

Burnett County Lakes & Rivers Association Newsletter

Spring/Summer 2004 Issue



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Lake Lines

President's Column



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Wow! What a winter here in Northwest Wisconsin for those who like snow! SPRING has sprung, however, and, by the time you read this, Burnett County lakes are probably ice free! I am looking forward to an exciting season on our waters. Along with the fun, we also have concerns for the care & preservation of our beautiful lakes & rivers.

Over the winter, I have been attending Washburn County's Lakes & Rivers meetings to stay as current as possible on the issues that concern our area's lakes & rivers. Wisconsin's Legislature just passed the "Jobs Creation Act." This Act is unfortunately misnamed and could have significant impacts on Wisconsin's lakes & rivers. Many issues with the Act are undefined, so we will have to watch what happens closely and keep lake leaders informed. During this summer, Burnett & Washburn Counties will address the issue of heavy road salt application in the area of waterways. We will report in the Fall on our success.

We will continue to pursue 3 goals for the 2004 season. Work is being done with DNR to schedule 3 Boater Safety Classes this spring. The details will be

announced at the May 15th meeting. The word will continue to be spread about exotics in our waters. Training will be provided regarding Purple Loosestrife and the continued spread of other exotics by uncleaned boats and trailers. The final goal is to organize associations of river landowners along, primarily, the Clam & Yellow Rivers.

Please mark your calendars:

- Saturday, May 15 - Burnett County Lake Leaders Conference
- Friday, June 25 - Northwest WI Lakes Conference, Telemark Lodge, Cable, WI (please look for details on both meetings elsewhere in this newsletter).

Last fall, Burnett County Lake Leaders were invited to contact me at frkruger@discover-net.net. Only 4 responses were received. Hopefully, we can discuss inter-lake communications at the May 15th meeting. I eagerly look forward to discussion time.

Fred Kruger, President

Legislative Forum on the Economic and Environmental Implications of Act 118 --"Jobs Creation Act"

Background Material

The following is a collection of analyses, position statements and commentary from various organizations and individuals about Act 118, the so-called "Jobs Creation Act." An attempt has been made to include statements from all sides of this controversial act. Most were published before Act 118 was passed. All statements are public statements and their sources are indicated.

Legal Analysis by Attorney General Lautenschlager:

Excerpts from Memo to All Legislators, Jan. 13, 2004

(full text available at www.thewheelerreport.com/releases/Jan04/Jan13/0113agjobsmemo.PDF)

The Department of Justice has a primary role in enforcing Wisconsin's environmental standards that is both statutorily and constitutionally based. The attached legal analysis is intended to provide you with a description of the legal implications of the proposal before you on DOJ's ability to protect our natural resources. It also addresses the impact on our efforts to ensure the continued ability of the public to enjoy their natural surroundings and for private landowners to participate in key decision making processes affecting the value of their property.

On the whole, while the bill contains regulatory "streamlining" provisions, the bill contains significant changes in the law that represent substantial weakening of environmental standards that have protected Wisconsin's waterways and air quality for decades, and violate the state's constitutional obligation to protect public rights in our navigable waters.

The analysis does not review the process by which this bill was created.

General Sees Change in Public Trust Statutory Law

As a general overview, the bill still belies its title as a "jobs" bill. A more appropriate title would be the "Wisconsin Waters Development Bill."

The most significant general effect of the bill is to reverse decades of long-standing statutory standards and procedures which are intended and have been applied to protect state public waters, while allowing reasonable development that does not harm those waters. This reversal is accomplished by the changes identified in the sections discussed below.

Any person familiar with any number of our lakes & rivers knows that development on our shorelines has not been halted by the administration of our current laws. In many cases, such development can accurately be described as both prolific & accelerating. Still, many of the worst & most harmful of proposed developments have been prevented, or more often conditioned with reasonable limitations to protect basic public rights & interests in our public waters.

An argument can easily be made that our existing laws, including with respect to the cumulative effects of allowing developments on our waterways, should be strengthened, not weakened, due to adverse effects being caused by existing and proposed developments and environmental pollution from them.

