

# ☞ 05hr\_SSC-DNRRRR\_Misc\_pt05b



☞ **These materials were grouped together.  
For January 10, 2006 Green Bay hearing?**

(FORM UPDATED: 08/11/2010)

## WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

### 2005-06

(session year)

### Senate Select

(Assembly, Senate or Joint)

### Committee on ... DNR (SSC-DNRRR)

### COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

### INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)  
(**ab** = Assembly Bill)                      (**ar** = Assembly Resolution)                      (**ajr** = Assembly Joint Resolution)  
(**sb** = Senate Bill)                              (**sr** = Senate Resolution)                              (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

\* Contents organized for archiving by: Mike Barman (LRB) (July/2012)

These items were grouped  
together...

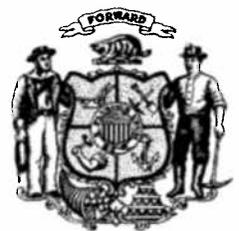
Jan. 10, 2006

heating in Green Bay ?

Part B



# WISCONSIN STATE LEGISLATURE



Andy Schmidt  
Schmidt Boatlifts & Docks  
N2223 W Frontage Road  
Kaukauna WI 54130  
(920) 766-0856

Date?

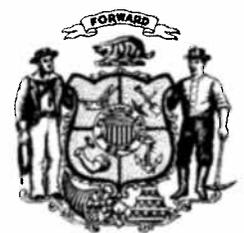
Our issue has to do with the permitting process. If we do a rip rap project on a lake we can get a permit in 30 days. If this same project is on a river it may take 8 months. We had a group of 6 permits (landholders) on the Fox River between Appleton & DePere, our permits first were at the Green Bay office, then Shawano, and finally Door County. This was because each field agent said they didn't have time. Meanwhile we laid off 3 guy and these 6 landowners lost up to 2' of shoreline due to erosion. These same permits three years earlier were available over the counter! If workload is a problem why spend so much time on a simple rip-rap permit?

We are interested in the dock rules but don't know what the final rules will be.

Thank You  
LJ Schi.



# WISCONSIN STATE LEGISLATURE



From Dennis Byron

Date ?

**Preface:**

It troubles me that this hearing only requests comments from people who have had problems with the DNR regarding regulatory actions and that the Committee before hearing citizens' comments, has as its goal DNR Regulatory Reform.

This is a far cry from a "fair and balanced" approach and clearly represents pursuit of a political agenda.

In May of 2002 I applied to the Green Bay Office of the DNR for a road right-of-way in the Town of Eaton from Pine Grove Road to a home site on Third Lake I worked with Sally Gorbish in the Green Bay DNR Office. My request was denied because the access road crossed 30 yards of wetlands.

The site meeting with DNR personnel was very professional and the DNR was correct, the road crossed 30 yards of wetland drainage from Third Lake. I withdrew my request after understanding the total situation.

I left this situation with the highest respect for the DNR and the DNR professional involved.

I have worked with the DNR frequently on property in the Town of Eaton and Third Lake as well as property in the Town of Green Bay involving Gilson Creek. All experiences have been helpful to me and the various professionals in the DNR have been competent and courteous.

**SUMMARY:**

In the late 70s and early 80s I served as Executive Secretary for a national organization entitled, Conservation Education Association. Members came from the U.S. Forest Service, State Departments of Natural Resources, State Departments of Education, etc. They represented all states in the nation.

At the National Convention, a straw vote was taken to choose the top 10 most effective Departments of Natural Resources in the nation. Wisconsin and Missouri were always in the top 5.

This changed rapidly however, when the Wisconsin Director of the Dept. of Natural Resources became a political appointee.

Within 7 years, Wisconsin's Dept. of Natural Resources was not even selected to be among the top 20.

The politicalizing of the Wisconsin Dept. of Natural Resources had taken place and was felt throughout the organization.

The Wisconsin DNR has as one of its major purposes, regulatory activities regarding an effort to protect Wisconsin's natural resources.

It should be clear to this committee that the severe reduction in budget and staff has rendered regulatory activities to protect Wisconsin's natural resources almost impossible.

As chairman of the **Senate Select Committee on DNR Regulatory Reform**, I seek your input regarding the wisest route to take in examining, proposing and ultimately enacting measures that accomplish lasting reform. The form below allows you to submit to the committee the obstacles you have faced in attempting to work with the Department of Natural Resources.

Thank you for participating. I encourage you to return often to keep abreast of the progress we make in formulating proposals for reform.

**Please provide the following contact information:**

First Name	Dennis
Last Name	Bryan
Middle Initial	
Street Address	5622 Bryan Ln
Address (cont.)	
City	New Franken
State	WI
Zip Code	54229
Work Phone	
Home Phone	920-866-2553
E-mail	

*I would like to read my statement.*

Please describe the problem(s) you have had in working with the Department of Natural Resources.

<i>See attached</i>
---------------------

Please describe the action(s) you have taken to solve this problem.



Date ?

Exhibit explanations. Numbers correspond to numbers in upper right hand corner of documents.

Ex. 1. Letter from Jim Grafelman to John Lynch denying a permit for the wetland fill.

In the denial, Mr. Grafelman notes the existence of alternatives to the fill, including building an elevated driveway across the wetland. Also, in his assessment of the functional values of the wetland, Mr. Grafelman says the wetland "improves the water quality of Lake George" and would displace wetland dependent fauna.

Ex. 2. Entitled, "DNR Field Investigation," this document represents Mr. Grafelman's earlier on-site inspection of the wetland. On Page 2, he ranks the water quality and shoreline protection significance of the wetland as not applicable. He rates it exceptional only for its aesthetic and recreational value.

Ex. 3. This document is the US Army Corps of Engineers permit for the Lynch wetland fill, including the stringent conditions they placed upon the approval of the permit. Among those conditions was a restrictive covenant that not only would have prohibited any further wetland disturbance on the property but would also have prevented any further development of the highland areas adjacent to the wetlands.

Ex. 4. This is a letter from Jim Grafelman to the individual who attained the property after Mr. Lynch's foreclosure. It is an approval for the property owner to fill a portion of the same wetland. It also allows development of the upland areas adjacent to the wetland.

Ex. 5. This is Mr. Grafelman's application for a bike trail grant, which he made as president of bike trail club, Oneida Trails, Inc.

Ex. 6. This is the DNR's analysis of the bike trail project, which led the agency to approve a wetland fill for the trail. Points of interest:

The DNR cites no alternative to the trail going through a T8K wetland - the same type as that on the Lynch property - as one reason for approving the fill, observing that an adjacent property owner would not grant an easement through his property. A review of Mr. Grafelman's denial letter to Mr. Lynch shows that Mr. Grafelman pointed to Mr. Lynch's failure to gain an access easement from a neighbor as one of the reasons he was denying the project, though in fact that neighbor had denied Mr. Lynch permission to use his road.

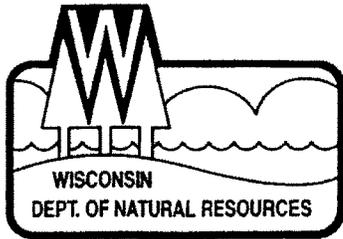
In this exhibit, the DNR factored in the fact that the wetland was already disturbed by a utility corridor as a reason for granting the wetland fill. The wetland on the Lynch property was also disturbed by a utility corridor.

Note that in the section on potential alternatives, the DNR never considers an elevated bridge across the wetland as a viable alternative, as Mr. Grafelman did for the Lynch property.

