

October 2025

Attachment to the DNR/DOT Cooperative Agreement

Memorandum of Understanding
by and between the
WISCONSIN DEPARTMENT OF NATURAL RESOURCES
and the
WISCONSIN DEPARTMENT OF TRANSPORTATION
on
Floodplain Encroachments and Waterway Crossings

PART ONE: Purpose and Background

1.1 Statement of Purpose

This attachment to the DNR/DOT Cooperative Agreement (Attachment) outlines the Department of Natural Resources (DNR) and Department of Transportation (DOT) responsibilities for floodplain encroachments and waterway crossing impacts from DOT directed and supervised projects subject to the DNR/DOT Cooperative Agreement (CoA). The DOT recognizes that the DNR administers Ch. NR 116 Wis. Adm. Code for Wisconsin's Floodplain Management Program and Ch. NR 320, Wis. Adm. Code concerning navigational clearance over waterways. DOT concurs with the spirit and intent of these codes and will provide DNR and affected local units of government with timely project notification and information regarding proposed impacts. DNR recognizes DOT's responsibilities to provide for the development of a safe and efficient transportation system. Both DNR and DOT recognize that it is in the best interest of the public for both agencies to work cooperatively to develop policies to promote the design and construction of resilient stream crossings and that doing so may result in the loss of the flood attenuation upstream of undersized stream crossings.

1.2 Background

Floodplain requirements are intended to protect lives and property and to reduce tax dollars spent for rescue, relief, and repair of flood damage. Wisconsin initially developed floodplain regulations in 1966 and the federal government set standards for floodplain management in 1968 as part of the requirements for community participation in the National Flood Insurance Program. Currently, Wisconsin Administrative Code Chapter NR 116 defines additional standards and requires that communities administer state and federal standards through their local floodplain zoning ordinance.

The coordination between DNR and DOT to ensure compliance with regulatory floodplain standards was identified in the first CoA signed in 1976. This included an interagency commitment to share information with local units of government to analyze effects of DOT projects for informed decision making and to help communities maintain NFIP compliance. Subsequent CoA revisions preserved this commitment until 1988 when an interagency memo was developed to define coordination and implement additional

provisions including landowner notifications. This Attachment provides additional details for interagency coordination and marks the first update to DOT-DNR floodplain guidance in 37 years.

1.3 Applicability

The Attachment applies to projects directed and supervised by DOT in accordance with the DNR and DOT CoA (s. 30.2022 Wis. Stats.) which cause an encroachment into regulated floodplains. This includes, but is not limited to, all projects that involve culverts, bridges, grading, excavation, buildings and fill that result in changes to the base flood elevations in the regulatory model, or in the absence of a regulatory model, changes to the project specific engineering model used to analyze said encroachments.

If the staff of either agency believes a DOT project within a mapped floodplain, for reasons of size or significance, should not be reviewed under this Attachment, they should discuss their concern with the other agency. Upon agreement of both agencies, any DOT project can be excluded from, or included in, the requirements of this Attachment. All such agreements shall be documented before completion of the liaison process.

1.4 Definitions

Approximate study area: Any floodplain on a regulatory Federal Emergency Management Agency (FEMA) floodplain map, Flood Insurance Rate Map (FIRM) or Flood Hazard Boundary Map (FHBM) designated as either of the following zones: A or V. These zones are created using approximate engineering methods and do not have Base Flood Elevations (BFE) published on the FIRM, FHBM or in the Flood Insurance Study (FIS) report. Approximate study areas are considered all floodway until the floodplain model provides the floodway/flood fringe delineation.

Base Flood Elevation (BFE): The elevation of surface water resulting from a flood that has a 1% chance of equaling or exceeding that level in any given year.

Dam Failure Analysis (DFA): Analysis completed by an engineer/consultant to estimate the downstream impact if the dam were to fail during a 100-year flood event; results of analysis used to assign hazard rating.

Encroachment: Any fill, structure, equipment, use, or development in a regulated floodplain.

FEMA detailed study area: Any floodplain on a regulatory FEMA floodplain map (Flood Insurance Rate Map (FIRM) or Flood Hazard Boundary Map (FHBM)) designated as any of the following zones: AE, AH, AO, AR, VE, or numbered A zone (A1-99). These zones are created using detailed engineering methods and have BFE's published on the FIRM, FHBM or in the Flood Insurance Study (FIS) report.

Flood fringe: That portion of the floodplain outside of the floodway which is covered by flood waters during the regional flood and associated with standing water rather than flowing water.

