

BEAD Permitting Roundtable with WI Department of Natural Resources

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This presentation will go over:

- An overview of the permit process
- The Office of Energy's (OE) jurisdiction over BEAD projects
- How to determine if there are wetlands in your project area
- Wetland consultations
- Waterways
- Types of authorizations and key differences between General Permits (GPs) and Individual permits (IPs)
- Pieces of information to note as it relates to the process.
- Not Covered: Any of the other permits that could apply to your project.

Bottom Line Up Front: Two common mistakes

1) You must have your wetland consultation completed prior to applying for permit coverage. The wetland consultation is separate, but related, to the permit process.

2) If your project requires permit coverage for wetland impacts, you must demonstrate through the record that you have avoided wetlands where possible. Where not possible, you must demonstrate that you have minimized those impacts to the greatest extent practicable.

- This is required by statute for Department staff to be able to issue the permit.
- These pieces are sometimes missing or not understood. Providing/understanding them is one way that applicants can have a smoother permit process.
 - An example of minimization with a bore pit is given later in the slides.

An overview of the process:

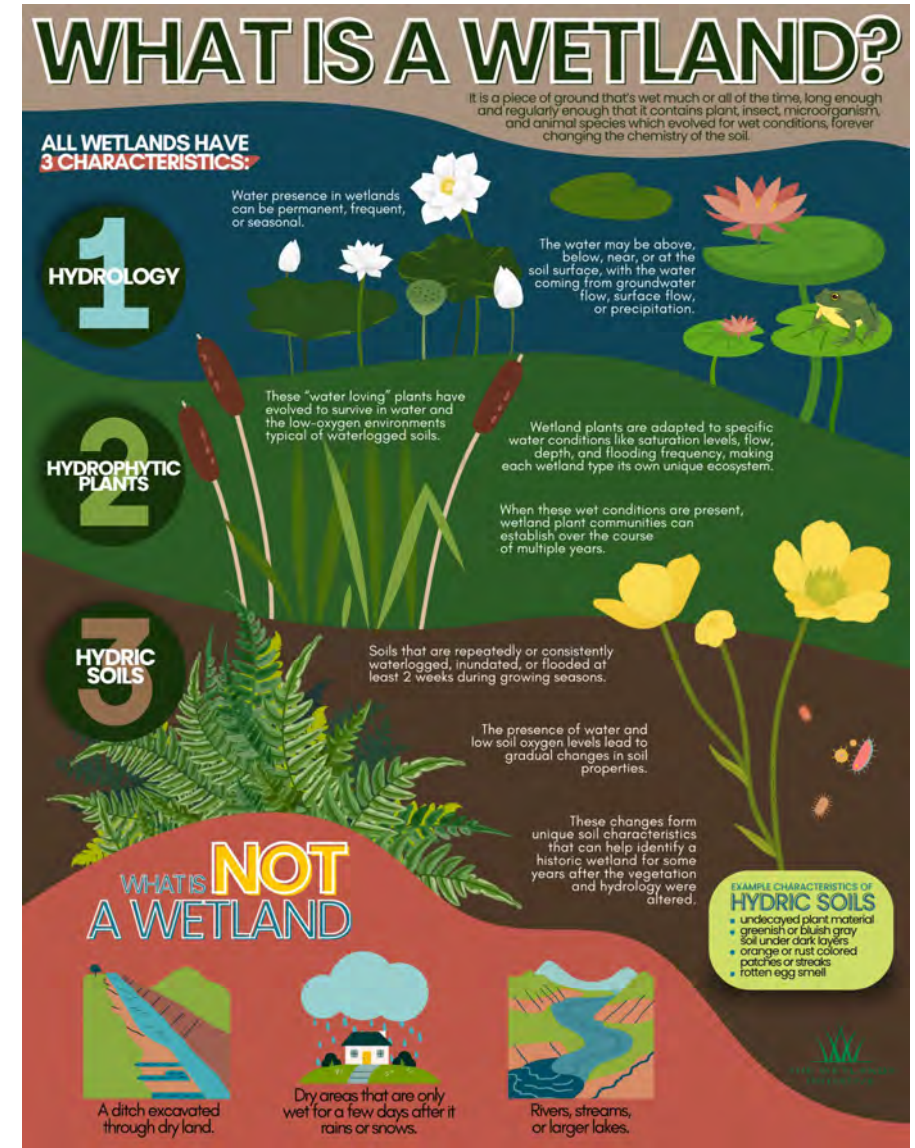
- Start with a determining where waterways and wetlands are within the project area
 - Note that a wetland consultation must be completed prior to applying for a GP3.
- Use the consultation to inform your project. Can things be reconfigured, for example, to avoid wetland impacts?
- Submit a permit application, if needed, to get authorization for impacts to waterways or wetlands.
- Receive an approval.
 - Approvals are good for a period of 5 years or until the work is completed, whichever occurs first.
 - We cannot “renew” coverage for a GP. You would need to reapply if coverage expires.

