

United States Department of the Interior
Bureau of Land Management
Northeastern States Field Office
LLES003420

Categorical Exclusion

NEPA #: DOI-BLM-ES-030-2012-0013-CX

**Review and Approval of Fish Spawning Habitat
Enhancement on Peshtigo River Islands**

Date: April 2012

Type of Action: Categorical Exclusion Not Established by Statute

Location: 4th PM, T.31N., R.22E., Sec. 34, NWSW
Marinette County, Wisconsin
Identified as Public Domain Island CCN 075-024

Project Acreage: 0.7 acres

Bureau of Land Management
Northeastern States Field Office
626 E. Wisconsin Ave., Suite 200
Milwaukee, WI 53202
414-297-4400 (phone)
414-297-4409 (fax)



Approval and Decision

Based on a review of the project, staff recommendations, and in accordance with 516 DM 11.9, I have determined that the proposed activity – the construction of a walleye spawning reef, including the placement of boulders on a public island – is in conformance with the 1985 Wisconsin Resource Management Plan and policies and is categorically excluded from further environmental analysis.

It is my decision to approve the action as proposed.

Approved by:



Mark Storzer, Manager
Northeastern States Field Office

Date:



NEPA Categorical Exclusion Documentation

United States Department of the Interior
Bureau of Land Management
Northeastern States Field Office – ES030

CATEGORICAL EXCLUSION Review and Approval of Fish Spawning Habitat Enhancement on Peshtigo River Islands

NEPA No. DOI-BLM-ES-030-2012-0013-CX
By Derek A. Strohl, Natural Resources Specialist

A. Background

Location: Public-domain island County Control Number 075-024, Marinette County, T31N, R22E, Sec. 34, NWSW, including an area of approximately 0.7 acre (See Figure 1).

Proposed action: The Wisconsin Department of Natural Resources (WDNR) has proposed to construct a walleye spawning reef on the bed of the Peshtigo River. Part of the reef structure would include placing boulders at the waterline along the edges of the BLM island in order to direct flow of the river over the reef. These boulders would span 150 feet of the western edge of the island and would be placed by the WDNR in summer of 2012.

B. Land Use Plan Conformance

Wisconsin Resource Management Plan

This action is in conformance with the Wisconsin RMP¹ (Record of Decision signed on August 29, 1985) and falls under the Mitigation section of the RMP, which states, "The plan has been designed to avoid or minimize environmental harm where practicable. Specific mitigation measures in accordance with existing laws, regulations, and other requirements will be designed on a tract-by-tract basis as needed."

National Fish Habitat Action Plan

This Plan² sets goals regarding the restoration or enhancement of fish habitats and emphasizes the importance of working through partnerships. The proposed action complies with the recommendations of the Plan in that it is a fish habitat restoration project done through a partnership between federal and state agencies.

C. Compliance with the National Environmental Policy Act:

The proposed action is categorically excluded from further analysis under the National Environmental Policy Act (NEPA) in compliance with **516 DM 2, Appendix 1**, as referenced below. This categorical exclusion is appropriate in this situation because there are no extraordinary circumstances potentially having effects that may significantly affect the environment. The proposed action has been reviewed, and none of the extraordinary circumstances described in **516 DM 2** applies.

The applicable categorical exclusion is as follows:

- A. (3) Construction of perches, nesting platforms, islands, and similar structures for wildlife use.

¹ Available at the Northeastern States Field Office.

² Available at <http://www.fishhabitat.org/>.

BLM, Northeastern States Field Office

NEPA Categorical Exclusion Documentation

I considered (a) the habitat-enhancing nature of the proposed action and (b) the island's small size and relative low importance to other wildlife species, recreational use, or other resources.