Ex. 7. A 1995 exchange of correspondence on the Don Jones' property, in which DNR Supervisor Dale Lang informs Mr. Jones's attorney that Mr. Jones "may rely" on a 1973 determination that a wetland on the property Mr. Jones was considering buying is not a part of the lakebed.

Ex. 8. A 1999 letter from DNR Water Management Specialist Liesa Nesta informing Mr. Jones that the wetland on the property is in fact lakebed after all.

Ex. 1  
2.



File Copy Ex 1  
State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Jim Doyle, Governor  
Scott Hassett, Secretary  
William H. Smith, Regional Director

Northern Region Headquarters  
107 Sutliff Ave  
Rhinelander, Wisconsin 54501  
Telephone 715-365-8900  
FAX 715-365-8932  
TTY 262-884-2304

August 20, 2003

3-NO-2003-44064UW  
Corps #03-01375-MOK

John Lynch  
577 Plum Grove Road #1D  
Roseville, IL 60172

Dear Mr. Lynch:

The Department of Natural Resources has evaluated your application for water quality certification pursuant to Section 401 of the Federal Clean Water Act, Chapter NR 299, Wisconsin Administrative Code, and S. 281.36(2) Wis. Statutes.

The project is located in the SE¼, SW¼, S14, T36N, R9E, Town of Pelican, Oneida County.

We have determined that there is not reasonable assurance that your proposal to construct a driveway across conifer bog will comply with the standards enumerated in section NR 299.04, Wis. Admin. Code, and certification is **denied**.

Specifically the Department finds that:

1. The project would affect 0.18 acres of T8K wetlands for the purpose of accessing a building site already under construction prior to application for water quality certification;
2. The proposed activity is not wetland dependent, and one or more practicable alternatives exist or have been foreclosed by the applicant, which would not adversely impact wetlands nor result in other significant adverse environmental consequences. These alternatives include or have included: Securing legal permanent access across an existing approved access road prior to purchasing the property or starting construction; Building on an upland portion of the property not requiring wetland filling for access; Construction of an elevated walkway or driveway to access the home site from an upland portion of the property. The Oneida County Zoning permit for construction of the building was issued to someone other than yourself and has since expired. That zoning permit was for a structure significantly different than that which is under construction.
3. There is an isolated wetland pocket classified as E1/S3K (Emergent with a deciduous shrub component), not under Federal jurisdiction, which will be adversely affected by your project as a result of filling for the access road. This wetland is not identified in your application nor in your supplemental material received on August 13, 2003.
4. The forested wetland provides wildlife habitat, scenic beauty, improves the water quality of Lake George and is a rare, excellent example of a black spruce, sphagnum moss wetland with deep mucky soils. The isolated wetland provides habitat for amphibians and provides nesting habitat for songbird species. This project will have significant adverse impacts to the wetlands including fragmentation of the forested wetland ecosystem, compaction and displacement of wetland soils, alteration of the wetland hydrology and displacement of wetland dependent

fauna. Cumulative effects of these impacts will result in reduction of biological diversity and degradation of the water quality of Lake George.

Therefore, there is not reasonable assurance that your proposal will comply with the standards found in section 299.04, Wis. Adm. Code, and certification is hereby denied. If you feel that it is possible to revise your application or alter your proposed project to conform with state standards, you may submit a new application for Department review.

#### NOTICE OF APPEAL RIGHTS

If you believe that you have a right to challenge this decision, you should know that the Wisconsin statutes and administrative rules establish time periods within which requests to review Department decisions shall be filed.

To request a contested case hearing pursuant to section 227.42, Wis. Stats., you have 30 days after the decision is mailed, or otherwise served by the Department, to serve a petition for hearing on the Secretary of the Department of Natural Resources, P.O. Box 7921, Madison, WI, 53707-7921.

A request for contested case hearing must follow the form prescribed in section NR 2.05(5), Wis. Adm. Code, and must include the following information:

1. A description of the Department's action or inaction which is the basis for the request;
2. The substantial interest of the petitioner which is injured in fact or threatened with injury by the Department's action or inaction;
3. Evidence of legislative intent that this interest is not to be protected;
4. An explanation of how the injury to the petitioner is different in kind or degree from the injury to the general public caused by the Department's action or inaction;
5. That there is a dispute of material fact, and what the disputed facts are;
6. The statute or administrative rule other than s. 227.42, Wis. Stats., which accords a right to a hearing.

This notice is provided pursuant to section 227.48(2), Wis. Stats.

Dated at Northern Region Headquarters, Wisconsin on August 13, 2003.

STATE OF WISCONSIN DEPARTMENT OF NATURAL RESOURCES

For the Secretary



James Grafelman  
Water Management Specialist

cc: Dale Simon – FH/3  
Mike O'Keefe, U.S. Army Corps of Engineers  
Oneida County Zoning Administrator  
Dale Lang - Regional Aquatic Habitat Expert

Ex. 2  
2.

DNR FIELD INVESTIGATION

Ex 2

Landowner: Lynch, John  
 Project Location: 4134 Hwy 8E (3 to Airport)  
 Village/City/Town: Pelican Lake  
 Waterway: Wetland  
 County: Oneida  
 Govt. Lot \_\_\_\_\_ OR SE 1/4, SW 1/4, of  
 Section 14, T 36 N, R 9 East  
 Mailing Address: 4134 Hwy 8E  
City 10, Rhineclaire

Date: 4/14/03  
 Number of photos taken: Numerous  
 Persons Present: Grafalman O'Keefe,  
Bill Sands (CUE)  
 Purpose for visit:  
Delinents isolated wetland  
and Federal wetland for  
CUE permit and WOC

NAVIGABILITY:  
 Navigable (in-opinion)  
 Navigable (in-fact)  
 Non-navigable  
 ORDINARY HIGH WATER MARK (OHWM):  
 Marked OHWM  
 Water level is below/at/above  
 Evidence of OHWM:

VEGETATION PRESENT:  
See attached Assessment  
Methods for Evaluation of Wet-  
land Functional Values Short  
Form.  
Two sites  
 - Isolated wetland  
 - Federal wetland

Observations:  
Road corridor appears to have been cleared through two  
wetlands. Isolated wetland located on N. side of  
Bus Hwy 8 appears to be impacted by mowing tracks -  
See attached delinquent short form  
Large wetland (Federal jurisdiction) has had trees cleared  
through it. Vents appear to be disturbed by mowing (?)  
There is a sand pile on N. side of cleared corridor.  
See attached delinquent short form for more information.

## SUMMARY OF FUNCTIONAL VALUES

Based on the results of your field inspection, rate the significance of each functional values for the subject wetland and check the appropriate box.

FUNCTION	SIGNIFICANCE				
	Low	Medium	High	Exceptional	N/A
Floral Diversity		X			
Wildlife Habitat			X		
Fishery Habitat					X
Flood/Stormwater Attenuation					X
Water Quality Protection					X
Shoreline Protection					X
Groundwater			X		
Aesthetics/Recreation/Education				X	

### SPECIAL FEATURES/"RED FLAGS"

Is the wetland in or adjacent to an area of special natural resource interest (NR 103.04, Wis. Adm. Code)?  
Check only those that apply:

- Cold water community as defined in s. NR 102.04(3)(b), Wis. Adm. Code, including trout streams, their tributaries, and trout lakes
- Lakes Michigan and Superior and the Mississippi River
- State or federal designated wild and scenic river
- Designated state riverway
- Designated state scenic urban waterway
- Environmentally sensitive area or environmental corridor identified in an area-wide water quality management plan, special area management plan, special wetland inventory study, or an advanced delineation and identification study
- Calcareous fen
- State park, forest, trail or recreation area
- State and federal fish and wildlife refuges and fish and wildlife management areas;
- State or federal designated wilderness area
- Designated or dedicated state natural area
- Wild rice water listed in ch. NR 19.09, Wis. Adm. Code
- Surface water identified as an outstanding or exceptional resource water in ch. NR 102, Wis. Adm. Code
- Project located in an area that requires a State Coastal Zone Management Plan consistency determination?

