



January 17, 2018

IP-SE-2017-60-00631

Kohler Company  
Jess Barley  
444 Highland Drive  
Kohler, WI 53044

Dear Mr. Barley:

The Department has completed review of your proposal for the golf course. We have determined that your project meets state standards. Enclosed is your state wetland permit which approves your project and lists the conditions which must be followed. Please read your permit carefully so that you are fully aware of what is expected of you.

Your enclosed state water quality certification confirms the state certification necessary for proceeding under an approval pursuant to a federal permit issued by the Army Corps of Engineers.

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 (608) 261-8447 or email [pamela.biersach@wisconsin.gov](mailto:pamela.biersach@wisconsin.gov).

Sincerely,

A handwritten signature in black ink that reads 'Pam Biersach'.

Pam Biersach  
Bureau Director

cc: Jessica Kempke, U.S. Army Corps of Engineers  
City of Sheboygan Zoning Administrator  
Sheboygan County Zoning Administrator  
Mitigation Coordinator - WT/3  
Conservation Warden Tyler Flood

**STATE OF WISCONSIN  
DEPARTMENT OF NATURAL RESOURCES**

**Wetland Individual Permit  
IP-SE-2017-60-00631**

The Kohler Company is hereby granted under Section 281.36, Wisconsin Statutes, and 33 U.S.C.S §1341 (CWA §401) a permit for 3.69 acres of wetland fill or disturbance between the Black River and Lake Michigan, in the Town of Wilson, Sheboygan County, also described as being in the SE1/4 of the NW1/4 of Section 14, Township 14 North, Range 23 East, subject to the following conditions:

**PERMIT**

1. You must notify Pam Biersach at phone (608) 261-8447 or email [pamela.biersach@wisconsin.gov](mailto:pamela.biersach@wisconsin.gov) before starting the discharge and again not more than 5 days after the discharge is complete.
2. You must complete the discharge as described on or before January 17, 2023. If you will not complete the discharge 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 February 21, 2017, 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 other state, local zoning ordinances, and by the U.S. Army Corps of Engineers before starting your project.
5. Any project variations that may result in wetland impacts which may be necessary to comply with other state, federal or local permits, approvals, authorizations, orders or contracts will need to be reviewed and approved by the Department.
6. 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.
7. 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 results in significant adverse impact to wetland functional values, in significant adverse impact to water quality, or in other significant adverse environmental consequences.
8. You must post a copy of this permit at a conspicuous location on the project site, 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.

9. 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.
10. 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.
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. Authorization hereby granted by the Department is transferable to any person upon prior written approval of the transfer by the Department.
13. 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.**

14. Final site stabilization requires the re-establishment of native vegetation and must not contain any invasive and/or non-native species.
15. No other portion of the wetland may be disturbed beyond the area designated in the plans for preferred alternative F-4 dated February 21, 2017.
16. The equipment used in the wetlands must be low ground weight equipment as specified by the manufacturer specifications.
17. You are not allowed to temporarily or permanently stockpile excavated or fill material in the wetland outside the authorized wetland fill areas or below the ordinary high water mark of any waterway. All graded materials must be placed out of the floodway of any stream.

18. You must survey the vegetation types on an annual basis for five years within the wetland boundary for any growth of invasive and/or non-native species. If invasive and/or non-native species are identified within the wetlands, you must submit a remediation plan to eradicate the exotic species to the Department for written approval, and must implement the plan within 90 days of Department approval. The timed-meandered survey shall be used and submitted to the Department on an annual basis for 5 years. The survey protocol can be found here:  
<https://dnr.wi.gov/topic/Wetlands/documents/TimedMeanderSamplingProtocol.pdf>
19. You shall conduct a post construction wetland boundary survey to document the wetland impacts. You shall develop a wetland restoration plan for Department review and approval for any wetland impacts outside of the authorized fill areas. The wetland restoration plan shall include, but is not limited to, measurable performance standards and a maintenance and monitoring plan of no less than five years.
20. You shall hire Independent Environmental Monitors (IEMs) approved by the Wisconsin Department of Natural Resources (WDNR). The scope of work for the IEMs will be developed jointly with Kohler Company and the Department.
21. You shall continue to work with the Bureau of Natural Heritage Conservation (NHC) and receive all required permits, authorizations, and approvals for potential impacts to endangered and threatened species on the property as required by the NHC program. Failure to follow permits, authorizations, and approvals from NHC will result in non-compliance with this permit.
22. Follow Best Management Practices for pest management and the Integrated Pest Management plan submitted to the Department on October 27, 2017. Within 25 feet of surface water or wetland boundaries – use pesticides approved for aquatic use by the EPA and DATCP and minimize drift. In areas with a shallow groundwater aquifer use chemicals that have a shorter half-life or that will not persist in aquatic environments where practicable. Chemical use shall also follow the requirements on the EPA approved label and any DACTP approved supplemental labels. All applications of Restricted Use Pesticides must be conducted by a certified and licensed applicator. Any applications to waters of the state must be approved by the Department of Natural Resources Aquatic Plant Management Program.
23. The Nutrient Management Plan shall follow NR 151 and Technical Standard 1100 for application timing and as described in the Integrated Golf Course Management Plan submitted to the Department on October 27, 2017.  
<http://dnr.wi.gov/topic/stormwater/documents/dnr1100-turfnutrientmanagement.pdf>
24. Invasive and/or non-native species, including, but not limited to, bentgrass (*Agrostis palustris*) shall be managed in accordance with the permittee's August 18, 2017 submittal regarding Invasive Species Management. Invasive and/or non-native species, including Bentgrass, shall be managed and controlled to prevent its spread to the wetlands.
25. Infiltration strips shall be installed and maintained according to the Stormwater Management Plan submitted with the application and dated December 7, 2016.
26. Any material brought to the site and used for filling or grading shall only consist of materials exempt from the requirements of ch. NR 500 to 538, Wis. Adm. Code, as defined in s. NR 500.08(2)(a), Wis. Adm. Code, The fill placement shall also be in conformance with the

