

LACK OF DUE DILIGENCE – Governmental Approvals, Legality, Safety, Feasibility, Environmental Impact, Real and Total Cost

LEGAL ISSUES - Crystal Morgan Attorney at Law

RAMP FEASIBILITY AND SAFETY

Part One – Keith Dennis

Our concern is that the DNR is pushing ahead with this purchase without due diligence and by ignoring issues that may prevent the actual construction of the site or seriously limit its usefulness if constructed.

I will be referring to the satellite photo of the proposed site provided by one of longtime residents during my part of the presentation.

First I submit that the planned boat launch site is inherently unsafe given its proximity to a very busy roadway. The proposed site would be at the end of a steep hill on a curve that blocks the view of the site until moments before arriving. We have been told that since the new plan has a circle drive that enables vehicles to align with the ramp without having to enter the roadway.

Obviously the DNR has not measured this property because as Mr. Peck will show you later in the presentation, small boats and trailers would be challenged to maneuver in this space without entering the roadway and with a large boat it would be impossible. And when it comes to boat launching, let's face it, there are different skill levels. Yet we have had no acknowledgement by the DNR that these safety issues are real or have relevance.

Our second issue is the depth of water for the proposed ramp. The area in question is a very shallow area. At 40 feet from shore at the proposed launch, the water is less than 30 inches deep. Unless dredging is in the plan there simply is not sufficient water depth in the proposed area for anything other than a small flat bottom boat or a kayak. We have raised this issue with the DNR since the fall of 2012 and yet there has never been any analysis done on what could be a huge obstacle to a potential boat launch.

The third issue is the high likelihood that the riparian property rights of the adjacent home owner would be violated by the proposed launch. When we raised this in public meetings we asked whether a thread line survey is contemplated and the answer was no. We note that Eagle Lake is not a pie and only a court of law can perform a thread line survey to determine whose bottom lands lie where. The owner of the property most likely violated has indicated that he would not grant approval for such development.

The DNR Land Use Plan targets call for the construction of boat access sites for lakes above 500 acres with Public Access sites for smaller lakes. Eagle Lake is only 379 acres, is about 98% developed and currently overcrowded on weekends. There are currently 2 public access sites on Eagle Lake and multiple public road end points providing substantial access.

The DNR considers this an attractive site because of the potential access to the PJC chain of lakes. It is true that there is a channel that leads to these other lakes. However, it currently is navigable only by small boats and pontoons and has been slowly silting in over the years. The property on both sides of the channel is owned by one property owner who has indicated they will not permit dredging of the channel. The result is that the boat traffic used by this project will almost exclusively go to Eagle Lake and therefore the size of Eagle Lake should be the determining factor. This was cited by the DEQ regarding this property in a letter dated March of 2013 yet the DNR has continued to use the lake acreage of the PJC chain in its justification of 41 parking places.

Now in the DNR's newest conceptual plan, the old boat ramp, dock and adjacent property are included in the DNR's proposed boat launch. Ownership of this property has been in dispute for decades and could be a huge impediment to the project but I'll leave that issue to our legal counsel. However, this new addition without any new due diligence does demonstrate the continuing lack of planning and research that have plagued this project from the start. Has there been any analysis by the DNR of how much fill might be required to establish the new drive and level the two disparate properties? On our satellite photo you can see that to have any shoulder on the new proposed driveway, we estimate 6 feet of fill into the lake will be required.

We appreciate that opportunities for boat access site purchases come infrequently, but that should not cause a rush to purchase very expensive land without conducting a great deal more due diligence.

Part Two Environmental and Geometrics – Richard Peck

Education and Experience

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Carrying Capacity – Mike Mroczek

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craft on less than 300 acres is less than (9) acres per boat, boating density; cut that in half with another 35 boats from the Ramp. On peak time weekends and holidays, over 100 water craft can be on the lake, crowded into ~300 acres, or about (3) acres per water craft.

- 5) A count performed 7.10.2013 confirms these estimates. Further, of the 737 water craft counted moored/stowed 45% are greater than 25HP, another ~15% are PWC's.

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Total	299	92	255	14	77	737	100%

Invasive Species – Brigid Forlenza

The Michigan Lakes and Streams Association has gone on record, at the 6/21 Waterways Commission Meeting, and on their website, requesting that the DNR and Waterways Commission implement a MORATORIUM on new Boat Access Sites until such time as the burden of dealing with Any and All Invasive Aquatic Species are FUNDED by ALL users of Michigan's Lakes and Streams. These oppressive costs cannot be borne ONLY by Lake Property owners. Other States have done this!

I couldn't agree more. Our lake is very prone to infestation by invasive species and we bear the burden of cost and management through contributions and special assessments.

The DNR has contended that "The potential increase in invasive species risk, through development of a boating access site is negligible." With an exponential increase of off-lake boats, of course control of aquatic invasive species would be correspondingly more difficult if not impossible.

And what should be the greatest concern for the DNR and this Commission is THE RISK TO OTHER LAKES AND STREAMS IN THE AREA. With the proposed plan, Eagle Lake's newest aquatic weed problem, Hybrid Eurasian Milfoil, could be a regional multi-lake issue.

On multiple occasions the DNR has stated that "Milfoil is a state wide problem, it's up to everyone to help fight - but animals also are a source of spreading the weeds."

Please accept a copy of a study conducted by the University of Wisconsin and the Wisconsin DNR that categorically refutes that wildlife have been spreading the weeds. Boats spread the weeds and more boats will spread more weeds. The Michigan DNR does itself a disservice by disseminating this

The newest conceptual plan of the proposed Boat Access Site now includes a possible boat wash. Even if this capability were actually delivered in the proposed development if it comes without full time staff, it is only a gesture and not a real deterrent to the spread of invasive species.

The Michigan Lakes and Streams Association is right, the DNR and Waterways Commission should implement a MORATORIUM on new Boat Access Sites until such time that the burden of dealing with Any and All Invasive Aquatic Species is FUNDED by ALL users of Michigan's Lakes and Streams. That is what true stewardship is all about.

DNR Inconsistencies (What is purported and the reality) – Paul Sniadecki

Public Comments at June 21st meeting.

Non-existent subcommittee formation.

Lack of Township approval.

Lack of County approval.

Lack of approval with local zoning ordinances.

Ownership of existing boat launch and adjacent property.

SUMMARY – Margie Allan

One of our township officials said "You don't want to take on the DNR. They are like the IRS. They do what they want." Another resident said "This is David and Goliath and you are not on the Goliath team."

But I contend that that is why we have the Waterways Commission. To make sure that the public interests are protected and that governmental process reflects due diligence in critical matters. Today we have provided overwhelming evidence that due diligence has been in many cases perfunctory at best. We have cited;

Show stopping issues with boat launch safety and feasibility
Turning a blind eye to the limited access to Painter, Juno, Christiana Lakes
Not acknowledging the real potential for violation of riparian rights
Flawed analysis of the carrying capacity of Eagle Lake
No analysis or remediation planned for the impact of invasive species
Lack of compliance with local zoning
Lack of local governmental approvals

Disputed property ownership issues

This after two years of preparation and planning by the DNR. This project is still not ready for approval.

We have been told that it is politically correct to make the natural resources of our state available to all and politically incorrect to oppose opening access.

Who can argue, we don't. The waters of Michigan lakes and streams do belong to everyone, but so does the stewardship. With no shared stewardship in this plan and major flaws in planning, we would be irresponsible to do anything but urge postponement at the least.

No private enterprise would be granted the go ahead on a project of this magnitude with this level of planning performance. The cart is clearly before the horse in this process. Far too many important questions remain unanswered before an acquisition of property is contemplated. Fiscal responsibility in government demands it.

Please keep in mind as you consider your options today that this is a "forever decision".

This is on your watch, it will be under your names and your names will always be associated with the project. Please be responsible stewards.

Changes Required:

- 1) Add seawall (dotted line)
- 2) Fill area behind seawall
- 3) Fill existing launch ramp
- 4) Location of new drive
- 5) Fill this area to height north of existing dock

42 to 45 feet from shore to 30 inch water depth

Proposed Ramp Location

© 2013 Google

ENLARGED VIEW OF PROPOSED RAMP

Imagery Date: Oct 5, 2011 41°48'01.76" N 86°00'46.58" W elev 242 m Eye alt 301 m

WATER DEPTHS VS. FEET FROM SHORE AT PROPOSED RAMP LOCATION

Feet from Shore	Water Depth (Inches)
12'	10"
24'	17"
36'	22"
42'	29"

Many trailers require at least 32" of water to launch

Light areas indicate very shallow water. Dark areas along shore are tree shadows

Existing Ramp

X

At this point northbound Eagle Lake Road Drivers can first see traffic entering road from parking lot at location "X"

© 2013 Google

Imagery Date: Oct 5, 2011 41°48'02.46" N 86°00'49.62" W elev 241 m Eye alt 691 m



MEMORANDUM

TO: Michigan Waterways Commission
FROM: Crystal Morgan, Bloom Sluggett Morgan, PC
Attorneys for the Eagle Lake Improvement Association
DATE: July 12, 2013
RE: Potential Eagle Lake Land Acquisition

The Eagle Lake Improvement Association ("Association") continues to oppose the acquisition of the Dock Property on Eagle Lake by the Michigan Department of Natural Resources ("DNR") for the reasons stated in the June 18, 2013 and July 8, 2013 letters by Attorney Cliff Bloom, and for the reasons stated at the July 12, 2013 special meeting (and any earlier meetings) of the Michigan Waterways Commission ("Commission").

