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, 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 Shawano Service Center, Wisconsin on 05/18/2018.

STATE OF WISCONSIN DEPARTMENT OF NATURAL RESOURCES  
For the Secretary

By   
\_\_\_\_\_  
Scott Koehnke  
Water Management Specialist