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Floodplain: Land which has been or may be covered by flood water during the 1% annual chance flood. It includes the floodway and the flood fringe and may include other designated regulatory floodplain areas.

Flood Storage District (FSD): Floodplain areas outside of the mapped floodway where storage of floodwaters has been taken into account during analysis in reducing the regional flood discharge.

Floodway: The channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional flood discharge.

Impact: A change to the base flood elevation reflected in model of record or project specific model of a regulated floodplain.

Local floodplain ordinance: Ordinances enacted and administered by municipalities to adopt floodplain zoning maps and to define proper land uses and activities in those regulated areas for the purpose of meeting a community's obligations under Ch. NR 116 Wis. Adm. Code and 44 CFR 59-79 for Wisconsin's Floodplain Management Program.

Model of record: The engineering model(s) that were used to produce the current effective Flood Insurance Rate Map, Flood Insurance Study, or other regulated floodplain.

Municipality: For the purposes of this part, municipality refers to cities, villages, and counties. [Note: In townships, counties regulate floodplains.]

Navigational clearance: As defined in Wisconsin Administrative Code, is described as the vertical distance between the inside top of a culvert or the bottom of the lowest member of the bridge span and the ordinary high-water mark of the waterway.

Regulated floodplain: A floodplain in which fill, encroachments, and development activities are regulated and the boundaries of which are defined by the municipality's adopted floodplain zoning maps. These maps include any floodplain on a regulatory FEMA floodplain map (Flood Insurance Rate Map (FIRM) or Flood Hazard Boundary Map (FHBM)) but may also include additional flood hazard areas zoned by the municipality such as those downstream of dams or flood storage districts.

Zoning Administrator (ZA): For the purposes of this document the Zoning Administrator is a local or county official or officials responsible for the administration of their local ordinance to meet the requirements of Ch. NR 116 Wis. Adm. Code and the National Flood Insurance Program (NFIP) requirements within a zoning agency.

Zoning Agency: Zoning agency means a commission, board, committee or agency created or designated by the governing body of a municipality which acts on matters pertaining to planning or zoning. Under the provisions of Wisconsin Statute 62.23(7)(d)2., the term "zoning agency" also includes the governing body of a city or village.

PART TWO: Project Scoping and Design

2.1 Scoping of Potential Impacts to Regulatory Floodplain Areas

DOT and DNR recognize that impacts to the mapped floodway and to Base Flood Elevations (BFE) resulting from the construction of some DOT projects may require considerable coordination to assist communities in updating their floodplain maps. Early identification of those projects in the project scoping and planning stages is critical to allow for adequate time in the project schedule and budget for completion of required coordination, specifically where an increase in the BFE is anticipated. DOT and DNR will ensure that appropriate guidance is provided such that staff from both agencies are able to identify those projects where floodplain impacts are expected. As early as possible during the environmental coordination process, DOT and DNR will determine the appropriate level of coordination necessary to meet the spirit and intent of Ch. NR 116 Wis. Adm. Code and ensure compliance with the minimum requirements of the NFIP as outlined in 44 CFR 59-79, whichever is more restrictive.

2.1.1 DOT Project Scoping and Initial Planning

DOT will coordinate with DNR early on projects with potential impacts to mapped floodplains to identify potential issues prior to finalizing scope and budget. This is of particular importance in situations where the proposed improvements may cause a rise in BFEs such as widened roadway embankments, and new or realigned roadways and bridges. Even a pavement overlay project has the potential to impact mapped floodplains in that the slight raise in roadway profile may impact the BFE of a mapped floodplain which currently overtops the roadway embankment. This coordination should occur during project planning and preferably before the Initial Review Letter is requested.

2.1.2 DNR Project Screening and Continued Coordination

The determination whether a mapped floodplain is in project limits will be made by the DNR Transportation Liaison (TL) after DOT requests project coordination and will be communicated to DOT within the initial review letter. If regulated floodplain zoning is in effect, the DNR TL will identify the appropriate Zoning Administrator in the initial review letter. The DNR TL will determine if there are pending or unpublished floodplain models for the area in question and provide available data to the DOT. In addition, the DNR TL will provide input if the project includes stream crossings with navigational clearance concerns.

2.2 DOT Project Design

DOT will evaluate the permanent impacts to floodplains resulting from proposed projects following the methods in Sections 2.2.1 – 2.2.2. The level of required analysis may vary based on the floodplain and project type. In all cases, however, if a model of record is available for the floodplain it shall be used to determine changes to the BFE.

