



Before The
State Of Wisconsin
DIVISION OF HEARINGS AND APPEALS

In the Matter of the Application of the Racine
County Drainage District to Modify the Order
Setting Water Levels or Flows on Wind Lake,
Town of Norway, Racine County

Case No. IP-SE-2006-52-0684

FINDINGS OF FACT, CONCLUSIONS OF LAW, PERMIT AND ORDER

The Racine County Drainage District, 500 College Avenue, Racine, Wisconsin, 53430, filed an application with the Department of Natural Resources (Department) on October 20, 2006, to modify the order setting water levels or flows on Wind Lake. The proposed project is located in the NW $\frac{1}{4}$ of Section 16, Township 4 North, Range 20 East, Town of Norway, Racine County. The applicant originally proposed to re-instate the 1-2 foot winter drawdown that occurred on Wind Lake from 1977 until 2002 for the purposes of flood control.

The Department issued Notice of Complete Application, Notice of Public Information Hearing and Notice of Public Comment Period for Environmental Assessment. The Department completed an Environmental Assessment and held a public information hearing. On October 22, 2008, the Department issued Findings of Fact and Order which denied the permit application.

On November 21, 2008, the Department received a request for contested case hearing from Attorney John W. Knuteson, on behalf of the Racine County Board of Drainage Commissioners. By letter dated December 8, 2008, the Department granted a contested case hearing pursuant to Wis. Stat. § 227.42.

On January 22, 2009, the Division of Hearings and Appeals received the Request for Hearing from the Department of Natural Resources. A telephone prehearing conference was held on February 13, 2009. The parties agreed to a briefing schedule on a Motion for Summary Judgment by the Drainage District. The last brief was received on April 20, 2009. On May 6, 2009, the Division issued a Ruling Denying the Motion for Summary Judgment. A hearing was set for August 31, 2009. The parties requested an adjournment to pursue a stipulated settlement.

A telephone prehearing conference was held on September 30, 2009. The parties indicated that they were close to a Stipulated Settlement. On October 16, 2009, the parties completed the Stipulated Settlement. All parties except Mr. Humpfrey agreed to the Stipulation. Accordingly, pursuant to NR 2.13 (2)(d) and the September 30, 2009 prehearing Order, the

burden of proof shifted to Mr. Humpfrey to establish why the proposed Order did not meet the legal standards described below in the Conclusions of Law.

Pursuant to due notice and the agreement of the parties, hearing in this matter was held on October 23, 2009. Testimony was taken from Humpfrey, as well as Drainage District and DNR witnesses by telephone by the agreement of the parties.

In accordance with Wis. Stat. §§ 227.47 and 227.53(1)(c), the PARTIES to this proceeding are certified as follows:

Department of Natural Resources, by

Attorney Megan Correll
DNR
P. O. Box 7921
Madison, WI 53707-7921

Racine County Drainage District, by

Attorney Paul G. Kent
Anderson and Kent, S.C.
1 North Pinckney Street, Suite 200
Madison, WI 53703-2868

Attorney John Knuteson
Knuteson, Powers & Quinn, S.C.
500 College Avenue
Racine, WI 53403-1058

Wind Lake Management District, by

Attorney Peter J. Ludwig
116 North Dodge Street, Suite 1
P. O. Box 190
Burlington, WI 53105

Bob Humpfrey
7157 West Wind Lake Road
Wind Lake, WI 53185

ADOPTED FINDINGS OF FACT

1. The Racine County Drainage District (the District), 500 College Ave, Racine, Wisconsin, 53430, filed an application with the Department on 10/10/2006, under section 31.02(1), Wisconsin Statutes, to modify the order setting water levels or flows on Wind Lake,

located in the in the NW ¼ of Section 16, Township 4 North, Range 20 East, Town of Norway, Racine County.

2. Wind Lake is navigable in fact at the project site and drains into the Wind Lake Canal which is a historically navigable waterbody located within the Norway-Dover Drainage District.