#### Comments:

- Wetland is one of the highest quality black spruce/ sphagnum wetlands I have seen. The forest flora diversity does not detract from its significance. Deep marks in soil exp.
- House was built on wetland edge and appears to be sinking in the south-east corner. Retaining wall appears to be sinking as well.

Ex. 3

?

Ex 3

DEPARTMENT OF THE ARMY PERMIT

Date?

Permittee                    John and Jennifer Lynch

Permit No.                    03-01375-MOK

                                  St. Paul District

Issuing Office                U.S. Army Corps of Engineers

NOTE: The term "you" and its derivatives, as used in this permit, means the permittee or any future transferee. The term "this office" refers to the appropriate district or division office of the Corps of Engineers having jurisdiction over the permitted activity or the appropriate official of that office acting under the authority of the commanding officer.

You are authorized to perform work in accordance with the terms and conditions specified below.

Project Description:

You are authorized to discharge fill material in wetlands adjacent to Lake George for the construction of a 430-foot long by 18-foot wide access road. You are also authorized to place a utility line across the wetland by encasing it in a PVC pipe and burying it in the road fill. The authorized work area is shown on the attached drawings labeled 03-01375-MOK, 1 of 2 thru 2 of 2.

Project Location:

The project site is located in the SE 1/4 of the SW 1/4 of Section 14, T. 36N., R. 9E., Oneida County, Wisconsin.

Permit Conditions:

General Conditions:

1. The time limit for completing the work authorized ends on December 31, 2006. If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least one month before the date is reached.
2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a

good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.

3. If you discover any previously unknown historic or archaeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and state coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

4. If you sell the property associated with this permit, you must obtain the signature of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.

5. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit. For your convenience, a copy of the certification is attached if it contains such conditions.

6. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.

#### Special Conditions:

1. In the 430-foot by 18-foot area where the road will be placed, wetland vegetation will be cut at the ground surface; wetland vegetation will not be excavated or grubbed. The road will be constructed by placing a geotextile fabric over the wetland, and then placing a 12-inch layer of pit run gravel on top of the fabric, followed by 6 inches of crushed rock. No culverts will be placed in the fill material. No ditches will be excavated alongside the road.

2. The permittee will obtain all of the fill material for the construction of the access road in both the upland and wetland areas from an existing quarry in the Rhinelander area. No fill material will be obtained by excavating other areas of the parcel.

3. Access road construction will be conducted during winter months when the ground is frozen and able to support the required machinery.

4. The purpose of special conditions 1 - 3 is to minimize adverse impacts to the surrounding wetland. Formation of channels in the wetland or damming of water on one side of the road would constitute adverse effects. The permittee shall

assume all liability for accomplishing any corrective work required should the District Engineer determine that the surrounding wetland had suffered adverse impacts. This responsibility shall extend for a period of 5 years beginning upon completion of the road work.

5. The permittee will conduct compensatory mitigation for the 0.49 acres of wetland that will be adversely affected by this project. The mitigation will have an on-site component and an off-site component as described below.

a. On-site mitigation will occur through placement of a restrictive covenant that will, in perpetuity, prevent further development or disturbance of the remaining 1.35 acres of forested wetland and 0.83 acres of upland on the parcel. The upland area includes 0.22 acres of the ice ridge lying west of the permittee's home site and 0.58 acres lying along Highway 8. The covenant will be substantially the same as the sample provided by the Corps.

The permittee shall provide a legal description of the land to be preserved, as determined by a registered land surveyor, and a draft Covenant of Dedication to the St. Paul District by July 31, 2003, for review and approval. A certified copy of the covenant recorded with the Registrar of Deeds for Oneida County shall be provided to the Corps by September 30, 2003.

b. Off-site mitigation will be conducted through the purchase of 0.11 acres of credit at an approved mitigation bank: the Walkerwin bank in Columbia County or the Northland Cranberries, Inc., bank in Wood County. Proof of purchase will be submitted to the Corps prior to beginning any permitted construction activities.

3. Refer to Standard Conditions attachment.

#### Further Information:

1. Congressional Authorities: You have been authorized to undertake the activity described above pursuant to:

( ) Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).

(X) Section 404 of the Clean Water Act (33 U.S.C. 1344).

( ) Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413).

2. Limits of this authorization.

a. This permit does not obviate the need to obtain other Federal, state, or local authorizations required by law.

b. This permit does not grant any property rights or exclusive privileges.

c. This permit does not authorize any injury to the property or rights of others.

d. This permit does not authorize interference with any existing or proposed Federal project.

3. Limits of Federal Liability. In issuing this permit, the Federal Government does not assume any liability for the following:

a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.

b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.

c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.

d. Design or construction deficiencies associated with the permitted work.

e. Damage claims associated with any future modification, suspension, or revocation of this permit.

4. Reliance on Applicant's Data: The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.

5. Reevaluation of Permit Decision. This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:

a. You fail to comply with the terms and conditions of this permit.

b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (See 4 above).

c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures

such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you to comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measures ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

6. Extensions. General condition 1 establishes a time limit for the completion of the activity authorized by this permit. Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the Corps will normally give favorable consideration to a request for an extension of this time limit.

Your signature below, as permittees, indicates that you accept and agree to comply with the terms and conditions of this permit.

\_\_\_\_\_  
(PERMITTEES)

\_\_\_\_\_  
(DATE)

This permit becomes effective when the Federal official, designated to act for the Secretary of the Army, has signed below.

\_\_\_\_\_  
(DISTRICT ENGINEER)

\_\_\_\_\_  
(DATE)

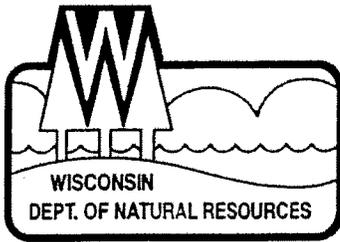
Robert L. Ball  
Colonel, Corps of Engineers  
District Engineer

When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.

\_\_\_\_\_  
(TRANSFEREE)

\_\_\_\_\_  
(DATE)

Ex. 4.



State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Jim Doyle, Governor  
Scott Hassett, Secretary  
John Gozdzialski, Regional Director

Northern Region Headquarters  
107 Sutliff Ave  
Rhineland, Wisconsin 54501  
Telephone 715-365-8900  
FAX 715-365-8932

January 21, 2005

IP-NO-2004-44137UW  
Corps # 04-159964-MOK

Mike Hoerchler  
4134 Hwy 8 East  
Rhineland, WI 54501

Dear Mr. Hoerchler:

The Department of Natural Resources has received and evaluated your U.S. Army Corps of Engineers Permit application to fill 0.053 acre of wetland for a small turn-around and wall stabilization at the residence already under construction. This is located on "Parcel A" of the subdivision, Tax Parcel Number PE 175-12. Access to the home will be provided using an elevated driveway on wooden or hollow steel piling across the wetland. Placement of this elevated driveway is not within the jurisdiction of the State of Wisconsin. The garage is to be placed on the southern, upland end of the driveway, outside of the wetland.