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2.2.1 Approximate Study Area

If the proposed project could cause an increase in the base flood elevations greater than 0.00', a detailed engineering analysis, i.e., HEC-RAS, will be required to determine the full extent of the impact. In the case where no change or a decrease is anticipated, a simplified analysis, i.e. HY-8 or other FEMA approved model, is acceptable.

2.2.2 FEMA Detailed Study Area

In a FEMA detailed study area use the untruncated model of record to determine any change in the base flood elevation. Where the model of record is not available, a new model needs to be developed by DOT.

PART THREE: Coordination and Notification Requirements

3.1 DOT Coordination with DNR and Zoning Administrator

DOT Transportation Projects for public benefit are exempt from local permitting and the State will self-regulate to meet the spirit and intent of NR 116 and ensure compliance with the NFIP minimum standards as outlined in 44 CFR 59-75. Although exempt from a local zoning permit and permit fees, DOT will provide project design documentation and analyses to help the community stay in compliance with Federal and State floodplain standards. All projects within a mapped floodplain require notification and coordination as described below. Where applicable, the appropriate Zoning Administrator will be identified by DNR in the initial review letter. In the event of a non-participating community, project documentation will be provided to the DNR.

3.1.1 Projects with No Impacts to a Floodway Determined without Hydrologic and Hydraulic Calculations

Projects within regulated floodplains that will not impact a floodway do not require hydrologic and hydraulic modeling and shall be coordinated as follows:

- DOT will provide written documentation and/or exhibits to the appropriate Zoning Administrator stating that the project is not placing fills within regulated floodplains, that the project meets the DNR definition of a "Minor project" in a Zone A floodplain from their 2015 LOMC guidance document and any superseding guidance, or stating the technical reason why the fill placement will not impact the BFE. Copies of this correspondence shall be provided to the DNR TL and the DNR Regional Water Management Engineer (WME).

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3.1.2 Projects with Fills In Floodways Resulting in No Change or Decrease to BFE as Determined by Hydrologic and Hydraulic Modeling

Projects with encroachments in floodways, whether roadway fills, bridges, or culverts resulting in no rise in BFE (no change or a decrease) as determined by hydrologic and hydraulic modeling shall be coordinated as follows:

- DOT will require a Professional Engineer licensed in Wisconsin to document the results of the hydrologic and hydraulic evaluation. DOT will provide a Floodplain Impact Letter to the Zoning Administrator, DNR TL, and the DNR Regional WME prior to requesting final concurrence.
- DOT will provide to the DNR (TL and WME) and Local Zoning Administrator the associated hydrologic and hydraulic calculations and report, including digital models as applicable, for the community to develop a Letter of Map Revision should one be necessary to address a decrease in the BFE as outlined in NR 116.21(6).

3.1.3 Projects Resulting in a Permanent Rise in BFE in an Approximate Study Area (I.E. Zone A)

Projects with encroachments in floodways, whether roadway fills, bridges, or culverts resulting in a rise in BFE in an approximate study area as determined by hydrologic and hydraulic modeling shall be coordinated as follows:

- The DNR TL or WME shall assist the Zoning Administrator in providing DOT information regarding any past encroachments that caused a rise in an approximate study area and the remaining allowable rise. If the total rise of the BFE exceeds one foot, DOT shall follow the process described in 3.1.4 to prepare a Conditional Letter of Map Revision (CLOMR).
- DOT will require a Professional Engineer licensed in Wisconsin to document the results of the hydrologic and hydraulic evaluation. DOT will provide a Floodplain Impact Letter to the Zoning Administrator, DNR TL, and the DNR Regional WME prior to requesting final concurrence.
- Additional documents to be provided to the DNR (TL and WME) and Local Zoning Administrator are the design plans and the associated hydrologic and hydraulic calculations and report, including the digital models as applicable, for tracking the cumulative changes to the applicable BFE. DOT will also provide landowner notifications as required in section 3.2.

3.1.4 Projects Resulting in a Permanent Rise in BFE in a FEMA Detailed Study Area

Projects with encroachments in floodways, whether roadway fills, bridges, or culverts resulting in a rise in BFE in a FEMA detailed study area as determined by hydrologic and hydraulic modeling shall be coordinated as follows:

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- DOT will require a Professional Engineer licensed in Wisconsin to document the results of the hydrologic and hydraulic evaluation. DOT will provide a Floodplain Impact Letter to the Zoning Administrator, DNR TL, and the DNR Regional WME prior to requesting final concurrence.
- Additional documents to be provided to the DNR (TL and WME) and Local Zoning Administrator are the design plans and the associated hydrologic and hydraulic calculations and report, including the digital models as applicable. DOT will also provide landowner notifications as required in section 3.2.
- DOT will prepare and provide the necessary studies, tables, profiles, fees and mapping for a Conditional Letter of Map Revision (CLOMR) and coordinate the submittal with the appropriate Zoning Administrator. The CLOMR approval by FEMA is required prior to construction per the National Flood Insurance Program requirements.
- Upon completion of the project, DOT will provide the fees and necessary data and coordinate with the Zoning Administrator to complete a Letter of Map Revision (LOMR) per National Flood Insurance Program requirements.