The Association continues to have concerns regarding the timing and apparent "rush" for approval of this project, and the apparent lack of due diligence by the DNR. The DNR claims that it has been studying the acquisition of this property for 2 years, yet the DNR currently describes the planning as being in the preliminary stages, and there has still been no formal Township or County approval for the project.

- The Township's "approval" came in the form of a letter from the Township Supervisor, which a Township Board Member accused the Supervisor of preparing in violation of the Open Meetings Act;
- There has been no formal approval by the Township Board;
- The Township Zoning Administrator issued a recent memorandum stating that contrary to the DNR's representations to this Commission, the Zoning Administrator has not issued a determination regarding the legality of this project at the subject property;
- There has been no formal approval by the County (the DNR is scheduled to make a presentation to the County on July 18, 2013);
- The County has previously indicated in court pleadings that some of the property comprising this site is encumbered, and there remain serious concerns regarding title to the property, given that it has been the subject of litigation dating back to the 1950's.

As shown in the DNR's summary of public comments received, there are many serious

concerns regarding this project--concerns that must be addressed by this Commission and the other agencies that are part of the approval process. The layers of approval are intended to be a system of checks and balances--not merely speed bumps on the State's route to purchasing the property. The Association urges the Commission to carefully consider the concerns voiced by the public (both previously and at the July 12, 2013 Commission meeting) before imposing this project upon the public and property owners on the lake.

The Commission should not feel pressured to approve this project in the face of such lacking due diligence based on the DNR's self-imposed timeline, or a timeline established by the bank, whose only interest is to dispose of the property.

If the DNR exercises its option, it will become a riparian property owner. Under Michigan law, a riparian property owner cannot interfere with the rights of another riparian owner. Yet, if this project is approved, the lakefront owners would be faced with additional overcrowding and safety issues on the lake, degradation of the lake and water quality, the introduction or worsening of the presence of invasive species, and other issues that would likely result in special assessments against the riparian owners on the lake (except the DNR, which would likely be exempt from such costs). In addition, there may be issues of affecting the riparian rights of neighboring owners, which cannot be determined without a thorough title search and accurate survey of the property. You will hear from some Association members regarding additional concerns.

Finally, there are unanswered questions regarding long-term maintenance and staffing at the site.. The Association asks for a commitment from the DNR to staff this site for monitoring and enforcement purposes if the project is approved.

In sum, there are too many unanswered questions regarding the need for, feasibility of and legality of this project. These are all reasons to recommend against the purchase of the property at this time.

ENVIRONMENTAL AND GEOMETRICS

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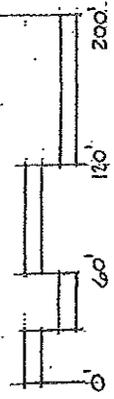
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FEB 12 2013

PROPOSED SITE PLAN
EAGLE LAKE



1-26-2012

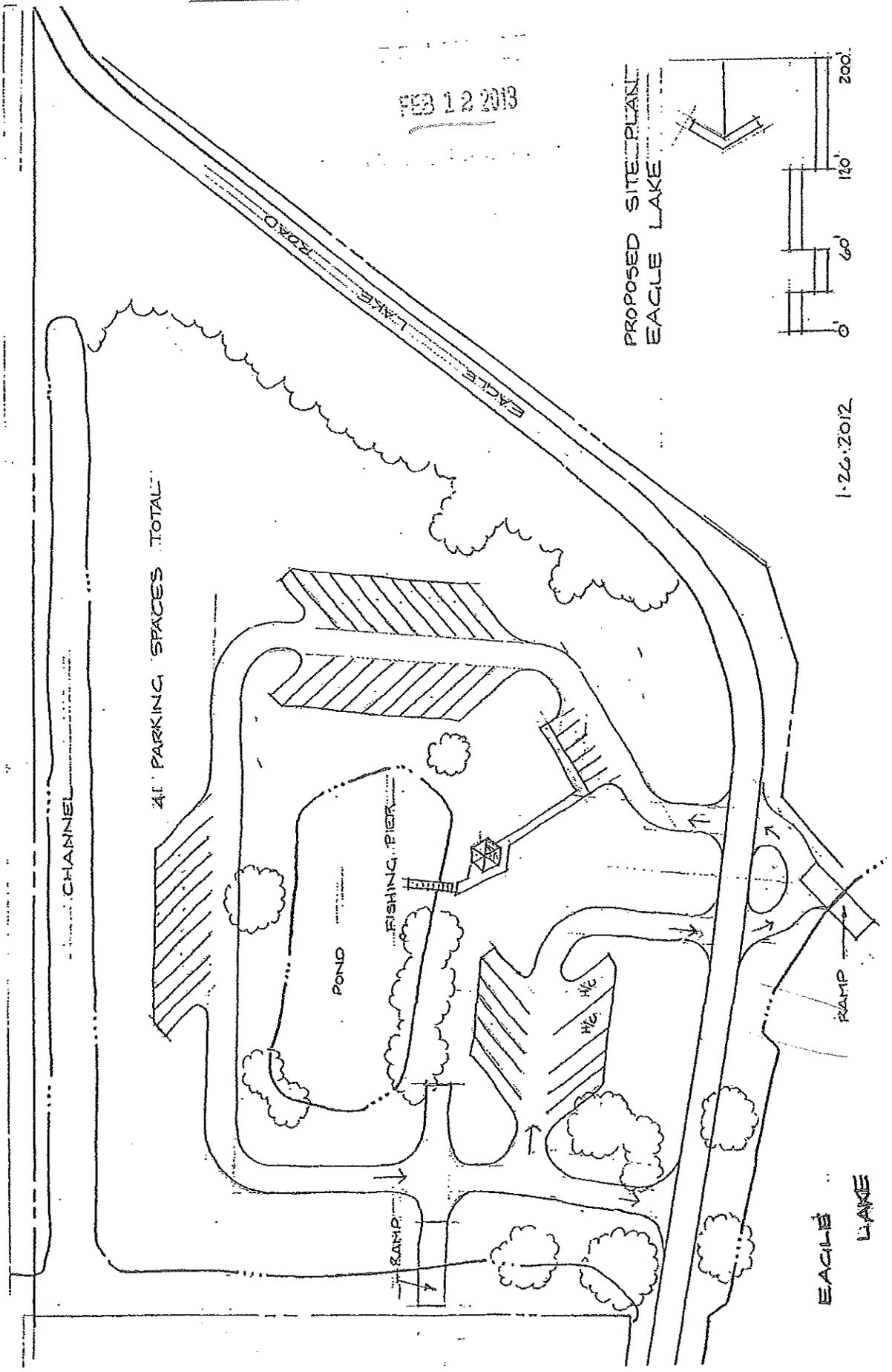
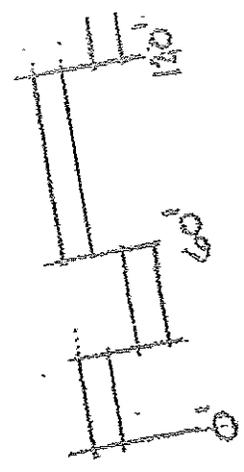
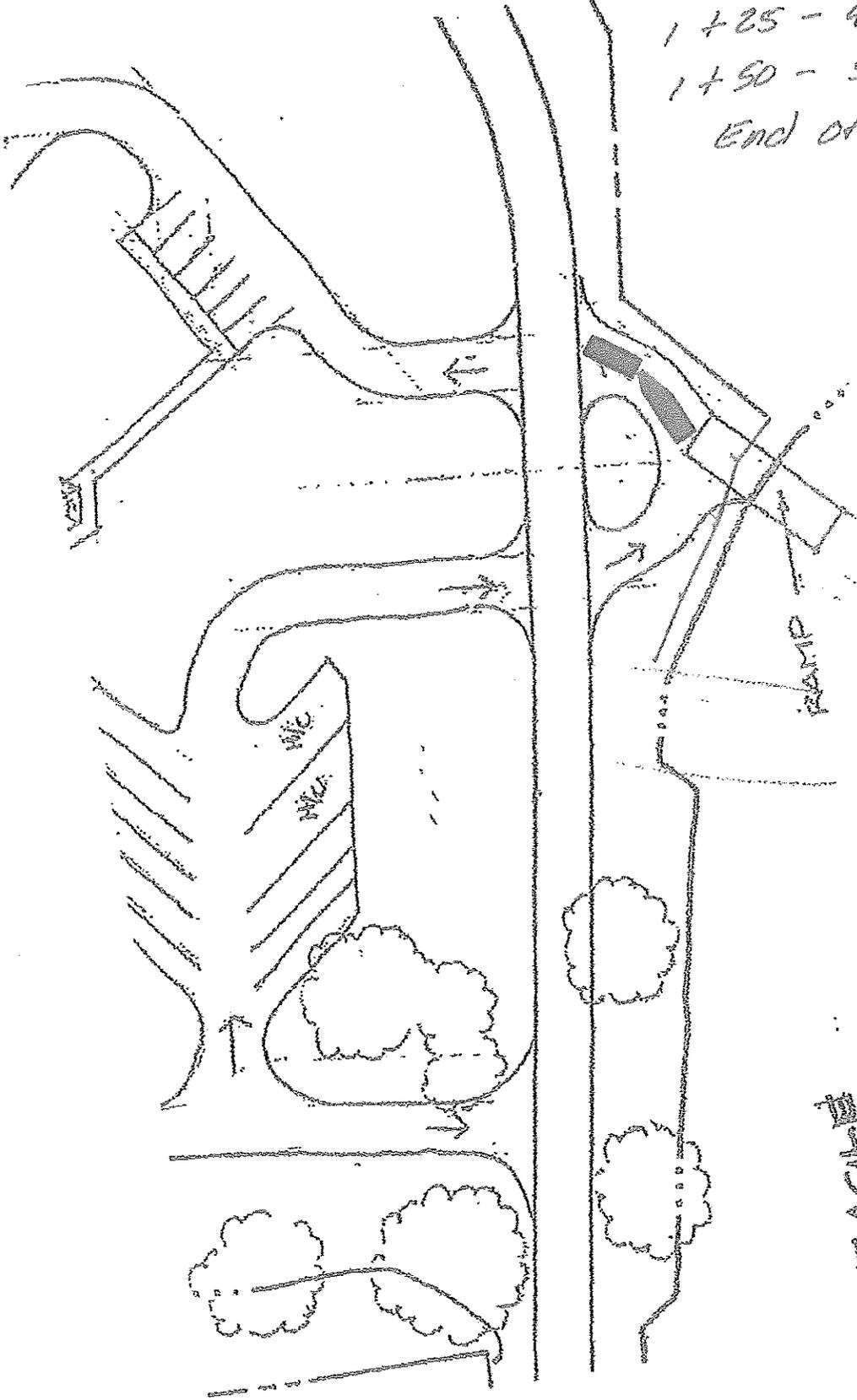


