



May 4, 2017

Jessica Kempke  
U.S. Army Corps of Engineers  
211 North Broadway, Suite 221  
Green Bay, WI 54303

**Re: Public Notice 2015-01213-JLK – Application for permit to discharge dredged and fill material for the purpose of constructing a golf course in the Town of Wilson, Sheboygan County, WI.**

Wisconsin Wetlands Association (WWA) is dedicated to the protection, restoration, and enjoyment of wetlands and associated ecosystems through science-based programs, education, and advocacy.

While it is rare for us to weigh in on project-specific proposals, we do so in cases where the proposed project poses a threat to rare or exceptionally high quality wetland resources or when the decision will establish a precedent for how regulatory agencies implement existing wetland protection laws. We chose to respond to this project because it has the potential to do both.

We offer the following comments for your consideration:

**1. The proposed project will have a significant adverse impact and does not meet the standards for issuance of a permit.**

The interdunal and ridge-swale wetlands located on the proposed development site are rare, with only 10 known examples in Wisconsin, and small acreages present at each site. They are also high quality, with all but 4 of 81 wetlands evaluated on the site ranking high in a wetland functional assessment prepared by Wisconsin DNR.

Though a substantial amount of additional site assessment and project planning is needed to fully understand, document, and disclose the expected impacts of the proposed activities (See item 3 below), there is virtually no scenario where the types of infrastructure, grading, and hydrologic alteration activities proposed between the Lake Michigan shoreline and the western most wetland swale can be carried out without destroying the fundamental character, quality, and function of the entire ridge-swale complex.

In addition to those impacts, the hydrologic impacts resulting from grading, stormwater management, groundwater withdrawal, tree clearing, and other proposed activities will be at least, if not more, damaging to wetlands on the project site as the impacts associated with direct fill.

**2. Impacts to the rare ridge-swale wetlands cannot be offset through compensatory mitigation.**

The ridge-swale wetlands on the eastern portion of the property developed over hundreds if not thousands of years, in response to unique lake shore conditions and other site-specific hydrologic features. They are not a type of wetland that can be re-established elsewhere through mitigation.

**3. An Environmental Impact Statement is needed to evaluate, disclose, and allow public comment on the potential impacts to the aquatic and human environment.**

The proposed golf course is a large and complex project in a highly sensitive landscape. Review of the proposed activities and subsequent permit decisions constitute a major federal action. A robust evaluation of existing and potential future site hydrology, and a significantly more detailed review of project purpose and need and project/design alternatives, is needed to:

- a. identify the least environmentally damaging practicable alternatives for various actions (i.e., review of need and/or design alternatives for fairways, tees, buildings, cart paths, grading, stormwater ponds, irrigation, etc.);
- b. properly evaluate and disclose the direct, indirect, secondary, temporary, and cumulative impacts to wetlands and other resources; and,
- c. enable an appropriate level of review of impacts to cultural and coastal resources.

Additional explanation/disclosure of the basic project purpose and evaluation of which aspects of the proposed site design are essential to meeting that purpose is also needed.

*An Environmental Impact Statement is the appropriate vehicle for these tasks.*

The Wisconsin Department of Natural Resources has already determined that the proposed activities meet the requirements for an Environmental Impact Statement under the Wisconsin Environmental Policy Act (WEPA).

A copy of the scoping comments WWA submitted in response to Wisconsin's Notice of Intent, and our comments on the deficiencies of the WDNR's first Draft EIS for the project are attached. We submit and request your review and consideration of those as part of the official project record in response to this public notice.

**4. Additional public notice and comment is needed when more complete information about the direct, indirect, secondary, temporary, and cumulative impacts of the proposed action is available.**

§ 325.3 of federal law requires the public notice to include "sufficient information give a clear understanding of the nature and magnitude of the activity to generate meaningful comment." The Public Notice issued on April 6<sup>th</sup> did not meet this standard and we believe the Corps erred in their decision that the application was complete and thus eligible for public notice.

While the content of the application may have met the technical requirements articulated under the statute, it did not meet the intent. Examples of how it was deficient include, but are not limited to:

- a. Descriptions of many of the proposed activities were vague.
- b. The notice did not provide links to the docket hosted by Wisconsin DNR where significantly more information is available for public review.

- c. The notice did not fully or accurately characterize, quantify, and disclose impacts to wetland acreage and function, or associated mitigation requirements. Relevant details such as extent of tree clearing and effects of grading, cart paths, tree clearing, and pumping on site hydrology were missing. Note that the St. Paul District and EPA Region 5 have previously characterized conversion of forested wetlands to herbaceous cover as direct impacts and subject to mitigation requirements.
- d. The “conceptual” mitigation plan has not been evaluated for viability and may not generate enough credits to offset final impacts. Noting that “additional mitigation” beyond what’s described in the notice “may be needed” does not appear to satisfy the disclosure requirements that have been established through case law.

We note that WDNR determined the information submitted by the applicant was incomplete for the purpose of evaluating a wetland permit request. WDNR submitted a detailed (4-page) letter documenting the additional information needs.

While we recognize that the standards for determination of completeness may be different under state and federal law, the level of information needed to make a record of decision in a NEPA/WEPA review and/or a wetland permit decision, are substantially similar. We request that the Corps exercise whatever discretion is available to them to provide additional opportunities for public comment when more information and analysis become available.

Sincerely,

A handwritten signature in black ink, appearing to read 'Erin O'Brien', with a stylized flourish at the end.

**Erin O'Brien**  
**Policy Director**

cc: Kate Angel, Wisconsin Coastal Management Program

Enclosures:    WWA Kohler Golf Course Draft EIS Comments.pdf  
                      WWA Kohler Golf Course Scoping Comments.pdf