



NR 60

Filed ~~July~~ June 10, 1975
4:00 pm E. L. P.

State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

L. P. Voigt
Secretary

BOX 450
MADISON, WISCONSIN 53701

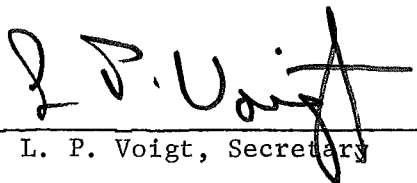
IN REPLY REFER TO: _____

STATE OF WISCONSIN)
)
DEPARTMENT OF NATURAL RESOURCES) ss

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, L. P. Voigt, Secretary of the Department of Natural Resources and custodian of the official records of said Department, do hereby certify that the annexed copy of Natural Resources Board Order No. W-18-75 was duly approved and adopted by this Department on April 17, 1975. I further certify that said copy has been compared by me with the original on file in this Department and that the same is a true copy thereof, and of the whole of such original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Department at Pyare Square Building in the Village of Shorewood Hills, this 9th day of June, 1975.



L. P. Voigt, Secretary

(SEAL)

STATE OF WISCONSIN NATURAL RESOURCES BOARD

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IN THE MATTER of creating sections NR 60.10, .
60.11, 60.12 and 60.13 of the Wisconsin Admin- .
istrative Code pertaining to public inland lake . W-18-75
protection and rehabilitation. .
.....

ORDER OF THE STATE OF WISCONSIN NATURAL RESOURCES BOARD

CREATING RULES

Pursuant to the authority vested in the State of Wisconsin Natural Resources Board by Chapter 33 and Section 227.027, Wisconsin Statutes, the State of Wisconsin Natural Resources Board hereby creates the following rules:

NR 60 - Part II
PROJECT PLANNING AND IMPLEMENTATION

NR 60.10 Project Planning and Approval. (1) Initial adoption of project plan.

(a) Upon receipt of the final feasibility study report, the department will formulate suggested alternative methods for protecting or rehabilitating the lake.

(b) The department in suggesting alternatives shall provide general cost information on alternatives; plan requirements that will be necessary to continue the abatement of degradation after completion of the project; and an indication of the permits required for each alternative.

(c) The department will also tentatively indicate which alternatives require the preparation of an environmental impact report (EIR) by the applicant or an environmental impact statement (EIS) by the department. If an EIS is required, formal adoption of a proposed plan by district resolution cannot take place until a preliminary environmental impact report (PER) has been completed, circulated, and the period for comment ended.

Note: The authority for submission of an EIR is contained in section 23.11, Wis. Stats. The PER requirement is contained in guidelines issued December 1973, pursuant to executive order no. 69, for the purpose of implementing section 1.11, Wis. Stats. (Wisconsin Environmental Policy Act).

(d) Subject to subsection (c), the district may then select and adopt a proposed plan based upon the alternatives suggested by the department.

(2) Request for hearing and application for permits and financial assistance.

(a) Following formal adoption of a proposed plan, a district may request that the department hold a hearing in the area as specified in section 33.14, Wis. Stats.

(b) Applications for permits and financial assistance must be on forms provided by the department and submitted before the department will schedule a public hearing.

(3) Hearing and department action on proposed plan. (a) The department will set a time and place for a public hearing on the proposed plan. The notice of the hearing will be issued within 10 days after receipt of the proposed plan, and applications for required permits and financial assistance.

(b) The hearing will be held within 90 days after notice of hearing in the lake district vicinity. The hearing will be for the purpose of receiving testimony regarding:

1. The environmental impact statement prepared by the department, if required, and the proposed plan;

2. The issuance of required permits;

3. The potential for long-range environmental pollution as defined by s. 144.30(9), Wis. Stats., if the project is implemented;

4. Views of the appropriate soil and water conservation district;

5. Views of the appropriate regional planning commission;

6. The likelihood that sources of continuing lake degradation will be substantially eliminated.

(c) If necessary to an orderly presentation, the department may receive testimony on applications for permits independently of the other issues specified in subsection (b).

(d) The department shall approve, approve with modification or disapprove a plan within 60 days following the hearing. The department shall state the reasons if a plan is disapproved and provide alternatives if modification is recommended. For approved plans, the department will concurrently issue its decision on the applications for permits and financial assistance.

