

Appeal to Land Conservation Committee

Submitted by Greg Thompson

May 22, 2020

**Factual history**

1. Between March 9 and March 13, I hired Spende Excavating to mulch some smaller trees on a vacant piece of land I have owned for over 10 years. The property is potential development land and I didn't want the trees to grow any bigger and create more of an expense later. (copy of invoice and work description attached)
2. The process involved an attachment to a skid steer/bobcat which grinded the trees as they stood, essentially mulching the tree. (no need to excavate, dig, or do any sort of grading or earth moving). I did not think such work would be considered the type that would require an erosion control permit let alone a full stormwater management report signed by an engineer.
3. I am experienced with and have knowledge of erosion control practices and general statewide requirements.
4. On March 27, 2020 I was sent a notice of inspection indicating that there was land disturbing activity, and that, a Shoreland Erosion Control Permit was to be submitted by April 15<sup>th</sup>. I would also be charged double fees. They instructed me to place erosion control measures and restore the site by April 2 by 4pm. Included with the email was an official violation letter
5. The letter stated I was in violation of DCCO Sec. 11.05(3)(a) which states generally that a Shoreland Erosion Control Permit is required for any "*land disturbing activity*" within 300 ft of a navigable stream.
6. I responded to the notice immediately. I made inquiry as to why the work was considered land disturbing activity (see attached email chain).
7. Within 3 days, I performed a site visit, sent pictures of the mulched area (which appeared disturbed) to the County, and requested a site visit. Because of Covid 19 a site visit was declined.
8. On the April 2 deadline I had installed erosion control silt sock, spread hay, and submitted a Dane County Erosion Control Permit Simplified Application. Along with the application, I sent a letter stating why I felt a

“simplified” application was required pursuant to the ordinances. (see attached)

9. On April 8, the County sent a notice stating the application was the wrong one. I then made inquiry as to the appeal process.
10. On April 13<sup>th</sup>, I filed an appeal indicating that the tree mulching should not be considered “land disturbing activity”, and in the event it would be, the “simplified” erosion control permit would be required instead of the “shoreland” erosion control permit.
11. On May 8<sup>th</sup>, I was issued a citation in the amount of \$641 with a court date of July 10, 2010.

### **ISSUES:**

- I. Is mulching trees considered a land disturbing activity; thus, trigger an erosion control permit?
- II. If so, do the facts of this situation meet the criteria outlined in DCCO Sec. 11.05(2)(b) and then allow the Director to waive the engineer stamp and require only a simplified erosion control permit application?
- III. Do the facts of this case warrant the application of double fees?

### **Consideration**

#### **No land disturbing activity**

The applicable purpose and intent of Chapter 11 of Dane County Code Ordinances is to:

- 11.016(2) 3. Controlling filling and grading to prevent soil erosion problems,

Understandably then, filling and grading can be defined as “land disturbing activities”.

11.015(19) *Land disturbing activity*. Any alteration or disturbance that may result in soil erosion, sedimentation, or change in runoff including, but not limited to, removal of ground cover, grading, excavating, or filling of land.

There was no *grading or filling* or removal of any ground cover on the site, so the question is whether the process of mulching the trees disturbs the land enough to cause soil erosion which could in fact lead to sedimentation.

Although the tires/tracks of the machine to mulch the trees can impact the vegetative cover, the process of mulching happens all during the process and any bare ground is covered/stabilized immediately. Mulch is considered an acceptable method as a soil erosion control stabilizer. Essentially, soil erosion is not possible, and therefore, no permit is necessary.

The County's position that any bare soil, "*Even one square foot.*", constitutes a land disturbing activity is an unreasonable application of the definition and ordinance. (see attached email correspondence dated 3/3//20)

A Simplified Erosion Control Permit is all that would be needed

As stated in my letter to the County:

*It seems clear that the activity should be exempt from a full stormwater management permit and the facts and conditions warrant a simplified application for the erosion control permit. The specific ordinance I felt applied is 11.05 (2) (b) and is as follows,*

- (1) There has been no impacts to the adjacent properties - no sediment runoff*
- (2) The soil was disturbed less than 30 days work was performed from 3/9 to 3/13.*
- (3) No slopes greater than 6% - relatively flat site*
- (4) Soil disturbance is approximately 80ft from the east-west stream*
- (5) Although it may visually appear that there is more than 1000 sf, any real disturbance of soil is minimal. The area of more dense tree/saplings which would have the least grass is less than 1000sf*
- (6) There is no new impervious surface*
- (7) There is minimal risk because the flat area, vegetative buffer between the area and the east west stream, and there is a significant amount of mulch placed immediately as the trees were grubbed.*

No double fees

Ordinances are designed to be read by a reasonably educated person. Mulching trees does not mean to grade, fill, or expose bare soil and would not be considered disturbing the land in the normal sense of the action.