3.2 Landowner Notification and Legal Arrangements

If a permanent increase in BFEs will result (mapped areas only or where otherwise agreed), the DOT region will notify all affected landowners from the project by certified letter, return receipt requested. The notification will be made using one of the three attached form letters.

- **Letter 1** will be sent to affected property owners where a FEMA mapped floodplain exists but no floodplain zoning ordinance is in effect.
- **Letter 2** will be sent to affected property owners where a FEMA mapped floodplain exists and a floodplain zoning ordinance is in effect.
- **Letter 3** will be sent to affected property owners where a FEMA mapped floodplain exists, a floodplain zoning ordinance is in effect, and whose property DOT has determined will be diminished in value by the increased flood water elevation resulting from the DOT project.

Where a floodplain zoning ordinance is in effect, appropriate legal arrangements will be required. In addition to notification Letter 2 or 3, one of the following must be done prior to requesting DNR final concurrence:

- a) Receipt of a document signed by the property owner (response sheet to Letter 2), or a certified letter return receipt, which verifies the property owner has received the applicable notification letter (Letter 2). To keep the DNR TL informed of comments received from these specific property owners, a copy of all completed or partially completed returned response sheets must be sent to the DNR TL.
- b) Initiation of acquisition of property rights (fee title or easement), or provision of other compensation agreed to in writing by the property owner.

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- c) Initiation of condemnation proceedings as provided in Chapter 32, Wis. Stats.

DOT is the agency responsible for determining which of the requirements (a, b, or c) is appropriate for a project.

DOT will send the DNR TL a copy of all landowner notification letters. Copies of the certified mail receipt and its return receipt should be retained with the DOT region's project files. The form letters are not to be amended except to include appropriate project information. A copy of Section 88.87, Wis. Stats. will also be sent to affected landowners as part of the notification. Any other information DOT conveys to a landowner will be handled separately.

3.3 DNR Coordination with DOT and Zoning Administrator

DNR WMEs shall provide timely assistance to local units of government in the development, adoption, and administration of their official floodway lines, water surface profiles, floodplain zoning maps, and zoning ordinances consistent with their authority and responsibility under Ch. NR 116 Wis. Adm. Code.

DNR shall notify DOT in a timely manner about any significant problems which could ultimately arise during the ordinance amendment process that might indicate reconsideration of the project development schedule. If such a situation arises, DOT and DNR shall resolve these jointly on an individual basis pursuant to the spirit and intent of this Attachment.

3.4 Proceeding with Project Development

DOT project development scheduling normally provides sufficient lead time for the zoning ordinance amendment process, including study review and approval, to be completed prior to construction. DOT may proceed with project development:

- a) Upon notifying DNR, the local unit of government, and the appropriate floodplain Zoning Administrator of the predicted increase in the height of base flood elevations.
- b) After making appropriate legal arrangements with affected property owners and providing evidence of this to DNR, DOT or its authorized agent.
- c) After LOMC submissions have been completed by DOT, if required.
- d) If a community fails to amend its ordinance within six months.

PART FOUR: Other Situations

The following describes other situations that may be encountered during coordination of floodplain and related waterway crossing or encroachment issues. These situations may require additional coordination, permits, and permissions from DNR or other local, state, and federal agencies.

4.1 Temporary Encroachments

DOT projects may require the use of temporary causeways or structures that would be constructed in the floodway of a FEMA detailed study area or approximate study area. Temporary encroachments in the floodplain shall be reviewed through the floodplain coordination process described in this section.

4.1.1 Temporary Encroachment Analysis

Temporary causeway or structure design shall avoid increases to the BFE on insurable structures to the maximum extent practicable. During the project design, DOT will specify the anticipated temporary causeway or structure footprint, crest elevation, and duration of placement. DOT will select the appropriate design flood event for the temporary causeway or structure commensurate with risk associated with the seasonal timing and duration of impact. In addition, DOT will perform engineering analyses to determine potential impacts on landowners in the regulated floodplain and as necessary include guidance in the project contract documents for the contractor's use. At a minimum the engineering analysis should include:

- Identification of the temporary changes to the floodplain under a 1% chance flood event (100-year flood)
- Documentation demonstrating DOT has identified all insurable structures affected by any increase in BFE during a 1%-annual-chance flood event (100-year flood)
- The length of time the structure or encroachment will be allowed.