D. Signature

Authorizing Official: _____



Mark Storzer, Field Manager
Northeastern States Field Office

Date: _____

4/11/12

Contact Person

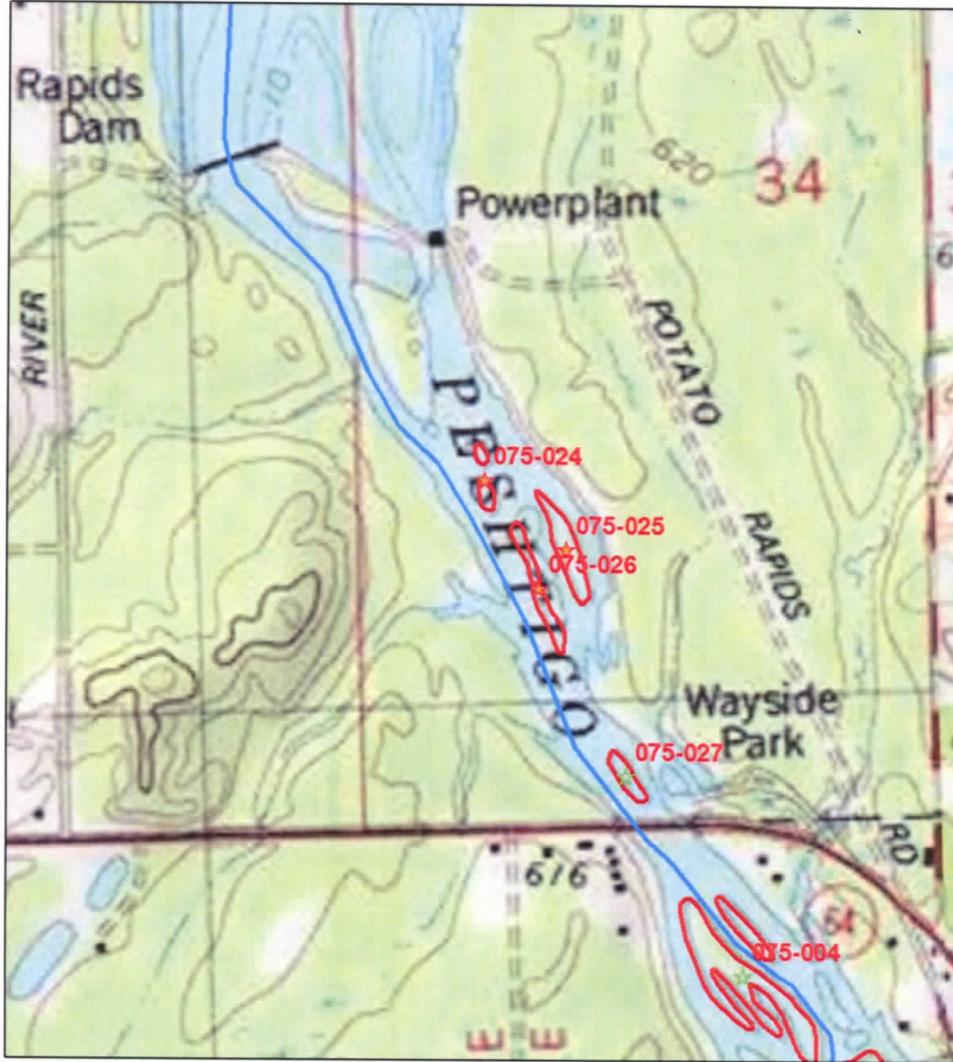
For additional information concerning this CX review, contact **Derek Strohl, Natural Resources Specialist** at ES-NSFO, 626 E. Wisconsin Ave., Ste. 200, Milwaukee, WI 53202, 414-297-4416, Dstrohl@blm.gov.

Attachment(s)

Island Location Map (Figure 1)

Figure 1. Location of proposed project.

Island 075-024, Peshtigo Flowage, Marinette County



Categorical Exclusion Review Record

Resource	Yes/No*	Assigned Specialist Signature	Date
Air Quality	Yes	<i>Wanda Huts</i>	4/5/2012
Areas of Critical Environmental Concern	Yes	<i>Wanda Huts</i>	4/5/2012
Cultural Resources	Yes	<i>Wanda Huts</i>	4/5/2012
Environmental Justice	Yes	<i>Kurt J. Wadyen</i>	4/4/2012
Farm Lands (prime or unique)	Yes	<i>Wanda Huts</i>	4/5/2012
Floodplains	Yes	<i>Wanda Huts</i>	4/5/2012
Invasive Species/Noxious Weeds	Yes	<i>Wanda Huts</i>	4/5/2012
Migratory Birds	Yes	<i>Wanda Huts</i>	4/5/2012
Native American Religious Concerns	Yes	<i>Wanda Huts</i>	4/5/2012
Threatened, Endangered, or Candidate Species	Yes	<i>Wanda Huts</i>	4/5/2012
Wastes (hazardous or solid)	Yes	<i>Wanda Huts</i>	4/5/2012
Water Quality (drinking or ground)	Yes	<i>Wanda Huts</i>	4/5/2012
Wetlands / Riparian Zones	Yes	<i>Wanda Huts</i>	4/5/2012
Wild and Scenic Rivers	Yes	<i>Wanda Huts</i>	4/5/2012
Wilderness	Yes	<i>Wanda Huts</i>	4/5/2012
Other: None	Yes	<i>Kurt J. Wadyen</i>	4/4/2012

*Extraordinary Circumstances apply.