I responded immediately to all concerns.

Thank you for your consideration in this matter.

Electronically signed  
Gregory A. Thompson  
6810 Cross Country Rd.  
Verona WI 53593  
608 444 1515  
[ssusa@tds.net](mailto:ssusa@tds.net)

**From:** [Starks, Jess](#)  
**To:** ["gthompson"](#)  
**Cc:** [Balousek, Jeremy](#); [Hicklin, Laura](#)  
**Subject:** RE: ATF Permit & Inspection Findings- TMS Investments  
**Date:** Wednesday, April 8, 2020 12:41:21 PM

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Hi Greg,

The County Code of Ordinances appeal process is described here:

11.99 ENFORCEMENT AND PENALTIES.

(3) Director of Land and Water Resources.

(a) Authority. The director, or his or her designee, shall administer and enforce ss. 11.05, 11.12 and 11.13 of this ordinance.

(b) Powers and duties. In administering and enforcing this ordinance, the director shall have all powers, duties and authority described in ss. 14.44, 14.48, 14.49 and 14.73, Dane County Code. In addition, the director shall also have the following powers and duties: 1. Shoreland Erosion Control Permits. Within the shoreland district, the director shall require approved shoreland erosion control permits before any of the activities described in s. 11.05(3) occur.

(4) Land Conservation Committee. (a) Appeal of director decisions. The land conservation committee shall hear and decide appeals of decisions made by the director in accordance with the standards and procedures described in s. 14.71, Dane County Code.

14.71 APPEALS. (1) County jurisdiction. (a) Any person aggrieved by any decision of the director pursuant to this ordinance may appeal to the Dane County Land Conservation Committee (hereinafter "committee"). Such appeal shall be taken within 30 days after the challenged 14.52(1) (a) – 14.71(1)(a) Page 14-16 rev. 043019 decision. Notice of Appeal setting forth the specific grounds for the appeal shall be filed with the director and the committee. The director shall forthwith transmit to the committee the record upon which the action appealed from was taken. (b) The committee shall fix a reasonable time for the hearing of the appeal and publish a class 2 notice thereof under ch. 985, Wis. Stats., as well as give due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing any party may appear in person or by agent or attorney. (c) The committee may, in conformity with the provisions of this ordinance, reverse or affirm, wholly or partly, or modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as ought to be made, and shall have all the powers of the officer from whom the appeal is taken. (d) The concurring vote of a majority of the committee shall be necessary to reverse the decision of the director.

Please send a letter to the Chair of the Land Conservation Committee, with a request to appeal.  
[chenoweth.carl@countyofdane.com](mailto:chenoweth.carl@countyofdane.com)

Thank you,

Jess



**Jess Starks, CPESC**

*Erosion Control & Stormwater Management Program*

5201 Fen Oak Drive, Room 208

Madison, WI 53718

(608) 224-3647, <http://wred-lwrd.countyofdane.com/>

[starks@countyofdane.com](mailto:starks@countyofdane.com)

PLEASE NOTE that our office is temporarily closed, due to COVID-19 public health advisory- business can be conducted via email or phone

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**From:** gthompson <[ssusa@tds.net](mailto:ssusa@tds.net)>

**Sent:** Wednesday, April 8, 2020 11:41 AM

**To:** Starks, Jess <[Starks@countyofdane.com](mailto:Starks@countyofdane.com)>

**Subject:** RE: ATF Permit & Inspection Findings

Respectfully, I think we can agree to disagree. What would be my appeal process should I choose?