location and performance requirements of s. NR 504.04(3)(c) and 4(a) to (f), Wis. Adm. Code, as specified in s. NR 500.08(2), Wis. Adm. Code.

27. 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.
28. The excavation of the temporary bore pit for the utility installation must be done in layers and placed back in the pit in the same orientation as it was removed.
29. The wetland in the location of the utilities must be restored to its original topographic elevations. No mounding or excess fill is allowed unless specified in this permit.
30. Any area where topsoil is exposed during construction must be immediately seeded and mulched with a seed mix that is free of invasive species and/or non-native species to prevent soil from being eroded and washed into the wetlands and waterways.
31. Appropriate erosion control measures must be in-place and effective during every phase of this project.
32. Erosion control measures must be in place at the end of each working day.
33. 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.
34. You must not operate any construction equipment below the ordinary high water mark of any waterway.
35. You must restrict the removal of vegetative cover and exposure of bare ground to the minimum amount necessary for construction.
36. You must supply a copy of this permit to every contractor associated with this project. You are responsible for ensuring that contractors comply with the conditions of this permit.
37. During any spectator events at the golf course, take practical measures to avoid impacts to remaining wetlands on the site.
38. You must supply proof to the Department of compliance with your proposed compensatory mitigation and environmental offset plan as described in this permit prior to beginning construction of the project. You must provide an Affidavit of Compensatory Mitigation Credit Purchase to the Department for 5.35 credits from the WI Wetland Conservation Trust (WWCT) (3.69 acres of direct wetland impacts associated with the project at a required mitigation ratio of 1.45 to 1) and proof of commitment of funds to the WWCT Wetland Restoration program.

## FINDINGS OF FACT

1. The Kohler Company has filed an application for a permit for wetland fill or disturbance between the Black River and Lake Michigan, in the Town of Wilson, Sheboygan County, also described as being in the SE1/4 of the NW1/4 of Section 14, Township 14 North, Range 23 East.
2. The project will consist of building an 18 hole golf course, a clubhouse, and other amenities on 247 acres of private land owned by Kohler Company. Access and maintenance buildings may be provided through Kohler-Andrae State Park. The site contains ridge and swale, interdunal, and forested floodplain wetlands. Ridge and swale and interdunal wetland complexes are considered high to exceptional quality and globally rare. This floodplain forest is high quality and rare in the region because of the loss of ash trees and increase of invasive species.
3. The discharged material will cover 3.69 acres of wetland that includes 0.1 acres of relic ridge and swale wetlands, 1.36 acres of ridge and swale wetlands, and 2.23 acres of forested floodplain wetlands. The interdunal wetlands were avoided and will not be directly impacted.
4. The proposed project will have secondary impacts that may affect 4.79 acres of wetland not covered by discharged material, and 0.03 acres of temporary wetland impact from the utility crossing which will result in changing the wetland type from forested to wet meadow. The 4.79 acres of secondary impacts may result from the drawdown of the water table, increased runoff of nutrients, herbicides, and pesticides, and foot and cart traffic in the remaining wetland complex.
5. The Department reviewed 16 different alternatives supplied by the applicant, plus a no build alternative. The preferred alternative F-4 results in the least impact to wetlands, the floodplain, cultural resources, and neighbors. Golf hole corridors and cart paths were shifted and bridges utilized instead of culverts to avoid the filling of the rare interdunal wetlands and the large contiguous linear ridge and swale wetland. The 15 other alternatives were not chosen because there were larger wetland impacts, and the no build alternative did not accomplish the purpose and need of the project
6. The applicant shifted golf hole corridors, the entrance road, maintenance facilities, and cart paths, steepened slopes, and utilized bridges utilized instead of culverts to minimize wetland impacts by 1.3 acres from Alternative E, the DEIS preferred alternative.
7. The applicant proposed to offset impacts to wetlands through a combination of compensatory mitigation and commitment to wetland restoration. The applicant conducted a search for Permittee-responsible ridge and swale restoration opportunities, and determined there were no feasible projects available. There are currently no appropriate resource credits available from an approved mitigation bank to account for the type of wetland proposed to be impacted. The applicant's proposal consists of the purchase of credits from the Wisconsin Wetland Conversation Trust (WWCT) and the commitment of funds to the WWCT Wetland Restoration program.
8. Credit purchase will consist of 5.35 credits (3.69 acres of direct wetland impact at the standard ratio of 1.45 credits:1 acre of direct impact used for in lieu fee credit purchases, which accounts for the temporal loss of wetland functional values associated with advanced

