

DATE: July 17, 2019

TO: Wetland Study Council

FROM: Tom Pearce, Dan Helsel & Amanda Minks  
404 Assumption Project Team

SUBJECT: 404 Assumption Information

Thank you for your attention and participation during the 404 Assumption (404A) presentation at your inaugural Wetland Study Council (WSC) meeting on June 27, 2019. This memo is in response to the council request for additional information concerning our preliminary permit comparison between Corps 404 and DNR wetland/waterway programs. We look forward to reviewing this information with you and continuing to work with the council to evaluate the feasibility of 404A for Wisconsin at your next meeting on July 25.

#### Preliminary Summary of 404 Permit Comparison

##### **Corps Regional GPs**

Corps has 11 (technically seven, but five are under a single transportation RGP)

- WISDOT uses five transportation GPs, matching Corps GPs
- DNR has a piers and docks IP that is more stringent
- DNR does not have a beach raking or minor discharges GP
- Corps Utility GP more stringent

##### **Corps Nationwide GPs**

Corps has 42

- Many Corps permits have limits of ½ acre total WOTUS impacts and 300 linear ft. of stream impacts – do DNR GPs need to match this language exactly?
- Do some of the more specific DNR GPs, such as pilings and bridge spans, meet the standards for broad Corps NWP's such as Structural Discharges?
- DNR does not have GPs matching 29 Corps NWP's. How many of these will matter for assumable waters?
  - Corps has mining NWP, DNR has non-metallic mining IP
  - Corps has low-head dam removal NWP, DNR has dam removal IP
  - Corps has split residential NWP and commercial and institutional NWP – would DNR need to alter the R/I/C development wetland disturbance GP structure?

##### **DNR GPs**

- 56 total
- In some cases, DNR has several GPs that fall under a single Corps GP (dredging, lake shore erosion, fish habitat structures)

##### **Corps and DNR IPs**

- Corps does not have IPs, Corps may decide that a project must be reviewed as an IP when they receive the application
- DNR GPs state that any project not meeting GP limits must follow the IP application process

### **GP Comparison Summary**

- Of 53 total Corps GPs, DNR has 50 GPs that somewhat closely cover activities and impact limits for 22 Corps GPs
  - Corps NWP and GPs much broader overall
  - DNR has 7 different dredging GPs – some have higher impact limits than Corps Minor Dredging NWP
  - DNR has 5 different lake shore erosion GPs, 11 different habitat structure GPs, these fall under the Corps Aquatic Habitat NWP
- DNR does not have GPs matching 31 Corps GPs
- DNR has 10 GPs that Corps does not have matching GPs for:
  - Wetland conservation nonfederal
  - Wetland disturbance for municipal development
  - Wetland established incidental to construction
  - Temporary crossings for forestry
  - Culvert (with engineer, without engineer)
  - Dry fire hydrant
  - Ford crossing of a stream
  - Grading
  - Weed rake
- What does the Corps do for mitigation when >0.10 acres of only navigable waters are impacted? DNR program currently without stream mitigation requirements.

### **Action Items**

- Receive Corps permit data from Becky Graser to assess workload and Corps review process
- Finish analyzing differences between overall Corps process and overall DNR process
- Inquire to determine if “at least as stringent” according to the EPA assumption rule applies to permit language
- Send spreadsheet and draft documents to Becky Graser for review as needed
- Interview other states and Corps Districts about the work required to implement and efficiency of Programmatic General Permit packages as an assumption alternative