OE permit authority – Ch 30 and 281.36, Wis Stats.

- Ch 30, Wis Stats – Waterways
 - Various activities in water (dredging, driving on the bed of a waterway, placement of a structure or deposit on the bed, etc)
 - Placement of structures over water (bridges, including Temporary Clear Span Bridges (TCSBs); culverts)
 - 281.36, Wis Stats – Wetlands
 - Discharge of fill material, whether permanent or temporary
 - Temporary wetland disturbance
- *Not an exhaustive list!

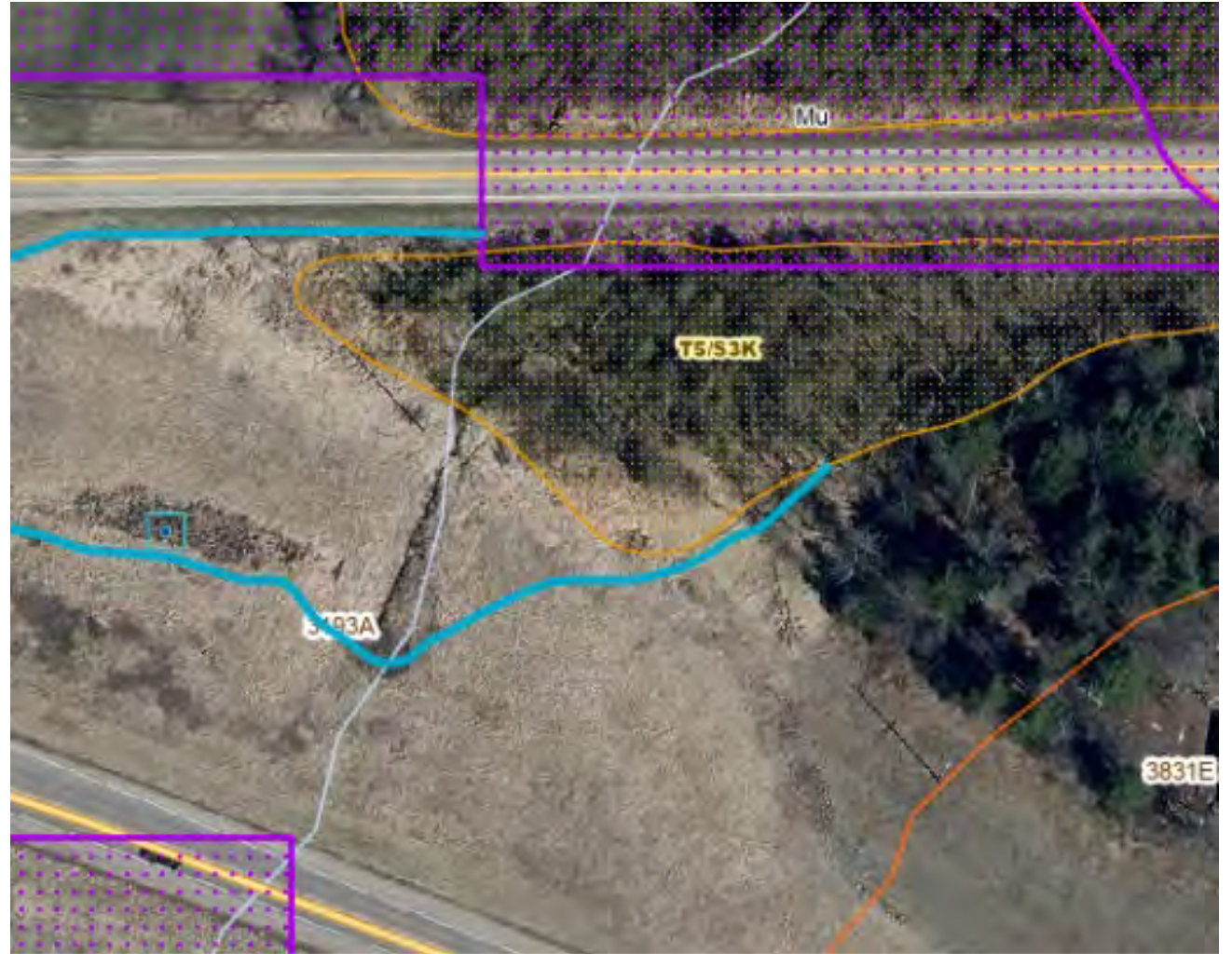
Determining wetlands

- Areas that are inundated for two weeks during the growing season. 3 pieces of evidence we look at to determine if an area is a wetland:
 - Hydrology – Wetlands have to be wet.
 - Water-loving plants.
 - Hydric soils



Determining wetlands

- Our mapping is not perfect. It provides an estimation of where wetlands are on the landscape.
- State law protects wetlands on the landscape, regardless of whether they are mapped in our system or not.
- Prior to applying for any DNR permits, you need to perform a wetland consultation.



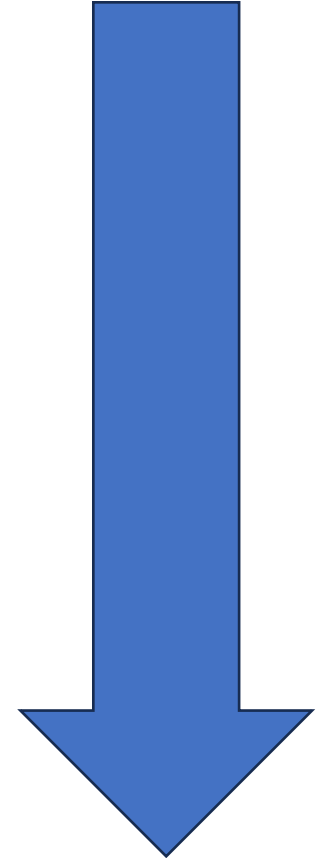
What is wetland consultation?

- A service that OE staff offer to minimize surprises and to help applicants during the planning phase to understand where wetlands are within the project area.
- What it is not: a waterway review, a permit review, a review of arch/historical or any other resources.



What options do I have for consultation?

- Conservative Desktop Approach:
 - “Quick and dirty”, a deliberate overestimation of where wetlands are.
- Refined Desktop Approach:
 - More refined, but not by much. Used to eliminate obvious areas (paved surfaces, for example) that are mapped as wetland.
