

Public Notice
Antidegradation Analysis

Notice is hereby given that a draft antidegradation analysis (AA), associated with an application for Iowa Department of Natural Resources (DNR) Section 401 Water Quality Certification, has been completed for the following projects.

PROJECT DESCRIPTION: Streambank/shoreline protective devices: clean native fieldstone. S15, T99N, R37W, 43.3626, -95.1788, Dickinson County.

The AA and supporting information are available at

<https://www.iowadnr.gov/Environmental-Protection/Water-Quality/Section-401-Water-Quality-Certification>.

Anyone wishing to comment on the AA must do so in writing by 4:30 PM on April 22, 2024. All relevant comments will be considered by the DNR. Written comments should be submitted by email to Section401WQC@dnr.iowa.gov or by mail to the DNR, Attn: Section 401 Water Quality Certification, 502 E Ninth St., Des Moines, IA 50319.

Memorandum

DATE: March 21, 2024
FROM: Marie Today
RE: Rationale for Section 401 Water Quality Certification for 2023-16776 Brandon Scherff / Cove LLC

Project Description: Streambank/shoreline protective devices: clean native fieldstone.

Project Location: S15, T99N, R37W, 43.3626, -95.1788, Dickinson County

Receiving Water Bodies

West Okoboji Lake is an A1, A2, BLW, HH, C designated use waterbody. The designated uses have been adopted in Iowa's state rule, described in the rule-referenced document of Surface Water Classification effective on July 24, 2019. West Okoboji Lake is an Outstanding Iowa Water, per the State adopted Iowa Antidegradation Implementation Procedure (2010 and 2016).

Antidegradation

Pollutants of Concern

This project proposes adding riprap to prevent shore erosion. Chemicals will not be used. Thus, the pollutants present in the discharge from such construction are substances present in runoff, or are the result of a spill. The DNR has identified the following pollutant of concern in discharges from this project and the potential impacts on water quality:

Increased Turbidity/Total Suspended Solids

The turbidity of water is related to the amount of suspended solids contained in the water. Suspended solids decrease the clarity of water, reduce light penetration, and can impair the photosynthetic activity of aquatic plants. Suspended solids can be aesthetically displeasing and can reduce the recreational value of a water body. If suspended solids screen out light and impair growth of aquatic plants, dissolved oxygen levels can decrease. Suspended solids can be harmful to fish and other aquatic life by causing abrasive injuries and clogging gills and respiratory passages.

Increases in turbidity/total suspended solids from projects authorized by this project will generally be local and temporary. To address turbidity/total suspended solids, the permittee will control runoff to water bodies using a variety of best management practices (BMPs).

Best Management Practices in Permit and Certification Conditions

Permit-Based

The Corps has BMP-based conditions in the Section 404 permit.

Construction activity that disturb one or more acres require a storm water NPDES permit from the DNR. For projects that require storm water NPDES permits, Storm Water Pollution Prevention Plans (SWPPPs) are developed, which typically include BMP-based conditions.

Certification-Based

The DNR is adding BMP-based conditions to the certification. The combined listed BMPs, when adhered to by the permittee, protect Iowa's water quality by controlling erosion and sediment runoff to prevent pollution from reaching the nearby water bodies. Antidegradation requirements will be considered to be met if all appropriate and reasonable BMPs required by permit and

certification are applied and maintained. See, 567 IAC 61.2(2); Iowa Antidegradation Implementation Procedure § 6.3.

Temporary and Limited Degradation

The State adopted Iowa Antidegradation Implementation Procedure (2010 and 2016) states that “A regulated activity shall not be considered to result in degradation, if the activity will result in only temporary and limited degradation of water quality as defined in the glossary and as further described in Sections 1.2 and 2.4.” The effects can be regarded as temporary and limited following a review of all of the following factors, if applicable:

- a) Length of time during which water quality will be lowered
The length of time where there might be a lowering of water quality is relatively short for the proposed activity.
- b) Percent change in ambient conditions
The only significant change that is reasonably expected to occur would be for the presence of sediment in the stream if there is a heavy rainstorm or if the BMPs fail.
- c) Pollutants affected
Turbidity, total suspended solids.
- d) Likelihood for long-term water quality benefits to the water body
This activity provides water quality benefits by stabilizing a bank/shore.
- e) Degree to which achieving the applicable Water Quality Standards during the proposed activity will be at risk
The use of BMPs installed prior to construction, maintained during construction, and until the site has returned to pre-construction conditions should greatly increase the degree to which a project achieves the applicable water quality standards.
- f) Potential for any residual long-term effects on existing uses
The BMP-based conditions included in the Section 404 permit and certification include activities such as appropriate riprap, installing silt logs, reseeding disturbed areas, and properly disposing of debris. This project should not contribute to any ongoing impacts to water quality.

