

Hilbert, Hans

From: Amy Winters <amywinters@capitol-strategies.net>
Sent: Thursday, June 21, 2018 4:04 PM
To: Peich, Wendy M - DNR
Cc: 'kerrie.j.hauser@usace.army.mil'; Hilbert, Hans; Richter, Boyd - DNR
Subject: Re: INF-SC-2018-13-01928 Navigability Determination

Thank you Wendy!!! I really appreciate you getting this done!

Would all of the lots I sent you be subject to the wetlands regulations/restrictions or just part/some of them?

Warmest regards,

Amy

On Jun 21, 2018, at 12:59 PM, "Peich, Wendy M - DNR" <wendy.peich@wisconsin.gov> wrote:
Hi Amy,

I was able to perform a desktop review and site visit this morning. Below please find the official determination.

June 21, 2018

INF-SC-2018-13-01928

RE: Request for Navigability Determination on an unnamed tributary of the Yahara River, located in the SE Quarter of the NE Quarter of Section 17, Township 5 North, Range 11 East, Town of Dunkirk, Dane County.

I performed a desktop review and visited this site on 6/21/2018. I inspected the waterway on the East and West sides of Brookside Circle. To the West of Brookside Circle, the waterway had steady base flow. The water was approximately 6 inches in depth and the waterway was approximately 1.5-2 feet in width with a meandering nature and a gravel substrate. The waterway continued to flow East, under Brookside Circle, to the Yahara River. The waterway on the East side of Brookside varied in depth between 6-12 inches and was approximately 2.5 feet wide. The waterway was assessed at a time of high water.

In Wisconsin, the Supreme Court has defined a navigable waterway as one which has a defined bed and banks and carries enough water to float a canoe or other watercraft during the spring high water periods. Based on this definition and the conditions observed at your site, ***the stream on this property has been determined to be NOT navigable/public.*** The waterway has a defined bed and bank, but would not be deep enough to float a watercraft even at this time of high water.

Chapter 30, Wis. Stats., permits are not needed for work in and near this waterway. However, *the waterway does meet the definition of a watercourse and would be subject to Chapter 31 Dam regulations for any activity that may impound water. Furthermore, the waterway runs through an area indicated as wetlands. Any land disturbing activities in this area would require authorization through the DNR wetland program.* Information on these regulations are available on the DNR web site at www.dnr.wi.gov.

Certain activities may also require permits from the Army Corps of Engineers and they should be contacted before beginning any construction at this site.

If you have any questions about this determination, please call me at (608) 275-3481 or email wendy.peich@wisconsin.gov.

Sincerely,
Wendy Peich

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WENDY PEICH

Phone: (608) 275-3481

Wendy.peich@wisconsin.gov

From: Amy Winters [mailto:amywinters@capitol-strategies.net]
Sent: Monday, June 18, 2018 9:22 AM
To: Peich, Wendy M - DNR <Wendy.Peich@wisconsin.gov>
Subject: RE: What are the laws/rules for brooks?

Good morning Wendy! Thank you!!!!

Have a wonderful day/week!

Warmest regards,

Amy

On Jun 18, 2018, at 9:08 AM, "Peich, Wendy M - DNR" <wendy.peich@wisconsin.gov> wrote:

Hi Amy,

I would be able to take a look at it in the next couple of days.

Given high permit workloads this time of year, jurisdictional determinations are typically bumped down to the bottom of the priority list and are done when time allows.

As I said, I should be able to take a look in the next couple of days!

Let me know if you have additional questions.

Thanks ☺

Wendy

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WENDY PEICH

Phone: (608) 275-3481

Wendy.Peich@wisconsin.gov

From: Amy Winters [<mailto:amywinters@capitol-strategies.net>]

Sent: Friday, June 15, 2018 12:55 PM

To: Peich, Wendy M - DNR <Wendy.Peich@wisconsin.gov>

Subject: RE: What are the laws/rules for brooks?

Hi Wendy! Happy Friday to you!

Can you tell me what the process and timeline would be to look at the property and make a determination? I have attached a photo with the approximate area the brook runs through. The spring is close to Yuma Circle on the second lot in from Tareyton Circle and the brook/stream runs across the properties on Tareyton Circle then runs through the Town of Dunkirk's lot on Brookside and into the Yahara River.

If it is possible to get back to me today, it would be much appreciated!

Thank you!

Warmest regards,

Amy

On Jun 13, 2018, at 8:57 AM, Amy Winters <amywinters@capitol-strategies.net> wrote:

Thank you Wendy!

That is the primary question, what would make it navigable? It is shallow and about 1.5 feet across..

On Jun 13, 2018, at 8:53 AM, "Peich, Wendy M - DNR" <wendy.peich@wisconsin.gov> wrote:

Hi Amy,

Any waterway that meets the definition of a "navigable" water, regardless of its size (brook vs river) is subject to Chapter 30 waterway regulations. The pictures you supplied indicate a defined bed and bank, however to determine whether it is a navigable water I would need to take a closer look and perform a desktop review.

As far as setback requirements and other ordinances, those should be the same, but you will want to check with the County.

Wendy

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WENDY PEICH

Phone: (608) 275-3481

Wendy.peich@wisconsin.gov

From: Amy Winters [<mailto:amywinters@capitol-strategies.net>]

Sent: Wednesday, June 13, 2018 12:29 AM

To: Peich, Wendy M - DNR <Wendy.Peich@wisconsin.gov>

Subject: What are the laws/rules for brooks?

Hello Wendy!

Can you look at the attached photos of a spring fed brook located in the Town of Dunkirk on the following parcels.

0511-171-7023-0

0511-171-7034-7

0511-171-7045-4

0511-171-7055-2

0511-171-7065-0

The stream/brook flows into the Yahara river. Would the building restrictions be the same as they are for a river?

Thanks!

Best regards,

Amy

Amy Winters, President

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Madison, Wisconsin

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