- Field Determination:
 - Field work is done, includes vegetation data. No soil pits are taken.
- Wetland Delineation:
 - Highly accurate, larger investment (time, cost, can only be done during the growing season).



Conservative Desktop Approach



- Assume all areas mapped as WI Wetland Inventory (WWI) and Wetland Indicators Layers are wetland.
- Incorporate other available resources, such as topography, LiDAR, aerial imagery, Google street view, site photos, etc.

What do I send in for consultation?

- **Narrative:**

- Scope and location of the project
- Whether the project will intersect tribal lands
- Whether the project is PSC funded
- Whether the consultation request review area includes laydown/staging areas and off right-of-way (ROW) access
- Which review method(s) were used to identify wetlands, including a detailed description of the process and the resources used to determine the wetland boundaries

- **GIS Shapefiles (zipped):**

- Polygon shapefile of the entire review area
- Polygon shapefile of additional, refined and/or delineated wetland boundaries

- **Wetland Map(s)**

- Wetland boundary review area
- Appropriate scale to see the wetland boundaries on leaf-off aerial imagery
- WI Wetland Inventory, Wetland Indicators, Surface Water layers from SW4P
- Additional wetlands and waterways identified via desktop or in the field

Send to: DNROfficeofEnergy@wisconsin.gov

Sample approval for wetland consultation:

Thank you for providing the wetland consultation request for the proposed **Dairyland Clearfield Transmission Line Project** in Juneau County.