The policy approach of current law is to prohibit potentially destructive activities in state waters, and to require permits before those activities may take place. In short, it is illegal to conduct these activities without a permit... Thus, the presumptive standard in the law is that, absent a permit, the activities may not take place. DNR may deny the permit if it finds the permit would impair navigation or be detrimental to public rights in navigable waters in the public interest.

Reversal of Law by Exemption and General Permits

The long-standing fundamental procedural standard--prohibiting activities until permits are issued--is reversed (and thus weakened) by the bill for many potentially destructive activities. The means for executing this reversal are "exemptions" and "notification general permits." Under the new paradigm, DNR would be required to allow many potentially destructive activities, and DNR would have to take actions to prevent the harm they may cause.

Exemptions

Although it was agreed that the term "exemptions" would be replaced with the term "non-notification general permits," the draft (Act 118) still uses exemptions. Exemptions imply that the activities exempted are not subject to regulation. Non-notification general permits imply the subject activities are under DNR regulatory jurisdiction.

In the place of a presumption against their use, the following individual activities are granted an "exemption" in the bill that allows their use, subject to DNR's limited discretion to impose conditions on project construction by rule:

- Deposits of sand, gravel & stone of up to 2 cubic yards (half a dump truck);
- Any structures, regardless of size of location, placed on a seasonal basis;
- Boat shelters, hoists & lifts placed on a seasonal basis;
- 6-foot wide piers & wharfs;
- 100 feet of replacement riprap on banks, regardless of whether the existing riprap was illegal and the area should be restored;
- 300 feet of repair riprap on banks, regardless of whether the existing riprap was illegal and the area should be restored;
- Intake & outfall pipes less than 6 feet from the water side of the ordinary high water mark & less than 25 % of the width of the channel where it is placed.

Burnett County Lakes & Rivers Association Board Members

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State's shoreland rules are changing

By JOHN HAACK, University of Wisconsin Natural Resource Educator

April 14, 2004

Wisconsin - the name is said to mean "gathering of the waters" - identifies our state with its most bountiful resources. Since statehood Wisconsin's rules about how we manage waters have considered the balance between public protection and private rights. As societal values, needs and ability to impact waters have changed so have the rules that protect and manage them.

Two big changes are underway right now. The first involves the statewide minimum standards regarding how counties regulate land adjacent to lakes and streams (*Shoreland management is a partnership between counties and the state.... Counties do the yeoman's work and the state sets the rules and oversees the program*). The existing rules, known as NR115, were crafted in the mid-1960s. The proposed changes occurred because many folks felt new pressures on lakes coupled with ambiguous or unclear language in the existing rules could be addressed in updated rules.

Following a year of meetings, a rule re-write committee presented a package of suggested changes to citizens this past winter at several public listening sessions across the state. Presently, the committee is reviewing public comments and plans to incorporate them into a recommended rule package for the DNR's Natural Resources Board. From there, more public hearings and then a recommended package will be sent on to the state legislature and likely more hearings before a final rule package is voted on. You can track the updates on the web at: <http://www.dnr.state.wi.us/org/water/wm/dsfm/shore/title.htm>

Sounds complicated and lengthy.... You're right, it is. With close to 15,000 lakes and thousands of miles of streams, we all have a lot at stake and most everyone wants their voice heard. Are the Burnett County Shoreland Rules likely to change? While anything is possible, the changes on the table are not likely to have much impact on shoreland areas in Burnett County.

The second change came with Gov. Jim Doyle's signing of the Job Creation Act of 2003 - legislation designed to streamline the state process for regulating air pollution and Wisconsin's waterways - you may have heard about this, as it drew diverse reaction from the business and environmental communities. The Act includes rule changes determining what you can do on lakebed and in the lake adjacent to your property.

The business interests in the state said the legislation was long overdue and would help to create jobs. Environmental groups said that the bill would weaken Wisconsin's protection of its water resources.