Exhibit 2

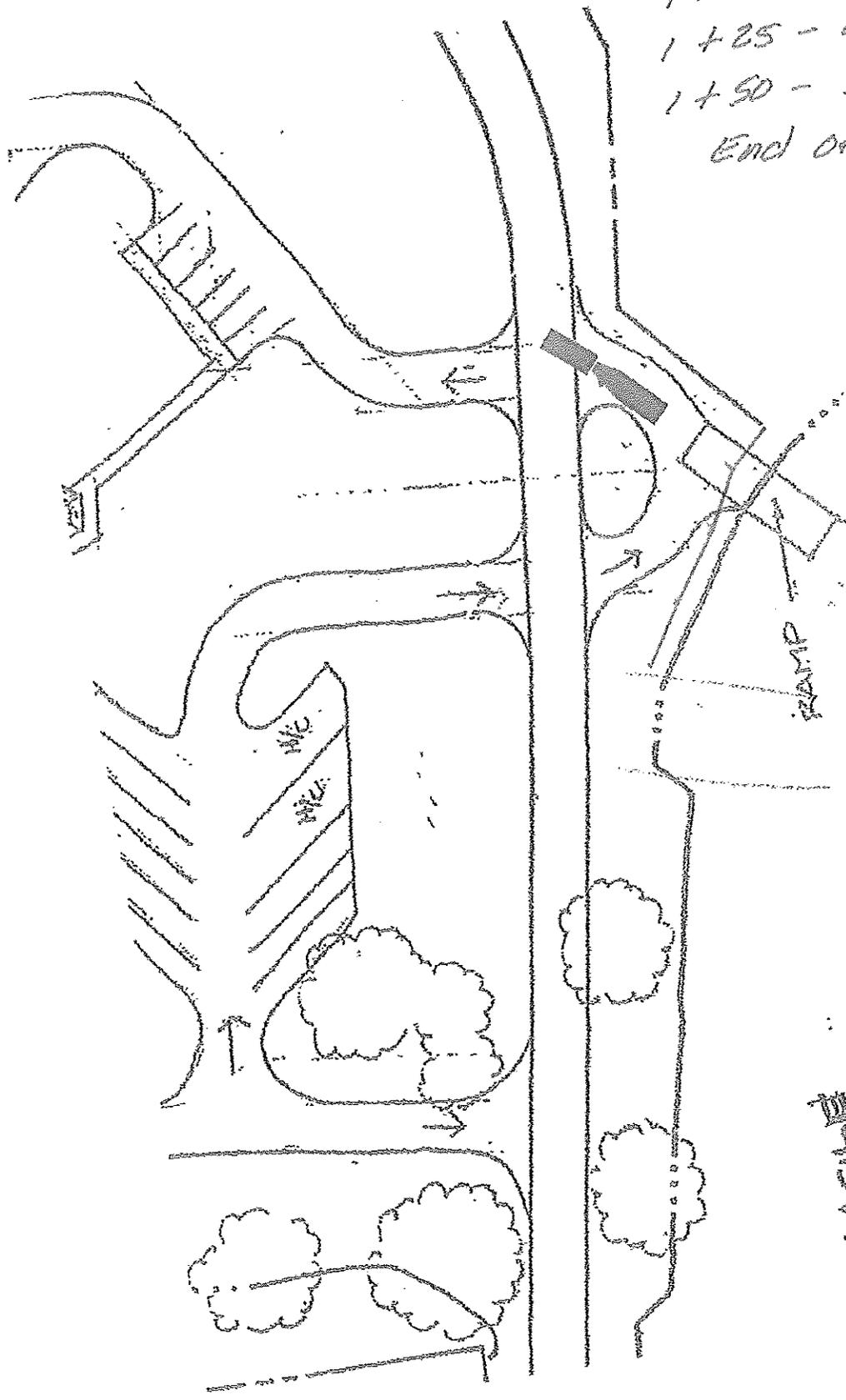
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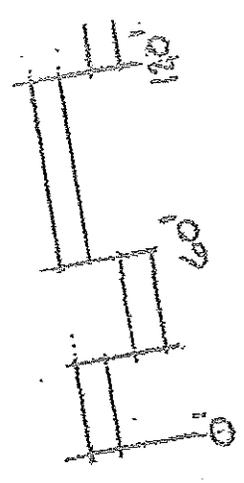
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Exhibit 20

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EACH
LAP



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Mike Mroczek

 Wisconsin Department of Natural Resources

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Monitoring confirms that boaters, not ducks, moving aquatic invasive species around

Weekly News article published: March 5, 2013 by the [Central Office](#)

MADISON – Preliminary results from systematic monitoring of Wisconsin lakes for [aquatic invasive species](#) confirm that boaters, not ducks or other birds, are spreading the invaders around, state and University of Wisconsin-Madison researchers say.

None of the wilderness lakes surveyed – those in remote places and easily accessible only to wildlife – had any invasive species present while there was a direct link between the presence of invasive species and boat access from public and private property.

Thirty percent of the lakes with boat access, however, had Eurasian water-milfoil, 18 percent of the suitable lakes surveyed with boat access had zebra mussels, and three lake systems with boat access had spiny water fleas.

"The fact that accessible lakes are the ones that are invaded indicates that these species are moved by boaters," says Alex Latzka, a University of Wisconsin-Madison graduate student involved in the research. "While birds could transport invasive species from one lake to another, our finding that remote lakes do not have invasive species strongly indicates that birds are not an important factor."

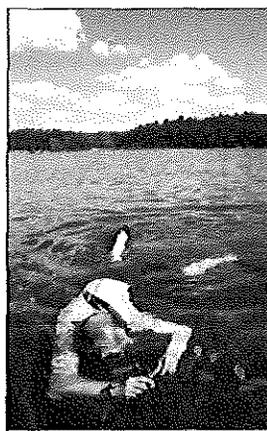
In recent years, DNR and the UW-Madison have collectively [surveyed 450 lakes for aquatic invasive species like zebra mussels, Eurasian water-milfoil and spiny water fleas.](#)

UW-Madison researchers looked for aquatic invasive species in a range of lakes, including wilderness lakes.

DNR focused its sampling on those lakes more likely to have invasive species present because they had boat access that ranged from wide, paved public boat launches to private boat launches to yard access. DNR is two years into its 5-year sampling effort to understand the prevalence of aquatic invasive species in lakes statewide and also to understand whether efforts to slow the spread are working.

Two years of sampling is not enough to tell if the rate of spread is slowing in lakes with boat access, although there are some positive signs, says Scott Van Egeren, the DNR limnologist who coordinated DNR's sampling over the past two years.

- The number of lakes DNR surveyed and found with the different invasive species was about the same for both years. Finishing up the five years of monitoring will help provide information on the rate of the spread.
- Most lakes with boat access were still free of the worst invasive species; 70 percent of the lakes with public access surveyed were free of Eurasian water-milfoil, despite the fact the invasive plant has been present in Wisconsin for more than 50 years and is considered a



State researchers in SCUBA gear looked for aquatic invasive species as part of a five-year monitoring effort
 WDNR Photo

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relatively widespread aquatic invasive species. And 82 percent of suitable lakes with public access are still clear of zebra mussels, present inland for more than 20 years.

"While we did find one or more invasive species in many of the lakes with private and public boat access, the prevalence of any one of them is relatively low given that some of these invasive species have been present in Wisconsin waters for decades," Van Egeren says.

Bob Wakeman, who coordinates DNR response to aquatic invasive species, says the preliminary results underscore how important it is that boaters take the required steps to prevent the spread of aquatic invasive species.

Regulations since 2006 for oceangoing ships have effectively halted the introduction to the Great Lakes of new invasive species, Wakeman says, "so it's up to boaters to keep those invasive species already in the Great Lakes from being spread to inland lakes.