For the above discussed reasons, the DNR makes the following finding:

This review concludes that water quality degradation due to this activity is temporary and limited.

Social and Economic Importance

This project is socially important for maintaining water quality for a recreational water body used for swimming.

This project is economically important for the value of the property.

For the above discussed reasons, the DNR makes the following finding:

This review concludes that water quality degradation due to this activity is necessary to accommodate important economic and social development.

FOR CERTIFICATION REQUEST ONLY

7. Include a description of any methods and means proposed to monitor the discharge and the equipment or measures planned to treat, control, or manage the discharge. (Please provide a description of the best management practices you will use to protect water quality as well as any methods and means proposed to monitor the discharge/equipment or measures planned to treat or control the discharge.)

Installing silt logs by placing them strategically in front of the area being worked on, we are taking proactive measures to minimize the impact of our construction on the ecosystem. In addition to installing silt logs, we will also be utilizing silt fence above the working area. This will further slowdown water movement and prevent any soil erosion. We understand the importance of preserving the natural flow of water and aim to minimize any disruption to it. During the construction process, our team will be hand cleaning and discarding any unwanted debris that may have accumulated around the existing wall. We will then be hand placing new, clean fieldstones over the existing but deteriorated wall. Post construction, we'll be sodding all disturbed areas to ensure immediate growth of vegetation. By installing silt logs, utilizing silt fence and restoring any disturbed areas, we're committed to leaving the area in a better way than we found it.

8. List all other federal (not listed in #4), interstate, tribal, state, territorial, or local agency authorizations required for the proposed project, including all approvals or denials already received:

Agency	Type of Authorization	Agency Number	Date Applied	Date Approved	Date Denied
US Army Corps of Engineers	Section 404 Permit	CEMVR-2023-1677	12/6/2023		
DNR	Flood Plains	2023-2349	12/6/2023		
DNR	Sovereign Lands	2023-2349	12/6/2023		
City of Wahpeton	Landscaping Permit		1/22/2024		

9. Date Pre-filing Meeting Request was submitted 2/7/2024 Attach documentation of request

10. Certification Request Verification

This request is hereby made for the activities described herein. I hereby certify that all information contained herein is true, accurate, and complete to the best of my knowledge and belief. I further certify that I possess the authority to undertake the proposed activities. I hereby request that the certifying authority review and take action on this CWA 401 certification request within the applicable reasonable period of time. This application must be signed by the Property Owner/Applicant and the Authorized Agent, if applicable.

Property Owner/Applicant's Name (printed): Branden Scherff

Property Owner/Applicant's Signature: [Signature] Date: 2-3-24

If applicable: Authorized Agent's Name (printed): Kyle Van Houtland

Authorized Agent's Signature: [Signature] Date: 3/8/24

Iowa Department of Natural Resources
Section 401 Water Quality Pre-Filing Meeting and Certification Request Form

1. Type of Request: Pre-Filing Meeting Request Certification Request

2a. Property Owner/Project Proponent (aka Applicant) Name: Brandon Scherff

Company Name (if applicable): Cove LLC

Mailing Address: 2810 Breezy Heights Dr, Wahpeton, IA 51351

Email Address: Scherffb2@gmail.com

Phone numbers (with area code): Home: N/A Cell: 712-269-1061 Business: N/A

2b. Authorized Agent's Name (if applicable): Kyle Van Holland

Company Name: Van Holland Lawn Service, Ltd.

Mailing Address: 680 14th Street, NE, Sioux Center, IA 51250

Email Address: vhls@vhlawn.com

Phone numbers (with area code): Business: (712) 722-0478 Cell: (712) 441-2354

3. Identify the Proposed Project:

Streambank/Shoreline Protective Devices: Clean Native Fieldstone

4. Federal Permit / License Requiring Section 401 Water Quality Certificate and its Project Number*

Permit/License Number: CEMVR-2023-16776 Federal Agency: Corps of Engineers FERC
 Other: _____

*A copy of the federal permit or license application is required to be submitted with a certification request.