Thanks

greg

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**From:** Starks, Jess <[Starks@countyofdane.com](mailto:Starks@countyofdane.com)>

**Sent:** Wednesday, April 8, 2020 11:01 AM

**To:** 'gthompson' <[ssusa@tds.net](mailto:ssusa@tds.net)>

**Cc:** Balousek, Jeremy <[balousek@countyofdane.com](mailto:balousek@countyofdane.com)>

**Subject:** RE: ATF Permit & Inspection Findings

Greg,

This is not the correct application form, nor are the plans stamped by a Professional Engineer licensed in the State of WI. The violation notice clearly stated what was required (attached). Please see the correct form and materials, stamped by an engineer, and corresponding fees, doubled, no later than April 15<sup>th</sup>, 2020. If your consultant needs additional time to complete the work, they need to contact our office in writing.

Thank you,



**Jess Starks, CPESC**

*Erosion Control & Stormwater Management Program*

5201 Fen Oak Drive, Room 208

Madison, WI 53718

(608) 224-3647, <http://wred-lwrd.countyofdane.com/>

[starks@countyofdane.com](mailto:starks@countyofdane.com)

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**From:** gthompson <[ssusa@tds.net](mailto:ssusa@tds.net)>  
**Sent:** Thursday, April 2, 2020 2:02 PM  
**To:** Starks, Jess <[Starks@countyofdane.com](mailto:Starks@countyofdane.com)>  
**Subject:** RE: ATF Permit & Inspection Findings

Here is everything

greg

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**From:** Starks, Jess [<mailto:Starks@countyofdane.com>]  
**Sent:** Monday, March 30, 2020 11:20 AM  
**To:** 'gthompson'  
**Cc:** Balousek, Jeremy  
**Subject:** RE: ATF Permit & Inspection Findings

Hi Greg,

We aren't meeting with folks on site at this time. Both Jeremy (copied) and I verified your photos and there is undeniably disturbed soil on this site, that creates the need for an after-the-fact shoreland erosion control permit. There is no grey area, the entire site is shoreland, and a determination was made and sent out previously. Please install erosion controls or stabilize the site, and file the permit application by the deadlines, to avoid enforcement.

Thank you,

Jess



**Jess Starks, CPESC**  
*Erosion Control & Stormwater Management Program*  
5201 Fen Oak Drive, Room 208  
Madison, WI 53718  
(608) 224-3647, <http://wred-lwrd.countyofdane.com/starks@countyofdane.com>

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**From:** gthompson <[ssusa@tds.net](mailto:ssusa@tds.net)>  
**Sent:** Monday, March 30, 2020 10:31 AM  
**To:** Starks, Jess <[Starks@countyofdane.com](mailto:Starks@countyofdane.com)>  
**Cc:** Balousek, Jeremy <[balousek@countyofdane.com](mailto:balousek@countyofdane.com)>  
**Subject:** RE: ATF Permit & Inspection Findings

Jess,

I performed a site visit this weekend and am forwarding the attached pictures for your review. It is very clear from my observations that there is no bare ground and that as expected the trees were

simply mulched. The entire site is covered with 2-3 inches of mulch with existing grass (where there weren't trees) underneath.

I am requesting we meet at the site to verify conditions.

I do not think there is cause for alarm nor do I think there is a need for the entire stormwater management plan, etc. There has and will be no grading at the site. The trees were taken down so that they didn't become more of a problem later when the site gets developed.

I am available on short notice

Thank you

Greg Thompson  
608 444 1515

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**From:** Starks, Jess [<mailto:Starks@countyofdane.com>]  
**Sent:** Friday, March 27, 2020 3:54 PM  
**To:** gthompson  
**Cc:** Balousek, Jeremy  
**Subject:** Re: ATF Permit & Inspection Findings

Hi Greg,

Basically, any activity that creates bare soil (including incidental due to tires) in the shoreland zone qualifies for a permit. Even one square foot. This entire lot is within the shoreland zone, so any disturbance, whether accidental or not, requires a permit. This includes grubbing stumps or pulling trees. Here is a checklist that we give to farmers that inquire about the same sorts of projects.

Pertinent sections of the ordinance are here:

*11.015(19) Land disturbing activity.* Any alteration or disturbance that may result in soil erosion, sedimentation, or change in runoff including, but not limited to, removal of ground cover, grading, excavating, or filling of land. Tillage of existing agricultural fields is not considered a land disturbing activity, provided it is done in conformance with a site-specific farm conservation plan approved by the Director.