I reviewed the information and agree it accurately evaluated for the presence of wetland for state regulatory purposes. We trust and accept the information provided as a reasonable representation of wetland boundaries based on the best professional judgement of the wetland professional(s) that conducted the field work. If additional wetland is identified within the project area following this consultation, all jurisdictional wetland impacts must be authorized under a permit or qualify for an exemption (wetland exemption determinations must be reviewed and approved by the DNR).

Please upload **this email and all original attachments as one PDF** with any DNR application submittal(s) as proof of wetland consultation.

Please note this determination did not include a review for approvals or permits needed for:

- [Cultural/archaeological/historical resources](#),
- [state threatened or endangered species](#),
- [state stormwater/erosion control permitting](#),
- [state wastewater permitting](#),
- [state water use permitting](#), or
- easements needed for crossing of [WDNR property](#) (state lands, state trails, etc.)
- resource identification, approvals, permits, or authorizations needed from tribal entities for work within tribal reservation boundaries

Waterways Present?

- If you come across any waterway (Channelized flow) in your project area, you have two options:
 - Assume that the waterway is navigable
 - Navigable = jurisdictional for DNR and subject to Ch 30 regulation
 - OR: Submit a navigability determination request to DNROfficeofEnergy@wisconsin.gov.
- Please note that there are activities, such as Horizontal Directional Drilling (HDD) under a waterway, that are not regulated as a disturbance to the waterway.
 - It could be advantageous to assume that the waterway is navigable.

Navigability Determination

- **What to Submit in a Navigability Determination Request (NDR) :**
- A short narrative with the project description and what is being requested for WDNR review
- Project map showing the following:
 - Project area (line route/area, ROW, access roads, staging areas, etc.)
 - Aerial imagery (leaf-off, color imagery is preferred)
 - WDNR-mapped waterways (with the waterway name and/or WBIC labeled)
 - Field-identified waterways (labeled with their own unique ID)
 - Location of each site photograph taken (labeled with a photo number that corresponds to photos taken)
 - Call out box/symbol for the waterway crossing where the navigability determination is being requested (labeled with their own unique ID)
- Field information:
 - Photos at the crossing location, upstream, and downstream
 - if the site is covered in tall vegetation, move back the vegetation by hand to show if a channel is present or not underneath the vegetation
 - in the photos, document the photo location, direction, and a short description of what the photo is showing
 - Characteristics of the waterway (bed and bank presence, width, water depth, substrate, etc.)
 - Other documentation, such as presence and size of existing culverts and bridges, etc.
- Historic aerial imagery of the waterway
- A table summarizing the following:
 - Crossing location ID
 - Coordinates at the crossing location
 - Waterway name
 - WBIC
 - Waterway characteristics from field information
 - Any other pertinent information or comments

Jurisdiction is determined, now what?

*Please note that even though broadband is not a “utility”, these projects still qualify for GP3 coverage and are handled by the Office of Energy staff.

STATE OF WISCONSIN DEPARTMENT OF NATURAL RESOURCES



GENERAL PERMIT FOR UTILITIES TO PLACE FILL IN WETLANDS, PLACE TEMPORARY BRIDGES ACROSS WATERWAYS, PLACE STRUCTURES ON THE BED, REMOVE MATERIAL FROM THE BED, OR DRIVE ON THE BED

<u>PERMITTEE:</u>	Utilities
<u>PERMIT NO.</u>	WDNR-GP3-2023
<u>ISSUING OFFICE:</u>	Office of Energy, Environmental Analysis and Sustainability Program, Wisconsin Department of Natural Resources (Department or WDNR)
<u>ISSUANCE DATE:</u>	6/30/2023
<u>EXPIRATION DATE:</u>	7/1/2028