3. The project will be consistent with the public interest in the navigable waters, for the following reasons:

Wind Lake had a winter drawdown of 2 feet from 1977 until 2000 and 1 foot from 2000 until 2002. Beginning in 1999, the Lake District applied to eliminate the drawdown due to inadequate navigational depths, shoreline erosion, and adverse impacts to fish and hibernating herptiles.

Since the denial of the initial operational order and subsequent appeal of the decision, the applicant the Wind Lake Management District and the Department have been negotiating an operational order which is sufficient for all parties in protecting the public interests and rights in Wind Lake and Wind Lake Canal.

4. Wind Lake and the Wind Lake Canal are navigable in fact at the location of the dam.

5. The levels prescribed in the order will protect the public interests in fish and game habitat and for recreational uses. The order will result in the gradual lowering and raising of the water levels

6. The water is a warm water fishery. The proposed water level will not result in significant adverse effects on this resource upon compliance with the conditions in the order.

7. The waterway is not listed as a trout stream in Department of Natural Resources Publication 6-3600(80).

8. The proposed project will result in impacts to the shoreland-wetlands along Wind Lake. Although the impacts are not anticipated to be substantial, the changes in water levels may result in changes to the wetlands' hydrology and subsequent changes in the wetland boundaries. One of the goals in eliminating the winter drawdown was to eliminate the perceived impacts of the winter drawdown on aquatic species and herptiles, which rely on the wetlands to complete their life cycle. Since 2002 the science and knowledge of these species' life cycle have advanced. As such the Department's Wildlife Biologists and Fisheries Biologists have re-evaluated the impacts of a winter drawdown on the Wind Lake's species, and have determined that operation of the dam, in compliance with this order, should not result in significant adverse impacts to the aquatic species or herptiles inhabiting this ecosystem.

9. The project will conform to the standards in Chapters 31.02, Wisconsin Statutes.

10. The proposed project will not adversely affect water quality and will not increase water pollution in Wind Lake or cause environmental pollution as defined in Subsection 283.01, Wisconsin Statutes.

11. The Department has evaluated the proposed project in light of the Wisconsin Environmental Policy Act (Section 1.11, Wisconsin Statutes) and has determined that the grant or denial of the permit would not be a major state action significantly affecting the quality of the human environment. The Department completed an Environmental Assessment and held a public hearing for the initial proposal on September 10, 2008.

ADDITIONAL FINDINGS

12. Mr. Humpfrey expressed numerous concerns related to erosion impacts from drawdown flow velocity, drainage canal integrity, colonization by invasive plant species including Eurasian water milfoil (EWM), weakening of ice in winter and potential impacts on endangered or threatened species including Blanding's turtle. All of Humpfrey's concerns were specifically addressed by expert witnesses presented by the Department and the Drainage District.

13. Racine County Drainage District Commissioner Alan Jasperson testified that the District is concerned about flood damage to agricultural properties since the winter drawdown was rescinded in 2002. The winter drawdown is effective, according to Jasperson, because runoff in agricultural areas is more likely to cause flooding when the ground is frozen. The District would prefer a drawdown of greater than six inches, but has agreed to the Stipulation as compromise. (The compromise agreement also involves placement of some gauges and allowing the District to undertake joint operation of the dam with the Wind lake Management District.)

The canal handled both the one foot and two foot drawdowns of previous years without any significant erosion problems. Jasperson testified District engineers had calculated the flow capacity of the canal at 173 cubic feet per second, or approximately 108 million gallons per day. (Id.) This is more than ten times greater than the expected flows cited by Humpfrey in his objection. Further, the District has recently cleaned out debris and accumulated sediment and trimmed trees to prevent further accumulation of debris in the drainage canal. Neither dam safety engineer Sturtevant, nor Commissioner Jasperson had any concerns about the integrity of the drainage canal as a result of the six-inch winter drawdown.