11.05(3)(a) *Shoreland erosion control permit required.* Except as provided in section 11.05(2) (a), a shoreland erosion control permit is required for any of the following: (a) Any land disturbing activity, of any size, any portion of which occurs in any of the following areas: 1. Within 300 feet of the ordinary high-water mark of any navigable water; 2. Within the 100 year floodplain; or 3. Within 75 feet of the shoreland or inland-wetland district.

This is consistent with the permit determination made in 2014.

Jess

**Jess Starks, CPESC**

*Erosion Control & Stormwater Management Program*

*Water Resource Engineering Division*

*5201 Fen Oak Drive, Room 208*

*Madison, WI 53718*

*(608) 224-3647, <http://wred-lwrd.countyofdane.com/>*

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**From:** gthompson <[ssusa@tds.net](mailto:ssusa@tds.net)>  
**Sent:** Friday, March 27, 2020 3:44 PM  
**To:** Starks, Jess  
**Subject:** RE: ATF Permit & Inspection Findings

Can you point me to the ordinance section and the definition of land disturbing – “tree clearing” particularly the way these were cleared doesn’t cause people to think it as land disturbing activity and certainly the area doesn’t stand out as “shoreland”

I wasn’t trying in any shape, manner or form to evade any ordinance

Im a bit troubled

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**From:** Starks, Jess [<mailto:Starks@countyofdane.com>]  
**Sent:** Friday, March 27, 2020 3:36 PM  
**To:** 'gthompson'  
**Cc:** Balousek, Jeremy  
**Subject:** RE: ATF Permit & Inspection Findings

Hi Greg,

Yes, I understand how this sort of thing happens. Unfortunately it does trigger a permit. There are

other folks in the area who have done similar work and got themselves into the same after-the-fact permit situation.

Please let me know if you have other questions.

Thanks,

Jess

**Jess Starks, CPESC**

*Erosion Control & Stormwater Management Program*

*5201 Fen Oak Drive, Room 208*

*Madison, WI 53718*

*(608) 224-3647, <http://wred-lwrd.countyofdane.com/>*

*[starks@countyofdane.com](mailto:starks@countyofdane.com)*

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**From:** gthompson <[ssusa@tds.net](mailto:ssusa@tds.net)>

**Sent:** Friday, March 27, 2020 3:33 PM

**To:** Starks, Jess <[Starks@countyofdane.com](mailto:Starks@countyofdane.com)>

**Subject:** RE: ATF Permit & Inspection Findings

CAUTION: External Email - Beware of unknown links and attachments. Contact Helpdesk at 266-4440 if unsure

Hi jess

Yes all is fine.

I will take care of the storageshop site

As for the burke rd site, there was no grading. All I did was get rid of the trees. In fact I used a machine that chips them up as it takes them down so it should be full of mulch. I think there maybe some machine tracks that may have roughed up the soil particularly where it was wet. I can throw some seed on the those areas

Please advise

greg

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**From:** Starks, Jess [<mailto:Starks@countyofdane.com>]

**Sent:** Friday, March 27, 2020 3:24 PM

**To:** 'gat'

**Cc:** Balousek, Jeremy; Hilbert, Hans; 'townofburke@frontier.com'; 'info@kellerrealestategroup.com'

**Subject:** ATF Permit & Inspection Findings

Good afternoon Greg,

I hope this finds you and your family all doing well.

I made inspections in the Town of Burke this week, and I have two issues of concern.

1. Regarding your Storage Shop site, all areas that have been idle need to be temporary mulched or seeded. Please notify me when this has been done.
2. The other concern is that your property on the northwest corner of the intersection of Burge and Reiner Roads, has had land disturbing activity performed on it recently (see photo). As you might recall, a determination was made and sent by our office in 2014 (see attached), and I believe I spoke to you on the phone confirming the permit requirements.

This requires an after-the-fact, P.E.-stamped shoreland erosion control with double fees. Please have the consultant provide electronic copies of the materials, which must be **submitted no later than April 15, 2020**. The fee should be mailed to our office at the address below and made payable to *Dane County Treasurer*.

The deadline to place temporary erosion control measures or restore the site is April 2, 2020 by 4:00 p.m.