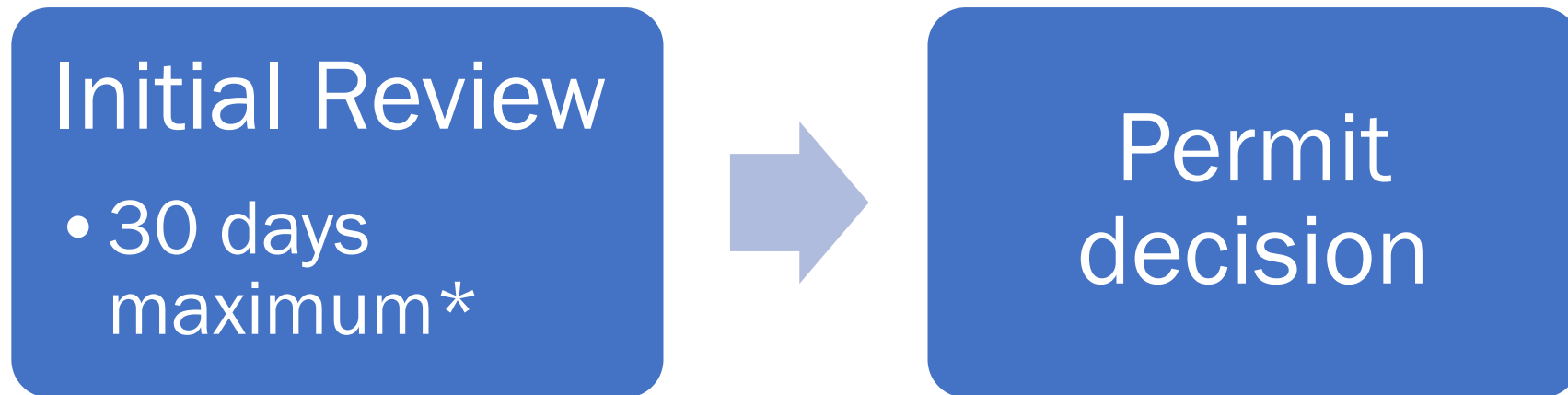
Permit types

- Exemptions (artificial and non-federal wetlands)
- General Permits
 - GP3 is the one that we most frequently use, and the type that is usually most appropriate for BEAD project activities
 - There is a non-reporting and a reporting category within GP3. Discussed in the next slide.
- Individual Permits

How DNR's GP3 works:

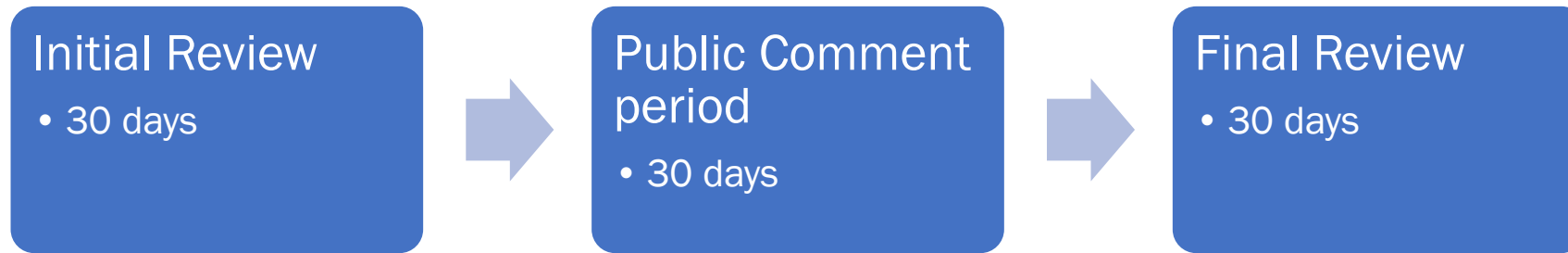
- Read over the eligibility criteria within the document. For General permits, to be eligible for coverage under that permit type, the applicant must meet ALL listed criteria.
- There is a non-reporting category and a reporting category:
 - Non-reporting: you do not need a formal sign off from OE.
 - Reporting: you will receive a formal written approval.
 - To be eligible for a non-reporting GP3, you must have only non-reporting activities in your project. If there is a mix of reporting and non-reporting items, then you will need to obtain reporting coverage.

General Permit process overview



Exception: The review timeline can be extended if more information is needed!
Please plan on **approximately** 30 days!