"Out of 184 invasive species introduced to Lake Michigan over the past century, just 29 have made it to inland Wisconsin lakes," Wakeman says. "Boaters have done a good job in recent years in following the rules, and they can continue to keep the damaging species out of inland waters as long as they take a few minutes to take some simple steps. "And we're happy to say that ducks are not going to undo your hard work!"

FOR MORE INFORMATION CONTACT: Bob Wakeman 262-574-2149; Scott Van Egeren 608-264-8895; or Jake Vander Zanden, UW-Madison, 608-262-9464



- Public input opportunities
- Season and permit deadlines
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Contact information

For more information about news and media, contact:

Bill Cosh
Director of Communications
608-267-2773

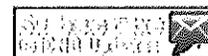
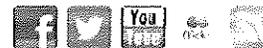
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Last Revised: Tuesday, March 05, 2013



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101 S. Webster Street . PO Box 7921 . Madison, Wisconsin 53707-7921 . 608-266-2621

July 11, 2013

To whom it may concern, Michigan State Waterways Commission and DNR:

I have been shown a copy of the DNR interoffice communication dated July 5, 2013 from Ron Olson to the Michigan State Waterways Commission.

Specifically I address the section Key Process Step, bullet point 5.

That section quotes me, as the zoning administrator, advising that I believe the project complies with zoning requirements.

I never said that.

At no time have I rendered or issued an official zoning compliance decision concerning a boat access site on the Dock property.

I can be reached at the address and phone below to confirm this memo anytime.

Ontwa Township Hall
PO Box 209
Edwardsburg, MI 49112
269-663-2347
574-215-1681

Sincerely,

A handwritten signature in black ink, appearing to read "Wayne Hardin". The signature is fluid and cursive, with a large initial "W" and "H".

Wayne Hardin
Zoning Administrator
Ontwa Township
Cass County
Edwardsburg, MI

Cass County Road Commission

Board of Commissioners:
Leroy Krempec, Chairman
Clifford Poehiman, Vice Chairman

Roger Bowser, Member
Thomas Celis, Member
Pete Fournier, Member

December 15, 2011

Mr. Roland Johnson
MI/DNR Parks and Recreation Division
Plainwell District Manager
Plainwell Operation Service Center
621 North 10th Street
Plainwell, Michigan 49080

Re: Potential Boating Access Site

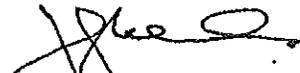
Dear Mr. Johnson:

The Cass County Road Commission supports the conceptual plan to establish and maintain a Boating Access Site on what is known as the "Dock" property in Ontwa Township in Cass County.

This site has been used for many years, in an informal manner, for boaters to access Eagle Lake. This site also has the potential to access Juno, Christiana, and Painter Lakes to the east from a common property. The formal development of a safe and effective access for boaters would be a benefit to the community at a site historically used by boaters and fishermen.

If you acquire the property the Cass County Road Commission looks ahead to a cooperative effort to establish a safer public access to Eagle Lake at this location.

Sincerely,



Joseph J. Bellina III, P.E.
Chief Engineer

December 15, 2011

The regular meeting of the Board of Cass County Road Commissioners was called to order at 9:00 A.M. by Chairman Krempec and the Pledge of Allegiance to the flag was said in unison.

Board Members Present: Fournier, Krempec, Bowser, Celie and Poehlman

CCRC Staff Present: Louie Csokasy, Joe Bellina, and Grace Chester.

INTRODUCTION OF VISITORS

Roseann Marchetti, Norma Lerner, Harry Shaffer, and Barbara Dempsey

CHANGES TO AGENDA

1. Add: Motion to support Sink Rd. Bridge Project
2. Add: Closed session for Manager's Evaluation
3. Delete: Closed session (Union Contract)

Note: After meeting business is concluded, a recess will be declared and then the Board will meet in closed session-no other business will be conducted after the closed session

APPROVE AGENDA

Bowser moved to approve the Agenda as amended. Poehlman seconded and the motion was carried.

PUBLIC COMMENT

Marchetti reported on upcoming meetings.

APPROVE MINUTES OF MEETING

Poehlman moved to approve the minutes of meetings held on 11-09-11, 11-17-11 and 12-06-11 (special meeting). Celie seconded and the motion was carried.

SPECIAL MEETINGS & MILEAGE

Poehlman	12-06-11	CCRC Sp Mtg.	8 hrs	12 MI
	11-29-11	NATS-Niles	4 hrs	18 MI
Krempec	12-06-11	CCRC Sp. Mtg.	8 hrs	32 MI
	12-01-11	CCRC Union	4 hrs	32 MI
Bowser	12-06-11	CCRC Sp Mtg.	8 hrs	07 MI
Celie	12-06-11	CCRC Sp Mtg.	8 hrs	24 MI
Fournier	12-06-11	CCRC Sp Mtg.	8 hrs	32 MI
	12-08-11	Co Parks' Board	4 hrs	32 MI

PUBLIC CORRESPONDENCE

Chair made a brief note regarding an article about the upcoming road millage and read an article about an accident at a road commission as it related to safety.

REPORTS

NATS

Poehlman reported the last NATS meeting was short with discussion centering on TIPP projects and amendments. Noted several public meetings were held. Poehlman said the goal has always been to encourage more public input and participation.

PARKS (Fournier)

Dodd: MEANDRS Meeting: raise the bridge 2', seeking funds from the Sauk Trails RC&D, create habitat by submerging logs in the water, working with DNR fisheries and a local farmer, The renter of the trailer at the park has given his 30 day notice.

Lawless: Deer- only ten shot this season which is down from past years.

Eagle Scout: Project at the Coy-Steiding camp site is nearly completed. New Building: Progress is slow.

Russ Forest: Maintenance on horse trails and \$500 received from the donation box in the last three months.

Staff: Parks' Director has been authorized to hire a part time employee.

FINANCE

Committee Chair Celie gave brief update from this morning's meeting. Payables were reviewed and authorized for payment. Cash forecast and budget predictions were reviewed. MTF funds stand pretty much at the equal level. Audit is continuing but a report is expected at the January's meeting from Dave Fisher.

Expenses over revenue stands at approximately \$250,000 but cash flow remains level.

MANAGER'S UPDATE

Union: Big issue was union membership acceptance of a new contract (three year)

Road Millage: Campaign is being handled by a private committee whose job is to promote and get support from the public

Weather: Had first snow "event" which was concentrated in the east. Tested new snow routes.

FINANCIALS

MTF: December monies were over forecast by 3.5% at \$291,912

Projects: Currently only large outstanding payment from the state is for M205 work and approximately \$50,000 due from St Joseph County RC for a paving project.

OPERATIONS

Work: Paving and graveling work has been switched over to winter operations.

Snow Routes: Continual process to match new equipment with routes to get the best fit for the most efficiency.

Shifts: With new contract-shift changes will be implemented: Four 10 hr shifts, three 12 hr shifts (each with five employees) and the standard five 8 hr day shifts for the remainder of employees.

Staff: Current number is thirty; target number was thirty-two so an ad has been placed to hire two new employees (road).

Equipment: Noted concern for the condition of the drum at the asphalt plant. Expensive to repair but makes sense considering the cost of a new one. In answer to question, Csokasy noted that \$75,000 had been included in the budget for those repairs.

ENGINEERING

Redfield: Remains in process of obtaining all the necessary paperwork and this has pushed the project back one month. Projected to begin mid April and be completed by the end of August with bid to be held on January 6, 2012.

Sink Road Bridge: Plan cost is down from original estimate but will not know for sure until the bid is let. The Bureau of Indian Affairs has requested a letter of funding commitment from the CCRC for its portion of the project.

DNR: Bellina reported interest from the DNR on acquiring the old Dock Property at Eagle Lake. It was recommended the DNR contact Ontwa Township. Fournier said that at a Parks' meeting it was said the





DNR would also construct a parking and picnic area.

Grant: Application has been made for an "implementation of new technology" grant for construction of bridges and roads. Limited amount of available funding, but has submitted an application for the O'Keefe St. Bridge. It will require a CCRC match of \$150,000 but otherwise 2018 for application of critical bridge funds and it is not expected the bridge would last that long considering its condition. State said we were the only county to show an interest.

Water Project: Wrapping up for winter with the basic work done.

Wilbur Hill Project: Met with school district regarding planned larger projects and due to the timing, Dowagiac Schools requested a delay in the start until after school is out which was allowed.

Calvin Township: Three year road plan has been given to them to review.

Adamsville Road: It was noted that if funds had been forfeited by Berrien County in the NATS group, CCRC would have picked them up to use on Adamsville Road. Berrien has now come up with the needed matching funds so their projects can be done so their allocated will not be available for CCRC.

OLD BUSINESS

Baldwin Boat Landing: Manager said a letter was sent to Porter Township. Fournier said at the township meeting, there was discussion on possible liability issues of concerns.

NEW BUSINESS

2012 CCRC MEETING SCHEDULE

Discussion on altering existing schedule and set meetings for one time a month. Manager Csokasy noted that SJCRC has also chosen to hold meetings once a month. If necessary, a special meeting will be called.

Bowser moved to set 2012 CCRC Board meeting dates at one time a month on the third Thursday of the month at 9:00 a.m. Poehlman seconded and the motion was carried

MDOT CONTRACT & RESOLUTION-REDFIELD ROAD

Chairman Krempec presented the following resolution.