This project affects 0.053 acres of wetlands.

Your project is located in Gov't Lot 5, S14, T36N, R9E, Town of Pelican, Oneida County.

Your application is complete, and the Department has determined that this activity complies with the conditions of the state water quality certification.

You should also obtain any required wetland, grading or similar permits from the Oneida County Zoning office prior to commencing this project.

We received no comments or requests for hearing as a result of the public notice.

No further information is required of you before you begin your project. Please keep this letter as a confirmation of your contact with us.

Sincerely,

  
James Grafelman  
Water Management Specialist

cc: Mike O'Keefe, Project Manager, (715)345-7911, Stevens Point, WI U.S. Army Corps of Engineers  
Karl Jennrich, Oneida County Zoning Administrator

Ex. 5

RESOLUTION FOR OUTDOOR RECREATION AIDS

WHEREAS, The Town of Newbold is interested in acquiring or developing lands for public outdoor recreation purposes as described in the application; and

WHEREAS, financial aid is required to carry out the project;

THEREFORE, BE IT RESOLVED, that The Town of Newbold has budgeted a sum sufficient to complete the project, and

HEREBY AUTHORIZES James Grafelman and David Schmitz Supervisor  
President (name and title)  
Oneida Trails Inc. Town of Newbold Board  
(committee or department)

to act on behalf of Town of Newbold to:

Submit an application to the State of Wisconsin Department of Natural Resources for any financial aid that may be available;

Sign documents; and

Take necessary action to undertake, direct and complete the approved project.

BE IT FURTHER RESOLVED that The Town of Newbold will

comply with state or federal rules for the programs; may perform force account work; will maintain the completed project in an attractive, inviting and safe manner; will keep the facilities open to the general public during reasonable hours consistent with the type of facility; and will obtain from the State of Wisconsin Department of Natural Resources or the National Park Service approval in writing before any change is made in the use of the project site.

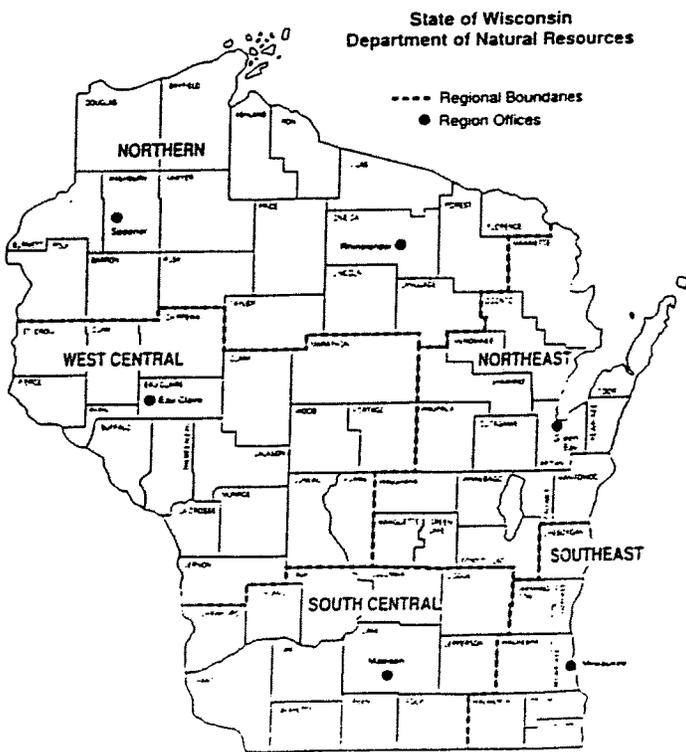
Adopted this 30th day of March 19/2000

I hereby certify that the foregoing resolution was duly adopted by The Town of Newbold Board at a legal meeting held on 30th

day of March 2000 19/1

Authorized Signature Don Johnson  
Don Johnson

Title Town Chairperson



**DNR REGIONAL OFFICES:**

Community Services Specialist  
Northern Region  
810 W. Maple St.  
Spooner, WI 54801  
(715) 635-4130  
Telefax: (715) 635-4105

Community Services Specialist  
Northeast Region  
1125 N. Military Ave.  
P.O. Box 10448  
Green Bay, WI 54307-0448  
(414) 492-5821  
Telefax: (920) 492-5913

Community Services Specialist  
Northern Region  
107 Sutliff Ave.  
Rhineland, WI 54501  
(715) 365-8928  
Telefax: (715) 365-8932

Community Services Specialist  
South Central Region  
3911 Fish Hatchery Rd.  
Fitchburg, WI 53711  
(608) 275-3265  
Telefax: (608) 275-3338

Community Services Specialist  
West Central Region  
1300 W. Clairemont Ave.  
P.O. Box 4001  
Eau Claire, WI 54702  
(715) 839-3751  
Telefax: (715) 839-6076

Community Services Specialist  
Southeast Region  
2300 N. Dr. Martin Luther King, Jr. Dr.  
P.O. Box 12436  
Milwaukee, WI 53212  
(414) 263-8610  
Telefax: (414) 263-8661

04-24-2000

WISCONSIN'S APPLICATION FOR AIDS FOR THE ACQUISITION AND DEVELOPMENT OF LOCAL PARKS, THE LAND AND WATER CONSERVATION FUND PROGRAM, THE URBAN GREEN SPACE PROGRAM, THE URBAN RIVERS GRANT PROGRAM, THE STREAMBANK PROTECTION AND THE NATIONAL RECREATIONAL TRAILS ACT PROGRAM  
Form 8700-191 (R 1/2000)

CADs  
9/6/2000

NOTE: Use of this form is required by the Department for any application filed pursuant to ss. NR 50.05, 50.06, 50.16 and 50.65, Wis. Adm. Code. The Department will not consider your application unless you complete and submit this application form. Personally identifiable information will only be used in conjunction with the programs listed above.

Project Sponsor's Name <u>Town of Newbold</u>	2. E-mail Address <u>dschmitz@newnorth.net</u>
Street or Route <u>1776 Larson Drive</u>	4. Telephone Number (include area code) <u>715-369-1776 / 365-7746(W)</u>
Municipality, State, Zip Code <u>Rhineland, WI, 54501</u>	6. FAX Number (include area code) <u>call</u>
Project Title <u>Newbold Bike Path Recreational Trail</u>	8. County <u>On Oneida</u>

Project Description. (IMPORTANT: Provide as much of this information as possible. See enclosed narrative sample.) Attach a narrative to this application form. Describe what local resources have been or will be committed to this project. Describe the physical features of the site, such as topography, drainage, surrounding land uses and the presence of environmental intrusions (overhead powerlines, landfills, etc.). If the project involves the renovation of an existing facility, describe the existing facility and the proposed renovation in detail. Describe how the project will serve the community or its intended users and how the users will gain access to the project site. Describe the availability of financial resources and personnel needed to operate and maintain this project once it is completed. Describe how the project may benefit tourism. NOTE: Urban Green Space Projects only. Attach a management plan describing how the property will be managed. See Urban Green Space Program information for instructions.

Total Project Cost <u>\$176,981</u>	Cost Sharing Requested (50% of total project costs) <u>\$88,490.90</u>
--	---

Raised

Indicate Source of Local Matching Funds. Include any other state or federal grant or loan programs, or donations involved in this program.  
ISTEA Local Donations  
The project sponsor or authorized representative must answer the following questions. Additional information pertaining to any question can be submitted on attached sheets.