Failure to obtain the permit will result in enforcement including citation and possible referral to Dane County Corporation Counsel for injunctive relief.

Please contact me if you have questions about either site.

Thank you,

Jess

**Jess Starks, CPESC**

*Erosion Control & Stormwater Management Program*  
5201 Fen Oak Drive, Room 208  
Madison, WI 53718  
(608) 224-3647, [http://wred-lwr.dane.countyofdane.com/  
starks@countyofdane.com](http://wred-lwr.dane.countyofdane.com/starks@countyofdane.com)

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**From:** Starks, Jess

**Sent:** Tuesday, February 4, 2014 8:15 AM

**To:** 'gat' <[ssusa@tds.net](mailto:ssusa@tds.net)>

**Cc:** Tuggle, Jason <[tuggle.jason@countyofdane.com](mailto:tuggle.jason@countyofdane.com)>; Balousek, Jeremy

<[balousek@countyofdane.com](mailto:balousek@countyofdane.com)>; Everson, Daniel <[Everson.daniel@countyofdane.com](mailto:Everson.daniel@countyofdane.com)>; Zoning <[Zoning@countyofdane.com](mailto:Zoning@countyofdane.com)>; Hilbert, Hans <[hilbert.hans@countyofdane.com](mailto:hilbert.hans@countyofdane.com)>; 'townofburke@frontier.com' <[townofburke@frontier.com](mailto:townofburke@frontier.com)>  
**Subject:** DINAP- Yes, Burke- PARCELNO 0810-234-9850-5

Hi Greg,

As Dan Everson points out in his Navigability Determination, and which I confirmed using the aerial orthophotos and the DNR Hydrology later, there is a navigable stream that runs east-west to the north of your property. Nearly all of your property is within 300 feet of the east-west stream, so the fact that the intermittent stream on your property is non-navigable does not bring your project out of the Shoreland Zone, and a Shoreland Erosion Control Permit is necessary before any land disturbing activity begins. You must also obtain a Shoreland Zoning Permit from DC Zoning.

I have attached the DINAP form, as well as the list of consultants- your project will require a P.E. stamp on the plans. Please give me a call with any questions.

Thanks much,

Jess

## Jess Starks

Erosion Control Specialist  
Erosion Control & Stormwater Management Program  
Water Resource Engineering Division  
Dane County Department of Land & Water Resources  
5201 Fen Oak Dr, Rm 208  
Madison, WI 53718  
(608) 224-3647, [starks@countyofdane.com](mailto:starks@countyofdane.com)

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**From:** gat [<mailto:ssusa@tds.net>]  
**Sent:** Friday, January 24, 2014 3:49 PM  
**To:** Starks, Jess  
**Subject:** burke rd info

Jess

Here is the info

Can you send back to me the "do not need" erosion control letter via email

Also, I am working on the hwy A re grading – should get that to you next week

Thanks

Greg

608 444 1515

Land & Water Resources Department  
Land Conservation

(via email and U.S. Mail)  
April 1, 2020

Jess Starks

RE: Burke/Reiner rd tree removal

Dear Ms. Starks,

I have enclosed the Erosion Control Permit Application and have completed "restoration" of the tree removal activity performed on my property. Attached are pictures of the restoration.

I have sent a hard copy of all the documents via U.S. mail along with a check.

It seems clear that the activity should be exempt from a full stormwater management permit and the facts and conditions warrant a simplified application for the erosion control permit. The specific ordinance I felt applied is 11.05 (2) (b) and is as follows,

- (1) There has been no impacts to the adjacent properties - no sediment runoff
- (2) The soil was disturbed less than 30 days – work was performed from 3/9 to 3/13.
- (3) No slopes greater than 6% - relatively flat site
- (4) Soil disturbance is approximately 80ft from the east-west stream
- (5) Although it may visually appear that there is more than 1000 sf, any real disturbance of soil is minimal. The area of more dense tree/saplings which would have the least grass is less than 1000sf
- (6) There is no new impervious surface
- (7) There is minimal risk because the flat area, vegetative buffer between the area and the east west stream, and there is a significant amount of mulch placed immediately as the trees were grubbed.

Respectfully submitted,

Greg Thompson

# Dane County Erosion Control Permit Simplified Application

(Application must be made in-person.)

