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Document 2010 2263 Type 06 018 Pages 3
Date 7/26/2010 Time 11:22:13AM
Rec Amt $19.00

DEBORAH L PEYTON, RECORDER/REGISTRAR
DELAWARE COUNTY IOWA

Ann Schulte will pick up
920-9931

IOWA DEPARTMENT OF NATURAL RESOURCES

SECTION 401 WATER QUALITY CERTIFICATION

Certification issued to: **Effective:** July 18, 2008

Mr. Daniel Schulte
1831 Honey Creek Road
Manchester, IA 52057

Prepared By: Christine M. Schwake Date Executed: July 18, 2008
Christine M. Schwake, IDNR, Wallace State Office Building, Des Moines, IA 50319-0034 (515) 281-6615

STATE OF IOWA COUNTY OF POLK
I HEARBY CERTIFY I AM THE OFFICIAL AND LAWFUL CUSTODIAN OF THE PUBLIC RECORDS MAINTAINED BY THE IOWA DEPARTMENT OF NATURAL RESOURCES AND THE FOREGOING DOCUMENT IS A TRUE AND ACCURATE PHOTOCOPY OF THE RECORD COPY MAINTAINED IN MY CUSTODY AS A PUBLIC RECORD OF THE DEPARTMENT IN THE ORDINARY COURSE OF ITS BUSINESS.
EXECUTED AT DES MOINES ON JULY 18, 2008 BY LESLIE LEAGER

Leslie R Leager

Project certified: US Army Corps of Engineers, Joint Public Notice No. CEMVR-OD-P-2007-0902
State 401 Water Quality Certification, Application Log No.: 08-N-055-04-09-S

A 240'-long meander of Rieger Creek in S24, T89N, R6W, Delaware County was filled and replaced with a newly excavated 160'-long channel segment. Based on meander scars evident on aerial photography, the new channel location had sometime in the past been part of the stream. After the channel relocation, a berm was constructed to make a new pond of the old channel. The old 240'-long channel segment has been left unfilled except for where the berm crosses it and in one place where an eroding bank was re-sloped. The filling and inundation of the old channel also resulted in adverse impacts to approximately 0.23 acre of creek-side emergent wetland. The new earthen berm separating the new creek channel from a new pond is 3.5' high and 250' long. It has a 10' top width and 4:1 side slopes. It also has a 1'-deep primary/emergency spillway with an 8'-wide bottom width. Mr. Schulte agreed to armor the spillway with rock. The material used to construct the berm was excavated from the new channel and from the area between the old and new channels that is now within the pond. The normal water source for the pond is a 6" field tile that drains the cropland to the west. Water will also enter the pond through the spillway as the creek rises. To compensate for creek and wetland impacts, the permittee has constructed a second pond, will plant 2 acres of upland with trees and shrubs, construct rock stream bed stabilization structures on the upstream and downstream ends of the new channel, establish a 30'-wide native grass buffer on each side of the new channel, and place rock riprap where required. More than 0.23 acre of emergent wetland is expected to develop along the edges of the new channel and on the fringe of the new pond.

Water quality use designation:

This reach of Rieger Creek is designated as Class A1 Primary contact recreational use. These are waters in which recreational or other uses may result in prolonged and direct contact with the water, involving considerable risk of ingesting water in quantities sufficient to pose a health hazard. Such activities would include, but not be limited to, swimming, diving, water skiing, and water contact recreational canoeing. This reach of Rieger Creek is also designated as Class B(WW-1) which are waters in which temperature, flow and other habitat characteristics are suitable to maintain warm water game fish populations along with a resident aquatic community that includes a variety of native nongame fish and invertebrate species. All surface waters in Iowa, including wetlands and those designated for Class "A", "B", and/or "C" are classified for the following general uses: livestock and wildlife watering, noncontact recreation, crop irrigation, and industrial, agricultural, domestic, and other incidental withdrawal uses.

The Iowa Department of Natural Resources (IDNR) has issued this State 401 Water Quality Certification pursuant to Section 401 of the Clean Water Act. The Army Corps of Engineers (Corps) requires state Certification before a Section 404 permit can be issued. Section 401 Certification represents the IDNR's concurrence that the project certified is consistent with the Water Quality Standards of the state of Iowa as set forth in Chapter 61, Iowa Administrative Code.

Subject to the attached conditions, incorporated by reference herein, the IDNR has determined that there is reasonable assurance the proposed activities will be conducted in a manner that will not violate water quality standards of the state of Iowa.

GENERAL CONDITIONS

1. Permittee is responsible for securing and for compliance with such other permits or approvals as may be required by the IDNR, federal, state, or local governmental agencies for the project activities described.