Is this project supported by an approved comprehensive outdoor recreation plan?  
If yes, indicate the title of the plan and page numbers:

Yes  No

Oneida County Outdoor Recreation Plan, pp 49 & 50

Is your project specifically identified in your local plan by location and facility?  
If yes, indicate page or section number:

Yes  No

page #3

Does the project implement a recommendation contained in a regional plan of another unit of government?  
If yes, indicate title of the plan and page numbers:

Yes  No

Oneida County Outdoor Recreation Plan, pp49 &50

Do you have an approved parkland dedication ordinance?  
If yes, attach a copy of the resolution of adoption of the ordinance.

ONEIDA IN CORP DOCUMENTS OK

Yes  No

Indicate how land was or will be acquired (Fee simple Acquisition, Donation, Condemnation, etc.) and date of acquisition. (If acquired by condemnation on or after August 1, 1995, project is not eligible for funding.)  
Publicly owned land by DOT. Town has easement to use

Was the land to be acquired dedicated to the municipality through a parkland dedication ordinance?

Yes  No

Will this facility be used extensively by people outside your governmental jurisdiction?  
If yes, describe in attached narrative.

Yes  No

What is the official 1990 census of your unit of government?  
2281  
1990 Population

Name of Person Completing This Application <u>James Grafelman/David Schmitz</u>	Title <u>President/Supervisor</u>
Date Signed <u>9/24/00</u>	

Please submit one copy of all project documentation.

Ex. 6  
7.

01-02-2001

State of Wisconsin Department of Natural Resources (DNR)
Region or Bureau Northern Region-Rhinelanders
Type List Designation NR 150.03 (7)(a)1.a.

**NOTE TO REVIEWERS:** This document is a DNR environmental analysis that evaluates probable environmental effects and decides on the need for an EIS. The attached analysis includes a description of the proposal and the affected environment. The DNR has reviewed the attachments and, upon certification, accepts responsibility for their scope and content to fulfill requirements in s. NR 150.22, Wis. Adm. Code. Your comments should address completeness, accuracy or the EIS decision. For your comments to be considered, they must be received by the contact person before 4:30 p.m., on the following date, Friday, December 22, 2000.

Contact Person Pat Zatopa
Title Community Services Specialist
Address Wisconsin Department of Natural Resources 107 Sutliff Avenue Rhinelanders, WI 54501
Telephone Number (715)365-8928

Applicant: Town of Newbold

Address: 1776 Larson Drive, Rhinelanders, WI 54501

Title of Proposal: Newbold Recreational Trail

Location: County Oneida City/Town/Village Newbold  
 Township 37N Range 8E Section(s) 5, 8, 16

**PROJECT SUMMARY - DNR Review Information Based on:**

List documents, plans, studies or memos referred to and provide a brief overview

1. Newbold Recreational Trail Stewardship Grant Application Narrative (attached)
2. Map with Trail Location (attached)
3. Design Study Report by Ayres Associates
4. Environmental checklist by Ayres Associates
5. Public participation log from various meetings
6. Oneida County Comprehensive Outdoor Recreation Plan 1999-2003
7. Wisconsin DNR State Trails Network Plan
8. State Historic Preservation Office Review
9. U.S. Army Corps of Engineers Permit

The Town of Newbold proposes to develop a 4.5-mile recreation trail for hiking, biking, snowshoeing and cross-country skiing. One segment will continue to be used for snowmobiling during winter months. The project is considered to be a cooperative effort between the Town of Newbold and the Wisconsin Departments of Transportation and Natural Resources. The Newbold Trail is phase one in the development of a 25-mile trail connecting the City of Rhinelanders with the Town of Woodruff. The majority of this trail will be located within Department of Transportation (DOT) highway right-of-way (ROW) parallel to Highway 47. The Department of Transportation has granted an easement and a Transportation Economic Assistance (TEA-21) grant to the Town of Newbold for development of this trail. The southern terminus is at BayView Drive and the northern terminus is the McNaughton Post Office. Over two miles of the trail will be located on an abandoned railroad corridor, some of which is included in Wisconsin DOT ROW and some is owned by private parties who have granted an easement to the Town for trail construction and use. The corridor runs through northern hardwood forest dominated by maple, oak and popple trees with a shrub layer consisting primarily of hazelbrush. One segment is surrounded by large, boggy conifer swamp dominated by black spruce with tamarack, white cedar, balsam fir, black ask, red maple and paper birch. The trail will be developed 75 to 250 feet from the highway depending upon ownership and topography. Most of the trail will be buffered from the highway by a stand of trees. For purposes of this analysis the trail will be referred to in segments beginning at the south end.

Segment A. BayView Drive to south end of Apperson Drive (approximately one mile in length)-This segment on the south side of Highway 47 is entirely within DOT owned highway ROW. The trail will be constructed along the utility corridor in the ROW. The corridor will be cleared of brush, graded, surfaced with gravel and posted with signs. Use will be hiking, biking and other non-motorized recreation. The trail crosses Highway 47 and continues approximately one mile on Apperson Drive, which is designated as a Bike Route and provides access to Newbold School, playground, ballfield and nature trail.

Segment B. Lake Mildred Road to north end of Apperson Drive (approximately two miles in length)-Highway 47 begins to swing north at this point. This segment, on the west side of Highway 47, begins on private land with an easement and is entirely on the abandoned railroad corridor. Construction will require clearing of brush, some trees, grading, surfacing with gravel and placement of signs. A culvert will be installed at Newbold Creek for the trail crossing. Eventually, the plan is to connect this segment southward to Segment A along the south side of Highway 47 ROW. Use will be hiking, biking and other non-motorized recreation.

Segment C. North end of Apperson Drive to McNaughton Post Office (approximately one and a half miles in length). This segment is on the west side of Highway 47. It begins on DOT-owned abandoned railroad corridor. From the south end of Evergreen Court and continuing to the north end, the corridor is privately owned. Two of the three landowners have granted easements for the trail. The third landowner will not allow the trail. To bypass this land, the trail will be constructed along the fiber optic corridor closer to Highway 47. Construction will include grading, some filling, surfacing with gravel and placement of signs. From the north end of Evergreen Court to McNaughton Post Office, the trail continues on the west side of Highway 47 then moves off of the abandoned railroad corridor and onto former Highway 47 road core. This segment is an existing snowmobile trail. Construction will include grading, surfacing with gravel and placement of signs. A culvert will be constructed on Cedar Springs Creek for trail crossing. Uses include hiking, biking and snowmobiling. The trail crosses Highway 47 at the post office and links into Town of Newbold roads designated as bike routes.

## DNR EVALUATION OF PROJECT SIGNIFICANCE (complete each item)

### 1. Environmental Effects and Their Significance

Discuss the short-term and long-term environmental effects of the proposed project, including secondary effects, particularly to geographically scarce resources such as historic or cultural resources, scenic and recreational resources, prime agricultural lands, threatened or endangered species or ecologically sensitive areas, and the significance of these effects. (The reversibility of an action affects the extent or degree of impact.)

The majority of this trail will be constructed on abandoned railroad, developed utility and former highway corridors and highway ROW that was disturbed, filled and stabilized. Short-term effects on the land will be limited to normal construction activities. There will be clearing of vegetation, which has grown since these corridors were abandoned, some leveling with heavy equipment will be necessary to provide proper grade and drainage for the trail, and crushed gravel will be added to provide a smooth trail surface. Permits have been granted to place culverts on streams for trail crossings. To avoid private property in the SE ¼ NW ¼, and SW ¼ NE ¼ Section 8, T37N, R8E, approximately ¼ mile of trail corridor will be constructed on the fiber optic corridor within the DOT highway ROW. This section would require crossing a wetland area. Although this wetland has been impacted by previous utility construction, Section 404 of the Clean Water Act and Chapter NR 103 require that all practicable alternatives must be sought to avoid and minimize impacts to wetlands. Best Management Practices will be utilized for all construction activities. Most of the trail will be used for commuting and recreation by pedestrians and bicyclists. This trail could provide an alternate corridor for persons who normally drive a motor vehicle. Overall a positive benefit would be a reduction in fossil fuel consumption and emissions.