Further, the District stated that it would not object to an additional permit condition which required the *submission* of district specifications to DATCP under Wis. Stat. § 48.20, prior to the 2010 drawdown. Further, they have agreed to provide a copy to the area DNR Water Management Specialist for her review prior to the drawdown. Obviously, neither the drainage district nor the DNR have any ability to impact the timing of whether and when such plans are approved by that agency. This condition is responsive to Mr. Humpfrey's concerns about the integrity of the drainage canals, even though he did *not* establish that the proposed order in any way posed a threat to such canals.

14. DNR Dam Safety Engineer William Sturtevant provided expert testimony that reinforced many of Jasperson's conclusions and which addressed several of Mr. Humpfrey's concerns. Sturtevant testified that the dam could safely handle the drawdown without causing detrimental changes as a result of flow velocity downstream. Further, the existing dam-controlled water level is three to four feet higher than natural lake conditions on Wind Lake.

Sturtevant also opined that driving on the ice on Wind Lake is always an inherently dangerous activity given expected ice depths of 12 to 18 inches. The drawdown is unlikely to significantly impact ice depths, but the increased flows in winter months could lead to some ice patches being less stable. (Sturtevant) **Sturtevant urged the County or other enforcing governmental units to ban driving on the ice on Wind Lake, whether or not the drawdown is approved.** The Division does not have any authority in this regard but agrees that Sturtevant made a compelling safety case for such a ban.

15. Marty Johnson, DNR Wildlife Biologist, testified that he had strong concerns about detrimental impacts to frogs, turtles and other hibernating herpetiles if the drawdown was undertaken this year, given the lateness in the season. Both frogs (including bull and leopard frogs) and turtles (including the threatened Blandings turtle) hibernate in the lake and would become exposed by a drawdown and risk death if the drawdown is undertaken after they have gotten into their hibernation preparation mode. Hibernation is a process that takes place over a period of several days. Johnson testified that the proposed October 1st in the stipulation would be protective of herpetiles under most ordinary seasonal conditions. Further, the earlier two-foot drawdowns, which led to a die-off of herpetiles, were done rapidly and in late December while the proposed drawdowns under the stipulation will take place slowly (for up to 15 days) and before October 1st. The water temperature at the last reading in late October was 48 degrees Fahrenheit. (Johnson) However, Mr. Johnson strongly opposed allowing the drawdown to occur in the 2009 season given the late date and the likelihood that many frogs and turtles are already well into the hibernation process. His expert testimony on this point was not rebutted by a witness for any other party.

16. DNR Area Water Management Specialist Heidi Kennedy testified that the six inch drawdown would not have a detrimental impact upon the public waters of Wind Lake or its biological resources. The drawdown will not detrimentally impact the propagation of invasive plant species on Wind Lake. Kennedy testified that she consulted with Craig Helker, a DNR expert on aquatic plants on Wind Lake and in the southeast area of the state. One benefit of the winter drawdown would be a likely die-off of EWM plants fully exposed to frozen conditions and not protected by the ice cover. (Kennedy; Ex. 7-a) While most native aquatic plant species are hardy enough to survive winter exposure, many invasive plants are not and perish from winter exposure. (Id.)

DISCUSSION

As a self-described non-expert "concerned citizen," Mr. Humpfrey expressed numerous concerns about the proposed drawdown compromise. The original petition was for a one foot to two foot winter drawdown, and the compromise Stipulation (attached as Ex. 2) agreed to by all

parties except Humpfrey is for a six inch winter drawdown. Humpfrey listed his concerns in his October 16, 2009, written objection and his testimony. In general, his concerns related to erosion impacts from drawdown flow velocity, drainage canal integrity, colonization by invasive plant species including Eurasian water milfoil (EWM), and potential impacts on endangered or threatened species including Blanding's turtle. All of Humpfrey's concerns were specifically addressed by expert witnesses presented by the Department and the Drainage District.