The governor, for his part, said that the intention of the measure is to make the permitting process for businesses and landowners more timely and user-friendly and that it would not reduce any of the state's environmental standards.

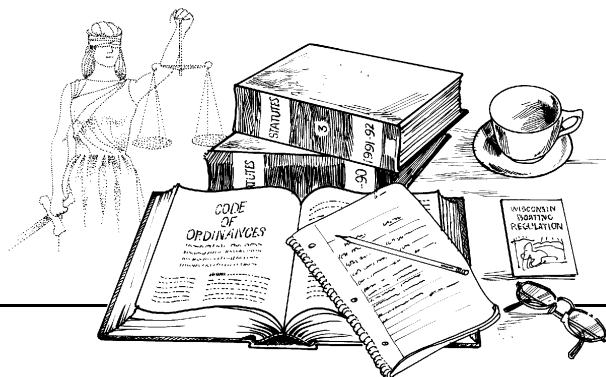
While the debate over the merits of this legislation lessens, the DNR (*the agency assigned as the public's steward of state waters*) recently developed "emergency" rules. These rules will put the details into the law the Governor signed. The emergency rules are expected to go into effect on April 19th and run for 150 days, while DNR develops permanent rules. A public hearing on the emergency rules is set for May 19 in Madison. Public comments from that hearing will be incorporated into DNR's process in the coming year to develop draft permanent rules implementing the new law.

The rule has three basic categories for shoreland alterations and structures:

1. Exemptions. The rule lists things that do not require a permit. Most piers, boat shelters, boat lifts and swim rafts can continue to be placed in most waters without a DNR permit and review as long as they follow design and construction standards laid out in the emergency rules.
2. General Permits. Intermediate projects, limited review.
3. Individual Permits. Larger projects or projects that do not meet design and construction standards. These activities will require more review under this process.

Starting later this month, you will be able to learn whether a project is exempt from the permitting with a few clicks of a computer mouse. To find out more about the emergency rules go to: <http://www.dnr.state.wi.us/org/water/fhp/waterway/emergencyrules.shtml>

If you have plans to do waterfront work, you need information or you're not sure if you need a permit, contact Ed Slaminski, at the Spooner DNR office by calling 715-635-4097.



Lake Volunteers are Preparing for the Battle:

Spring/Summer 2004: Volunteers across Wisconsin are preparing to meet aquatic invasive species head-on. This spring, volunteers will take a frontline defense against aquatic invasives by participating in the Clean Boats, Clean Waters watercraft inspection program. Trained volunteers will then be staffed at local boat landings to instruct boaters on how and where invasive species are most likely to hitch a ride into water bodies and how to perform watercraft inspections.

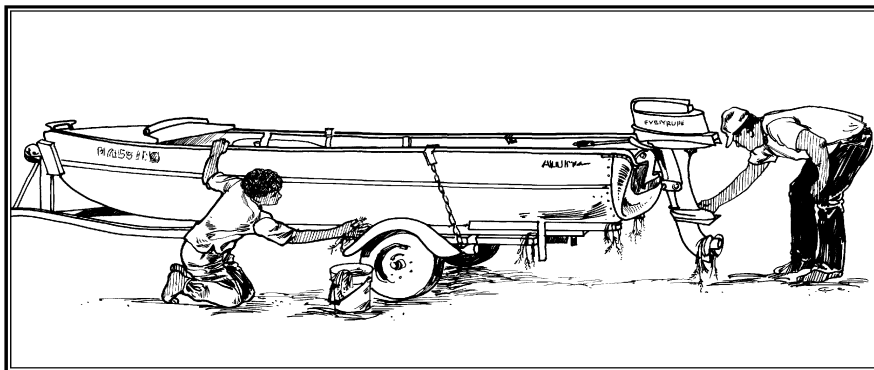
The WI-DNR, UW-Extension, and local County Land & Water Conservation Departments will host the Clean Boats, Clean Waters training workshops at the following locations, dates, & times. Participants need only attend one 3-hour session. The cost of the workshop is \$25.00 and pre-registration is required. Volunteers will be given a handbook and a resource kit that contains educational materials, a video, invasive species identification cards, watercraft inspection stickers and T-shirts to wear that can be worn during the watercraft inspections.

