

ON THE WATERFRONT

A newsletter promoting The Environmental Protection & Responsible Use of Washburn County Waters, Shoreland and Wildlife Resources.

Spring/Summer 2016 #38 Newsletter



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PRESIDENT'S COMMENTS

I was a civil engineering consultant in private practice for 37 years and had projects in five of our local Midwestern states. My work was mainly in water supply and wastewater treatment. In the early 1970s I read that, at Wisconsin's then current population and if Wisconsin received no future precipitation, our groundwater resource would last us 6,000 years. Yes indeed, Wisconsin, unlike many states, is water rich in most parts of the state. However, I also learned in the early 1970s that north central Wisconsin was having a problem with Methemoglobin anemia due to the heavy nitrogen fertilization and infiltration into the groundwater. High capacity groundwater pumping for spray irrigation in conjunction with their very permeable soils recycled the nitrogen (now converted to nitrates) into their drinking water and that was killing calves. A close friend of mine lost her baby due to blue baby syndrome, quite possibly due to a high nitrate presence in her rural well.

We in Wisconsin cannot forever depend on our once high quality and abundant groundwater. A project I engineered in southwest Wisconsin had to drill a well 1080 feet to bed rock to look for a "good water" supply. The well was test pumped over 3 million gallons to verify our success. Subsequent tests showed that, one year later and annually thereafter, the citizens were drinking trace amounts of Atrazine in the months of July and August. Learning that, I researched other local communities and found that several were reporting similar Atrazine results in late summer. I contacted the Wisconsin state geologist with my findings.

In the early 1980s my family camped in southeast Iowa. I drank some foul water at the campsite and learned from my uncles that the local five counties were served by a private water authority because the local groundwater was polluted with insecticides and fertilizers and had become unfit for human consumption. The water they were supplied with now was (including the campground) pumped from a remote source and came delivered to them like telephone service. It was flat and highly chlorinated. You could use it, but you did not want to drink it. Talk to your legislators and listen to the candidates. Let them know that protecting water resources is very important to you.

If the current Wisconsin legislature deregulates high capacity wells and reduces other state ground water regulation to benefit special interest groups, the future of Wisconsin's ground water could be grim, indeed

Craig Walkey, President

**“LEARN ABOUT YOUR LAKE” SERIES COMING TO
THE
MINONG TOWN HALL**

Loons, fish, lake critters, and cool lake plants are on the docket for the Learn about Your Lake sessions Saturday mornings this summer. Sessions are FREE and no registration is required. Bring the kids. Sessions are family friendly and run from **9am to 10am** with time afterwards to meet the presenters, pick their brains and share stories. The Minong Town Lakes Committee (MTLC) will provide coffee, juice and snacks.

Where: Minong Town Hall, W7095 Nancy Lake Road, Minong,

Topics and Dates: (9am to 10 am Saturdays)

June 18 – Life on the Edge– John Haack, Natural Resource Educator, University of Wisconsin Extension. Hear about the adorable and sometimes creepy animals that live along our lake shores. Discover their interesting lives, odd behaviors, amazing calls and songs. A few guest critters will be on hand for handling.

June 25 – The Secret Life of Fish - Neal Rosenberg, Wisconsin Department of Natural Resources NW Hatchery Group Leader. Learn about our state fish, the mighty musky, and how the WDNR is propagating musky and walleyes to stock back into state waters. See an exciting presentation with live footage of the Governor Thompson Hatchery crew in action. Handle gear used by the hatchery crew and get a chance to win a prize.

July 9 – Loony about Loons - Erica LeMoine, Loon Watch Coordinator, Sigurd Olson Environmental Institute. Learn about loon migration, nesting, calling and other fascinating loon facts. Get a free loon poster and learn what you can do to help loons. Ask any loony question that comes to mind.

July 16 – Amazing Lake Plants, Matt Berg - Endangered Resource Services LCC. Join us for this fun, hands-on session. Learn to identify common lake plants found in area lakes. Discover cool plant facts and understand why plants are important for healthy lakes. If you have a lake plant you want identified- bring with you.

Programs are sponsored by University Extension, Washburn County Land and Water Conservation Dept. and the Minong Town Lakes Committee. If you have questions about the programs contact John Haack, UW- Extension at john.haack@ces.uwex or by phone at 715-635-7406



**NORTHWEST WISCONSIN LAKES CONFERENCE
COMING TO SPOONER JUNE 24**

You won't want to miss the upcoming *2016 Northwest Wisconsin Lakes Conference*, which will be held this year at Spooner High School on Friday, June 24. Be sure to mark your calendars and plan to attend. Registration deadline is June 18. This popular regional event has evolved into one of the state's premier lake conferences. The all day program will again be a great opportunity for lake enthusiasts, local government officials and others to learn more about protecting our water resources and to network with fellow conference attendees.