2. All disturbed/non-vegetated areas not covered with riprap shall be seeded with native grasses, excluding Reed Canarygrass (*Phalaris arundinacea*) or any aggressive or invasive species, during an optimal seeding period. If excavation and construction are completed outside an optimal seeding period, temporary erosion control protection shall be implemented immediately upon completion of excavation and construction and shall be maintained until such time as seeding can be completed during an optimal period. The applicant shall monitor revegetated areas continuously to assure success of revegetation. If rye is initially planted to stabilize the soil then native warm season grasses shall be planted during the following growing season. The seeding of the pond area should use a local eco-type emergent wetland seed mix.

3. Riprap shall consist of clean native fieldstone, clean quarry run rock or clean broken concrete. If broken concrete is used all reinforcement material shall be completely removed from it; if removal is not possible, said reinforcement material shall be cut flush with the flat surface of the concrete. It shall be the applicant's responsibility to maintain the riprap such that any reinforcement material that becomes exposed in the future is removed. The concrete pieces shall be appropriately graded and no piece shall be larger than 3 feet across the longest flat surface. No asphalt or petroleum based material shall be used as or included in riprap material.

4. Two rock riffles, consisting of native fieldstone or quarry run rock, shall be installed at the upstream and downstream ends of the new channel. The rock material shall be large enough to remain where placed even during high flow conditions and is to cover the width of the channel. The riffles shall be tied into the stream banks and stream bed.

MITIGATION CONDITIONS

1. Mitigation shall be completed within one year from the date that the Department of the Army Section 404 permit is issued. An as-built plan shall be submitted to the IDNR and to the Corps upon completion. The 0.46-acre replacement wetland (0.23 acre of emergent vegetated wetland and 0.23 acre of shallow water, less than 2'-deep) shall be monitored annually and managed to confirm whether it has successfully replaced the function and values of the impacted wetlands after a five-year period. If, at the end of the fifth year, the expected water level is not achieved, more than 50 percent of the emergent vegetation are non-native species, or if evidence exists that the replacement wetland is becoming less effective, then additional monitoring and/or corrective actions shall be taken to achieve the compensation ratio as originally approved. Annual monitoring reports shall be submitted to the IDNR and to the Corps' office by December 31 for at least five years following planting.

2. The streambed stabilization structures will be designed and built to be fish passable at normal flows. Each structure will be constructed of native fieldstone, quarry run rock, or broken concrete. If broken concrete is used, all exposed wire and re-bar must be removed. Material must be appropriately sized for the expected stream velocities. Each structure must be keyed at least two feet into the stream bed and banks (to top of bank) and must be at least 20 feet long (up and down stream). Stones in the bed of the stream must not extend more than 6 inches above the stream bed.

3. Future development or land-use conversion of the wetland mitigation area (including the buffers), or any part thereof, for any purpose which may interfere with or be detrimental to wetland functions, is prohibited without prior written approval from the IDNR and the Corps. **The Permittee shall, with the knowledge and approval of the property owner of record, file a copy of this certification in its entirety with the County Recorder for entry into the property records, thereby notifying all parties of this restriction. Further, said Permittee shall provide the IDNR and the Corps with a "Filed" stamped copy of this certification. If the certification cannot be filed in the manner indicated, the applicant shall provide the IDNR with documentation of agreements, contracts, etc., demonstrating to the IDNR's satisfaction that the wetland mitigation site will be protected from future activities that may interfere with or be detrimental to wetland functions and values to a level of assurance equivalent to that provided by the aforementioned filing process.**

4. The annual site surveys of the mitigation site (including buffer areas) shall assess the vegetation, hydrology, and soils. The results of each survey will be documented in an annual monitoring report. Annual monitoring reports shall be submitted to the IDNR and to the Corps by December 31 for at least five years following planting. The reports must include photos, a vegetative cover map indicating dominant species in each vegetative community, an assessment of wetland hydrology according to the 1987 Corps of Engineers Wetland Delineation Manual ('87 Manual), a map with drawn boundaries indicating exactly what areas are wetland according to the '87 Manual and what areas are inundated with water less than 2 feet deep, an assessment of the 2 acres of planted trees and shrubs and 30-foot-wide buffer area, an assessment of the function and stability of the streambed stabilization structures, and any corrective actions taken or needed. All maps must be to scale and have the scale plainly labeled.

5. Mr. Daniel Schulte shall assume all liability for accomplishing any needed corrective work. Corrective work will be required if the emergent wetland does not develop as wetland (according to the '87 Manual) or if the Corps determines that the mitigation site (including buffer) is not developing satisfactorily. Remedial work may include grading and/or planting the mitigation site, or may require a new mitigation site.