There are two minor changes to the Stipulation in light of the testimony at hearing. First, the Order is clarified to make it clear that the drawdown will begin in October, 2010. This is a reasonable and necessary amendment in light of the testimony of Mr. Johnson relating to potential detrimental and even catastrophic impacts upon herpetiles if they were to become exposed after having already commenced the hibernation process. Second, although there was no showing on this record that there was any problem with the ability of the drainage canal to handle expected drawdown flow, the District has agreed to *submit* its district specifications to DATCP (with a copy to DNR) under sec.48.20, Stats., prior to the 2010 drawdown. Obviously, neither the District nor the ALJ have any control as to whether or not DACTP approves the same.

CONCLUSIONS OF LAW

1. The Department has authority under Wis. Stat. § 31.02(1) and the foregoing Findings of Fact, to issue an order approving the permit requested. The Division of Hearings and Appeals has authority to review such orders pursuant to §227.43(1)(b), Stats. The conditions in the Order set forth below are reasonable and necessary to protect the public interest in navigable waters.

2. The Department has complied with Wis. Stat. § 1.11. The Department determined that the grant or denial of the permit would not be a major state action significantly affecting the quality of the human environment. The Department completed an Environmental Assessment and held a public hearing for the initial proposal on September 10, 2008.

ORDER

IT IS THEREFORE ORDERED THAT the application of the Racine County Drainage District under Section 31.02(1), Wisconsin Statutes, to modify an order setting water levels or flows on Wind Lake, located in the in the NW ¼ of Section 16, Township 4 North, Range 20 East, Town of Norway, Racine County, be, and the same is hereby approved subject to the following conditions:

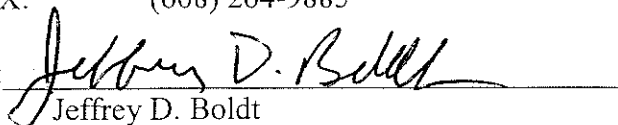
1. The normal water level is established at 95.15 feet (PCS datum). The normal water level should be maintained to the maximum extent practicable by the reasonable and proper operation of the Wind Lake Dam.

2. Although there is no established maximum or minimum water level, operation of the dam should be consistent with keeping water levels within 0.3 feet above or below the normal water elevation. To achieve this result the operator should begin operating the gates on the dam when water levels reach 0.2 feet above or below the spillway.
3. Operation of the gates, in compliance with this order, shall be based upon water levels measured relative to the benchmark located at the dam. Readings from the stream gauges, at the dam, upstream and/or downstream of the dam, shall not control any decision to operate the gates but should be used to derive a relationship between the benchmark readings and expected water levels.
4. Beginning on October 1st of each year, the water levels should be lowered to 94.65 feet (PSC datum), as measured relative to the benchmark located at the dam. The drawdown of the lake shall be completed by October 15th of each year and be accomplished in such a manner so as to avoid impacts to herptile species.
5. Beginning on March 1st of each year, the water levels must be raised to 95.15 feet (PSC datum), as measured relative to the benchmark located at the dam. Raising of the water levels shall be completed by March 15th of each year and shall be accomplished in such a manner so as to reduce impacts to northern pike spawning.
6. The drawdown shall commence no sooner than October, 2010.
7. Prior to the October, 2010, drawdown, the Drainage District shall submit specifications in accordance with the requirements of Wis. Admin. Code DATCP § 48.20.

Dated at Madison, Wisconsin on November 16, 2009.