Peter Annin, noted environmental journalist and author of the *Great Lakes Water Wars*, will be the conference's keynote speaker. He will delve into the long history of political maneuvers and water diversion schemes that have proposed sending Great Lakes water everywhere from Akron, Ohio to Arizona. Peter will discuss several noteworthy Great Lakes diversions that already exist, and shed light on potential water diversions of the future, including the water diversion application submitted by Waukesha, Wisconsin.

Twelve different conference breakout sessions will be held throughout the day covering a wide variety of lake-related topics and issues.

Numerous exhibitors, including lake and natural resource-related nonprofit organizations as well as private businesses, which provide products and services for lakes, will have displays at the conference.

The registration fee is \$45, which includes: admission, program materials, a continental breakfast and lunch. Students, both high school and college, can attend free of charge, but need to indicate the school/college they attend on the conference registration form.

For more information or to register, contact the Sigurd Olson Environmental Institute at northland.edu/soei or (715) 682-1264 or register online at northland.edu/sustain/soei/lakesconference. For more detailed information on the conference program and speakers, contact MaryJo Gingras at (715) 682-1392 or mgingras@northland.edu.

The Waterfront newsletter is sent to individual members and to the officers of members associations. If your association has recently had elections, please make us aware of the address changes. Contact Fred Blake at 715-469-3228 or by email at blakelake@centurytel.net

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THE THREE-LEGGED STOOL

By Fred Blake

Most of us have heard of the proverbial three-legged stool and how it fails to function if even one leg is removed. In some ways, our efforts to protect and preserve our lake and river resources are dependent on a three-legged stool of sorts.

Three types of organizations support our lake protection efforts. At the state level, **Wisconsin Lakes (WL) (formerly the Wisconsin Association of Lakes - WAL)**, works in and around the state legislature to monitor and support the creation of sound legislation and state-wide policy with respect to our lakes. As the citizen component of the Wisconsin Lakes Partnership, WL collaborates with the WDNR and UW-Extension, to provide educational opportunities like the Wisconsin Lakes Convention, Lake Leaders Institute and Northwest Wisconsin Lakes Conference. The legislative climate has, however, worsened dramatically in the last several years and the WDNR grants which provided more than half of Wisconsin Lakes funding support have been eliminated. In addition to maintaining its programs, WL is working diligently to replace that lost funding. Our support for WL has become even more critical and we encourage our members to provide whatever assistance they can.

Wisconsin Lakes is absolutely critical at the state level, they are too far removed from our individual lakes to be thoroughly aware of local problems and concerns of all state's lakes.

At the local county level, **Washburn County Lakes and Rivers Association (WCLRA)** performs somewhat similar functions in and around county government and in partnership with other agencies such as WDNR and UW Extension. In addition, we are close enough to interact with individuals and local lake associations directly (where they exist). Unfortunately, most of our lakes do not have associations (fewer than 30 in the county). Our goal is to inform, assist and represent residents of the 964 lakes and almost 700 miles of streams in Washburn County. We depend on our members keep us aware of developing problems on individual lakes.

The front lines are and will always be, on the lakes themselves. It is the **local lake residents and associations** that will first observe problems when they surface. Maybe it will be (hopefully not) a small patch of Eurasian water milfoil or a few zebra mussels adhering to a metal dock post. Whatever the problem, the local associations will likely be the ones to raise the alarm.

When people ask me which of these three levels of organizations (state, county and local) they should join, I have no hesitation in saying ... ALL THREE! It may cost a few more dollars, but how do we weigh those few dollars against the value of Wisconsin's unique and irreplaceable water resources? With the current legislative climate for water resource protection programs being questionable at best, it has become abundantly clear that our support for lake protection efforts **at all levels** is absolutely critical. It is important to remember that supporting lake protection at all three levels is **not duplication**. Each of the three legs of our "stool" performs different functions and all are critical to our overall success. If ever we needed broad support, it is now when the prevailing legislative attitude seems to be focused on weakening water resource protections. Think about it!!!

Note: I first wrote this article five years ago and, with the legislature's recent dismantling of our water resource protections, this slightly updated version is even more on-point today than it was at that time.

Totogatic State Wildlife Area - Dam Update, May, 2016

Kathy Bartilson, WDNR

The Wisconsin Department of Natural Resources (WDNR) is facing a crossroads as the owner of the dam along Wozny Road, which impounds the Totogatic State Wildlife Area. The dam is in Washburn County, yet a majority of the flowage and Wildlife Area reside in Sawyer County. The dam is in deteriorating condition, and WDNR must take action to address the aging infrastructure.

