

State of Wisconsin
DEPARTMENT OF NATURAL RESOURCES
625 E County Rd Y Suite 700
Oshkosh, WI, 54901

Tony Evers, Governor
Preston D. Cole, Secretary
Telephone 608-266-2621
Toll Free 1-888-936-7463
TTY Access via relay - 711



September 27, 2022

IP-NE-2022-71-02786

Michael Amos
1000 Bauman St.
Oshkosh, WI 54902
[sent electronically to info@midwestrentalcompany.com]

RE: Application permit to install a new pier on the bed of the Fox River in the City of Oshkosh, Winnebago County

Dear Mr. Amos:

The Department of Natural Resources has completed its review of your application for a permit to install a new pier on the bed of the Fox River. The project is located in the NW 1/4, SW 1/4, Section 14, Township 18N, Range 16E in City of Oshkosh, (Winnebago 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 about your permit, please call me at (920) 718-9267 or email me at eric.stadig@wisconsin.gov.

Sincerely,



Eric Stadig
Water Management Specialist

Email CC:

Jessica Von Bommel, Boondocks Pilings and Piers,
Ryan Huber, USACE Project Manager
Winnebago County Zoning Administrator
Jason Higgins, WI DNR Conservation Warden

The application of Michael Amos is hereby granted under Sections 30.12 and 30.208, Wisconsin Statutes, for a permit to install a new pier on the bed of the Fox River. The project is located in the NW 1/4, SW 1/4, Section 14, Township 18N, Range 16E in City of Oshkosh, (Winnebago County) and subject to the following conditions:

PERMIT

1. You must notify Eric Stadig at phone (920) 718-9267 or email me at eric.stadig@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 September 27, 2025**. 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. The Department shall extend the time limit for an individual permit or contract for no longer than an additional 5 years if you request the extension before the initial time limit expires. 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 plans, 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 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
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:
 - a. **Inspect and remove** aquatic plants, animals, and mud from your equipment.
 - b. **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.
 - 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 (>140° F) and/or high-pressure water, - OR - Allow your equipment to **dry thoroughly for 5 days**.

SPECIFIC PIER CONDITIONS:

13. Electrical, fueling, and waste handling facilities must comply with applicable safety and environmental protection regulations.
14. If foam flotation is used, this material must be completely coated or contained to resist deterioration from the elements and gasoline. A written description of the proposed material must be submitted to the Department for approval prior to use.
15. No mooring buoys beyond those expressly authorized by this permit are allowed without an amendment of this permit.
16. The pier must allow the free movement of water (using a post or pile driven design) and must not entrap vegetation.
17. The pier must not enclose any portion of the navigable waterway.
18. This permit and plans must be encased in plastic and legibly displayed along the water's edge during construction and for 30 days after construction of this pier. The purpose of this condition is to allow Department staff and the public to monitor the project and to ensure compliance with the conditions of the project.
19. 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.
20. This pier must not interfere with the rights of other riparians.
21. 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.
22. You must initially notify the public of the availability of slips by advertising in the Oshkosh Herald 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.
23. You must maintain a first-come, first-served waiting list and advise those individuals on the list of any available slips.

24. You must not cover the piers or slips or allow any buildings or other structures to be placed or constructed on the piers.
25. 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.
26. Dockside pump-out facilities must be well maintained.
27. Piers and pilings are limited to colors which are not visually intrusive as viewed against the shoreline.
28. Given the location of pier on the Fox River, lighting for safety, navigation or to facilitate docking need be included and lighting should be down focused, non-intermittent white or yellow light.
29. Flotation devices must be securely attached to the pier and maintained in a serviceable condition.
30. Roofs, walls, and advertising signs may not be included on the piers. A sign of reasonable dimensions to identify the property is permissible on the upland area only.
31. The marina must comply with NR 102, Wis. Adm. Code to meet Wisconsin water quality standards and the protection of water quality.
32. The marina must comply with NR 151, Wis. Adm. Code's performance standards. Best management practices to avoid or minimize soil, sediment, or pollutants carried in runoff to waters of the state must be implemented.
33. Disturbance of bank vegetation must be kept to a minimum during construction. Any vegetative removal must comply with local zoning regulations. If bank vegetation is removed, to protect endangered or threatened resources in the general area of the project area, you are **required** to plant native plants that provide ecosystem services to pollinators.
34. The project must be constructed in such a manner as to prevent upland soil losses and sediment deposition into surface waters.
- 35. No in-water work can take place annually between March 15th or ice-out (whichever is earlier) and June 30th to protect fish spawning, movement, and egg incubation periods.**
36. A copy of plans and the permit are to be provided to each contractor working on the project.

FINDINGS OF FACT

1. Michael Amos, 1000 Bauman Street in Oshkosh, WI 54902, filed an application with this Department on July 27, 2022, under sections 30.12 and 30.208, Wisconsin Statutes, to install a new pier on the bed of the Fox River. The project is located in the NW 1/4, SW 1/4, Section 14, Township 18N, Range 16E in City of Oshkosh, (Winnebago County).
2. The applicant proposes to install a new wood piling pier and create 26 additional boat slips in the Fox River. It will be built on pilings spaced so as not to obstruct the free flow of water or trap sediment. The pier would extend 118-120 feet from shore. The pier will be built using 110 wood timber piles and 2' x 6' decking. The main walkway will be 6 feet wide, and the finger walkways between boat slips will be 4 feet wide.

3. The Department has completed an investigation of the project site and has evaluated the project as described in the application and plans.
4. Fox River is a navigable water (and no bulkhead exists at the project site).
5. 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.
6. The proposed project will not impact wetlands if constructed in accordance with this permit.
7. The Department of Natural Resources has determined that the agency's review of the proposed project constitutes an integrated 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.
8. 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 30.12 and 30.208, Wisconsin Statutes and Chapters NR 102, 103, and 326 of the Wisconsin Administrative Code.
9. As part of the project review, feedback was obtained from conservation warden staff indicating that the proposed pier would not be an obstruction to navigation considering existing usage patterns. While the proposed pier extends approximately 118-120 feet into the waterway, the pier structure will not extend waterward of piers placed along nearby properties and to which existing recreational navigation patterns have adapted. Additionally, the Fox River channel navigation area near the pier is designated as a "slow-no wake" area. This where boat operators are required to exercise additional cautions and creating less likelihood for conflicts between navigational usage and the proposed pier location.
10. The proposed pier will not interfere with neighboring riparian rights.
11. The structure or deposit will not materially reduce the flood flow capacity of a stream.

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. 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 the Oshkosh Service Center, Wisconsin on September 27, 2022.

STATE OF WISCONSIN DEPARTMENT OF NATURAL RESOURCES

For the Secretary

By:



Eric Stadig

Water Management Specialist