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|---------------------------------------|---|
| Saturday, May 15th | Cumberland Elem. School, Cumberland, WI (9am-Noon) |
| | Polk Co. Government Center, Balsam Lake, WI (6-9pm) |
| Saturday, June 19th | Burnett Co. Government Center, Siren, WI (9am-Noon) |
| | Solon Springs Comm. Center, Solon Springs, WI (6-9pm) |
| Saturday, July 10th | Price Co. LWCD, Phillips, WI (6-9pm) |
| Saturday, July 17th | DNR Service Center, Hayward, WI (9am-Noon) |

According to Laura Felda-Marquardt, UW-Extension Volunteer Coordinator for the Invasive Species Program, the training and resource materials provided in the workshop will aid volunteers to organize and conduct a boater education program in their community. By performing boat and trailer checks, distributing informational brochures, and collecting suspect specimens, volunteers can make a difference in helping to prevent the spread of invasive species. Contact Dave Blumer, WI-DNR Exotics Specialist 715-635-4078 for more information.

For Registration and Directions contact John Haack, UWEX Natural Resources Basin Educator
John.haack@ces.uwex.edu, 715-635-7406

Registration is limited to 25 participants, so call early.



Shoreline Incentives Program Completes Third Year

By Cheryl Bursik

Through the end of 2003, the Shoreline Incentives Program has preserved over 35 miles and re-stored over 80,000 square feet of natural buffers along lake and river shorelines in Burnett County! This popular program uses property tax credits and cash incentives to encourage waterfront property owners to preserve a minimum 35-foot deep buffer along the water. Financial assistance is available to plant native trees, shrubs and groundcovers if the vegetation has been altered. Staff provide site designs, assistance with plant selection and instructions to carry out restoration projects.

Burnett County's lake & river associations help to promote the program by sharing information with their members. Many of the lakes with the highest participation rates have hosted presentations to promote the program.

The Top Ten Water Bodies

| Water Body | Number of Parcels Enrolled |
|--------------------------------------|-------------------------------|
| Birch Island Lake | 36 |
| Long Lake (Town of Webb Lake) | 26 |
| Lost Lake (Town of Webb Lake) | 20 |
| Big McKenzie Lake | 18 |
| Webb Lake | 16 |
| Ham Lake | 14 |
| Berg Lake | 14 |
| Bluff Lake | 13 |
| Clam River | 13 |
| Minnow Lake | 11 |



Current efforts focus on securing state funding to continue the program and encouraging completion of restoration projects designed in previous years. There are currently 8 individuals signed up to participate in 2004. Our funding is running low, so sign up early to get on this year's list.

Another focus for 2004 is working with property owners to control runoff and erosion from waterfront property. Past experience has demonstrated that preserving and restoring the shoreline buffer does not always completely take care of erosion problems. Because roofs and driveways do not allow water to soak in, increased runoff and erosion frequently occur on waterfront property - especially with Burnett County's sandy soils. Newly developed presentations and written materials will focus on ways to manage runoff. These techniques will help to establish buffers and minimize erosion. Please call the Land & Water Conservation Department if you would like more information (715-349-2186).

Spring Lake Leaders Meeting

Saturday, May 15, 2004

10:00 am - 1:00 pm

Room 162-63

Burnett County Government Center

Siren, WI

Agenda

- Purple Loosestrife - Brad Morris,
BC Land & Water Conservation Office
- Lakes Issues - Open Forum
- Storm Water - Cheryl Bursik, Dragonfly Consulting
- Lunch (Approximately Noon)
- Clean Boats Program - Dave Blumer, WI DNR



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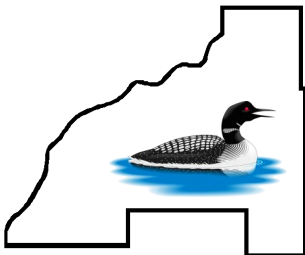
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