No historic or cultural resources, endangered or threatened species, or agricultural lands will be affected by development of this trail. Ecologically sensitive areas, such as the streams will be crossed with a culvert. The U.S. Army Corps of Engineers and the DNR have permitted these culverts and best management practices will be used during installation to prevent soils from entering the streams.

The recreational opportunity afforded by this trail will be a great benefit as no off-road bike trails exist in the area presently. The trail will be winding and hilly in places due to topography. Most of the trail will be buffered from the highway by trees and other vegetation. In exposed areas, the Town will plant trees and shrubs as a barrier. Currently, bicycle commuters must ride along the shoulder of Highway 47 at great personal risk. This off-road trail will provide a safer route for bicyclists.

### 2. Significance of Cumulative Effects.

Discuss the significance of reasonably anticipated cumulative effects on the environment (and energy usage, if applicable). Consider cumulative effects from repeated projects of the same type. Would the cumulative effects be more severe or substantially change the quality of the environment? Include other activities planned or proposed in the area that would compound effects on the environment.

The cumulative effects of this project are considered to be positive. By providing an off-road trail corridor for alternative, non-motorized modes of transportation, there will be less dependence upon gasoline thus reducing air pollution. By utilizing corridors that have already been developed, less construction and fill will be necessary. Most of the construction will consist of smoothing out rough areas and placing a gravel surface material on the grade. This trail is planned as part of a longer trail linking Woodruff with Rhinelander, most of which follows the abandoned railroad corridor.

### 3. Significance of Risk

- a. Explain the significance of any unknowns, which create substantial uncertainty in predicting effects on the quality of the environment. What additional studies or analysis would eliminate or reduce these unknowns?

Conversion of abandoned railroad corridors to hiking/biking trails is an institutionalized method of utilizing land, which has already been developed for transportation. Since there is considerable history established with development of these types of trails it is unlikely that significant new risks will be realized with development of this trail.

- b. Explain the environmental significance of reasonably anticipated operating problems such as malfunctions, spills, fires or other hazards (particularly those relating to health or safety). Consider reasonable detection and emergency response, and discuss the potential for these hazards.

The only anticipated operating problem that might occur would be during the construction phase of the project. Heavy equipment would be utilized to prepare the trail surface and install the culverts. Best management practices will be utilized to prevent runoff or erosion of materials into water bodies. Since this trail would be constructed close to Highway 47, any problems could be easily detected from the highway and operators would have easy access to assistance from the Newbold of City of Rhinelander fire departments or the Oneida County Sheriff's Department.

#### 4. Significance of Precedent

Would a decision on this proposal influence future decisions or foreclose options that may additionally affect the quality of the environment? Describe any conflicts the proposal has with plans or policy of local, state or federal agencies. Explain the significance of each.

The Rails-to-Trails program is well established and nationally recognized. The State of Wisconsin, in partnership with other governmental units, has developed over 576 miles of former railroad corridor for biking trails. The Wisconsin State Trail Network Plan recommends utilizing abandoned railroad corridors, utility corridors and highway right of way to establish an interconnected system of trails. This segment being proposed by the Town of Newbold is identified in the State plan.

#### 5. Significance of Controversy Over Environmental Effects

Discuss the effects on the quality of the environment, including socio-economic effects, that are (or are likely to be) highly controversial, and summarize the controversy.

It is not anticipated that there would be any significant controversy over establishment of this trail. The Town and volunteer group, Oneida County Trails Corporation, have held numerous meetings with citizens, adjacent landowners, recreationalists, and other government bodies to discuss the trail issues.

### ALTERNATIVES

Briefly describe the impacts of no action and of alternatives that would decrease or eliminate adverse environmental effects. (Refer to any appropriate alternatives from the applicant or anyone else.)

**No Action:** Under this alternative, the bike trail would not be built. Bicyclists would continue to ride along the shoulders to Highway 47 at great risk to their safety. The corridors could potentially be sold to developers purchasing adjacent lands and utilized for ingress/egress driveways.

**Reducing the Extent of Development:** The trail could merely be cleared of vegetation with no leveling or surface material added. This alternative would not be acceptable, as some bicyclists would not ride the trail due to its lack of surfacing. If it would be used by some bicyclists, rutting and erosion would occur due to lack of compacted surface materials. Design standards for both the Department of Transportation and Natural Resources require that a proper trail surface be provided.

**Increasing the Extent of Development:** The trail could be paved with asphalt. This would minimize erosion, but asphalt is considered an impermeable surface, which interferes with water infiltration. Asphalt does not hold a snow base for winter recreation activities. At this time, paving is not an acceptable alternative due to cost, negative impacts on winter recreation, and the fact that snowmobiles utilize a segment of the trail.

**Site Trail on Another Location:** There is no other public land available to provide an off-road recreation/transportation trail in this area.

## SUMMARY OF ISSUE IDENTIFICATION ACTIVITIES

List agencies, citizen groups and individuals contacted regarding the project (include DNR personnel and title) and summarize public contacts, completed or proposed.

<u>Date</u>	<u>Contact</u>	<u>Comment Summary</u>
6/19/2000	Jayne Wade, DNR Water Management Specialist	Issuance of culvert permit application
2/28/2000	Chip Harvey, State Historical Society of Wisconsin	No archaeological or architectural properties on national register to Historic Places
5/15/2000	Char Hauger, Army Corps of Engineers	Permit issuance
7/25/2000	General Public	Public Information Meeting-positive feedback
10/18/2000	General Public	WI DNR State Trails Network Plan Meeting-positive feedback
12/05/2000	Ron Eckstein, DNR Wildlife Biologist	No negative impact on wildlife or communities for proposed corridor
12/05/2000	Natural Heritage Inventory	No endangered, threatened or species of special concern.

X1 On-site inspection or past experience with site by evaluator.

Project Name: Newbold Recreation Trail

County: Oneida

**DECISION (This decision is not final until certified by the appropriate authority)**

In accordance with s. 1.11, Stats., and Ch. NR 150, Adm. Code, the Department is authorized and required to determine whether it has complied with s. 1.11, Stats., and Ch. NR 150, Wis. Adm. Code.

Complete either A or B below:

A. EIS Process Not Required  [ x ]

The attached analysis of the expected impacts of this proposal is of sufficient scope and detail to conclude that this is not a major action which would significantly affect the quality of the human environment. In my opinion, therefore, an environmental impact statement is not required prior to final action by the Department on this project.

B. Major Action Requiring the Full EIS Process  [ ]

The proposal is of such magnitude and complexity with such considerable and important impacts on the quality of the human environment that it constitutes a major action significantly affecting the quality of the human environment.

  
Signature of Evaluator

12/11/2000  
Date Signed

Noted: Regional Director or Bureau Director

Date Signed

Number of responses to news release or other notice: \_\_\_\_\_

**CERTIFIED TO BE IN COMPLIANCE WITH WEPA**

Regional Director or Director of ISS (or designee)

Date Signed

**NOTICE OF APPEAL RIGHTS**

If you believe that you have a right to challenge this decision, you should know that Wisconsin statutes and administrative rules establish time periods within which requests to review Department decisions must be filed.

