



GRETCHEN WHITMER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF  
ENVIRONMENT, GREAT LAKES, AND ENERGY  
CADILLAC



LIESL EICHLER CLARK  
DIRECTOR

July 8, 2019

VIA EMAIL

Ms. Kriya Miller  
Human Nature School Inc.  
1200 W 11th Street, Suite 115  
Traverse City, Michigan 49684

Dear Ms. Miller:

SUBJECT: Department of Environment, Great Lakes, and Energy (EGLE)  
Preapplication Meeting - Submission Number HNP-RPVR-3PDKE  
Property Location: 4001 E Rudolph Road, Cedar, Michigan  
T28N, R12W, Section 28; Solon Township, Leelanau County

This letter is a follow-up to our June 5, 2019, preapplication meeting regarding the proposed projects discussed for the above-referenced property in Cedar, Leelanau County. The purpose of a preapplication meeting is to provide you with information that will clarify the permit process, answer preliminary questions about your specific project in order to avoid delays at a later date, and to determine, if possible, the need for wetland or inland lakes and streams permits.

During this meeting we reviewed the need to obtain a permit under Part 301, Inland Lakes and Streams; and Part 303, Wetlands Protection, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (Part 301 and 303, respectively). Copies of these parts are available on-line at [www.mi.gov/wrd](http://www.mi.gov/wrd). The review was based on discussion of the proposed project, the proposed site, and potential modifications to the project discussed during our meeting.

Based on the EGLE's Water Resources Division (WRD) review of the property, we have made the following findings regarding the need for a permit under Part 301 and Part 303:

- A permit under Part 301 for any regulated activities, including fill, excavation/dredging, construction in or over, and impacts to the flow of water in the streams on-site. The EGLE observed a small stream in the wetland complex, flowing into a larger stream near the north end of the property. The larger stream is incised and disconnected from the floodplain. The excavation of a floodplain at bankfull elevation, with wetland vegetation, is a commonly done to recreate natural stream function, under permit from the EGLE.

The excavation of a pond within 500 feet of stream or directly connected (i.e. in-line) with a stream will require an EGLE permit under Part 301. The EGLE will closely review an application that proposes to excavate a pond in-line with a stream, because of the adverse impacts to the stream. In-line ponds are known to adversely impact stream flows by eliminating natural high flows, accumulating sand and other organic matter that would flow downstream creating habitat and providing nutrients, and warming water before being released downstream. Temperature impacts will have adverse impacts to aquatic insect and wildlife by changing habitat thresholds

and impacting life-cycles. For these reasons, the excavation of a pond in-line with a stream is typically not permitted under Part 301.

Cutting of vegetation along streambanks does not require an EGLE permit under Part 301. However, the removal of any submerged, anchored and buried woody debris may require a permit under Part 301, because removal may create changes in stream flow and result in dredging in the streambed.

- ☒ A permit under Part 303 for any regulated activities, including fill, excavation, construction, draining surface water and/or maintaining a use in any state-regulated wetlands on-site. For a wetland to be regulated under Part 303, it must be contiguous or within 500 feet of an inland lake, stream and/or pond of 1-acre in size, within 1,000-1,500 feet of a Great Lakes or connecting waters, and/or any isolated wetland that is more than 5-acres in size. Any wetland complex (the entire wetland area) on this property that is directly connected to a stream or within 500 feet of stream is regulated by the EGLE under Part 303.

The EGLE reviewed the wetland first encountered during our June 5, 2019, site meeting, and it is within 500 feet from a stream identified in the larger wetland complex we followed north to the larger stream. Since the wetland is regulated under Part 303, a permit from the EGLE would be required for any regulated activities. The creation of a pond(s) in this first wetland would be more likely to be permitted, since it is isolated from the larger wetland complex and stream.

The EGLE defines wetland enhancement as manipulation of the physical, chemical or biological characteristics of a wetland to heighten, intensify, or improve specific function(s). Enhancements result in a change in the wetland function, but does not result in a net gain of wetland acres. The creation of small ponds in the wetland may be a form of enhancement, however, the EGLE will review any application submitted for enhancement to ensure there are no feasible and prudent alternatives (e.g. accomplished in upland?) and that any wetland impacts are minimal.

No permit is required under Part 303 for the treatment of invasive species, however, the removal of stumps or roots from a wetland would require an EGLE permit. The cattail observed in the larger wetland complex is Broad-leaved Cattail (*Typha latifolia*), which is a native species.

This determination is based on the EGLE's review of the site conditions, general projects and proposals discussed during the site meeting and in-office information. Provided that the proposed project and location are not altered, this determination is binding on EGLE for a period of two years from the date of this meeting.

Any land use activities undertaken on this property may be subject to regulation under Part 91, Soil Erosion and Sedimentation Control, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended, which is administered by Leelanau County. Please contact Mr. Steve Christensen, Soil Erosion Control Officer at 231-256-9783 for more information.

Ms. Kriya Miller  
Page 3 of 3  
July 8, 2019

During the meeting, we also discussed a number of issues related to the project, including the following:

- Information on completing an application form. Information how to apply for a permit in MiWaters is enclosed.
- Possible alternative design options to minimize project effects on aquatic resources, *specifically*, excavating any ponds without connection to the streams on-site.
- The need to clearly define the purpose of your project in the permit application.
- The need for a thorough analysis of alternative methods or locations in the permit application. An alternatives analysis, which describes what other locations and methods were considered and used to avoid and/or minimize impacts to the wetland and streams must be provided by the applicant, with an application package submitted to the EGLE.
- EGLE staff did not observe any threatened and endangered (T&E) species on-site. The statewide database also did not have a record of a T&E species in this section of Solon Township.

Please note that this is not a permit. The WRD cannot indicate during a preapplication meeting whether or not a permit will be issued. The WRD cannot make a decision regarding a permit until it has considered all of the information provided in the final permit application, and, in some instances, has also considered comments received in response to a public notice of the project. Therefore, the WRD cannot legally tell you whether the project will be permitted in advance of a permit application being submitted and reviewed.

The EGLE submission number assigned to this project is HNP-RPVR-3PDKE. Please keep a record of this submission number and use it when submitting a final application or otherwise corresponding with our office on this project.

We appreciate the opportunity to meet with you to address these concerns. We have established a submission for this project, and the information submitted to date will be used to facilitate processing of the final application. If you should have follow-up questions before then, please contact me at 231-383-5952; schmidtr1@michigan.gov; or EGLE, WRD, Cadillac District Office, 120 West Chapin Street, Cadillac, MI, 49601-2158.

Sincerely,



Robyn Schmidt  
Cadillac District Office  
Water Resources Division

Enclosure