DOT will provide this information to the DNR for concurrence.

In cases where the use of temporary causeways or structures is not known until construction, or the contractor proposes substantial changes to the encroachment assumed during design, DOT will provide the results of the required analyses described above and provide adequate time for coordination and concurrence from DNR.

Minor temporary fills or appurtenances used to facilitate construction or installed for environmental protection will not be evaluated for floodplain impacts.

4.1.2 Temporary Encroachment Notification

Where a temporary causeway or structure design increases the BFE, DOT will notify DNR and the local Zoning Administrator. No CLOMR/LOMR will be submitted due to the temporary nature of the encroachment, but DOT will notify all property owners with impacted insurable structures (including those already located within the floodplain) and provide copies of the notifications to DNR and the local Zoning Administrator.

DNR will assist in informing the local Zoning Administrator that all applicants for permits in the affected area are notified in writing that there is an increased risk of flooding for the duration of the temporary encroachment.

4.1.3 Flood Monitoring and Response Plan

DOT and DNR will coordinate to determine appropriate provisions for flood monitoring and actions by the contractor during construction to minimize potential floodplain impacts. As applicable, DOT will require the contractor to prepare a flood response plan. The contractor's flood response plan may be unique for each project dependent on impacts to property owners and/or contractor's equipment and will be subject to approval by DOT and DNR. At a minimum the contractor's flood response plan should include:

- Provisions to restrict equipment in the floodway to only that equipment which is necessary for the purposes of the project. All other accessory equipment and temporary structures (i.e. construction trailers) are to be restricted from the floodway.
- Placing necessary structures on site so that flood damages are minimized.
- A plan to evacuate equipment from the site and place it outside the floodplain based on forecasted flood events or elevation markers established in design. Where evacuation of equipment or construction trailers isn't practical DOT and DNR shall determine if requiring anchoring or other mitigative measures are required.

4.1.4 Included Provisions in DNR Concurrence Letter

DNR's final concurrence letter should at a minimum include:

- A limit on the number of days and construction window(s) that the temporary structure or other development will be on site. The letter shall state if a longer or different period is required, that a new DNR concurrence is required which will include a revised date by which the encroachment(s) must be removed.
- A statement that encroachments must not become permanent and encroachments without documentation of compliance with this guidance will be treated as violations.
- Language stating that if the temporary encroachment results in flood damage, DOT or its contractor may be liable for additional damage attributed to the increase in backwater from the temporary causeway or structure.

4.2 Flood Storage Districts

Flood storage is occasionally used in hydrologic modeling to attenuate peak flows. When flood storage is accounted for explicitly in hydrologic modeling, an associated flood storage district must be mapped on a Flood Storage District (FSD) map and adopted by a community. This regulatory FSD is meant to preserve that flood storage area and to ensure that the modeling using it remains an accurate representation of the ground conditions. To remove that flood storage on the ground would mean the model is no longer

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accurate and either the modeling must be revised, or compensation storage must be provided within the same hydraulic reach.

While flood storage modeling techniques are used to reflect actual ground conditions, modeling storage behind roadways may result in future storage reduction from roadway improvements. For example, if structure openings are increased in the future this may reduce the flood storage which will increase the peak flow and in turn increase the base flood elevations downstream. It is not standard procedure to use road embankments and highway right of way as storage features in regulatory models and DNR will investigate prohibitions or procedures to discourage this practice.

4.2.1 Fills and Structure Changes in Mapped Flood Storage Districts

When structures are upsized, or fill is placed within existing highway right of way within an area mapped as flood storage, DOT will follow the process described in section 3.1, however, the community will be responsible for addressing changes to their approved models and mapping related to FSDs.

When fill is placed outside of existing highway right of way within an area mapped as flood storage, DOT may be accountable for reduced storage volume and will work to provide compensatory volume within the same hydraulic reach.

DNR and DOT discourage the use of embankments and highway right of way as storage features in regulatory models. Due to this, the community will be responsible for addressing changes to their approved FSD mapping as necessary.

4.3 Navigational Clearance

Wisconsin Administrative Code defines reasonable procedures and limitations for placement of bridges and culverts in or over navigable waterways to protect the public rights and interests, including the right to navigate on the public waters of the state.

