



State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

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COPY

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Donald P. Gallo, Esq., P.E.  
Reinhart Boerner Van Deuren s.c.  
P.O. Box 2265  
Waukesha, WI 53187-2265

Subject: North Lake Public Access, Waukesha County

Dear Mr. Gallo:

Thank you for meeting with us on Tuesday, July 14, 2009, to clarify a number of remaining issues associated with establishing dual public access facilities on North Lake, Waukesha County.

Over the past six months, the Department has been exploring, with you and the North Lake Management District (NLMD), possible options of providing public access to North Lake and evaluating the feasibility of establishing a Dual Site facility providing car-trailer access on the State Highway 83 (STH 83) parcel and utilizing the Department's parcel to provide additional carry in/car top access during the open water season and ice fishing and other recreation during the winter.

As we discussed, in order for the Department to fully consider and agree to implement the Dual Site proposal, the following activities need to be addressed and completed by December 31, 2009.

The NLMD needs to:

- Secure necessary funding for the acquisition of the STH 83 site. This includes identifying the amount and the confirmed source of the funding.
- Secure necessary funding for the design and development of the STH 83 site. This includes identifying the estimated amount and the confirmed source of the funding.
- Establish a fund to provide for future maintenance dredging necessary to maintain an adequate navigation channel for public use at the STH 83 site. This includes identifying the estimated amount of the fund and the confirmed source of the funding.

- Identify the process undertaken to obtain approval from the NLMD members, and provide a final resolution from the NLMD authorizing the expenditure of this funding.
- Identify all current owners of the STH 83 access site parcel and any relationship they may have to the NLMD Board and/or members.
- Secure all applicable permits and approvals required for the NLMD to develop, construct and operate the STH 83 site including:
  - DNR permits (Applicable Chapter 30 permits and 401 Water Quality Certification)
  - ACOE permits (Section 404)
  - Waukesha County Shoreland/Floodplain Zoning compliance
  - Waukesha County Conditional use permit
  - Town of Merton Land Use permit
  - Town of Merton resolution/agreement to utilize the public R.O.W. for the STH 83 site development and operation
  - Written clarification from the Waukesha County Board on the status and applicability of the \$200,000 donated to the Department for the original acquisition of the Kraus Parcel to the Dual Site concept.
- Execute a mutually agreed upon conservation easement on the STH 83 site. The easement will assure perpetual public use and prohibit any redevelopment or other incompatible land use on the parcel. It will also establish site operation consistent with the standards in Section NR1.91 Wis. Admin. Code and be consistent with other Department managed access sites, addressing hours of operation, closure for safety and/or maintenance, etc.
- Execute an agreement to refrain from initiating or aiding any litigation arising from the design, construction and development of the Department's North Lake Access site.

Obtaining funding and minimizing expenditures to implement the Dual Site proposal remain significant issues. The Department has identified and secured the necessary funding for the development of the Department's site. The NLMD also needs to secure funding to acquire and develop the STH 83 site. Any altered approach to this funding scenario (combined project, development phasing, construction sequencing, etc.) will require the Department to seek and obtain authorization of the State Building Commission.

Under any approach which may be implemented to develop and construct the Dual Site proposal, the STH 83 site is the responsibility of the NLMD. NLMD must obtain any required Waukesha County Conditional Use permits.

During our meeting, you raised the option of the Department providing funding for the NLMD to construct the STH 83 site. In this approach, the NLMD would then apply for a Waterways Commission Grant to construct the Department site. We encourage you to meet with the Waterways Commission to discuss the eligibility of your project. The next opportunity for the NLMD to obtain Waterways Grant funding will be in July 2010. The NLMD would need to submit an application to the Department prior to June 1, 2010. You should also be aware that the placement of an easement or entering into a long term

lease agreement with the Department on the STH 83 site would likely reduce the amount of funding available to the NLMD through the Stewardship Acquisition Grant Program to assist in purchasing the site. This is because an easement or lease agreement would substantially reduce the value of the parcel and affect the amount of funding eligible for acquisition assistance. The Department is available to review with you any grant applications submitted to assure that the information is complete and that the NLMD is in a position to compete fairly for available funds based on the value your ownership.

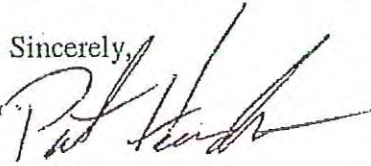
Should the NLMD not be able to meet these requirements by December 31, 2009, the Department's intention is to proceed with the development of a full service public access facility on our parcel with a projected construction schedule to commence in Spring 2010.

The Department has invested a significant amount of time, effort and funding to acquire the former Kraus parcel and in the pre-development effort to establish an adequate public access facility on North Lake. It is becoming more evident that we must proceed with due diligence in developing a full service access facility the public can use and enjoy.

If you have any questions, please contact Jim Morrissey, Land Services Team Supervisor at our Southeast Region office at 414 263-8640.

Again, thank you for meeting with us and we look forward to working with you to resolve this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Pat Henderson", written over a horizontal line.

Pat Henderson  
Deputy Secretary