



State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

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10/22/2008

IP-SE-2006-52-0684

Racine County Drainage District
c/o John Knuteson
500 College Ave
Racine, WI 53430

Dear Mr. Knuteson:

Re: Application to modify the order setting water levels or flows on Wind Lake,
Racine County

We have reviewed your application to modify the order setting water levels or flows on Wind Lake, Town of Norway, Racine County. **Your application is hereby denied.**

It is our determination that your proposed project would be detrimental to the public interest in Wind Lake. A denial order is attached which includes our findings of fact listing the specific reasons for denial. Your rights to appeal this action are also defined.

If you have any questions about this determination, please contact me at 262-884-2355 or at heidi.hopkins@wisconsin.gov.

Sincerely,

Heidi Hopkins
Water Management Specialist

cc: Dale Pfeiffle, U.S. Army Corps of Engineers
Racine County Zoning Administrator
Town of Norway
Wind Lake Management District
Regional Aquatic Habitat Expert

BEFORE THE
DEPARTMENT OF NATURAL RESOURCES

Application of the Racine County Drainage District to modify the order setting water levels or flows on Wind Lake, Town of Norway, Racine County.)))))	IP-SE-2006-52-0684
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FINDINGS OF FACT AND ORDER

The Racine County Drainage District, 500 College Ave, Racine, WI 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. Permit Denied.

FINDINGS OF FACT

1. The Racine County Drainage District, 500 College Ave, Racine, WI 53430, filed an application with this 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. The applicant 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.
3. 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.
4. The project will not 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 concerns, shoreline erosion, and adverse impacts to fish and hibernating herptiles.

The Department approved these proposed changes in the operation order. As a result, there has not been a winter drawdown on Wind Lake since 2002. The applicant contends that, since the loss of the winter drawdown, it has experienced increased flooding of the farm fields within the farm drainage district, resulting from the loss of storage in the lake during spring flooding events.

Subsequently, the applicant submitted a permit application to re-evaluate the elimination of a winter drawdown. The Department completed an Environmental Assessment and held a public hearing on September 10, 2008 where over 100 people were in attendance.

The Department reviewed all of the comments from the public hearing and resource management staff discussed the results of the hearing, the applicant's proposal and the various issues raised by the public.

Department staff determined that to minimize detrimental impacts to fish spawning and hibernation of herptile species, a drawdown would have to occur in early October and would have to end by February 28th of each year. Fisheries managers were concerned about inadequate water levels in the spring which would affect the spawning of various fish species particularly Northern Pike in nearshore wetland areas; whereas Wildlife Biologists were concerned that a drawdown in October would impact herptile species that were already hibernating under the soft sediment in the nearshore areas. These hibernating species could then die due to the change in the water levels from freezing of the sediment.

Considering these biological concerns and the fact that the applicant was primarily concerned with the months of February, March and April which tend to have the highest rates of discharge. The Department determined that a winter drawdown meeting the timelines established by the Department is unlikely to achieve the results desired by the applicant of reducing spring flooding.

One of the requests that also received comments from the public was the possibility of winter drawdown only for this year, in other words winter of 2008 until spring of 2009. This request was to facilitate the dredging of the Wind Lake Canal by the applicant. The Department staff also evaluated this option and determined that the possible benefits to the dredging projects were too variable for the benefit and a drawdown starting in 2008 would adversely impact the herptile species already hibernating this year.

This file and previous files regarding the operation of the Wind Lake Dam and surrounding watershed also contain conflicting information regarding the actual impacts to the downstream farmland from the operation of the dam. It is uncertain: a) whether the loss of winter drawdown actually results in additional flooding, b) whether the flooding is a result of operational issues or c) whether the flooding is primarily due to hydrological, meteorological and physical characteristics of the farm drainage district. As such, this uncertainty does not endorse the modification of the order at this time due to possible impacts on the biological resources of this area.

In the future, the Department staff will work with the Wind Lake Management District, the Norway Dover Drainage District, Racine County, the Town of Norway and the City of Muskego to facilitate a study of the watershed that would evaluate the hydrological and hydraulic conditions of this watershed to determine the ultimate operational order for all dams within this watershed.

5. The proposed project will not impact wetlands.
6. The project will not conform to the standards in Chapters 31.02, Wisconsin Statutes.
7. The proposed project will adversely affect water quality and will increase water pollution in Wind Lake and will cause environmental pollution as defined in Subsection 283.01, Wisconsin Statutes.
8. 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.

CONCLUSIONS OF LAW

1. The Department has authority under Section 31.02(1), Wisconsin Statutes, and the foregoing Findings of Fact, to issue an order denying the permit requested.
2. The Department has complied with Section 1.11, Wisconsin Statutes.

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 hereby is, denied.

The normal water level for Wind Lake will remain at 95.15 feet P.S.C. datum and the maximum lake elevation shall be 95.11 P.S.C. datum. The maximum elevation is roughly equivalent to when water levels are 2 inches higher than the spillway of the dam.

The lake elevation shall be maintained throughout the year insofar it is possible by reasonable operational methods. Maintenance of the lake elevations may include the opening of the gates as necessary during heavy rains or snow melt.

Dated at Sturtevant, Wisconsin on October 22, 2008.

STATE OF WISCONSIN DEPARTMENT OF NATURAL RESOURCES
For the Secretary

By _____
Heidi Hopkins
Water Management Specialist