

**2005 DRAFTING REQUEST**

**Bill**

Received: 11/19/2004

Received By: rkite

Wanted: As time permits

Identical to LRB:

For: Gregg Underheim (608) 266-2254

By/Representing: Randy Thorson

This file may be shown to any legislator: NO

Drafter: rkite

May Contact:

Addl. Drafters:

Subject: Nat. Res. - nav. waters

Extra Copies:

Submit via email: YES

Requester's email: Rep.Underheim@legis.state.wi.us

Carbon copy (CC:) to:

---

**Pre Topic:**

No specific pre topic given

---

**Topic:**

Authorize dredging for boat slips on Green Lake

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**Instructions:**

See attached

---

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
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/1	rkite 02/23/2005	jdye 02/25/2005	rschluet 02/25/2005	_____	lemery 02/25/2005	Inorthro 03/03/2005	

FE Sent For: *None*

<END>

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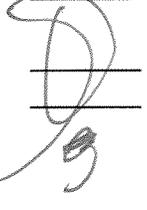
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/?	rkite	1/24 jlc					
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FE Sent For:

<END>

Robin,

Could you please look at the enclosed letter and draft the necessary legislation that would allow Mr. Perino to dredge boat slips into his front lawn.

If you have any questions please contact me after 11/28 as I will be on vacation.

Thank you

Randy Thorson  
offic of state rep.  
Greg Underhies  
266-2254

JAMES J. WILLIAMSON  
TIMOTHY M. DEMPSEY  
TIMOTHY R. YOUNG  
JOHN M. KELLY  
CHARLES J. HERTEL

DEMPSEY, WILLIAMSON, YOUNG, KELLY  
& HERTEL, LLP  
A WISCONSIN LIMITED LIABILITY PARTNERSHIP  
ATTORNEYS AT LAW  
U.S. BANK PLAZA  
P.O. BOX 886  
OSHKOSH, WISCONSIN 54903-0886

GABE BOUCK, 1849-1904  
JOHN F. KLUWIN, 1893-1931  
GEORGE HILTON, 1885-1942  
WILLIAM C. BOUCK, 1895-1955  
EDWARD J. DEMPSEY, 1906-1956  
RAY C. DEMPSEY, 1932-1960  
JOSEPH F. DEMPSEY, 1936-1972  
JOHN E. DEMPSEY, 1935-1995  
NICHOLAS J. MEEUWSEN, 1970-1996  
LEWIS C. MAGNUSEN, 1946-1998

BRIAN D. HAMILL  
JULIE M. MASLOWSKI  
PETER J. CULP  
DANIEL J. POSANSKI

OSHKOSH 920/235-7300      RIPON 920/748-5415  
FAX 920-235-2011

OF COUNSEL:  
RONALD L. LAMPE

December 31, 2003

Assemblyman Greg Underheim  
Wisconsin State Assembly Room 412  
100 N. Hamilton Street  
Madison, WI 53708

*Je  
need legislation  
C66*

Dear Mr. Underheim:

We represent Anthony Perino who, several years ago, applied for a DNR permit to dredge two boat slips into the front lawn of his home located on Green Lake. As I recall, the DNR pushed the matter to an extensive contested case hearing at which many DNR employees testified in opposition to the granting of such permits. Our client, conversely, produced abundant expert witnesses who demonstrated that the boat slips would have no significant impact on fish and wildlife habitat or any other worthwhile consideration. Nevertheless, the permit was denied.

The permit requirement appears in Section 30.19 of the Wisconsin Statutes which provides as follows:

Unless a permit has been granted by the department or authorization has been granted by the legislature....

It appears from the underlined language above that the Legislature has reserved to itself the right to authorize enlargements of lakes under such circumstances as the legislature might deem fit. In this particular case, because of its depth, Green Lake contains billions of gallons of water, while the volume of these two small boat slips is negligible by comparison. Under the circumstances, I am wondering if you believe that authorization to install these two boat slips could be directly authorized by the Legislature and, if so, under what circumstances. I am not sure if the Legislature must simply pass a resolution authorizing our client to create these two boat slips, or if the underlined language above contemplates adding an exception to subsection 1(m) of Section 30.19. If the latter is the case, perhaps another exception could be enacted that would eliminate

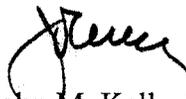
Assemblyman Greg Underhei  
December 30, 2003  
Page 2

the requirement for an enlargement permit on lakes having volume the size of Green Lake,  
without actually mentioning Green Lake.