Incomplete applications will not be accepted.)

For Office Use Only – Revised 10.16.2017

Permit Number \_\_\_\_\_

Received & Approved By: \_\_\_\_\_ Date: \_\_\_\_\_

This form may only be used for the following projects:

1. Land disturbing activities meeting the criteria of DCCO s. 14.50(2)
2. Land disturbing activities occurring in the Shoreland Zone meeting the criteria of DCCO s. 11.05(2)(b) or (d)

**Please see Dane County Code of Ordinances for the complete list of qualifying criteria.**

Project Name: BURKE RD

Applicant Information (Individual making in-person application)

Landowner Name(s): TMSInvestments llc

Applicant Name: greg thompson

Landowner Address: 6810 cross country rd

Applicant Address: same

verona wi 53593

Landowner Phone: (608) 444-1515

Applicant Phone: \_\_\_\_\_

Landowner E-mail: ssusa@tds.net

Applicant E-mail: \_\_\_\_\_

Type of Permit:  
(check only one)

☐

Erosion Control (EC)

☒

Shoreland Erosion Control (SE)

Municipality: town of burke

☒

Section: \_\_\_\_\_

Quarter: \_\_\_\_\_

Parcel Number: \_\_\_\_\_

## Fee Calculation

Total Disturbed Area.....                      ft<sup>2</sup>

Total New Impervious.....                      ft<sup>2</sup>

(includes gravel)

Base Fee = \$ 100.00

Late Filing Fee: Permit fee shall be doubled where work has begun before a permit has been obtained (s. 11.50(7) or 14.55(2)(b)).

Total Fee = \$ 100.00

## Notes:

1. All requirements included in this application correspond to the requirements set forth in Chapters 11 and/or 14 of the Dane County Code of Ordinances.
2. By submitting this application, permittee and landowner permit Dane County staff to enter project property for inspection and/or curative action (s. 11.05(5)(a)3 or 14.49(4)(c)).

**I am the landowner or have been authorized via the included authorization form to act on behalf of the owner. I understand by signing and submitting this application I am bound by the requirements of the County's erosion control ordinance and accept responsibility for implementation of the plan included with this application.**

Applicant Signature: \_\_\_\_\_

Date: 4/1/20

**This application must be submitted in person (M-F, 8 A.M. – 4 P.M.)**

**with two copies of all permit materials to:**

**Water Resource Engineering Division, 5201 Fen Oak Drive, Room 208, Madison, WI 53718**

# Erosion Control Permit Simplified Application Checklist

For Office Use Only

Permit Number: \_\_\_\_\_

Date: \_\_\_\_\_

Project Name: BURKE RD

Plan Requirements		X	Location of Information: Page Number or Attachment
1.	<b>Narrative describing the proposed project</b>	✓	grubbed smaller trees using a mulching attachment mulch covered soil, if any, as the trees were grubbed
2. *	<b>Site plan</b> (of known scale that includes: property lines, disturbed area limits, impervious area limits (existing and proposed), natural and artificial water features, 100-yr flood plain, delineated wetland boundaries, location of all proposed erosion control practices) <b>NOTE:</b> Grading within 5' of the property line requires department approval	✓	see attached
3. *	<b>Contours</b> (existing and proposed)	✓	no grading was done
4. *	<b>Watershed size for each drainage area</b> (include area draining to the site and within project boundaries)	✓	not sure what is required
5.	<b>Tracking control</b> (provisions to prevent mud-tracking onto public streets and roads during construction, e.g. tracking pad or existing gravel drive)	✓	there was no mud or tracking, it was a field with some trees
6.	<b>Sediment control practices to protect stormwater facilities or storm sewer inlets, existing and proposed, on or adjacent to the site</b> (e.g. inlet protection or stone weeper)	✓	placed silt sock in areas where water runs off the site - natural drainage/overland flow
7.	<b>Proposed erosion control practices</b> (list of erosion control practices)	✓	see above
8.	<b>Proposed start date</b> (date for installation of all erosion control practices and start of land disturbing activity)	✓	3/9/20 - complete 4/1/20
9.	<b>Proposed stabilization date</b> (date for placement of seed & mulch, sod or permanent surfacing)	✓	4/1/20
10.	<b>Culvert sizes</b> (existing and proposed culverts on or adjacent to the site)	✓	no culverts
11.	<b>Any other information necessary to reasonably determine the location, nature and condition of any physical or environmental features of the site</b>	✓	east-west stream on the property to the north

**Note:** Any proposed changes to the erosion control plan must be submitted and approved prior to implementation. The permit will expire on the stabilization date indicated in the plan (see checklist item #9).