Individual Permit process overview



Timeline can be extended if more information is needed! Please plan on 90+ days!

Information to submit

State of Wisconsin
Department of Natural Resources
www.dnr.wi.gov

UTILITY WETLAND, BRIDGE, STRUCTURE, DREDGING, DRIVING ON THE BED
WDNR-GP3-2023 General Permit Application Checklist
(8/2024)

WDNR-GP3-2023 – What to Include with Your Application Submittal

The following documents should be completed and submitted with your online application submittal through the e-Permitting/WAMS system, <http://dnr.wi.gov/permits/water>. To avoid delays, supply the information in an organized format.

-  **A Complete and Signed Application Form**, “Water Resources Application for Project Permits (WRAPP)”, (this form will be filled out during the online application submittal).
-  **Application Fee** or application fee exemption statement. The application fee for WDNR-GP3-2023 is \$600, regardless of if your project will impact wetlands, waterways, or both. For the correct payment on the application, under the pull down for “Wetland Permit” Fee Type, select 1 activity.
-  **U.S. Army Corp of Engineers (USACE) Checklist** for Wisconsin Joint Water Resources Application, this form will provide USACE details on whether a Nationwide or Regional General Permit will be requested for this project. The checklist can be found at: https://www.mvp.usace.army.mil/Portals/57/Final%20WI%20E-app%20Checklist%20Form%20Fields_1.pdf.
-  **Proof of Wetland Consultation** from WDNR Office of Energy (including all original attachments as one, combined PDF document). A wetland consultation request consists of an email detailing how the project was evaluated for the presence of wetlands. In your consultation request email, provide the following:
 -  A narrative that includes the scope and location of the project and describes how the wetland boundaries were determined (i.e., conservative desktop, refined desktop, field verification, field delineation). Indicate if the consultation request includes laydown areas, off right-of-way (ROW) access, and if the project will intersect tribal lands.

USACE Joint Permitting process



**US Army Corps
of Engineers**
St. Paul District

U.S. Army Corps of Engineers, St. Paul District

Checklist for Wisconsin Joint Water Resources Application



Many projects in the state of Wisconsin require permits from both the Wisconsin Department of Natural Resources (WDNR) and the U.S. Army Corps of Engineers (Corps). To expedite permitting, applications for both WDNR and Corps permits for work in wetlands and waterways are submitted using the WDNR website. Providing the following information will ensure the most timely Corps review.

If you are seeking a response from ONLY the Corps (not the WDNR), you may instead submit your request directly to usace_requests_wi@usace.army.mil. Please ensure to include the County of the project location in the subject line (e.g. Dane County).

General information about the Corps regulatory program can be found online at:

<https://www.mvp.usace.army.mil/Missions/Regulatory/>

Frequently asked questions can be found here:

<https://www.mvp.usace.army.mil/Missions/Regulatory/Permitting-Process-Procedures/>

Questions regarding this checklist should be directed to the Corps of Engineers Regulatory Division by calling (651) 290-5525 or by visiting <https://www.mvp.usace.army.mil/Missions/Regulatory/Regulatory-Team-Contact-Information/> to find a Corps contact specific to your project location.

