

Minnesota Department of Natural Resources

Ecological and Water Resources Division
800 Oak Savanna Lane SW
Cambridge MN 55008
763-689-7100



May 3, 2013

Attn: Kristine Fuge
Chisago County Attorney's Office- Room 373
313 North Main Street
Center City, MN 55012

**RE: North Center North Lindstrom Channel Restoration Feasibility Task Force/
MN DNR Permit Requirements for changing runout elevation and water level
controls.**

Dear: Ms. Fuge:

Per the meeting on April 9th, 2013, to review the feasibility of possible channel design options and make a recommendation to the County Board of Commissioners, we offer the following comments regarding the permitting requirements for a proposed change to the runout elevation/water level control for North Center (13-32P) Lake.

It is the goal of the Minnesota Department of Natural Resources to manage public water to maintain or restore natural flow and natural water level conditions to the maximum feasible extent. It is also the goal of the Minnesota Department of Natural Resources to limit the artificial manipulation of water level, except when the balance of affected public interests clearly warrants the establishment of appropriate controls and it is not proposed to solely to satisfy private interest.

A permit would be required for the construction, repair, reconstruction or abandonment of any water level control structure at the outlet of North Center Lake.

Minnesota Statute 103G.245 subd. 10 identifies that for **Work in Public Waters**:

(a) A public waters work permit that will change the level of public waters may not be issued unless:

(1) the shoreland adjacent to the waters to be changed is governed by a shoreland zoning ordinance approved by the commissioner; and

(2) the change in water level is consistent with the shoreland zoning ordinance.

(b) Standards and procedures for use in deciding the level of public waters must ensure that the rights of all persons are protected when public water levels are changed and must provide for:

(1) technical advice to persons involved;

(2) establishing alternatives to help local agencies resolve water level conflicts; and

(3) mechanics necessary for local resolution of water problems within the state guidelines.

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Typically, this kind of proposed project as identified in Minnesota Public Waters Work Rules 6115.0221 for water level controls, would be sponsored by a governmental unit, which assumes responsibility for operation and future maintenance. However, it is possible for a majority of the riparian owners to sign the permit application if appropriate easements or other property interests have been obtained from all affected owners, a title-registration type permit is issued to the owner or owners of the property upon which the proposed water level control structure will be located, and the structure will further public interests in navigation, propagation of fish or wildlife, or other beneficial public uses of .

As identified in Minnesota Public Waters Work Rules, general guidance for the permit requirements to change the runout elevation would include the purchase or donation of flowage easements and consent from all owners of riparian land abutting the lake, as well as any connected waters that would also be affected are required. Also required would be a hydrology/hydraulic analysis that must identify the anticipated changes in lake levels and flows. An Environmental Assessment would be potentially required that would document the impacts on wetland habitat, fish spawning areas, waterfowl nesting areas, as well as strategies to address shore erosion due to wave action and winter ice push.

It must also be noted that the potential modifications for a proposed channel would be made in the bed of a Public Water Wetland (13-154) that contains the locally known Bull Lake. It would be our understanding that this Public Water Wetland is considered a non-meandered body of water.

The intent of this letter was to provide some clarity on the requirements for the need for obtaining flowage easements and consent from all owners of riparian land abutting the lake, as well as any connected water that would also be affected, as it specifically relates to a change to the outlet/runout of North Center Lake. I would be more than happy to sit down with you and discuss the permitting requirements in greater detail, and at your convenience.

If you have any questions or concerns, please contact me at (763) 689-7100 ext. 225.

Sincerely,



Craig Wills
MN DNR Area Hydrologist

cc: George McMahon, Chisago County Board of Commissioners
Kurt Schneider, Chisago County
Jerry Spetzman, Chisago County
Craig Mell, County SWCD
John Olinger, City of Lindstrom
Daniel Seemon, USCOE
Todd Langevin, DNR Conservation Officer
Roger Hugill, Area Fisheries Supervisor
Melissa Doperalski, EWR Environmental Review
Ted Dick, Area Wildlife Supervisor
Dan Lais, DNR EWR District Manager