STATE OF WISCONSIN
DIVISION OF HEARINGS AND APPEALS
5005 University Avenue, Suite 201
Madison, Wisconsin 53705
Telephone: (608) 266-7709
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By:


Jeffrey D. Boldt

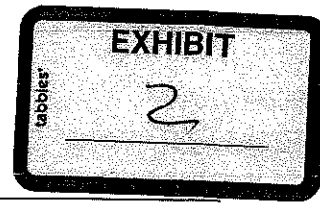
Administrative Law Judge

NOTICE

Set out below is a list of alternative methods available to persons who may desire to obtain review of the attached decision of the Administrative Law Judge. This notice is provided to insure compliance with Wis. Stat. § 227.48 and sets out the rights of any party to this proceeding to petition for rehearing and administrative or judicial review of an adverse decision.

1. Any party to this proceeding adversely affected by the decision attached hereto has the right within twenty (20) days after entry of the decision, to petition the secretary of the Department of Natural Resources for review of the decision as provided by Wisconsin Administrative Code NR 2.20. A petition for review under this section is not a prerequisite for judicial review under Wis. Stat. §§ 227.52 and 227.53.
2. Any person aggrieved by the attached order may within twenty (20) days after service of such order or decision file with the Division of Hearings and Appeals a written petition for rehearing pursuant to Wis. Stat. § 227.49. Rehearing may only be granted for those reasons set out in Wis. Stat. § 227.49(3). A petition under this section is not a prerequisite for judicial review under Wis. Stat. §§ 227.52 and 227.53.
3. Any person aggrieved by the attached decision which adversely affects the substantial interests of such person by action or inaction, affirmative or negative in form is entitled to judicial review by filing a petition therefore in accordance with the provisions of Wis. Stat. §§ 227.52 and 227.53. Said petition must be filed within thirty (30) days after service of the agency decision sought to be reviewed. If a rehearing is requested as noted in paragraph (2) above, any party seeking judicial review shall serve and file a petition for review within thirty (30) days after service of the order disposing of the rehearing application or within thirty (30) days after final disposition by operation of law. Since the decision of the Administrative Law Judge in the attached order is by law a decision of the Department of Natural Resources, any petition for judicial review shall name the Department of Natural Resources as the respondent and shall be served upon the Secretary of the Department either personally or by certified mail at: 101 South Webster Street, P. O. Box 7921, Madison, WI 53707-7921. Persons desiring to file for judicial review are advised to closely examine all provisions of Wis. Stat. §§ 227.52 and 227.53, to insure strict compliance with all its requirements.

BEFORE THE STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES



In the Matter of the Petition for a
Contested Case Hearing Under § 227.42,
Wis. Stats.

STIPULATION AND ORDER

Docket No.: IP-SE-2006-52-0684

NOW COMES the WIND LAKE MANAGEMENT DISTRICT (WLMD), by its attorney, Peter J. Ludwig, and the RACINE COUNTY DRAINAGE DISTRICT (aka Norway-Dover Drainage District) (RCDD), by its attorney, Paul G. Kent, Anderson Kent, S.C., the DEPARTMENT OF NATURAL RESOURCES (DNR), by its attorney Megan E. Correll, and RACINE COUNTY, by its attorney, Jonathan F. Lehman, do hereby stipulate and agree as follows:

JURISDICTIONAL FACTS

1. On October 20, 2006 the Department of Natural Resources ("Department") received a petition of the Racine County Drainage District and Norway Dover Drainage District ("RCDD") to change the water level of Wind Lake in Racine County. Specifically, the petition sought to reestablish a one to two foot winter draw-down.
2. The Department issued Notice of Complete Application, Notice of Public Informational Hearing and Notice of Public Comment Period for Environmental Assessment. The Department completed an Environmental Assessment and held a public information hearing. On October 22, 2008, the Department issued Findings of Fact and Order which denied the permit application.
3. On November 21, 2008, the Secretary of the Department received a request for contested case hearing from the Drainage District.
4. By letter dated December 8, 2008, the Department granted the contested case hearing request and this litigation ensued. The Wind Lake Management District ("WLMD") became a party to the action.
5. On January 22, 2009 Division of Hearings and Appeals received a request of the Department to hear the matter. It was assigned to and is currently pending before Administrative Law Judge Boldt.