If the project scope includes a waterway crossing, both agencies will evaluate the existing and proposed navigation clearance. DNR will weigh the appropriate waterway factors to assess the potential for obstructions to navigation as defined by Wis. Adm. Code and provide clearance recommendations. DOT will either incorporate the recommended navigational clearance or will provide justification as early as possible if it is not feasible. If there is disagreement, both agencies agree to communicate the differences and evaluate alternatives.

4.4 Dam Hydraulic Shadows

Wisconsin Administrative Code Chapter NR 333 requires owners of all large dams to prepare a dam failure analysis (DFA) to identify the extent of the dam failure floodplain (hydraulic shadow) for the dam. This determines the dam's hazard rating based on the affected development downstream. The hydraulic shadow is then mapped as a special floodplain zoning district and adopted into the local zoning ordinance to establish controls for downstream land use. In addition, it may or may not overlay an existing FEMA floodplain.

Highway embankments, culverts, and bridges downstream of dams can be situated in hydraulic shadows. Any changes to these highway features in a hydraulic shadow can potentially impact the DFA and affect the dam's hazard rating and the extent of the hydraulic shadow. For this reason, it is important for DOT and DNR to coordinate early on highway projects that may reside in a hydraulic shadow. The DNR Transportation Liaison will assist DOT in determining if a project lies within an existing or future hydraulic shadow and provide contact information to regional WME. When evaluating design alternatives, DOT will weigh impacts with hydrologic and hydraulic modeling to a dam's hydraulic shadow versus the benefits to the safety of the traveling public, as well as environmental and flood or dam failure resiliency benefits from highway improvements such as larger culverts and bridges.

For projects located in a dam hydraulic shadow, DOT will add a DNR provided steady flow rate to the hydraulic modeling developed as part of Section 3.1. This additional steady flow rate will serve as a proxy for a dam failure scenario and be provided by the DNR WME. DOT will provide the DNR (TL and WME) and the Local Zoning Administrator, the associated hydrologic and hydraulic calculations and report, including the digital model developed as part of Section 3.1. DNR WME will coordinate providing this information to dam owners as necessary to incorporate changes into their DFA. DOT will not be responsible for updating the DFA.

4.5 Federal Energy Regulatory Commission (FERC) Project Boundaries

FERC is an independent federal agency that is responsible for regulating all aspects of hydroelectric generation, including the construction and operation of hydroelectric dams. FERC project area boundaries are used to designate the geographic extent of the hydropower project that FERC determines a licensee must own or control on behalf of its licensed hydropower project. Project activities within FERC project area boundaries may require coordination with dam owners, licensees, and the FERC. The DNR TL will identify projects that lie within a FERC boundary in the IRL.

4.6 Roadways and Paths on Dams

On occasion, roadways and paths are constructed on principal and auxiliary spillways and embankments of dams. The design and construction of dams have unique plans and specifications, some of which may conflict with the roadway and path designs. There may also be additional floodplain development standards compared to other roadways and paths without dams. These structures often fall under multiple ownership with multiple regulatory requirements and multiple design requirements.

If a roadway or path project is found on a dam, DOT and/or DNR staff should coordinate closely on the critical items, which may include but are not limited to, hydrologic and hydraulic analyses, plans and specifications, backfill specifications, permit conditions, easement agreements (temporary construction and/or permanent), utilities, pre-construction meetings, construction meetings, change orders, etc.

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4.7 Unauthorized Dams

DOT and/or DNR staff may discover structures on the landscape acting as dams that are not authorized. The structures may be large or small dams on navigable or non-navigable watercourses. The presence of these dams may pose a threat to life, health, or property, impinge on or take private property rights, or cause various degrees of environmental harm. Because of these potential threats, Chapter 31, Wis. Stats. requires that a dam have a responsible owner to operate and maintain the structure and be authorized by DNR.

If such an unauthorized dam structure is discovered, early coordination that includes the Chief of Bureau of Technical Services - Environmental Services Section and the DNR State Dam Safety Engineer is necessary.

PART FIVE: Compliance

5.1 Non-Compliance Responsibilities

It is the intent of this Attachment to avoid compliance issues with the commitments herein through communication and cooperation per the CoA process.

Should either agency recognize or be notified of potential compliance issues they shall first notify the DNR Transportation Liaison of the concern to identify the appropriate project staff that can work cooperatively to resolve it. Should the concern originate from a community participant in the NFIP, DNR floodplain management staff will act on their behalf with DOT to resolve the matter. Upon agreement the concern is not in compliance with this Attachment, DOT will determine what, if any, actions need be taken against its contracted consultants or contractors through the provision of their contracts with those entities.