credits). In addition to the credit purchase, commitment of funds to the WWCT Wetland Restoration program will consist of \$200,000 for wetland restoration activities. The Department accepted the proposal.

9. The Department has completed an investigation of the project site and has evaluated the project as described in the application and plans. The Department made a number of visits to the site in 2017 and conducted an assessment of the functional values of the wetlands with proposed impacts (following the Wetland Rapid Assessment Methodology 2.0).
10. The Department found the functional values of the wetlands to be:
  - a. Floristic integrity rated high to exceptional with the plant community integrity very high to exceptional with little to no existing stressors, rare plant community, and low level of invasive species present. The ridge and swale type of wetland is imperiled in the state because of its rarity. Native species generally dominate the swales with a low percent cover of invasive species present. It has an un-weighted mean coefficient of conservatism of 4.3 to 4.7, and un-weighted floristic quality index of 23 to 32.
  - b. Human use values rated as exceptional due to the current use of property for trails and potential elsewhere.
  - c. Wildlife habitat rated exceptional because of the unique habitat for rare species and large block of high quality, diverse wetland and contiguous habitat.
  - d. Groundwater processes rated as high due to it being dependent on local groundwater fluctuations; intact recharge and discharge functions which have positive impacts on local groundwater and surface water quality.
  - e. Fish and aquatic life habitat rated as high because it provides high value for amphibian use.
  - f. Water quality protection rated as low due to the isolated nature of the wetlands.
  - g. Shoreline protection is rated high in the forested floodplain wetland complex due to the dense vegetative cover along the banks of the Black River providing significant shoreline protection functions
  - h. Flood and stormwater support and shoreline protection are rated as low in the ridge and swale complex due to isolated nature, and provides limited flood and stormwater storage functions. Flood and stormwater storage are rated as medium in the floodplain forest because this wetland type provides moderate flood and stormwater storage functions.
11. Direct impacts to wetlands include the permanent loss of 3.69 acres of wetland and wetland functional values associated with those wetlands. The ridge and swale and interdunal wetland complexes are ranked as S1 to S2, which means the communities are considered imperiled in Wisconsin and globally due to a restricted range and few populations or occurrences. This loss is expected to be irreversible and has high significance.
12. Secondary impacts to functional values include:
  - a. Permanent alteration to wetland hydrology (change in grade and removal of trees); decrease in habitat from increased invasive species, nutrient loading, sediment deposition, potential disruption of wildlife use (breeding, nesting) and movement

through operation of the golf course. Decrease in wooded cover converted to managed turf grass.