5. Project Location: Section: 15 Township: T99N Range: R37W

County: Dickinson Latitude: N 43.3626 Longitude: W -95.1788

Receiving Water(s): Emersons Bay on West Okoboji Lake

Discharge: 100ft of native fieldstone

FOR PRE-FILING MEETING REQUEST ONLY

6. Pre-filing Meeting Request Verification:

I certify that I have read and understand the following statements per the Clean Water Act Section 401 Certification Rule:

- Submission of this form completes the requirement of the pre-filing meeting request.
- I cannot submit my certification request until at least 30 calendar days after submitting this pre-filing meeting request. This request must be signed by the Property Owner/Applicant and the Authorized Agent, if applicable.

Property Owner/Applicant's Name (printed): Brandon Scherff

Property Owner/Applicant's Signature:  Date: 2-3-24

If applicable: Authorized Agent's Name (printed): Kyle Van Holland

Authorized Agent's Signature:  Date: 2-7-24

U.S. Army Corps of Engineers (USACE)
APPLICATION FOR DEPARTMENT OF THE ARMY PERMIT
 33 CFR 325. The proponent agency is CECW-CO-R.

Form Approved -
OMB No. 0710-0003
Expires: 01-08-2018

The public reporting burden for this collection of information, OMB Control Number 0710-0003, is estimated to average 11 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or burden reduction suggestions to the Department of Defense, Washington Headquarters Services, at whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil. Respondents should be aware that notwithstanding any other provision of law, no person shall be subject to any penalty for failing to comply with a collection of information if it does not display a currently valid OMB control number. PLEASE DO NOT RETURN YOUR APPLICATION TO THE ABOVE EMAIL.

PRIVACY ACT STATEMENT

Authorities: Rivers and Harbors Act, Section 10, 33 USC 403; Clean Water Act, Section 404, 33 USC 1344; Marine Protection, Research, and Sanctuaries Act, Section 103, 33 USC 1413; Regulatory Programs of the Corps of Engineers; Final Rule 33 CFR 320-332. Principal Purpose: Information provided on this form will be used in evaluating the application for a permit. Routine Uses: This information may be shared with the Department of Justice and other federal, state, and local government agencies, and the public and may be made available as part of a public notice as required by Federal law. Submission of requested information is voluntary, however, if information is not provided the permit application cannot be evaluated nor can a permit be issued. One set of original drawings or good reproducible copies which show the location and character of the proposed activity must be attached to this application (see sample drawings and/or instructions) and be submitted to the District Engineer having jurisdiction over the location of the proposed activity. An application that is not completed in full will be returned. System of Record Notice (SORN). The information received is entered into our permit tracking database and a SORN has been completed (SORN #A1145b) and may be accessed at the following website: <http://dpcl.d.defense.gov/Privacy/SORNsIndex/DOD-wide-SORN-Article-View/Article/570115/a1145b-ce.aspx>

(ITEMS 1 THRU 4 TO BE FILLED BY THE CORPS)

1. APPLICATION NO.	2. FIELD OFFICE CODE	3. DATE RECEIVED	4. DATE APPLICATION COMPLETE
--------------------	----------------------	------------------	------------------------------

(ITEMS BELOW TO BE FILLED BY APPLICANT)

5. APPLICANT'S NAME Name - Brandon Scherff Company - Cove LLC E-mail Address - vhl@vhlawn.com		8. AUTHORIZED AGENT'S NAME AND TITLE (agent is not required) Name - Kyle Van Holland Company - Van Holland Lawn Service, Ltd. E-mail Address - vhl@vhlawn.com	
6. APPLICANT'S ADDRESS: Address - 2810 Breezy Heights DR; City - Wahpeton State - IA Zip - 51351 Country -		9. AGENT'S ADDRESS: Address - 680 14th St NE City - Sioux Center State - IA Zip - 51250 Country -	
7. APPLICANT'S PHONE NOS. w/AREA CODE a. Residence b. Business c. Fax 7127220478 7124412354		10. AGENTS PHONE NOS. w/AREA CODE a. Residence b. Business c. Fax 7127220478 7124412354	

STATEMENT OF AUTHORIZATION

11. I hereby authorize, _____ to act in my behalf as my agent in the processing of this application and to furnish, upon request, supplemental information in support of this permit application.