\* The following Dane County websites may be useful in addressing the above checklist items:

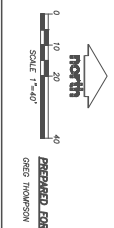
<http://accessdane.co.dane.wi.us/html/public.asp>

<https://dcimapapps.countyofdane.com/lwrviewer/>

<https://wred-lwrd.countyofdane.com/>

Revised 10.16.2017





PROJECT NO. 12-5096  
FILE NO. C-4  
SHEET NO. 1 OF 1

**JSD** Professional Services, Inc.  
Engineers • Surveyors • Planners  
161 HORIZON DRIVE, SUITE 101  
VERONA, WISCONSIN 53593  
PHONE: (608)448-5060

**PARCEL 0810-234-9850-5 EXHIBIT**  
PART OF THE SOUTHEAST QUARTER (SE 1/4) OF THE SOUTHEAST QUARTER  
(SE 1/4) OF SECTION 23, TOWN 8 NORTH, RANGE 10 EAST, TOWN OF  
BURKE, DANE COUNTY, WISCONSIN

DRAWN BY	JWS	DATE	03-22-2012				
CHECKED BY	--	DATE	XX-XX-2012				
APPROVED BY	WFW	DATE	03-22-2012				
DWGNAME	I:\2012\12506\dwg\12-5096 - StorageShop Burke Exhibit.dwg			REVISION NO.	DESCRIPTION	DATE	BY





(Sent via Email)

March 27, 2020

Greg Thompson  
TMS Investments LLC  
6810 Cross Country Rd.  
Verona, WI 53593

**RE: Notice of Violation, Land disturbing activity in the Shoreland Zone/>4,000 sq.ft.  
Obtain After-the-Fact Shoreland Erosion Control Permit**

Dear Owner,

This letter is regarding the clearing, grading and associated land disturbing activity that took place on your land at tax parcel 0810-234-9850-5, and the restoration activity that will be required.

You and/or your contractor created land disturbance by grading within 300 feet of a navigable stream (intermittent stream, Waterbody WBIC 5034933). This work should have been permitted with a Dane County Shoreland Erosion Control permit in accordance with DCCO Sec. 11.05(3)(a). A permit determination request was completed in writing in January 2014, and this was sent to you.

1. A Stop Work Order has been included with this mailing. This will remain in effect until the permit(s) have been issued. The only work that can be done on site is to install erosion control measures. The site can also be restored with a suitable permanent seed mix and mulch crimped in place, if the work is finished.
2. Restoration is required. The area will have to be permitted, and fully restored with the specified measures in your approved plan. Any activity including grading, moving material and/or soil, reshaping, or restoration will need to be permitted, before additional work takes place. The Stop Work Order remains in effect and no activities are to take place, with the sole exception of placement of acceptable means of temporary perimeter erosion control. **The deadline to place temporary erosion control measures or restore the site is April 2, 2020 by 4:00 p.m.**
3. Submit after-the-fact Shoreland Erosion Control permit application and Stormwater Management permit application, and complete materials as necessary to meet the County requirements of Chapters 11 and 14. Please note that the permit fees will be doubled, in accordance with DCCO Sec. 11.50(5)(c). The plans must address any future work, as well. The plans must be stamped by a Professional Engineer.

4. **The deadline to submit the after-the-fact Shoreland Erosion Control permit application is April 15, 2020, by 4:00 p.m. Please submit the signed application to [wrediv@countyofdane.com](mailto:wrediv@countyofdane.com). Mail the fee to the address in the footer. Fees are doubled.**
5. Citations may be issued for the work occurring without permits, and if permit application is not made in a timely manner.
6. Failure to meet deadlines may result in additional enforcement, including referral to the Dane County Corporation Counsel.
7. The Wisconsin Department of Natural Resources, and/or Dane County Zoning may require permits, permissions, or have jurisdiction in this location. Please check with them as necessary.