(4) Final adoption of plan. A district may by resolution adopt the approved or modified plan, and a copy of the plan and resolution shall be submitted to the department. The plan may then be implemented, subject to any conditions in the grant agreement where an offer of financial assistance has been made by the department and accepted by the district.

NR 60.11 Financial assistance for project implementation. (1) Application for financial assistance. The following will be required on forms provided by the department or as attachments to the forms:

(a) A statement of the equalized valuation of the property within the district;

(b) The amount of aid requested;

(c) A general statement regarding any existing resources, monetary or otherwise, which the district might apply toward implementing a protection or rehabilitation project;

(d) Other information deemed necessary by the department to act upon the application.

Completed applications shall be mailed to the Office of Inland Lake Renewal, Department of Natural Resources, Box 450, Madison, Wisconsin 53701.

(2) Department action on application. (a) The department will act on the

application for financial assistance when it approves or disapproves a proposed plan as provided in NR 60.10 (3) (d). Applications for financial assistance will be acted upon by June 15, 1975 and semi-annually on May 1 and November 1, thereafter consistent with the priority system established in subsection (3). If aid is denied, the department shall indicate in writing the reasons for denial.

(b) A district shall accept or reject a grant offer within 60 days unless the department approves an extension. Extensions will only be granted where the district commissioners need annual meeting approval before acceptance or where strict adherence to the 60-day requirement would create undue hardship.

(3) Priority and amount of grant. (a) The department shall provide financial assistance to approved projects in a manner designed to improve and protect the quality of Wisconsin's inland lakes in the most cost-effective and environmentally sound way. Projects shall be ranked so that the highest priority is assigned to the project which contributes most to furthering the following objectives established in conjunction with the inland lakes protection and rehabilitation council and the natural resources board. However, financial assistance will be granted to provide a balanced program of research and demonstration, rehabilitation, and protection based on recommendations of the council.

1. Protect and enhance environmental values by preventing degradation of fish and wildlife habitat, surface and groundwater quality, natural beauty and unique scientific values, land values, recreation values, air quality and the quality of life generally, and by improving and preserving the water quality of the lake through improvement measures in the lake and direct drainage basin.

2. Preserve the public rights in the navigable waters of the state by considering the adequacy of public access in relation to the lake's carrying capacity and most beneficial use.

3. Design cost-effective projects based upon an evaluation of alternative rehabilitation and protection techniques and considering the objective of preserving environmental values.

4. Ensure local involvement in the project and a commitment to future lake management.

5. Consider the urgency of the need for lake protection and rehabilitation.

(b) Based upon the priority sequence developed under subsection (a), and subject to the prerequisite finding being made under sec. 33.16 (5), Wis. Stats., that sources of continuing lake degradation will be substantially eliminated, the department shall notify a district when its proposed plan is approved whether or not financial assistance will be offered for project implementation. The amount for feasibility study work described in NR 60.03 and project implementation work shall be on a 60% state - 40% local, cost-sharing basis. However, the cost-sharing may be adjusted in special circumstances, including but not limited to those resulting from availability of federal or other funds, percent of lands in public ownership, unique scientific or aesthetic value, and the innovative or experimental nature of the project.

(c) Nonmonetary aids may be applied toward the district's share. When a district applies for financial assistance for feasibility study or implementation, it must specify the nonmonetary contributions, the persons engaged to do the work, and the manner in which it will be performed. The dollar value of nonmonetary aids will be the difference between the lowest responsible bid or cost estimate for the total project and the lowest responsible bid or cost estimate on the project, excluding the work performed through nonmonetary contributions.

(d) The department's grant offer shall be based upon the reasonable and necessary costs of project implementation, including the cost of professional and consultant services; construction and equipment costs; acquisition of land or easements essential to the project, but excluding acquisition of public access; reclamation or landscape changes essential to the project, and any other protection or rehabilitation measures identified in the approved plan. The following, however, shall not be included in the basis for determining the state share of the project cost: interest on bonds or other forms of indebtedness; damage awards for personal injury arising out of the project; fines or penalties for violation of local, state or federal laws; bonus payments for early completion of contract work; routine operating expenses of any unit of government, costs paid by other state or federal assistance programs or any costs determined to be outside the scope of the approved project.

(e) Retroactive funding shall only be available for project work done after the date an application under NR 60.03 (2) was filed requesting technical assistance in designing a feasibility study and determined to be consistent with the requirements and scope of the approved project.