WHEREAS...the Board of County Road Commissioners for the County of Cass, Michigan desires their Chairman, Leroy Krempec, to sign a negotiated contract with the Michigan Department of Transportation (MDOT) for the following:

MDOT Contract Number 11-5620	
Control Section	STU 14400
Job Number	114517
Project:	STP 1114(031)
Federal Item No.	HH7583
CFDA No.	20.205 (Highway Research Planning & Construction)

Hot mix asphalt cold milling and paving work along Redfield Road from Highway M-62 to Brande Creek; including shoulders, pavement marking, and traffic control work; and all together with necessary related work.

NOW THEREFORE BE IT RESOLVED...that Chairman Krempec is hereby authorized to sign the negotiated contract and Clerk Grace Chester is authorized to attest by also signing the negotiated contract.

MOTION

Poehlman moved to approve the resolution and authorize the Chairman and Clerk to sign the contract.



Township of Ontwa • County of Cass • State of Michigan

26225 U.S. 12 • P.O. Box 209 • Edwardsburg, MI 49112 • Fax: (269) 663-0072 • Phone: (269) 663-2347

Paul Yank
DNR

March 21, 2013

Paul,

Ontwa Township supports the DNR purchasing the Deck Property to be used as a boat launch and public park.

John Brielmaier
Ontwa Township
Supervisor

JULY 2013

Highlights:

Village News: Pages 2 - 5

Financial Focus: Page 6
Financial Independence

Family: Page 7

Genealogical Records
Found for Elkhart County

Travel Log: Page 8

Off the Grid People

Salt of the Earth: Page 10
Ding Dong Cake

Clear H2O Clips: Page 13

St. Clair

Entertainment: Page 14

RC Fun Park

Business: Page 15

Postile Aluminum to Expand

Fireworks: Page 15

Edwardsburg Voice

Contact Christine Parkhurst by phone:
269-445-8455 or email: evoice@triton.net
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Quarter Page

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Eighth Page

Single Issue: \$90

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Our 'Slider' Ad: \$50 per month with 3+ month commitment
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Edwardsburg Voice Classifieds

Drivers Ed: Call Mr. Aven at Express Driving School for a class schedule, (269) 663-3254. Classes held every month, year-round. Serving Edwardsburg, Cassopolis, Union, Niles, Dowagiac, White Pigeon and more. www.xpressdrivingschool.com.

CONCRETE MAN/ Jim Ralph 269-699-7057/ Justin Goins 219-380-7001/ Licensed & Insured/ Concrete Construction, Sawing & Repair.

Come on out to the Woodlawn Nature Center Harvest Market for fresh, local, produce, unique crafts, and a wonderful, nature, setting. 1-6 pm, Fridays, 604 Woodlawn Avenue, between Cassopolis and Johnson Streets (watch for the signs).

The Village News With Nancy Stoner
nlsjjs@comcast.net

Edwardsburg/Ontwa Township Police Michigan Fireworks Law Enacted

There have been many questions about the Michigan Fireworks Law and how it applies to the general public. The high points of this law are as follows:

Low-impact fireworks remain legal in Michigan, such as devices that shower sparks (sparklers, colored flame devices, cones, wheel fountains, smoke devices, ground spinners, snakes & glow worms).

The New Statute, enacted in 2012, which pertains to fireworks are listed below:

Anyone under the age of 18 cannot possess fireworks.

Fireworks cannot be discharged in the following locations without the Organization's express permission:

Public Property, School Property, Church Property or another person's property without that person's express permission.

No person of any age may use fireworks while under the influence of Alcohol or Drugs.

Fire works are allowed on the day before, the day of and the day after a National Holiday:

- New Years Day
- Martin Luther King Jr. Birthday
- Washington's Birthday
- Memorial Day
- Independence Day 4th of July
- Labor Day
- Columbus Day
- Veterans Day
- Thanks Giving Day
- Christmas Day

Ontwa Township Sewer Plant and OMA violation Contributed by Norma Lerner



A proposed Ontwa Township sewer treatment plant site was revealed by the Ontwa Township supervisor after being questioned by audience members during a township board meeting on June 10th. A motion by the board to allow a required archeological dig on the property at a cost not to exceed \$4,000 was supported. There was no discussion as to where it was located. Supervisor John Brielmaier hesitated when asked by the audience and said it's at the corner of Redfield Street and Elkhart Road but did not say which of the four corners. He said, "Somewhere near the lift station." The lift station is located on Garver Lake Road where Cobus Creek flows under Elkhart Road on the west side of the lake. Brielmaier said the rural development

bureau would not pay the cost of \$12,500 which was high bidder of two received to conduct the dig. Three more bids were expected with one of them to be \$8,000. There are other sites being considered by engineers from Wightman and Associates, Inc. of Benton Harbor which have not been revealed as well.

Brielmaier was then chastised by two board member for an apparent violation of Michigan's Open Meeting Act for a letter he recently sent on township stationery to the Michigan Department of Natural Resources without board approval saying that the board is in favor of purchasing the Dock property on Eagle Lake's east side. The property has a \$600,000 price tag which the DNR plans to purchase and develop for public boat launching and parking. The development would allow launching sites at both Eagle Lake and at Christiana, Juno and Painter lakes from Eagle Lake Road. Trustee Jerry Duck moved that the board does not purchase the property "at this time." It was unanimously carried. Duck then accused Brielmaier of sending the letter to the DNR. He said this was a second incident that he sent a letter without board approval with the other one pertaining to the development of the Edwardsburg Sports Complex. "I think that letters on board stationery should be at a board meeting and minutes taken. It did not set well." Brielmaier admitted he did not do it at a public meeting. "If you want me to let you know when I sign a letter, just fire me." Trustee Jerry Marchetti agreed saying, "You're going to each of board members asking to support it and based on their decision that the board is in favor of it is a violation of the Open Meetings Act." About 20 people attending clapped at their comments.

In other business, the board approved of firework displays at Eagle Lake July 4, Painter, Christiana and Juno lakes July 3 and at Garver Lake July 6.

Republican Women's Ice Cream Social

The Republican Women's Club is holding its annual ice cream social on Wednesday, July 17, 2013 at the Edwardsburg American Legion, 6:30 pm. Bring your family and friends and come and enjoy free ice cream along with an auction to benefit our scholarship program. This year two graduating high school seniors have been selected to receive a \$750.00 scholarship towards the college of his/her choice. Please join us for an enjoyable evening and a worthy cause.

Edwardsburg Lion's Club

The Lions Club installed new officers for the 2013-2014 year. The club enjoyed a steak picnic on Wednesday, June 19th and installed the new officers for the coming year. Lion Tanda Stiffler is the President, she is the third woman president of the club since women were allowed into Lions Clubs back in 1985. The Vice President is Lion Kerry Bathe who has served as a President before. Lion Keith Loder continues to be the club secretary and Lion Jim Devenney continues to be the club treasurer. The club has 44 members and always looking for new members to join the club to serve the Edwardsburg community. The Lions Club is well known for helping with eyeglasses, eye appointments and surgeries when there are financial difficulties. The club also builds handicap ramps for those in need. The club has also assisted with purchasing special computers

Continued on Next Page

LaPlace Flavor of the Month

Stop in to LaPlace for Latté and refresh with an Italian Soda, many flavors to choose from, including Root Beer, Watermelon, Cherry, Coconut, Blue Raspberry, Peach, Mango, and more!

The Edwardsburg Voice, July 2013

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Saturdays 9-12 by Appointment

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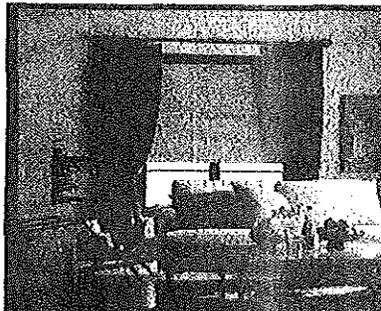
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**ONTWA TOWNSHIP REGULAR BOARD MEETING
MARCH 11, 2013**

The regular monthly meeting of the Ontwa Township Board was called to order on March 11, 2013 at 7:10 P.M. in the township hall with Supervisor John Brielmaier presiding.

PRESENT: Supervisor John Brielmaier, Clerk Paula Ralph, Treasurer Meryl Christensen, Trustee Jerry Marchetti, Trustee Nathan Brousseau, Trustee Jerry Duck and Trustee Norm Krupp.

GUEST: Tom Deneau (Wightman & Associates)-attended the meeting to make a presentation on a proposed Wastewater Treatment Plant in Ontwa Township. Supervisor Brielmaier made a motion to proceed with a Wastewater Treatment Plant Rural Development Loan through the County. Motion was supported by Trustee Krupp and motion carried.

The minutes from the February 11, 2013 Regular Ontwa Township Board Meeting were approved as submitted upon motion by Treasurer Christensen seconded by Trustee Krupp. Motion carried.

TREASURERS REPORT: The treasurers' report, including the General Fund, Building Fund, Tax Fund, and Wastewater Treatment Funds were approved upon motion by Clerk Ralph seconded by Trustee Krupp. Motion carried.

APPROVAL OF BILLS: Trustee Krupp moved to approve the General, and Wastewater bills, supported by Trustee Marchetti. Motion carried.

COMMITTEE REPORTS: Gary Foldenaur with Severn Trent submitted their monthly report. The North Shore, May Street and M-62 stations are now communicating using radio signals rather than phone lines. One pump at the North Shore Drive station was pulled and repaired; also one pump was pulled and repaired at the Gateway Station. A total of 8,718,080 gallons was pumped to the Elkhart WWT from, February 5, 2013 to March 5, 2013. All sampling requirements were completed on February 26, 2013.