SIGNATURE OF APPLICANT

DATE

NAME, LOCATION, AND DESCRIPTION OF PROJECT OR ACTIVITY

12. PROJECT NAME OR TITLE (see instructions) Cove LLC; 2810 Breezy Heights Dr, Wahpeton, IA 51351			
13. NAME OF WATERBODY, IF KNOWN (if applicable) Emersons Bay on West Okoboji Lake		14. PROJECT STREET ADDRESS (if applicable) Address -	
15. LOCATION OF PROJECT Latitude: °N 43.3624 Longitude: °W -95.1788		City - State - Zip -	
16. OTHER LOCATION DESCRIPTIONS, IF KNOWN (see instructions) State Tax Parcel ID Municipality Section - 26 Township - T99N Range - R37W			

17. DIRECTIONS TO THE SITE

We'll need to clean the shoreline of 2810 Breezy Heights Drive

18. Nature of Activity (Description of project, include all features)

Streambank/Shoreline Protective Devices: Clean native fieldstone

19. Project Purpose (Describe the reason or purpose of the project, see instructions)

Clean native fieldstone

USE BLOCKS 20-23 IF DREDGED AND/OR FILL MATERIAL IS TO BE DISCHARGED

20. Reason(s) for Discharge

clean native fieldstone

21. Type(s) of Material Being Discharged and the Amount of Each Type in Cubic Yards:

Types: native fieldstone

Amounts: 21.30 cubic yards (575 cubic feet of rock)

22. Surface Area in Acres of Wetlands or Other Waters Filled (see instructions)

0.0113 acres

23. Description of Avoidance, Minimization, and Compensation (see instructions)

Clean native fieldstone

24. Is Any Portion of the Work Already Complete? Yes No IF YES, DESCRIBE THE COMPLETED WORK

25. Addresses of Adjoining Property Owners, Lessees, Etc., Whose Property Adjoins the Waterbody (if more than can be entered here, please attach a supplemental list).

26. List of Other Certificates or Approvals/Denials received from other Federal, State, or Local Agencies for Work Described in This Application.

* Would include but is not restricted to zoning, building, and flood plain permits

27. Application is hereby made for permit or permits to authorize the work described in this application. I certify that this information in this application is complete and accurate. I further certify that I possess the authority to undertake the work described herein or am acting as the duly authorized agent of the applicant.

SIGNATURE OF APPLICANT

DATE

Kyle J. Van Holland

SIGNATURE OF AGENT

12/06/2023

DATE

The Application must be signed by the person who desires to undertake the proposed activity (applicant) or it may be signed by a duly authorized agent if the statement in block 11 has been filled out and signed.

18 U.S.C. Section 1001 provides that: Whoever, in any manner within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals, or covers up any trick, scheme, or disguises a material fact or makes any false, fictitious or fraudulent statements or representations or makes or uses any false writing or document knowing same to contain any false, fictitious or fraudulent statements or entry, shall be fined not more than \$10,000 or imprisoned not more than five years or both.

Additional Information

Anticipated Activity Start
Date:

04/01/2024

Anticipated Activity Completion
Date:

04/05/2024

1. Is any portion of the work already complete? Yes No

If yes, describe the completed work:

2. Do you have any funding deadlines that pertain to the completion of your project? Yes No

If yes, explain:

3. Is the need for a permit the result of an unforeseen emergency or catastrophic event? Yes No

If yes, explain:

4. Is permit needed to complete a project that will abate or prevent an imminent threat to the public health and welfare? Yes No

If yes, explain:

5. Will any federal funding be used on this project? Yes No

If yes, explain:

6. If dredging will occur with this project, please specify the date of the last dredge event that took place, if applicable, and how much material was removed? Yes No

If yes, explain:

7. For projects located on Sovereign Land, are you requesting a permanent easement from the State of Iowa acting through the Iowa DNR? Yes No

8. Will this impact a littoral (by a lake) or riparian (by a river) landowner? Yes No

Consent to Enter Property

Agency personnel may make one or more field inspections of the project site when necessary to obtain information about the project. Submission of the application is deemed to constitute consent by the applicant for the agency staff and its agents to enter.

Consent to Enter Property? Yes No

If no, explain:

Environmental Review

The Department will review the application for any threatened or endangered species concerns as well as sensitive natural area community impacts. Would you like an official response sent to you after this review has been completed?

Yes No

US Army Corps of Engineers Consent Required

Certain minor activities are eligible for authorization by general permits, which include Nationwide (NWP) and Regional General (RGP) permits. By selecting "No" below, you are acknowledging that you have verified that your project meets the general, special, and 401 Water Quality Certification conditions of a NWP relative to your request and that no notification criteria has been met. No further coordination with the Corps of Engineers Regulatory Division is necessary if this "No" box is selected.