TERMS OF STIPULATION AND PROPOSED ORDER

The above matter shall be dismissed on the following terms and conditions:

6. Racine County (the "County") remains the owner of the Wind Lake Dam (the "Dam"). As the permitted owner of the Dam, the County is responsible for maintenance, repair and operation of the dam. The County, or any entity approved by the Department to operate the Dam through subsequent transfer of operational duties agreement, will operate the Dam based on Public Service Commission ("PSC") datum as recorded at the Benchmark, defined as a two inch chiseled square located at the top of the Dam near the base of the right gate wheel (hereinafter "Benchmark").

7. Gauges. The Parties agree that adequate operation of the Wind Lake dam requires sufficient information on water levels and flows which will be provided as follows:

- a. WLMD will continue to maintain and operate a stage recorder on Wind Lake above the Dam (hereinafter "Dam Gauge").
- b. WLMD shall install and maintain a USGS stage site at the Big Muskego dam (hereinafter "Big Muskego Gauge") and RCDD shall install and maintain a USGS stage site below the Wind Lake dam (hereinafter "Downstream Gauge").
- c. Either or both parties may seek funding or financial assistance from the County for installation and/or management of the stage sites and/or flow recorders.
- d. Nothing in this agreement shall limit either party from pursuing funding from any other source, and both parties shall cooperate in jointly pursuing any available financial assistance.

8. Transfer of Operation. Racine County shall continue to operate the Dam until such time as WLMD and RCDD are prepared to take over joint operation of the

Dam, but in no event not later than 24 months from the date of this agreement. At such time as WLMD, RCDD and the County are prepared for the transition, they shall enter into a joint operation agreement, which shall incorporate the substantive provisions of this document, and any other operational and financial provisions as the parties may agree. Such agreement shall then be submitted for review and written approval by the DNR prior to the transfer of operation. WLMD and RCDD shall act expeditiously to ensure earlier transition.

9. Joint Operation. WLMD and RCDD agree to jointly operate the Dam beginning no later than 24 months from the date of this agreement pursuant to a joint operating agreement between the parties. The key provisions of that agreement shall consist of the following:

- a. WLMD and RCDD shall ensure proper operation of the respective lake stage recorders from the three locations set forth in paragraph 1 on an indefinite basis.
- b. WLMD and RCDD shall exchange any and all information upon request, and as necessary to make operational determinations at the Dam.
- c. WLMD and RCDD will each hire an operator (or jointly hire one operator) for the Dam who will be directed to operate the Dam in accordance with the DNR operational order and the terms of this agreement.
- d. WLMD and RCDD shall select a third-party for dispute resolution, preferably an engineer or other expert with experience in such matters. The cost of such third-party shall be a joint expense of WLMD and RCDD.
- e. If the WLMD, RCDD, or operator(s) cannot agree on the actions that should be taken at the Dam, the operator(s) shall contact the

third party engineer designated by RCDD and WLMD to resolve disputes. These parties will be allowed to give their opinions to the third party engineer before a decision is reached.

- f. The operator of the Dam shall promptly notify the operator of the Rochester Dam every time an adjustment is made to the Wind Lake Dam.
- g. WLMD and RCDD shall cooperate in pursuing any available funding or financial assistance to defray expense of equipment, insurance and operation. Nothing in this agreement shall limit RCDD from installing and operating a flow recorder(s), at their expense, to provide additional datum.
- h. WLMD and RCDD shall jointly obtain any insurance coverage mandated by Racine County and the DNR, to the extent possible, and share in such cost equally. In the event of liability arises from an action or inaction on the part of the joint operators, they agree they shall be jointly and severally liable.
- i. The County shall continue to be responsible for maintenance and repair of the Dam, as provided for in Chapter 31 of the Wisconsin Statutes.