Environmental Coordinator: *Kurt J. Wadyen* Date: *April 5, 2012*

Appeal of the Decision - Instructions

WHO MAY APPEAL

You may appeal the decision of the authorized officer if:

1. This decision is adverse to you, AND
2. You believe it is incorrect.

If you appeal, the following directions must be followed:

FILING A NOTICE OF APPEAL

A person who wishes to appeal to the Interior Board of Land Appeals (IBLA) must file in the office of the authorized officer who made the decision (not to the IBLA) a notice that the person wishes to appeal. A person served with the decision being appealed must transmit the *Notice of Appeal* in time to be filed in the authorized officer's office within 30 days after the date of service. If a decision is published in the FEDERAL REGISTER, a person not served with the decision must transmit a *Notice of Appeal* in time for it to be filed within 30 days after the date of publication (43 CFR 4.411 and 4.413).

WHERE TO FILE: Bureau of Land Management
Northeastern States Field Office
626 E. Wisconsin Ave., Ste. 200
Milwaukee, WI 53202-4617

WITH COPY TO: Regional Solicitor
Northeast Region
U.S. Department of the Interior
One Gateway Center, Ste. 612
Newton, MA 02458

FILING A STATEMENT OF REASONS

Within 30 days of filing the *Notice of Appeal*, file a complete statement of the reasons why you are appealing. This must be filed with the Interior Board of Land Appeals, Office of Hearings and Appeals, U.S. Department of the Interior, 801 North Quincy St., Suite 300, Arlington, Virginia 22203. If you fully stated your reasons for appealing when filing the *Notice of Appeal*, no additional statement is necessary (43 CFR 4.412 and 4.413).

WITH COPY TO: Regional Solicitor
Northeast Region
U.S. Department of the Interior
One Gateway Center, Ste. 612
Newton, MA 02458

ADVERSE PARTIES

Within 15 days after each document is filed, each adverse party named in the decision and the Regional Solicitor having jurisdiction over the State in which the appeal arose must be served with a copy of a) the *Notice of Appeal*, b) the Statement of Reasons, and c) any other documents filed (43 CFR 4.413).

PROOF OF SERVICE

Within 15 days after any document is served on an adverse party, file proof of that service with the Interior Board of Land Appeals, Office of Hearings and Appeals, U.S. Department of the Interior, 801 North Quincy St., Suite 300, Arlington, Virginia 22203. This may consist of a certified or registered mail "Return Receipt Card" signed by the adverse party (43 CFR 4.401(c)).

REQUEST FOR STAY

Except where program-specific regulations place this decision in full force and effect or provide for an automatic stay, the decision becomes effective upon the expiration of the time allowed for filing an appeal unless a petition for stay is timely filed together with a *Notice of Appeal* (43 CFR 4.21). If you wish to file a petition for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the IBLA, the petition for a stay must accompany your *Notice of Appeal* (43 CFR 4.21 or 43 CFR 2801.10 or 43 CFR 2881.10). A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the *Notice of Appeal* and Petition for a Stay **must** also be submitted to each party named in this decision and to the IBLA and to the appropriate Office of the Regional Solicitor (43 CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

Standards for Obtaining a Stay

Except where otherwise provided by law or other pertinent regulations, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards:

- (1) the relative harm to the parties if the stay is granted or denied,
- (2) the likelihood of the appellant's success on the merits,
- (3) the likelihood of immediate and irreparable harm if the stay is not granted, and
- (4) whether the public interest favors granting the stay.

Unless these procedures are followed, your appeal will be subject to dismissal (43 CFR 4.402). Be certain that **all** communications are identified by serial number of the case being appealed.

NOTE: A document is not filed until it is actually received in the proper office (43 CFR 4.401(a)). See 43 CFR Part 4, Subpart B for general rules relating to procedures and practice involving appeals.