Could you give me a call at your early convenience so that we can discuss this further? Thank  
you. I look forward to hearing from you.

Very truly yours,

DEMPSEY, WILLIAMSON, YOUNG, KELLY & HERTEL, LLP



John M. Kelly

JMK:kcs

cc: Tony Perino

12/3/04 -

Called Randy -  
told him I need a legal description of  
the property -

he will get back to me

VOL 683 PAGE 119

333206

STATE BAR OF WISCONSIN FORM 3 - 2000  
QUIT CLAIM DEED

Document Number

This Deed, made between ANTHONY B. PERINO, a married man, Grantor, and Anthony B. Perino, as Trustee of the ANTHONY B. PERINO TRUST AGREEMENT, dated August 24, 1998, Grantee.

Grantor quit claims to Grantee the following described real estate in Green Lake County, State of Wisconsin (if more space is needed, please attach addendum):

LOT 1 AND LOT 2 OF CERTIFIED SURVEY MAP NO. 2069, LOCATED IN THE SE 1/4 OF THE SW 1/4 OF SECTION 22 AND IN GOVERNMENT LOT 4 OF SECTION 27, T16N, R13E, TOWN OF BROOKLYN, GREEN LAKE COUNTY, WISCONSIN.

Together with all appurtenant rights, title and interests.

FEE  
# 9  
EXEMPT

GREEN LAKE COUNTY  
RECEIVED FOR RECORD

8:30 A.M.

JUN 22 2004

Vol. 683 of Rec. Pg. 119  
Suzanne R. Keach  
REGISTER OF DEEDS

Recording Area PA \$11,000.00

Name and Return Address

Anthony B. Perino

720 Plainfield Road, Second Floor

Willowbrook, Illinois 60527-5318

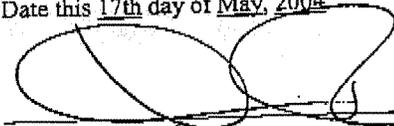
Lot 1 - 004-971-0000

Lot 2 - 004-971-0100

Parcel Identification Number (PIN)

This is not homestead property.

Date this 17th day of May, 2004



\*Anthony B. Perino

AUTHENTICATION

Signature(s) \_\_\_\_\_ authenticated this \_\_\_\_\_ day of \_\_\_\_\_,

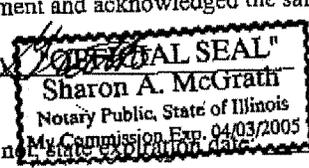
ACKNOWLEDGMENT

STATE OF WISCONSIN IA. )

Du Page \_\_\_\_\_ County ) ss.

Personally came before me this 17<sup>th</sup> day of May, 2004, the above named Anthony B. Perino to me known to be the person who executed the foregoing instrument and acknowledged the same.

Sharon A. McGrath  
Notary Public, State of Wisconsin  
My Commission is permanent. (If not, state expiration date.)



\* TITLE: MEMBER STATE BAR OF WISCONSIN (If not, \_\_\_\_\_ authorized by § 706.06, Wis. Stats.)

THIS INSTRUMENT WAS DRAFTED BY

Christyl Marsh  
Cohen, Salk & Huvard, P.C.  
630 Dundee Road, Suite 120  
Northbrook, Illinois 60062

(Signatures may be authenticated or acknowledged. Both are not necessary.)

\*Names of persons signing in any capacity must be typed or printed below their signature.

QUIT CLAIM DEED

STATE BAR OF WISCONSIN

FORM No. 3 - 2000

Sent by Randy Thorson (aide) 266-2254

RNK

## Kite, Robin

---

**From:** Thorson, Randy  
**Sent:** Friday, February 18, 2005 1:11 PM  
**To:** Kite, Robin  
**Subject:** RE: drafting request

Robin,

I discussed this situation with Rep. Underheim and he said that you may contact the DNR but he does not want the location in question mentioned or the fact that you are contacting the office on our behalf. I realize that these limitations may inhibit your inquiries but Gregg was quite specific about it.