For judicial review of a decision pursuant to sections 227.52 and 227.53, Stats., you have 30 days after the decision is mailed, or otherwise served by the Department, to file your petition with the appropriate circuit court and serve the petition on the Department. Such a petition for judicial review shall name the Department of Natural Resources as the respondent.

To request a contested case hearing pursuant to section 227.42, Stats., you have 30 days after the decision is mailed, or otherwise served by the Department, to serve a petition for hearing on the Secretary of the Department of Natural Resources. The filing of a request for a contested case hearing is not a prerequisite for judicial review and does not extend the 30-day period for filing a petition for judicial review.

Note: Not all Department decisions respecting environmental impact, such as those involving solid waste or hazardous waste facilities under sections 144.43 to 144.47 and 144.60 to 144.74, Stats., are subject to the contested case hearing provisions of section 227.42, Stats.

This notice is provided pursuant to section 227.48(2), Stats.



Project Name:

Newbold Recreation Trail

County: Oneida

**DECISION (This decision is not final until certified by the appropriate authority)**

In accordance with s. 1.11, Stats., and Ch. NR 150, Adm. Code, the Department is authorized and required to determine whether it has complied with s. 1.11, Stats., and Ch. NR 150, Wis. Adm. Code.

Complete either A or B below:

A. EIS Process Not Required

The attached analysis of the expected impacts of this proposal is of sufficient scope and detail to conclude that this is not a major action which would significantly affect the quality of the human environment. In my opinion, therefore, an environmental impact statement is not required prior to final action by the Department on this project.

B. Major Action Requiring the Full EIS Process

The proposal is of such magnitude and complexity with such considerable and important impacts on the quality of the human environment that it constitutes a major action significantly affecting the quality of the human environment.

*Patricia Zylga*  
Signature of Evaluator

12/11/2000  
Date Signed

*Jane O'Malley*  
Noted: Regional Director or Bureau Director

1/2/2001  
Date Signed

Number of responses to news release or other notice: 0

**CERTIFIED TO BE IN COMPLIANCE WITH WEPA**

*William G. ...*  
Regional Director or Director of ISS (or designee)

1/2/2001  
Date Signed

**NOTICE OF APPEAL RIGHTS**

If you believe that you have a right to challenge this decision, you should know that Wisconsin statutes and administrative rules establish time periods within which requests to review Department decisions must be filed.

For judicial review of a decision pursuant to sections 227.52 and 227.53, Stats., you have 30 days after the decision is mailed, or otherwise served by the Department, to file your petition with the appropriate circuit court and serve the petition on the Department. Such a petition for judicial review shall name the Department of Natural Resources as the respondent.

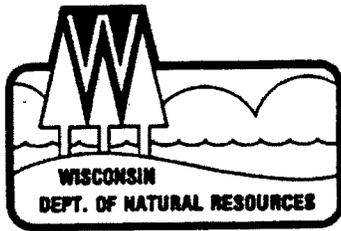
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Note: Not all Department decisions respecting environmental impact, such as those involving solid waste or hazardous waste facilities under sections 144.43 to 144.47 and 144.60 to 144.74, Stats., are subject to the contested case hearing provisions of section 227.42, Stats.

This notice is provided pursuant to section 227.48(2), Stats.

Ex. 1  
?

EX-07



State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

North Central District Headquarters  
107 Su... Avenue  
P.O. Box 618  
Rhinelander, Wisconsin 54501-0618  
WRITER'S TELEPHONE 715-365-8926  
WRITER'S INTERNET: LANGD@DNR.STATE.WI.US  
TELEFAX 715-365-8932

George E. Meyer  
Secretary  
June 9, 1995

NC-A-0831

ATTORNEY DANIEL D. SCROBELL  
PO BOX 1148  
MINOCQUA WI 54548-1148

Don + Susan Jones  
9183 Davies Rd

SUBJECT: Holland/Jones Transaction

Dear Mr. Scrobell:

Thank you for your letter about this proposed real estate transfer on Lake Tomahawk. Apparently my hand-written contact form did not suffice for its intended purpose.

You may rely on the November 23, 1973, letter from L. E. Morehouse as a determination that the area behind the ice ridge is not part of the lakebed. It ~~may~~ be wetland, which would prohibit filling, grading, or excavating without proper authority from Oneida County, the Army Corps of Engineers, and possibly this department.

Please contact me if any of the parties have other questions.

Sincerely,

Dale J. Lang  
District Water Regulation & Zoning Supervisor

c. Jack Smith  
Oneida Co. Zoning

re: Lot 27 + Outlet I of Doolittle - Barden's  
Wah-ca-zi-zi, Sect 25-39-6

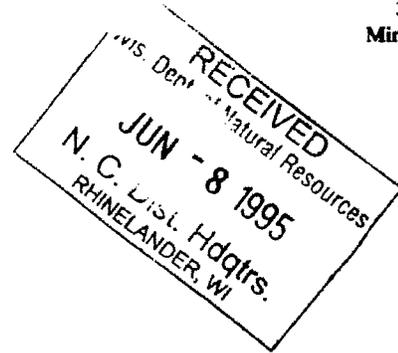
LAW OFFICES OF  
**HARROLD, SCROBELL & DANNER, S.C.**

GREGORY J. HARROLD  
Court Commissioner  
DANIEL D. SCROBELL  
JOHN E. DANNER  
Court Commissioner

P.O. BOX 1148  
MINOCQUA, WISCONSIN 54548-1148  
FAX (715) 356-1504  
Telephone (715) 356-9591

Offices located in  
THE HERITAGE HOUSE  
315 Oneida Street  
Minocqua, Wisconsin

June 6, 1995



Mr. Dale Lang  
Water Regulation & Zoning Supervisor  
Dept. of Natural Resources  
P.O. Box 818  
Rhinelander, WI 54501

**RE: Holland/Jones Real Estate Transaction**

Dear Mr. Lang:

I am representing the purchasers of the Robert and Dorothy Holland property located on Lake Tomahawk, described as Lot 27 and Outlot 1 of the Plat of Doolittle-Barden's Wah-ca-zi-zi. It is my understanding that Joan Ferg of Vacationland Properties discussed this property with you in a telephone conference on June 2, 1995. I have a copy of your Public Contact Form which you completed regarding that conversation.

Our concern with respect to the Holland property is a low area situated primarily on Outlot 1, but adjacent to Lot 27, which is separated from the lake by an ice ridge. We are trying to confirm that this low area is not part of the lakebed and therefore does not represent an extension of the ordinary highwater water.

I am enclosing for your reference a copy of a letter addressed to Mr. Robert Holland from L.E. Morehouse, Waters Management Investigator, dated November 23, 1973. In that letter, Mr. Morehouse identifies the low area about which we are concerned, as "low upland." By implication, he found that the low area is not lakebed and does not represent an extension of the ordinary highwater mark.

Can the purchasers of the Holland property rely upon the letter from Mr. Morehouse as a determination by the Department of Natural Resources that the low area behind the ice ridge is not part of the lakebed?

Your prompt response to this would be appreciated, since the closing of this real estate transaction is awaiting this determination.

NC-A-0831

NOTE: FOR USE TO DOCUMENT CONTACTS MADE WITH CITIZENS WHO HAVE QUESTIONS REGARDING REGULATIONS AND ZONING PROJECTS.