Thank you for your attention to this matter. Please contact me if you have questions.

Regards,



Jess Starks  
Erosion Control Specialist  
Water Resource Engineering Division  
Dane County Land & Water Resources  
(608) 224-3647, [starks@countyofdane.com](mailto:starks@countyofdane.com)

Cc: Keller Real Estate Group  
Weston Matthews, Water Management Specialist- WDNR  
Hans Hilbert, Assistant Zoning Administrator- Dane County Zoning  
Town of Burke

Enc.

# INVOICE

SPENDE EXCAVATING & PLUMBING  
W7324 PROVIMI ROAD  
WATERTOWN, WI 53098  
(262)646-2567  
spendeexcavating@yahoo.com

DATE: MARCH 20, 2020  
INVOICE # 4052

TO TMS INVESTMENTS LLC  
6810 CROSS COUNTRY ROAD  
VERONA, WI 53593  
[SSUSA@TDS.NET](mailto:SSUSA@TDS.NET)  
(608)444-1515

JOB	PAYMENT TERMS
NW CORNER OF BURKE ROAD & REINER ROAD	DUE UPON PAYMENT REQUEST

DESCRIPTION	TOTAL
3/9/2020 – 3/13/2020: TREE & BRUSH CLEARING, MULCHING	3,900.00
PAYMENT TERMS: DUE UPON RECEIPT OF INVOICE	
<b>TOTAL DUE:</b>	<b>\$3,900.00</b>

Make all checks payable to SPENDE EXCAVATING & PLUMBING

**Thank you for your business!**

Friday, May 8, 2020

TMS Investments, LLC  
6810 Cross Country Rd.  
Verona, WI 53593

**RE: NOTICE OF CITATION**

Greg Thompson:

You have been issued a citation for a violation of the Dane County Code of Ordinances. The defendant's copy of the citation has been enclosed with this mailing. A court date has been set as follows:

**COURT DATE:** Friday, July 10, 2020 @ 10:00 AM- Dane County Courthouse, Courtroom 1A, 215 S. Hamilton St., Madison, WI 53703.

Your appearance in court is not mandatory. The instructions for satisfying the citation are listed on the back of the pink copy enclosed.

Sincerely,

Jess Starks  
Erosion Control Specialist  
Water Resource Engineering Division  
Dane County Land & Water Resources  
(608) 224-3647, [starks@countyofdane.com](mailto:starks@countyofdane.com)

Enclosure (1)

**CITATION # P407252**

**DEFENDANT NAME:** TMS Investments, LLC  
**MAILING ADDRESS:** 6810 Cross Country Road  
**POST OFFICE:** Verona, WI 53593  
**PHONE:** (608) 444-1515

**ISSUE DATE:** 05/06/2020  
**VIOLATION DATE:** 04/30/2020  
**STAFF:** Jess Starks, Erosion Control Specialist  
**PROPERTY LOCATION:** Property east of 3452 Burke Rd, at northwest corner of the intersection of Burke and Reiner Roads  
(Town of Burke, SE 1/4, Section 23)

**VIOLATION:**

1. Land disturbing activity of any size in the shoreland zone without permit
2. Land disturbing activity in excess of 4,000 square feet without permit

**VIOLATES: DCCO s. 11.05(3)(a), 14.45(1)**

**11.05 SHORELAND EROSION CONTROL AND SHORELAND MITIGATION PERMITS**

Except as provided in section 11.02(2)(a), a Shoreland erosion control permit is required for any of the following:

(a) Any land disturbing activity, or any size, any portion of which occurs in any of the following areas:

1. Within 300 feet of the ordinary high-water mark of any navigable water

**14.45 APPLICABILITY OF REQUIREMENT FOR EROSION CONTROL PLANS**

Unless expressly exempted by sec. 14.47, an erosion control permit under sec. 14.49 shall be required and all construction site erosion control provisions of this chapter shall apply, to any of the following activities in Dane County:

- (1) Land disturbing activity in excess of 4,000 square feet

**COURT DATE:** July 10, 2020 @ 10:00 AM  
Dane County Circuit Court  
Courtroom 1A  
215 S. Hamilton St.  
Madison, WI 53703