Should there be disagreement, both agencies are encouraged to resolve interagency conflicts before the formal conflict resolution process begins. If a conflict cannot be resolved by the primary agency contacts in the CoA, either agency may initiate the conflict resolution process described within.

Actions undertaken by DOT prior to this Attachment may not fully comply with the current recordkeeping, data sharing, and other obligations described herein. These past actions are not considered non-compliant with the provisions of this Attachment if they aligned with the spirit and intent of the CoA at the time. DOT will, however, cooperate with DNR to the extent possible to address the concern by searching for available project data and correspondence.

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PART SIX: Implementation

6.1 Policy Development and Implementation

Both agencies, in coordination with one another, shall develop and maintain policy and guidance for their staff for implementation of this Attachment.

6.2 Training

Both agencies, in coordination with one another, shall be responsible for training their staff and stakeholders on appropriate implementation of this Attachment.

6.3 Record Keeping

Both agencies shall retain project records, including hydraulic computations in accordance with their approved Record Retention/Disposal Authorizations (RDAs). Local units of governments will be responsible to retain their own records in accordance with NFIP requirements.

PART SEVEN: Signatures

Signed by:

Ann Kipper

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Ann Kipper, External Services Division Administrator
Wisconsin Department of Natural Resources

October 16, 2025

Date

DocuSigned by:

Rebecca Burkel

79B6497E8893446...

Rebecca Burkel, Division of Transportation System Development Administrator
Wisconsin Department of Transportation

October 16, 2025

Date

LETTER 1
LETTER SENT TO AFFECTED PROPERTY OWNERS WHERE A FEMA MAPPED FLOODPLAIN
EXISTS BUT NO FLOODPLAIN ZONING ORDINANCE IS IN EFFECT
(SEE SECTION 3.2 of DOT/DNR Cooperative Agreement Floodplain Attachment)

(Remove this title when sending the letters and use Department letterhead – Send Certified Mail
Return Receipt Requested)

[date]

[Property Owner]
[Inside Address]

[Highway Project ID Information]

The Wisconsin Department of Transportation [in cooperation with county/local government-
insert as applicable] is planning a [*describe project, bridge replacement, highway widening,
etc.*] project on highway [*highway number, letter, or other designation*] over or adjacent to
[*identify waterway*]. The new bridge [*if planned improvement is not a bridge, appropriately
insert the encroachment type*] could increase the 100-year flood water elevation on your
property compared to current conditions.

The predicted 100-year flood elevation is the estimate of the flood water elevation that has
a 1 in 100 (one percent) chance of being reached in any given year. The predicted 100-
year flood elevation on your property following construction of the planned bridge [*if planned
improvement is not a bridge, appropriately identify the encroachment type*] will be [*inches
or feet*] higher than the current predicted 100-year flood elevation on your property.

Our review shows that this increase in the predicted 100-year flood water elevation on your
property does not diminish your property's value or usefulness and will not result in any
damage to you for which the law entitles you to be paid. You are, however, advised of
section 88.87(1) and (2), Wisconsin Statutes, a copy of which is included for your
information. In relevant part, that statute permits a property owner to file a claim for damage
resulting from unreasonable or unnecessary water accumulation due to highway
construction that unreasonably impedes water flow. The property owner must file a claim
within three years after the alleged damage occurs.

Sincerely,

(DOT or Authorized Agent Signature)

Enclosure

Cc: [DNR Transportation Liaison]
[Local Government/Local Zoning Administrator]

LETTER 2

LETTER SENT TO AFFECTED PROPERTY OWNERS WHERE A FEMA MAPPED FLOODPLAIN
EXISTS AND A FLOODPLAIN ZONING ORDINANCE IS IN EFFECT
(SEE SECTION 3.2 of DOT/DNR Cooperative Agreement Floodplain Attachment)

(Remove this title when sending the letters and use Department letterhead – Send Certified Mail
Return Receipt Requested)

[date]

[Property Owner]
[Inside Address]

[Highway Project ID Information]

The Wisconsin Department of Transportation [in cooperation with county/local government-
insert as applicable] is planning a [*describe project, bridge replacement, highway widening,
etc.*] project on highway [*highway number, letter, or other designation*] over or adjacent to
[*identify waterway*]. The new bridge [*if planned improvement is not a bridge, appropriately
insert the encroachment type*] could increase the 100-year flood water elevation on your
property compared to current conditions.

The predicted 100-year flood elevation is the estimate of the flood water elevation that has
a 1 in 100 (one percent) chance of being reached in any given year. The predicted 100-
year flood elevation on your property following construction of the planned bridge [*if planned
improvement is not a bridge, appropriately insert the encroachment type*] will be [*inches or
feet*] higher than the current predicted 100-year flood elevation on your property.