- b. Secondary impacts to wetland functional values from routine traffic along the proposed new greens and associated runoff is likely to provide a conduit for invasive species establishment. The project plan proposes to monitor and treat invasive species which may offset some of these impacts.
  - c. There is a potential for secondary impacts to wetland functional values due to modification of hydrology resulting from the well that could draw down the water table.
13. Secondary impacts to wetlands are expected to be permanent and irreversible and the significance of those impacts is high. Secondary impacts to wetland functional values are not expected to be entirely offset under the proposed project.
14. Cumulative impacts to wetland functional values:
  - a. The potential for additional development of the site and further cutting of the wooded community.
  - b. Approving a permit to fill 3.69 acres of wetland, 1.36 of those acres being an exceptional quality ridge and swale complex, a globally rare community, may lead to increased applications to fill rare, sensitive, and valuable wetland plant communities.
15. The Department has evaluated the potential cumulative impacts to wetland functional values resulting from this project and has determined that significant cumulative impacts may occur.
16. The Department uses funds from WWCT credit sales to fund wetland restoration and enhancement projects to generate mitigation credits. These funds are awarded to proposals consistent with the WWCT Program Instrument, which reflects a watershed approach by prioritizing projects consistent with established restoration goals and objectives within mitigation service areas and HUC-8 areas. The proposed project is located in the Northwestern Lake Michigan Service Area and Manitowoc-Sheboygan Rivers Watershed (HUC-8), and WWCT credit purchase will be tracked to this mitigation service area to ensure appropriate funding of wetland compensatory mitigation actions within the Service Area, consistent with the Instrument.
17. The Department uses funds from the WWCT Wetland Restoration program to fund proposals for wetland restoration and protection consistent with statewide objectives as identified in the Instrument.
18. The Department will prioritize the WWCT Wetland Restoration funds associated with this project for the support of ridge and swale restoration or enhancement activities. Opportunities for ridge and swale restoration or enhancement in the vicinity of the project will be given first consideration, however the restoration funds will be made available to appropriate ridge and swale restoration or enhancement projects throughout the range of the wetland type. In addition, the Department will consider projects consistent with the restoration goals and objectives of the mitigation service area.



19. State stormwater regulations require maintaining a log of the erosion control inspections, repairs made, and rain events. This log is required to be made available to any Department personnel upon request.
20. Best Management Practices for pest and nutrient management will be used to minimize impacts to wetlands and groundwater. Information on reducing the use of chemical pesticides and fertilizers on golf courses using the Environmental Impact Quotient can be found here: <https://ecommons.cornell.edu/bitstream/handle/1813/44517/reducing-chemical-golf-NYSIPM.pdf?sequence=2&isAllowed=y>
21. The applicant is required to follow state and federal law protecting threatened and endangered species. The applicant is working with the Department's Bureau of Natural Heritage Conservation to appropriately minimize potential impacts to threatened and endangered species and to obtain any authorizations pursuant to these laws.
22. The US Army Corps of Engineers is the lead agency for addressing potential impacts to cultural resources and is coordinating the formal review process with the State Historical Society and tribal representatives.
23. The proposed project, if constructed in accordance with this permit and all of the conditions of this permit represents the least environmentally damaging practicable alternative taking into consideration practicable alternatives that avoid wetland impacts.
24. All practicable measures to minimize adverse impacts to the functional values of the wetland have been taken if the proposed project is constructed in accordance with this permit and all of the conditions of this permit.
25. The proposed project, if constructed in accordance with this permit and all of the conditions of this permit, will not result in significant adverse impact to wetland functional values, in significant adverse impacts to water quality, or in other significant adverse environmental consequences.
26. The proposed project, if constructed in accordance with this permit and all of the conditions of this permit will not increase water pollution in surface waters, and will not cause environmental pollution as defined in s. 283.01(6m) and 299.01(4), Wis. Stats.
27. All of the conditions of this permit must be satisfied for this project to meet statutory standards.
28. The Department of Natural Resources, pursuant to s. 1.11 Wis. Stats., and ch. NR 150, Wis. Admin. Code, has the responsibility to comply with WEPA and the authority to determine its compliance with that Act. The proposed project received environmental analysis through the EIS process under s. NR 150.30, Wis. Admin. Code. The procedure and analysis identified in the WEPA Findings of Fact complies with the requirements of s.1.11, Wis. Stats., and ch. NR 150, Wis. Admin. Code.
29. A summary of the environmental analysis completed for this project can be found here: <https://dnr.wi.gov/topic/EIA/Kohler.htm>

30. The wetland permit was public noticed on the Department's website on November 14, 2017.
31. A public informational hearing was held on November 30, 2017. Public comments were received on the impacts to wetland functional values as well as other comments.
32. 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 281.36 Wisconsin Statutes and Chapter NR 103 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 281.36.(3q), 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 281.36 (3q), Wis. Stats., and section NR 2.03, Wis. Adm. 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 discharge under the wetland individual permit is allowed to proceed.
2. A description of the facts supporting the petition that is sufficiently specific to determine how the petitioner believes the discharge, as proposed, may result in a violation of the provisions of this section.

3. A commitment by the petitioner to appear at the administrative hearing and present information supporting the petitioner's objection.

4. 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 Madison, WI, Wisconsin on January 17, 2018.

STATE OF WISCONSIN DEPARTMENT OF NATURAL RESOURCES  
For the Secretary

By   
Pam Biersach, Bureau Director