10. Operational Order; Annual Drawdown. This stipulation and proposed order modifies the current operational order of the Dam to reflect a 0.5 foot winter draw down (to 94.65 feet PSC datum as measured relative to the Benchmark) to take place each year beginning on October 1 and ending by October 15, at a drawdown rate that will avoid downstream erosion and flooding. Beginning on March 1 and ending by March

15 of each year the Dam shall be operated so as to raise the water level to the normal elevation (95.15 feet PSC datum, as measured relative to the Benchmark). It is the intention of the parties that operation of the gates, in compliance with this order, shall be based upon water levels measured relative to the Benchmark. Readings from the Dam Gauge, Big Muskego Gauge and Downstream Gage, shall not control any decision to operate the gates but should be used to derive a relationship between Benchmark readings and expected water levels.

A draft order has been attached hereto reflecting the terms the parties have agree to in this paragraph in an operational order. If the draft order meets with the approval of the ALJ, it will be issued by the Division of Hearings and Appeals.

11. Operational Conditions.

- a. Based upon the letter of clarification dated May 28, 2009, a copy of which is attached hereto and incorporated herein, the dam operator should be operating the gates by the time water levels reach 0.2 feet above the spillway. This is not to be interpreted that the Dam has a 0.2 foot range of operation.
- b. The normal water level is established at 95.15(PCS datum), which should be maintained to the maximum extent practicable by the reasonable and proper operation of the Dam. The purpose of the attached statement is to provide guidelines for the operation of the dam at the normal water level.
- c. The goal and purpose of this Agreement is to maintain Wind Lake within a 0.6 foot range, 0.3 foot above and 0.3 foot below the normal water level of 95.15 (PSC datum), as measured at the Dam. These elevations are not being established as minimum or

maximum water levels. There are no minimum or maximum water levels established. Rather the range is meant to provide guidance for operating the Dam at the normal water level.

12. Wind Lake Canal. WLMD and the County agree to support RCDD's permit request for the winter drawdown of the Wind Lake Canal below the Dam.

13. Dismissal and Waiver.

a. RCDD agrees to withdraw its Wis. Stat. § 227.52 petition for judicial review filed on November 21, 2008 (Racine County Case No. 08-CV-3005)

b. WLMD, RCDD, the County and any interested party agree to waive their rights to seek judicial review of this Stipulation and Order under Wis. Adm. Code § NR 2.20 and Wis. Stat. § 227.52.

c. WLMD, RCDD, the County and any interested party agree to waive their rights to seek administrative review, under Wis. Stat. § 227.42, of the Department's order consistent with the terms of paragraph 10 and in the as reflected in the proposed order attached to this Stipulation.

d. This dismissal shall be without prejudice to any party and shall not constitute a waiver of any claims or defenses in any future proceedings, nor shall it prevent any party from requesting future modifications to the Wind Lake operational order. This agreement is a settlement of disputed claims and will not be considered by the DNR in determining any future modification requests.

WIND LAKE MANAGEMENT DISTRICT BY:	RACINE COUNTY DRAINAGE DISTRICT BY:
Peter J. Ludwig, Attorney at Law DATED SBM: 1021381	Paul G. Kent, Attorney at Law DATED SBM: 1002924
DEPARTMENT OF NATURAL RESOURCES BY:	RACINE COUNTY BY:
Megan E. Correll, Attorney at Law DATED SBM: 1047073	Jon F. Lehman, Attorney at Law DATED SBM: 1020603

ORDER

Based upon the foregoing stipulation,

IT IS HEREBY ORDERED:

1. That the above stipulation is approved.
2. That the above stipulation shall be entered as an order of the Division.
3. A new water level order for Wind Lake, shall be entered as an order of the Division.

Dated this ____ day of _____, 2009.

STATE OF WISCONSIN
DIVISION OF HEARINGS AND APPEALS
BY:

Jeffrey D. Boldt, Administrative Law Judge

THIS DOCUMENT DRAFTED BY:

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