Our review shows that this increase in the predicted 100-year flood water elevation on your
property does not diminish your property's value or usefulness and will not result in any
damage to you for which the law entitles you to be paid.

A prepaid, self-addressed envelope is enclosed for your convenience should you choose to
respond on the enclosed form concerning this matter. Any response should be made within
15 days from the receipt date of this letter. Your failure to respond will indicate you have
no comment but will not prevent you from pursuing any lawful claim you may have in the
future.

You are advised of section 88.87(1) and (2), Wisconsin Statutes, a copy of which is included
for your information. In relevant part, the statute permits a property owner to file a claim for
damage resulting from unreasonable or unnecessary water accumulation due to highway
construction that unreasonably impedes water flow. The property owner must file a claim
within three years after the alleged damage occurs.

Wisconsin Administrative Code, Chapter NR 116, requires that any time an action occurs
that causes a change of more than one-hundredth of a foot to the 100-year flood
elevation, a zoning change may be required. This change is necessary to assure that

local zoning administrators place on record the latest available information on the 100-year flood elevation. Appropriate action, which may include a public notice process, should be taken by the local zoning administrator to document the new 100-year flood elevation for the floodplain in which your property is located.

Sincerely,

(DOT or Authorized Agent Signature)

Enclosure

Cc: [DNR Transportation Liaison]
[Local Floodplain Zoning Administrator]

FORM FOR ENCLOSURE WITH LETTER 2

Response

☐ I request the following additional information:

☐ I have the following questions, comments, or concerns:

☐ I have no further comments, questions, or concerns.

(Date)

(Signature)

NOTE: It is recognized that the property owner may or may not choose to sign.

LETTER 3

LETTER SENT TO AFFECTED PROPERTY OWNERS WHERE A FEMA MAPPED FLOODPLAIN EXISTS, A FLOODPLAIN ORDINANCE IS IN EFFECT, AND WHOSE PROPERTY DOT HAS DETERMINED WILL BE DIMINISHED IN VALUE BY THE INCREASED FLOOD WATER ELEVATION RESULTING FROM THE DOT PROJECT.

(SEE SECTION 3.2 of DOT/DNR Cooperative Agreement Floodplain Attachment)

(Remove this title when sending the letters and use Department letterhead – Send Certified Mail Return Receipt Requested)

[date]

[Property Owner]
[Inside Address]

[Highway Project ID Information]

The Wisconsin Department of Transportation [in cooperation with county/local government-*insert as applicable*] is planning a [*describe project, bridge replacement, highway widening, etc.*] project on highway [*highway number, letter, or other designation*] over or adjacent to [*identify waterway*]. The new bridge [*if planned improvement is not a bridge, appropriately insert the encroachment type*] could increase the 100-year flood water elevation on your property compared to current conditions.

The predicted 100-year flood elevation is the estimate of the flood water elevation that has a 1 in 100 (one percent) chance of being reached in any given year. The predicted 100-year flood elevation on your property following construction of the planned bridge [*if planned improvement is not a bridge, appropriately insert the encroachment type*] will be [inches or feet] higher than the current predicted 100-year flood elevation on your property.

Our review shows that this increase in the predicted 100-year flood water elevation on your property diminishes your property's value. The predicted increase in flood water elevation on your property may result in damage to your property when the bridge [*if planned improvement is not a bridge, appropriately insert the encroachment type*] is constructed. You are, therefore, entitled to appropriate compensation. You have been or will be contacted about the property interest that should be acquired from you and about the compensation that should be paid to you as a consequence of the predicted 100-year flood water elevation increase on your property.

You are advised of section 88.87(1) and (2), Wisconsin Statutes, a copy of which is included for your information. In relevant part, the statute permits a property owner to file a claim for damage resulting from unreasonable or unnecessary water accumulation due to highway construction that unreasonably impedes water flow if compensation for the damage has not already been paid. The property owner must file a claim within three years after the alleged damage occurs.

Wisconsin Administrative Code, Chapter NR 116, requires that any time an action occurs that causes a change of more than one-hundredth of a foot to the 100-year flood

elevation, a zoning change may be required. This change is necessary to assure that local zoning administrators place on record the latest available information on the 100-year flood elevation. Appropriate action, which may include a public notice process, should be taken by the local zoning administrator to document the new 100-year flood elevation for the floodplain in which your property is located.

Sincerely,

(DOT or Authorized Agent Signature)

Enclosure

Cc: *[DNR Transportation Liaison]*
[Local Floodplain Zoning Administrator]