The Building Inspectors' report consisted of 5 permits issued this month, total estimated valuation \$358,000.00.

UNFINISHED BUSINESS: None

NEW BUSINESS: Township Resolutions:

RESOLUTIONS

Upon motion of Trustee Duck, supported by Trustee Marchetti:

RESOLVED, THAT the Township Board of Ontwa, County of Cass, Michigan does hereby establish that there shall be one regular board meeting each month as follows:

- a) All regular meetings shall be held on the second (2nd) Monday of each month and shall commence promptly at 7:00 P.M.
- b) All regular meetings shall be held in the Ontwa Township hall located at 26225 US Highway 12, Edwardsburg, MI 49112.
- c) Dates of said meetings shall be:
April 8th, May 13th, June 10th, July 8th, August 12th, September 9th, October 14th,
November 11th, & December 9th 2013 and January 13th, February 10th, and March 10th 2014.

Motion by Supervisor Brielmaier and supported by Treasurer Christensen:

RESOLVED, THAT the Edwardsburg Argus shall remain as the official newspaper for all legal and official business for the Township of Ontwa fiscal year 2013/14.

Moved by Clerk Ralph and supported by Trustee Krupp:

RESOLVED, THAT Schaefer & Layher, PLC shall be hired as the auditors for the Township of Ontwa financial records for the fiscal year 2013/14.

Motion by Treasurer Christensen and supported by Clerk Ralph:

RESOLVED, THAT Chemical Bank shall be the official depositories for all township funds for the fiscal year 2013/14.

Moved by Trustee Krupp and supported by Trustee Duck:

RESOLVE, THAT Williams & Works and Wightman & Associates shall remain as the Professional Engineers for the Township of Ontwa fiscal year 2013/14.

Moved by Clerk Ralph and supported by Trustee Marchetti:

RESOLVED, THAT Bauckham, Sparks, Lohrstorfer, Thall and Seeber be retained as the Legal Firm for all township legal matters for the fiscal year 2013/14.

All above motions were approved by a roll call vote as follows: Trustee Marchetti-yes, Trustee Brousseau-yes, Trustee Krupp-yes, Trustee Duck-yes, Treasurer Christensen-yes, Clerk Ralph and Supervisor Brielmaier-yes. Motion carried, Resolutions declared adopted.

2013/14 Budget- Supervisor Brielmaier made a motion to approve the proposed 2013/14 Budget for the General Fund with an Income & Expenses of \$1,214,000.00, Police Millage \$447,881.93, Fire Millage \$223,940.95 and Ambulance Millage \$223,940.95, and the Budget for the Wastewater Fund with an Income of 3,057,400.00 and Expenses of \$2,046,300.00. The motion was supported by Clerk Ralph and carried.

Supervisor Brielmaier suggested we move our Budget Work Sessions to January in 2014 to avoid conflict in Salary Resolutions and adopting the Budget.

Trustee Krupp made a motion for the Township to purchase two CD's that the ambulance currently holds. Motion was supported by Trustee Duck and carried.

ANNOUNCEMENTS:

- a. Office Closed Friday, March 29th Good Friday.

Meeting adjourned at 8:20.

Next regular board meeting will be held on Monday April 8, 2013 at 7:00 p.m.

Respectfully submitted,

Paula S. Ralph
Ontwa Township Clerk



Clifford H. Bloom
Direct Dial (616) 965-9342
Direct Fax (616) 965-9352
cbloom@bsmlawpc.com

July 8, 2013

Mr. Ronald A. Olson
Chief of the Parks and Recreation Division
Michigan Department of Natural Resources
530 West Allegan Street
P. O. Box 30028
Lansing, Michigan 48909-7528

**Re: Proposed DNR Purchase of Property at Eagle Lake for a Boating Access Site,
Ontwa Township, Cass County, Michigan**

Dear Mr. Olson:

We are legal counsel for the Eagle Lake Improvement Association (the "Association"), which represents the overwhelming majority of riparian/lakefront property owners on Eagle Lake in Ontwa Township, Cass County, Michigan. This letter pertains to the purchase option (or the equivalent) which the Michigan Department of Natural Resources (the "DNR") either has or will be obtaining with regard to the property located at the east end of Eagle Lake that has often been referred to as "The Dock" property (the "Property").

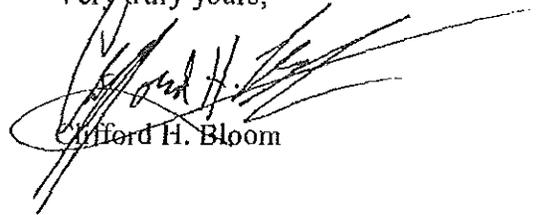
Apparently, prior to closing on a purchase of real property, the DNR and/or the Michigan Natural Resources Trust Fund Board has a policy of obtaining a 40-year title search for the property involved. However, with regard to the Property at issue in this matter, almost certainly a 40-year title search will not be sufficient nor go back far enough in time to disclose all of the potential issues with the Property. The Association believes that there are title uncertainties, some of which arose more than 40 years ago. Also, there have been a number of questions over the years regarding how much unencumbered frontage on Eagle Lake is associated with the Property, as well as what portion of the Property is subject to the public road right-of-way for Eagle Lake Road (including the waterfront). There are apparently also Michigan Supreme Court and Cass County Circuit decisions dating back to the 1950's which could impact the Property.

The most recent litigation between the prior owner of the Property and the Cass County Road Commission of a few years ago (that was apparently never fully resolved) raised additional ownership issues. The Association believes that the land survey copy (now in the hands of the DNR) that was prepared at the request of the prior owner was never verified because his litigation effort with the Cass County Road Commission was apparently never pursued to a final decision or settlement.

Michigan Department of Natural Resources
July 8, 2013
Page 2

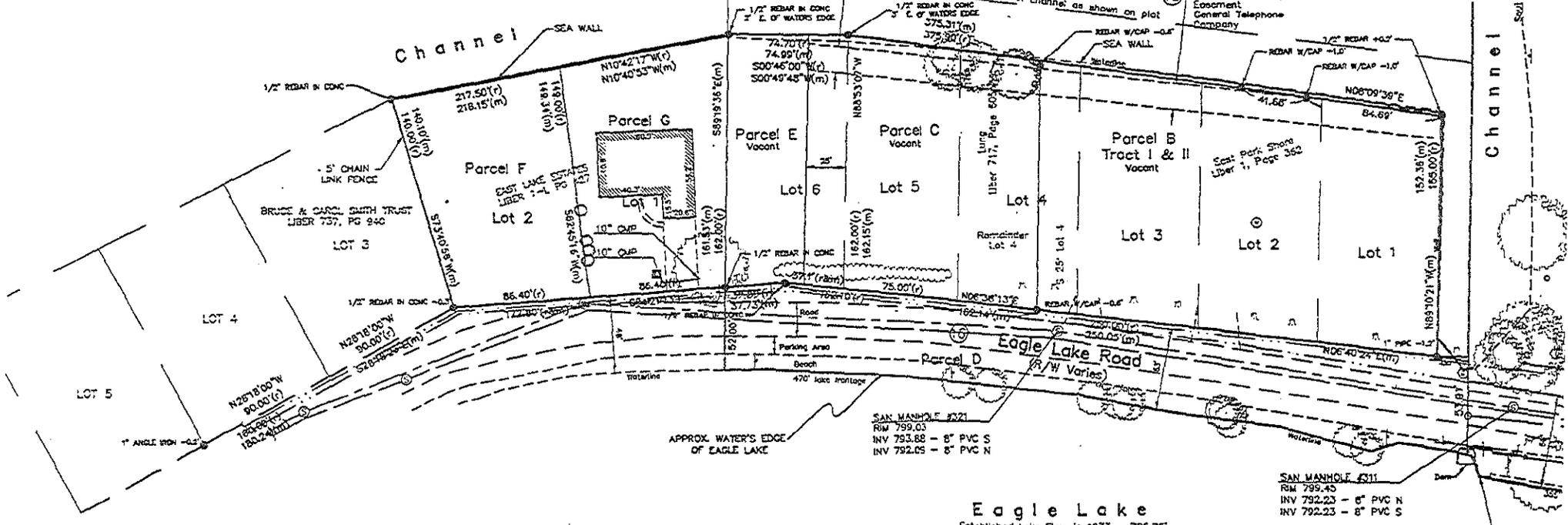
It would be irresponsible for the DNR to close on any purchase of the Property prior to a much earlier title search being done and all of these title issues being resolved. Unfortunately, to date, the DNR certainly has rushed this process and has not even begun to perform proper due diligence regarding the potential purchase of the Property.

Very truly yours,



Clifford H. Bloom

cc: Eagle Lake Improvement Association
Michigan State Waterways Commission (Attn: D. Munson, Assistant)
Michigan Natural Resources Trust Fund Board of Trustees/Grants Management



based were made in accordance
 e Surveys", jointly established and
 8, 9, 10 and 11a of table A
 1 NPS and in effect on the date
 of opinion, as a land surveyor
 if this survey does not exceed

3/07

Notes Corresponding to Schedule B, Section II
Commitment No.: 510604531, dated January 8, 2007

- ⑬ Unrecorded Easement and associated rights as set out in a decree dated December 13, 1956 and January 31, 1957 and filed with the Cass County Clerk. (Affects Parcel D, adjacent to Parcels A, B, C, E, F & G).
- ⑭ Unrecorded Easement and associated rights as set out in a decree dated December 4, 1956 and filed with the Cass County Clerk. (Affects Parcel A).
- ⑮ Easement and associated rights granted to General Telephone Company of Michigan by Clifford P. Martin and Ernie S. Martin, Husband and Wife in an instrument dated September 30, 1966 and recorded October 6, 1966 in Liber 308, page 802 in the Office of the Recorder of Cass County, Michigan. (Affects Parcels B & C).
- ⑯ Easement and associated rights granted to General Telephone Company of Michigan by Henry A. Murnow in an instrument dated September 30, 1966 and recorded October 6, 1966 in Liber 309, page 803 in the Office of the Recorder of Cass County, Michigan. (Affects Parcel C).