(4) Grant agreement. The following provisions shall apply to all grant agreements:

(a) Method of payment. Grant payments will be made at the 25%, 50% and 75% stages of completion with a final payment upon submission of the final accounting. At each stage, the department will pay to the district the state share of the allowable costs for work done and materials stockpiled in the lake area. Payments, however, may be made in advance for project work, but only after receiving a written request for advance payment from the district. The district shall pay its share at approximately the same rate as payments made from the grant. The department may require the district to submit progress,

financial or other reports relating to the conduct of the approved project. The grant agreement may provide that grant payments are contingent upon future appropriations to the program.

(b) Accounting by grantee. State grant payments shall be recorded by the district in a separate account. Accounting for all project funds shall be in conformance with generally accepted accounting principles and practices. Supporting records of grant expenditures must be maintained in sufficient detail to show that the grant funds were used for the purpose for which the grant was made. Each grantee will be required to submit a satisfactory final accounting to the department following completion of the project or termination of the grant.

(c) Inspection and audit. The books, records, documents and accounting procedures of every grantee shall be subject at reasonable times to inspection and audit by the department or its authorized representative. In addition, the grantee shall permit the department access to the project site at reasonable times.

(d) Modification of agreement. The grantee shall notify the department by certified mail of any changes proposed in the scope or objective of the project as described in the grant agreement or final plan. The department will promptly advise the district whether or not state funds may be used for such modification. The department may require the execution of a written modification of the agreement prior to funding the proposed changes.

(e) Nondiscrimination. Every grant awarded under this chapter shall contain a provision that the recipient shall not use the grant funds in a manner which discriminates against any person because of sex, religion, race, color or national origin.

(f) Public use. The department shall require a commitment by the district to maintain an adequate level of public access. The grant agreement may provide that fees for use of public access be reviewed and approved by the department prior to taking effect.

(g) Annual meeting approval. The district shall submit to the department evidence that the annual meeting has approved any project costing the district more than \$5,000.

(5) Termination of the grant. (a) The department may terminate a grant for any of the following reasons:

1. The violation of any term or condition of the grant agreement by the grantee;

2. The willful or bad faith refusal of the grantee to implement the project as described through the planning process, in the resolution adopting the final plan, and in the grant agreement;

3. Any material misrepresentations made by the recipient on the application for financial assistance or at any stage of the planning process.

4. Upon request of the grantee if the grantee can show good cause for termination of the grant prior to completion of the project.

(b) The department, through the secretary or his designated representative, shall send a notice of intent to terminate to the grantee by certified mail prior to termination of any grant. Such notice shall operate as a stop-work order to the extent that grant funds would be used to pay for project work. The department may only issue a final notice of termination after consultation with the grantee and a discussion of the grounds for termination.

(c) Except where the department finds that good cause exists for termination of a project for which a grant has been awarded, the grantee shall be responsible for returning all state grant funds previously paid to the grantee.

The department, however, may approve any equitable arrangement whereby the grantee substantially discharges that obligation. The department shall have the option of either accepting equipment and materials purchased under the grant agreement or requiring a private or public sale with proceeds returned to the department. In all cases, the grantee shall return any unexpended state funds as well as any state funds spent after receipt of the department's notice of intent to terminate.

NR 60.12 Research and demonstration projects. Research and demonstration projects may be undertaken as a cooperative activity between lake districts and the department. Such projects shall be designed to assess experimental and innovative techniques of lake protection and rehabilitation. The department may provide up to 100% state funding of experimental projects where the eventual results are highly uncertain.

NR 60.13 Severability. If any provision of these rules is invalid, or if the application thereof to any person or circumstances is invalid, such invalidity shall not affect other provisions or applications which can be given effect without the invalid provision or application.

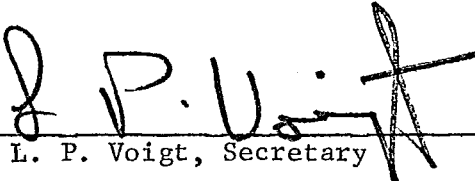
The foregoing rules were approved and adopted by the State of Wisconsin Natural Resources Board on April 17, 1975.

The rules contained herein shall take effect upon publication.

Dated at Madison, Wisconsin June 9, 1975

STATE OF WISCONSIN DEPARTMENT OF NATURAL RESOURCES

By



L. P. Voigt, Secretary

(SEAL)