Randy Thorson  
Research Assistant to  
Gregg Underheim  
State Representative  
54th Assembly District

-----Original Message-----

**From:** Kite, Robin  
**Sent:** Wednesday, February 16, 2005 10:19 AM  
**To:** Thorson, Randy  
**Subject:** drafting request

Randy,

As you will recall, Rep. Underheim submitted a drafting request to create a permitting exemption for certain dredging activities on Green Lake. Originally, the request was to authorize specific activities relating to your constituent, Anthony Perino, who was denied a permit by DNR. Subsequently, after several conversations with your office and John Kelly, the attorney who represented Mr. Perino, the drafting request was revised to authorize "de minimis" dredging activities on inland lakes. You forwarded to me a copy of Mr. Kelly's file in connection with his representation of Mr. Perino. I have thoroughly reviewed the file and current law on this issue. Given the significant changes to current law since Mr. Perino's permit application was denied, and given DNR's ongoing rule-making efforts in this area, I am not certain that Mr. Perino would now be denied a permit under current law. Consequently, in order to make this determination, I would need to talk to someone at DNR. Without that authority, I cannot be sure that whatever I draft will address the issue under current law.

Please let me know if I have the authority to contact DNR on this draft. Feel free to contact me if you have any questions.

Robin

-----  
Robin N. Kite, Senior Legislative Attorney  
Wisconsin Legislative Reference Bureau  
1 East Main St.  
Suite 200  
Madison, WI 53703  
(608) 266-7291

12-17-04

Spoke w/ Atty Jack Kelly

his client wants to dredge land on  
front ~~to~~ yard to create boat slips  
DNR denied permit for enlargement -

he either wants private law or a  
general exemption for "de minimis"  
activity

asked me to discuss this approach w/  
Randy

called Randy + left message -

Randy called back -

I explained both approaches -  
he will call me back

Randy called back - Rep. Underheim wants  
broader approach -

explained that he will have to define  
parameters of the exemption -  
he will call me back



State of Wisconsin  
2005 - 2006 LEGISLATURE

RM run  
LRB-0931/3  
RNK:.....  
jid

soon

d-note

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 AN ACT <sup>Gen</sup> ...; relating to: ✓ exemptions from permit requirements for certain  
2 activities affecting navigable inland lakes.

*Analysis by the Legislative Reference Bureau*

Under current law, no person may engage in certain activities affecting navigable waters without first obtaining a permit from the Department of Natural Resources. Those activities include the removal of material from the bed of a navigable lake and the construction, dredging, or enlargement of an artificial water body that connects with a navigable waterway. ✓

This bill creates an exemption from these permitting requirements for an activity affecting a navigable inland lake if the activity will not result in the enlargement of the lake by a specific size and depth.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

3 SECTION 1. 30.19 (1m) (dm) of the statutes is created to read:

4 30.19 (1m) (dm) An activity affecting a navigable inland lake if all of the  
5 following apply: ✓

6 1. The activity will not result in an enlargement of the lake by more than 35  
7 feet landward from the lake's ordinary high-water mark.



**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-0931/2/dn  
RNK:.....

2  
Jld

\* Your instructions for this draft were to create DNR permitting exemptions for certain "de minimis" activities affecting navigable waters, such as the construction of wet boat slips on Green Lake undertaken by your constituent, Anthony Perino. Using the Perino matter as a guide, I have made some very general assumptions about the kinds of projects that you want to have covered by the exemptions. Accordingly, I ask that you review this draft very closely to ensure that it meets your intent.

Please feel free to contact me if you have any questions regarding this draft.

Robin N. Kite  
Legislative Attorney  
Phone: (608) 266-7291  
E-mail: robin.kite@legis.state.wi.us

that the exemptions created in the draft do not go beyond the intended scope of your request

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-0931/1dn  
RNK:jld:rs

February 25, 2005

Your instructions for this draft were to create DNR permitting exemptions for certain "de minimis" activities affecting navigable waters, such as the construction of wet boat slips on Green Lake undertaken by your constituent, Anthony Perino. Using the Perino matter as a guide, I have made some very general assumptions about the kinds of projects that you want to have covered by the exemptions. Accordingly, I ask that you review this draft very closely to ensure that the exemptions created in the draft do not go beyond the intended scope of your request.

Please feel free to contact me if you have any questions regarding this draft.

Robin N. Kite  
Legislative Attorney  
Phone: (608) 266-7291  
E-mail: [robin.kite@legis.state.wi.us](mailto:robin.kite@legis.state.wi.us)

**Northrop, Lori**

---

**From:** Thorson, Randy  
**Sent:** Thursday, March 03, 2005 12:06 PM  
**To:** LRB.Legal  
**Subject:** Draft review: LRB 05-0931/1 Topic: Authorize dredging for boat slips on Green Lake

It has been requested by <Thorson, Randy> that the following draft be jacketed for the ASSEMBLY:

Draft review: LRB 05-0931/1 Topic: Authorize dredging for boat slips on Green Lake