Yes No

Additional Information

Do you have any additional information that we should know about regarding your application?



March 21, 2024 - DRAFT

Brandon Scherff / Cove LLC
2810 Breezy Heights Dr.
Wahpeton, IA 51351

Dear Brandon Scherff:

After reviewing your request for State 401 Water Quality Certification (Certification), the Iowa Department of Natural Resources (DNR) has issued the enclosed Certification. Please read the attached conditions carefully before beginning work on the project.

A copy of this Certification has been forwarded to the office of the U.S. Army Corps of Engineers as indicated below.

Please note:

1. Prior to construction, the permittee is responsible for securing such other permits or approvals as may be required by the DNR, federal, state, or local governmental agencies for the project activities described.
2. The permittee is responsible for ensuring that whoever performs, supervises, or oversees any portion of the physical work associated with the construction of this project complies with all the terms and conditions of this Certification as well as the associated Section 404 Permit.

If you have any questions about the certification or attached conditions contained therein, my contact information is provided in the certification.

Sincerely,

Marie Todey
Environmental Specialist

cc: Robert Goss, Department of the Army Corps of Engineers, Rock Island District (Robert.T.Goss@usace.army.mil)

**IOWA DEPARTMENT OF NATURAL RESOURCES
SECTION 401 WATER QUALITY CERTIFICATION**

Certification issued to:

Brandon Scherff / Cove LLC
2810 Breezy Heights Dr.
Wahpeton, IA 51351

Project certified: U.S. Army Corps of Engineers, No. 2023-16776

Project Description: Streambank/shoreline protective devices: clean native fieldstone.

Project Location: S15, T99N, R37W, 43.3626, -95.1788, Dickinson County

The Iowa Department of Natural Resources (DNR) has issued this State 401 Water Quality Certification (Certification) pursuant to Section 401 {40 C.F.R. §121}. The U.S. Army Corps of Engineers requires state Certification before a Section 404 permit can be issued.

Subject to the attached conditions, incorporated by reference herein, the DNR has determined that a discharge from the proposed project will comply with water quality requirements of the state of Iowa {567 IAC 61}.

Prepared By/Date Executed: _____

Marie Todey, marie.todey@dnr.iowa.gov; (515) 204-7569; Iowa DNR, 502 East 9TH Street, Des Moines, IA 50319

CONDITIONS

- (1) During construction and upon completion of the project, actions must be taken to prevent pollution affecting public health, fish, shellfish, wildlife, and recreation due to turbidity, pH, nutrients, suspended solids, floating debris, visible oil and grease, or other pollutants entering a water of the state. This condition will ensure permittees comply with Iowa's narrative water quality standards found at 567 IAC 61.3(2);
- (2) Equipment used in waters of the state shall be cleaned of all hazardous materials, pesticides, fuels, lubricants, oils, hydraulic fluids, or other construction-related, potentially hazardous substances before arriving on site. Wash water shall not be discharged into a water of the state. This condition will ensure permittees comply with Iowa's narrative water quality standards found at 567 IAC 61.3(2);
- (3) All cleared vegetative material shall be properly managed in such a manner that it cannot enter a water of the state and cause a violation of water quality requirements. This condition will ensure permittees comply with Iowa's narrative water quality standards found at 567 IAC 61.3(2);
- (4) All construction debris shall be properly managed in such a manner that it cannot enter a water of the state. This condition will ensure permittees comply with Iowa's narrative water quality standards found at 567 IAC 61.3(2);
- (5) Erosion shall be managed so that sediment is not discharged to a water of the state in a manner that causes a violation of water quality requirements. This condition will ensure permittees comply with Iowa's narrative water quality standards found at 567 IAC 61.3(2);
- (6) Riprap, treated lumber products, and temporary structures shall consist of clean material free of coatings of potentially hazardous substances. No asphalt or petroleum-based material shall be used as or included in material placed in any water of the state or within the high-water table. This condition will ensure permittees comply with Iowa's narrative water quality standards found at 567 IAC 61.3(2); and
- (7) Stockpiled dredged materials on the shore shall be managed so that sediment is not discharged to a water of the state in a manner that causes a violation of water quality requirements. This condition will ensure permittees comply with Iowa's narrative water quality standards found at 567 IAC 61.3(2).