Acresage Summary

Parcel	Acres
A	0.62
B	0.89
C	0.55
D	0.58
E	0.18
F	0.32
G	0.33
Total	12.49

BM Elev 799.73
 PK not in top of 1'9 retaining wall post.

APPROX. WATER

STATE OF MICHIGAN
THE CIRCUIT COURT FOR THE COUNTY OF CASS
IN CHANCERY

HARRY R. RATHFON and
MARJORIE F. RATHFON,
Plaintiffs

vs

BOARD OF COUNTY ROAD
COMMISSIONERS, CASS
COUNTY, MICHIGAN,

Defendant

#7127

- MEMORANDUM -

The plaintiffs claim to own land in Ontwa Township abutting Eagle Lake, which they allege is subject to a public easement and right-of-way, which right-of-way, they claim, is ten feet wide on each side of a line which is described in the Bill of Complaint.

The plaintiffs claim that the defendants, since about May 1, 1954, have entered upon the plaintiffs premises and placed thereon a black-top roadway, and that defendants have made a claim of a right-of-way over and across the premises of plaintiffs extending thirty-three feet on each side of a center line, and that defendants claim the right of possession outside of the actual traveled portion of the roadway, and plaintiffs say that such claim is without authority or permission and contrary to their interests. The plaintiffs allege that the defendants conduct in assuming to improve the highway has been in the nature of a trespass, and the plaintiffs, by their Bill, claim to own the land and have the right of possession to the shores of Eagle Lake except for the twenty foot easement which, as plaintiffs claim, has been used as a highway. The plaintiffs ask for an injunction to restrain defendants from using any

EXHIBIT

"B"

more of their lands than the twenty foot roadway, and they ask the court to quiet the title in plaintiffs to their lands, subject only to the public rights in the highway as they allege it to be.

The defendant Board denies generally the allegations of the Complaint and the conclusions therein set forth, and by way of affirmative defense says that plaintiffs lands have always been subject to a sixty-six foot easement for highway and that plaintiffs should be estopped from asserting any claim against such facts. Defendant denies that plaintiffs are entitled to any relief, and pray for the dismissal of plaintiffs suit.

Since 1950 the plaintiffs have had a building on the ~~east~~ side of the road and have maintained a boat livery, and to provide better facilities for the customers, for parking and otherwise, the plaintiff hauled in a considerable amount of fill dirt, which he placed over some marshy land east of the road, but the plaintiffs claim to have full ownership and possession of that portion of the land between the roadway and the shore of the lake, and have assumed to prevent people from parking their cars on the west side of the road.

A witness for plaintiff testified that he hauled in this fill dirt; that the swamp began "at the edge of the road - there was ~~no~~ berm". It was his opinion that the roadway, as used then, was fifteen to eighteen feet wide. Another witness for plaintiff, who had lived at Eagle Lake many years, testified that before 1940 the road was fifteen to eighteen feet in width, and some places too narrow for vehicles to pass. He recalled of the County putting in logs and stones on the west side, and he testified to seeing boats launched and people using the beach for swimming and other like purposes. Other witnesses for the plaintiff testified to the use of the shore line for travel purposes and fly-fishing. Some of the witnesses declared that the shore of the Lake is now nearer to

road than it used to be. This, of course, is because of the rise and fall of all inland lakes, which changes the location of the shoreline.

George Smith, the Superintendent of the defendant Commission, was called as a witness for the plaintiff. He had been with the Commission twenty-two years, and was thoroughly familiar with the highway, its use and its maintenance. He had operated scrapers, graders and snow plows over this road frequently; had seen high waves wash up over the road, and the Commission had hauled in stones and planted willows, and constantly kept hauling in fill dirt and gravel to combat the erosion. He said that the distance from the traveled portion of the road to the shore would average eight to ten feet, but in some places the distance would be only two feet. He said that the snow plows would throw snow from twenty to twenty-five feet out from the edge of the blade.

It is conceded by all that a public highway has existed along the easterly shores of Eagle Lake, and at one time, at least more than thirty years ago, it was a part of the main traveled highway between Cassopolis and Elkhart, Indiana. Early residents of this area have testified of the existence of the road and of the work done on it by the Township of Ontwa many years before it was taken into the County Road System. In its early days it was a sandy corduroy road. The highway authorities have continuously had a problem to protect the road from the action of the waves and water and erosion, and were required constantly to haul in logs, stones and gravel. One witness stated that he had worked on the road many years ago, and it was a continuous job to keep the road from sinking. In 1933 the County piled dirt along the sides of the traveled portion, which was then some fifteen or eighteen feet in width.

Until July, 1954 it was a sand or gravel road. Since that time the defendant has put a hard surface on the road and widened the traveled portion so that now it is about forty-one feet in width. The road has been gradually widened by the municipal authorities having it in charge, by hauling on gravel and maintaining and repairing it, and in the hard surfacing of the road the road surface was raised some two feet over what it was originally.

The strip of land between the road and the water has been used for a variety of purposes, including the launching of boats, swimming, shore fishing, parking and washing of automobiles, and this use has been constant and over nearly all of the land in dispute.

Neither party produced any evidence concerning a legal laying out of the highway, or a dedication by a land owner of a strip of land for highway purposes. Nor is there any record of formal acceptance by the public authorities.

There is, however, another mode of creating a highway, and that is by user. To constitute a highway by user there must be a defined line, and it must be used and worked upon by the public authorities and traveled and used for ten consecutive years without interruption. It must be such a road that the public have exclusive possession of, as against the owner of the soil or any other person - it must be an exclusive right. If it is a public highway the public authorities have the exclusive use and control of it; if it is not, they have not.

Alton vs Meeuwenberg - 108 Mich., 629.

We have here, then, a highway established by user, and the primary question now is to what extent in width has there been a public user.

"We do not think it necessary to discuss or state the evidence in detail. We are all satisfied that a road - a public highway - as found by the Circuit Judge has long been established by user. It is not necessary that a highway established by user should be of the statutory width of four rods. A highway by user becomes such to the width and extent used."

Savings Bank vs Stockwell - 84 Mich., 586.

Trowbridge vs State Highway Commissioner - 296 Mich., 587.

By argument, plaintiffs seek to minimize, if not to overlook, the use of land on both sides of the main traveled portion as an adjunct of the highway. The question here is not "How wide is the hard surface of this Road", but rather to what extent on both sides thereof have the public made use of an area of land for uses incidental to and usually connected with public ways.

Justice Cooley, in an early case, recognized the growing needs of the public in highways. His language is pertinent today.

"A highway is a public way for the use of public in general, for passage and traffic, without distinction. (Starr v. Railroad Co., 4 Zab. (N.J.) 597.) The restrictions upon its use are only such as are calculated to secure to the general public the largest practicable benefit from the enjoyment of the easement, and the inconvenience must be submitted to when there are only such as are incident to a reasonable use under impartial regulations. When the highway is not restricted in its dedication to some particular mode of use, it is open to all suitable methods; and it cannot be assumed that these will be the same from age to age, or that new means of making the way useful must be excluded merely because their introduction may tend to the inconvenience or even to the injury of those who continue to use the road after the same manner as formerly. A highway established for the general benefit of passage and traffic must admit of new methods of use whenever it is found that the general benefit requires them; and if the law should preclude the adaptation of the use to the new methods, it would defeat, in greater or less degree, the purpose for which highways are established."

Hacomber vs Nichols - 34 Mich., 212

Grand Rapids, Etc., R. Co. vs Stevens - 219 Mich., 392

The testimony is clearly persuasive that the public has used all of the land between the main traveled portion of the highway and the lake, and it is also clear that the public authorities

need that area for the purpose of building and maintaining protection for the highway against the action of the Lake. I find that the public has increased its use of the width of this road gradually over a period of years, and that such use extends to a point six feet to the east of the edge of the black-top hard surface as it now exists.

It is my conclusion that the public has acquired by user this established highway, and that the easement acquired by the public in width is represented by the land which lies from a point six feet east of the hard top surface to the waters of Eagle Lake, as it applies to the property of the plaintiffs described in the Bill of Complaint.

The defendant is not guilty of trespass and therefore has committed no damage, and plaintiffs prayer for injunction is denied. A decree may be prepared in accordance with this Memorandum. No costs to be taxed.



Circuit Judge

ROBERT A. PFAFF
23303 Lakeview Drive
Edwardsburg, MI 49112

Gentlemen:

I write to you as a member of the public, a long time owner of property and resident of Eagle Lake, Ontwa Township Cass County.

First of all let me say I am not personally opposed to the concept of the DNR's purchase of the "Dock" and public use of the property at the east end of the lake.