Person(s) Contacted: Joan Ferg, Vacationland Properties, Date: 6-2-95

Address: for owner Robert Holland Telephone #: 356 9246

Waterway: Towhead L Project Location: 1/4 1/4 Section: 25

T: 39 N. R. 6 E Town of Minnequa Onida County

Project Description: Lot 27, Doolittle-Barden's ~~and~~ subdivision

DNR  
Referencing 1973 letter about a low area on the property, the area filled for access to a garage in 1973 was not lakebed, but may have been wetland. Buyer does not want to fill, but wants to build closer to it.  
Permits Required: County building permit.

DNR Concerns Identified: No filling allowed in the area unless DNR or Corps of Engineers determines it is not wetland.

Follow-up Required: \_\_\_\_\_

Pete Long - 715 365 8926

By: [Signature]  
Water Management Specialist



State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

North Central District Headquarters  
Box 818  
Rhinelander, Wisconsin 54501

L. P. Voigt  
Secretary

IN REPLY REFER TO: 3530-4

November 23, 1973

Mr. Robert Holland  
Minocqua  
Wisconsin 54548

Dear Bob:

This is a confirmation of our inspection and a discussion with Inspector Carl Mastaglio relative to a roadway proposal adjacent to Lake Tomahawk, Section 25, T-39N, R-6E, Oneida County.

As this area is low upland, approval for this grading and filling must be obtained from the Oneida County Zoning Administrator, John Vanney. Should a future proposal to grade or uncover an area in excess of 10,000 square feet on the banks of Tomahawk Lake, a permit will be required from this Department under Section 30.19 of the statutes.

We thank you for the opportunity to comment.

Very truly yours,

L. E. Morehouse  
Waters Management Investigator  
LEM:sh

cc: Ed Brick  
District Headquarters  
Woodruff Area Office  
A. N. Knudtson - Woodruff  
Carl Mastaglio - Woodruff  
John Vanney, Oneida County Zoning Administrator, Courthouse, Rhinelander

NC-A-0831

Box 818  
Shineland, Wis. 54501

May 20, 1971

Mr. Robert J. Holland  
Minoqua  
Wisconsin 54548

Dear Mr. Holland:

This is in confirmation of my inspection and our discussion on May 19, relative to shoreline protection of your ownership described as Lot 6, Plat of E-Man-Na, Section 14, Township 39 North, Range 6 East, Minoqua Lake, Oneida County.

The footing that you have placed along the shoreline is at the normal high waterline and a rock retainer wall here should provide the necessary shoreline control.

No further permit is required from the State to construct such a wall when it is placed at or back of the normal high waterline. No material can be placed or removed below that line, however.

We thank you for contacting this office before proceeding.

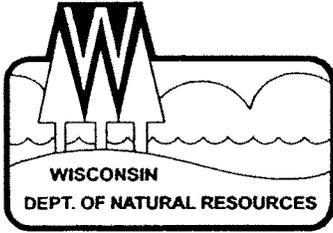
Very truly yours,  
Bureau of Water & Shoreland Mgt.

L. E. Morehouse  
Water Management Investigator

LEF:jn  
cc: Wm. Sayles  
Wm. Doyle  
Dist. Headquarters  
Area Office - Woodruff

Ex. 8  
7.

Ex. 08



State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Tommy G. Thompson, Governor  
George E. Meyer, Secretary  
William H. Smith, Regional Director

Woodruff Service Center  
8770 Highway J  
Woodruff, Wisconsin 54568  
Telephone 715-358-9214  
FAX 715-358-2352

September 14, 1999

NO - J1919

Donald Jones  
9183 Davies Road  
Minocqua, WI 54548

Subject: Ordinary High Water Mark Determination on Lake Tomahawk

Dear Mr. Jones:

This letter is to follow up on my recent visit to your property on Lake Tomahawk on September 9, 1999. The property is located at 9183 Davies Road, and is described as Lot 27 and Outlot A of Doolittle Barden's Wah-Ca-Zi-Zi subdivision in the Town of Minocqua. I visited your property with Dale Lang from the DNR Rhinelander office, for the purpose of conducting a survey to confirm or refute previous ordinary-high-water-mark (OHWM) determinations made at this site. Also present for the first hour were Stu Foltz and Attorney Dan Scrobell.

Dale Lang and I walked in the water along your shoreline. We identified various indicators of the OHWM, including water stains on rocks and moss lines. In all cases, the OHWM was measured at 0.25 feet above the water level of Lake Tomahawk on that day. We also walked in the water along your shoreline to look for evidence of a surface connection between the open water of Lake Tomahawk and the wetland bog. We found that the ice ridge near your pier tapers off, and there is a direct connection from the lake into the wetland, meaning that the bog is below the OHWM and part of the lakebed.

Stu Foltz suggested that the outside edge of the wetland could be higher if soil and water gradients tapered gradually into the bog and lake. We investigated this by evaluating the plants and soils in the wetland, as well as water surface elevations. I walked along the edge of the wetland in several areas, and found that the vegetation was growing on a floating mat of organic material beginning at the intercept with high ground and continuing as far as I walked into the bog. We also conducted some surveying to compare water levels. We found that water surface elevations within the wetland were identical or lower than the water surface elevation of Lake Tomahawk on that day. Attached are the typed notes from our survey work on September 9, along with a map showing the location of the level, benchmark and survey points.

Our conclusion is that the wetland bog area is a floating plant community which is below the OHWM of Lake Tomahawk, and directly connected to the lake. Thus it is lakebed.



Note, to assist you in measuring setbacks for your proposed garage/guesthouse, we placed orange flagging tape in vegetation along the edge of the bog in about five locations. We also measured the existing setback of your home from the edge of the bog, and found it to be 20 feet.

If you have any further questions about this determination, please contact me.

Sincerely,



Liesa Nesta  
Water Management Specialist  
(715) 358-9214

c: Kurt Bloss, Oneida County  
Dale Lang – DNR Rhinelander  
Stu Foltz, Foltz & Associates  
Attorney Dan Scrobell

Profile Leveling For:  
Jones property, Tomahawk Lake

Instrument Person: Lang

Date: 9/9/99

Rod Person: Nesta

Instrument Used: Topcon Auto level

Note Taker: Lang

POINT	+ B.S.	H.I.	- F.S.	ELEV.	DIST.	REMARKS
1, A	0.34	100.34		100.00		X on concrete base of totem pole
2			6.30	94.04		Property marker pipe, side facing house
3			7.42	92.92		Water surface, Tomahawk Lake Observed high-water mark = 0.25 ft. above water surface = 93.17
4			7.45	92.89		Water surface in bog near pipe
5			7.45	92.89		Water surface in bog @ edge of alders
6			7.44	92.90		Water surface in bog in alders
			0.34	100.00		Close on Benchmark
B	4.88	104.88				New setup
7			11.96	92.92		Water surface in bog near instrument
8			c.11.95	c.92.93		Water surface in bog near building site (vegetation obscured accurate reading)
			4.87	100.01		Close on Benchmark
				1584.50		Water surface at Minocqua Dam, 8:15 am.
				1584.55		Normal summer operating level
				1585.05		Authorized maximum level

LANDS

ROAD

**OUTLOT A**

RESTRICTED AGAINST BUILDINGS  
FOR HUMAN HABITATION AND THE  
INSTALLATION OF SOIL ABSORPTION  
SYSTEMS FOR SEPTIC TANK EFFLUENT  
DISPOSAL.

440

-2-

m.  
4496

m.  
4495

m.  
4494

m.  
4493

-27-

-26-

-25-

-24-

72

3.

House

Alders

Open  
Bog

AT

AGATE OF PEDIATION

TELEPHONE, INC.