Criteria for Wetland permit approval

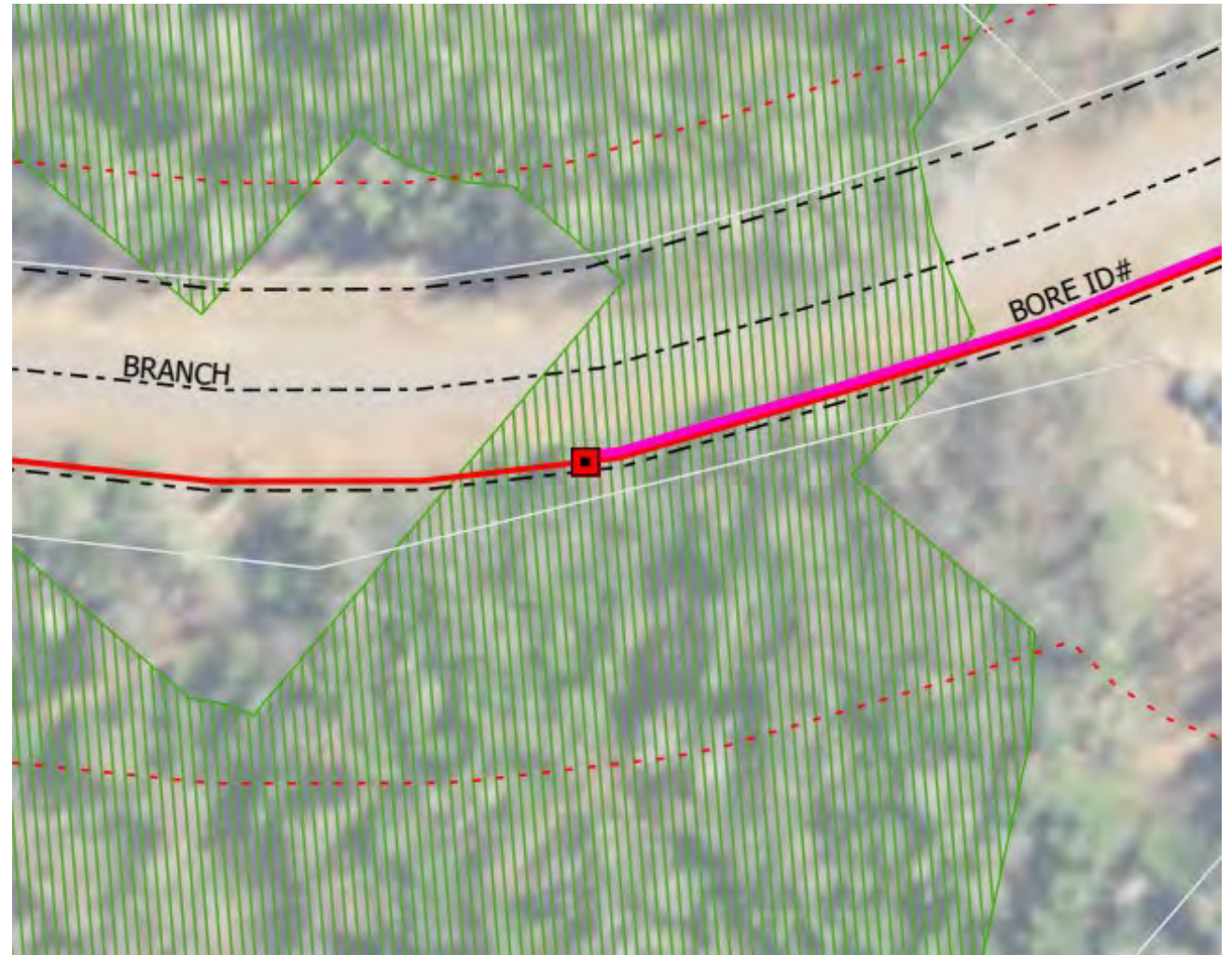
- Applicants are required to demonstrate that impacts to wetlands have been avoided and that, where impacts couldn't be avoided, that they've been minimized to the greatest extent practicable.
- This is done through a Practicable Alternative Analysis.

Can bore pits occur in wetlands?

The short answer is “yes”. You must demonstrate on the record that there is no choice but to put the bore pit in a wetland, since the law requires an applicant to demonstrate avoidance and minimization to the greatest extent practicable.

For the image shown, I had asked if the pit could be relocated a few feet to the west to put the disturbance in wetlands.

Note that there could be an engineering reason for the bore pit needing to be in that location, or some type of safety concern or system restraint that doesn't allow for flexibility. Please give me that rationale in writing, or consider if the pit could be moved.



Can there be “unforeseen” impacts?

- It is OK to reasonably overestimate.
- If there is less impact in real life than what we permitted, that's fine!
- If there will be MORE impact than what was authorized, you need to reach out to OE and request that we revise your approval to reflect this additional disturbance. Please include totals of what the new impacts are proposed to be, the amount that has changed, and WHY there needs to be a change at all.

CONNECT WITH US

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@WIDNR



@WI_DNR



/WIDNRTV



"WILD WISCONSIN:
OFF THE RECORD"