However, I have several concerns about the proposed single use by the DNR in relation to the highest and best public use of the property and the costs of the purchase, development, operation and maintenance. Those concerns are based on:

1. The historical and present multiple uses of the entire east end to the waters and shoreline, including the Dock;
2. The actual cost of purchase and minimal proposed development of the site; and
3. The lack of plans for and costs of operation and maintenance of the site for the highest and best public uses.

For example, on July 4 at 5:10 p.m. there were several people using the east end shoreline and waters for various purposes including wading, swimming, sunbathing, picnicking, shore and shallow water fishing, none of which involved boats or boating access facilities.

There were 59 vehicles parked in the public road right of way, only 3 of which were tow vehicles with trailers attached. The current proposal is for the purpose of boating access only. The DNR proposes parking for 35 vehicles with trailers and 10 without.

The paved parking area between the traveled portion of the road and the waters of the lake will remain available and more accessible to the lake for the use of the public. The entire east end has been and currently is heavily used for multiple recreational purposes for at least 70 years to my knowledge and personal observation.

The purchase price of \$600,000 is only the beginning of development costs, demolition and off-site removal of existing buildings and debris from the site and existing pond, filling the site above the flood plain and high watermark, complying with local zoning and road ordinances, constructing DNR proposed improvements, roadways and parking lots, launch ramps and pier, creating natural areas from existing manicured portions of the site, dredging of the lake and possibly necessary dredging of the access channel to the P.J.C. Lakes (per DEQ letter), and the continuing operating and maintenance expenses of operation of the facility.

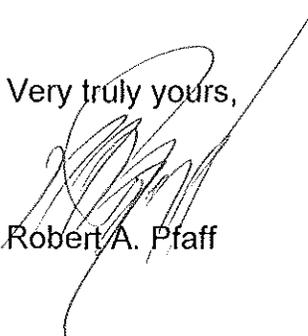
Based upon information provided by the DNR to date, none of these have been estimated or established or considered. One size does not fit all!

Don't use Pelosi theory of government and purchase the property before knowing the facts.

Please follow the five P's, "Prior Planning Prevents Poor Performance". Before the purchases these several concerns need to be addressed and answered to yours and our satisfaction.

Thank you for reading this letter and, in advance, for acting in the best public interest.

Very truly yours,



Robert A. Pfaff

Members of the Commission:

My name is John A. Harsh and I live at 23412 South Shore Drive, Edwardsburg, MI. 49112. I have lived at this property, which is located on Eagle Lake, for 48 years.

The Michigan DNR has come before you in emergency session to ask for approval to purchase property (currently known as "The Dock") on Eagle Lake for the purpose of building a boat launch facility. While the purchase price of the property is \$600,000 there are a number of factors which have not been publicly discussed that could increase the total project cost by a factor of two or three and possibly even more.

- 1) The "Dock" property was a marsh until it was filled as part of a get-rich-quick scheme in the 1950's. The "filling" of the marsh apparently consisted of piling a thin veneer of dirt on top of the underlying muck. Much of it, particularly the North and East quadrants, is only inches above water level under normal conditions and has been submerged on several occasions. The high water table implies inability of the soil to support the weight of a car, or a car and large boat. Neither we nor the DNR have determined if parking on this property is feasible at present. Increasing the bearing strength of the soil to suitable levels could become a very expensive project.
- 2) The proposed launch site is located at the shallowest point of a very shallow lake. Twenty-five feet offshore the water depth is only 17 inches - not enough depth to operate many boats and certainly not enough depth to launch most boats. The DNR's objective is to provide the capability to launch a 26 foot boat. A boat of this size draws almost 3 ft. of water. To meet their objective the DNR will have to dredge and maintain a channel 50 to 100 feet out into the lake.
- 3) To get access to enough lake acreage to justify this program the DNR has promised access to both Eagle Lake and the Christiana Lake chain via a very shallow channel that runs along the northern edge of the "Dock" property. To obtain the promised access to Christiana Lake the DNR will have to dredge a channel about a quarter mile long through a marsh. The DNR does not have permission to dredge and it is unlikely that this permission will be granted. The result is that proposed launch facility can only access the 379 acres of Eagle Lake.
- 4) The latest plan calls for both a wash station for boats and toilet facilities. This is commendable, but no mention is made of how the DNR is going to insure that boaters actually use the wash station or where they plan to discharge the sewage since the sewer that passes in front of the property is a force main. The nearest available discharge point is apparently several hundred feet to the north, resulting in additional costs.
- 5) In the 1960's the owner of the Dock property sold gasoline to boaters from a pump located on shore. The pump is gone, but no one knows what happened to the tank. If it still exists it needs to be located and remediated. Although the DNR was advised of this last March they have not discussed what they plan to do or estimate the additional cost.
- 6) There are quality of life issues regarding the proposed facility which have not been addressed to our satisfaction, including, but not limited to: the effect of adding as many as 40 boats to a small lake which can safely accommodate only 20 to 30 powered craft at once, the safety problems associated with cars pulling boat trailers having to cross a major county road near a curve to get to or from the launch ramp or the problems of controlling crime at this remote site.

When the costs of demolition of existing structures, construction of the new facilities, increasing the bearing strength of the soil if required, remediating and all the other tasks inherent in this project are added in there is serious money involved and I am sure that you will agree that your most sensible course of action is to delay your decision pending a comprehensive feasibility study and accurate cost data.



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF ENVIRONMENTAL QUALITY
KALAMAZOO DISTRICT OFFICE



DAN WYANT
DIRECTOR

March 26, 2013

Mr. Joe Strach
Michigan Department of Natural Resources
Parks and Recreation Division, Rose Lake District
8562 East Stoll Road
East Lansing, MI 48823

Dear Mr. Strach:

SUBJECT: Pre-application Meeting
Michigan Department of Environmental Quality (MDEQ)
File Number 13-14-0003-P

This letter is to follow-up our March 19, 2013, pre-application meeting regarding the proposed project in Ontwa Township, Cass County. The purpose of a pre-application meeting is to provide you with information about the permit process, answer questions about your specific project, and to determine, if possible, the need for wetland or inland lakes and streams permits.

During this meeting we reviewed the need to obtain a permit under Part 301, Inland Lakes and Streams (Part 301), and Part 303, Wetlands Protection (Part 303), of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA). The review was based on discussion of the proposed project and the proposed site.

During the review of the project site, the MDEQ's Water Resources Division (WRD) staff determined that a permit would be required pursuant to Part 301 of the NREPA. It appears that a minimal amount of lake bottomland may be required to provide for the proposed ingress/egress to the boat ramp on the east side of Eagle Lake, in addition to the fill proposed for the two boat ramps. The site inspection and review of available reference materials indicated that a permit would not be required pursuant to Part 303 of the NREPA.

This determination is based on the attached project plan prepared by Michigan Department of Natural Resources, Parks and Recreation Division staff, and dated January 26, 2012, along with other information provided at the time of this meeting only. Provided that the proposed project and location are not altered, this determination is binding on the MDEQ for a period of two years from the date of the meeting.

During the review of the proposed project, WRD staff noted activities that, as currently designed, may require authorization under the Floodplain Regulatory Authority found in Part 31, Water Resources Protection, of the NREPA. A permit would also be required pursuant to Part 91, Soil Erosion and Sedimentation Control of the NREPA, from the Cass County Drain Commissioner's office.

We also discussed a number of issues related to the project, including the following:

- Information provided by long-time residents indicates there is the possibility that a petroleum storage tank that was formerly located at, or near the lakeshore, may have been disposed onshore in the vicinity of the existing boat ramp. In an e-mail dated March 20, 2013, WRD staff indicated that after conferring with other MDEQ staff, they recommend that a Phase I Baseline Environmental Assessment be performed in the onshore vicinity of the boat launch to determine if, in fact, the tank had been disposed there, and the possibility of residual contaminants remaining in the soil at the location.
- We also discussed the possibility of dredging the man-made channel eastward toward Christiana Lake to improve navigability. Since that channel is bounded on both sides by private property, authorization from the current property owner would be required. Dredging this channel may also be cost-prohibitive.
- The potential for the presence of State and/or Federally-listed threatened and/or endangered species at the property. The WRD's database indicates the potential presence of: the Spotted turtle (*Clemmys guttata*), Kirtland's snake (*Clonophis kirtlandii*), and Umbrella-grass (*Fuirena pumila*), (though the presence of this plant species is unlikely as the area has been historically mowed).

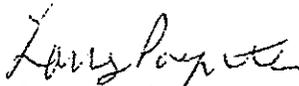
This proposed project does not appear to fit the Part 301 Minor Project category (#4- Boat Ramp), and as such, it would default to the Individual Permit category, and would require a Public Notice.

Please note that this is not a permit. The WRD cannot indicate during a pre-application meeting whether or not a permit will be issued. The WRD cannot make a decision regarding a permit until it has considered all of the information provided in a permit application, and, in some instances, has also considered comments received in response to a public notice of the project.

The MDEQ file number assigned to this project is 13-14-0003-P. Please keep a record of this file number, and use it when submitting a permit application or otherwise corresponding with our office on this project.

We appreciate the opportunity to meet with you. The information submitted to date will be used to facilitate processing of the permit application. If you should have questions, please contact me at: 269-567-3566; via e-mail at: poynterL@michigan.gov ; or, MDEQ, WRD, Kalamazoo District Office, 7953 Adobe Road, Kalamazoo MI, 49009-5025.

Sincerely,



Larry Poynter
Senior Environmental Quality Analyst
Water Resources Division

Attachment

cc