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**Scott Walker, Governor
Cathy Stepp, Secretary**

**Dan Bauman, Regional Director**

June 24, 2014

McDill Lake District

3317 Della Street

Stevens Point, WI 54481

 Subject: Notice of Noncompliance

Dear McDill Lake District:

This letter is regard to the unpermitted harvesting of aquatic plants observed on June 13, 2014 and inadequate posting of the permitted herbicide treatment observed on June 23, 2014.

During the morning of June 13, 2014, I observed an aquatic plant harvester harvesting in an area that was not permitted in the mechanical harvesting permit issued for McDill Lake District (permit number: WC-2014-50-18M). According to your permit, harvesting operations are confined to the areas permitted on the map. The operator was clearly out of the permitted area. The operator stated he was harvesting where he was instructed. Also witnessed during the operation was clear disturbance to the lake bottom that resulted in a large plume of suspended sediment. Both of these issues are considered non-complaint to the permit and need to be rectified immediately.

Mr. Jack Negaard was contacted shortly after the observation and made aware of the situation. A new map was supplied to this office showing the new harvested areas later that same day. This proposal is currently being reviewed. To address the non-compliance issues of harvesting in unpermitted areas:

1. The McDill Lake District will need to generate a map that is geo-reference (GPS coordinates) at key locations to keep the harvesting operations confined to the permitted areas.

2. The McDill Lake District will need to carry a map of the harvest areas on the harvesters for operator reference.

3. McDill Lake District should investigate the use of GPS guidance to simplify the operation and maintain compliance.

The harvesting operators will need to avoid disturbing the bottom sediments. The disturbance of the bottom sediment, releases unwanted nutrients, degrades water quality, increases the risk of spreading aquatic invasive species and destroys fish and wildlife habitat. All of these are contrary to McDill Lake District’s Aquatic Plant Management Plan.

1. McDill Lake District must avoid disturbing the bottom sediments. Controlling the elevation of the cutting heads and avoiding shallow areas may be necessary.

On June 23, 2104, Mr. David Hyer from the Department of Agriculture, Trade and Consumer Protection and I, observed the herbicide application to McDill Pond. Several locations adjacent to the treatment area were inadequately posted. According to NR 107.08(7):

**(7) The permit holder shall be responsible for posting those areas of use in accordance with water use restrictions stated on the chemical label, but in all cases for a minimum of one day, and with the following conditions:**

 **(a) Posting signs shall be brilliant yellow and conspicuous to the nonriparian public intending to use the treated water from both the water and shore, and shall state applicable label water use restrictions of the chemical being used, the name of the chemical and date of treatment. For tank mixes, the label requirements of the most restrictive chemical will be posted;**

 **(b) Minimum sign dimensions used for posting shall be 11 inches by 11 inches or consistent with s. ATCP 29.15. The department will provide up to 6 signs to meet posting requirements. Additional signs may be purchased from the department;**

 **(c) Signs shall be posted at the beginning of each treatment by the permit holder or representing agent. Posting prior to treatment may be required as a permit condition when the department determines that such posting is in the best interest of the public;**

 **(d) Posting signs shall be placed along contiguous treated shoreline and at strategic locations to adequately inform the public. Posting of untreated shoreline located adjacent to treated shoreline and noncontiguous shoreline shall be at the discretion of the department;**

1. The McDill Lake District will need to provide better posting of treatment areas to comply with code requirements and to protect the riparian owner’s right to be notified.

I would be happy to discuss these issues with you to assure future compliance. These are all relatively easy tasks to accomplish and are commonly completed by other applicants.

During any part of the permitting, if you have questions please feel free to contact me with questions at 715.421.7881 or via e-mail at scott.provost@wisconsin.gov.

Sincerely,

Scott Provost

WDNR

e-mail cc: Paul LaLibete, Eau Claire

 Deb Dix – Environmental Enforcement Specialist, Wisconsin Rapids

 Carroll Schaal – Section Chief Wetlands and Waterways, Madison

 John Scharbath – Conservation Warden, Whiting

 Buzz Sorge – Lake Coordinator WD, Eau Claire

 David Hyer – DATCP, Whiting