A public informational meeting was held in Hayward on January 13 to provide history on the dam, address its current condition, and allow WDNR to learn more about the recreational uses of the flowage by local residents. Following two former logging dams dating back to the 1800's, the current dam was constructed in 1953 to create the Totogatic Flowage for waterfowl management. Approximately four miles upstream of the Totogatic Flowage dam is the Nelson Lake dam, which is owned and operated by Sawyer County independent of the Totogatic Flowage dam. The Totogatic River flows through these impoundments and four segments of this 70 mile long river are officially designated as a State Wild River. The nearest Wild River segment to the Totogatic Flowage begins 500 feet downstream of the Totogatic Flowage dam.

Wozny Road currently crosses the Totogatic dam via a one-lane deck spanning the dam. The Wisconsin Department of Transportation (DOT) is working with the town of Frog Creek on re-routing Wozny Road slightly north (downstream) of the current dam and creating a new bridge, which is planned for 2017 construction. The new bridge project will be conducted independent of any actions WDNR takes on the Totogatic Flowage dam.

Following a dam failure analysis and inspection, a report from an independent engineering firm was sent to WDNR in 2013 that addressed seepage associated with the embankment as well as concrete and rebar degradation in the principal spillway. The necessary fixes to the existing infrastructure that are necessary to bring the dam up to safety standards were estimated at approximately \$475,000. However, these fixes may be relatively short-term solutions for maintaining the integrity of the infrastructure, which is already past its useful life. Following some concerns by local governments and residents, DNR decided to carefully evaluate the options for the dam through a formal public input process.

In addition to considering the recommended repairs to the dam, DNR is proposing three other solutions to the public that would have longer-term impacts. One option is to permanently remove the dam, which would restore the flowage to natural riverine conditions. The other two options would be to completely remove and reconstruct the dam;

one option with lift gates to allow proactive water level management (fully operable) and another option with a fixed crest resulting in stable water level management (limited operability). Permanent dam removal would be the least expensive option and rebuilding the dam would be considerably more expensive. DNR has not been able to identify or secure funding for any of the options at this time.

Following the January 13 public meeting, DNR has been in contact with the engineering firm that originally conducted the inspection in 2012. A request has been made to prepare conceptual alternatives with comparable cost estimates for the dam reconstruction options, and to re-assess the originally proposed dam repair option. The goal is for the engineering firm to provide this information to DNR by June 1. The next step is to present these options at another public meeting. DNR will be outlining the potential environmental, safety, recreational, and financial consequences and considerations under each option. The date for that meeting has not been set yet, but it will likely be an open house somewhere in the Hayward area during the summer. A public comment period will also be announced to collect feedback online and by letter.

DNR will consider all public feedback in a recommendation for the dam and flowage, which will be conveyed in a Totogatic Wildlife Area property management plan. The property management plan will revise and replace the 1981 master plan. Throughout the process, DNR will also be working closely with federal, local and tribal governments. There will also be a public input opportunity for the drafted property management plan before it is approved by the DNR Secretary and Natural Resources Board. The anticipated timeline for adoption of the property management plan will be in 2017. Once a final recommendation is made on the dam, DNR will pursue any necessary state and federal waterway and wetland permits prior to construction. Additionally, DNR will make all reasonable efforts to secure funding for recommended action on the dam.

Public engagement is encouraged throughout the process. Those interested can visit the DNR webpage at dnr.wi.gov and search for "Totogatic Wildlife Area." The Totogatic Wildlife Area webpage will be updated periodically with any new information related to the dam, updates on upcoming meetings, and an email subscription option for those interested in receiving updates.

LAKE PROTECTION PUBLICATION UNDERWAY

Pat Schifferd

The effective protection of lakes and shore lands increasingly depends on informed actions by individual citizens and less on regulatory oversight. In order for shore land property owners to effectively provide stewardship for their waters, it is helpful if people are informed of best practices and sources of assistance from government agencies, non-profit organizations, and others working for resource protection.

To assist with this important educational purpose, Washburn County Lakes & Rivers Association has been awarded a grant from the Department of Natural Resources to produce a publication to be sent to all of the thousands of county lake shore and river front property owners. The grant money, to be supplemented from WCLRA's reserve funds, will allow us to inform people about what they themselves can do to protect the quality of their land and water. The focus of the publication will be on practical actions that individuals can take back to their property to benefit themselves and the waters generally.

As far as we know, no comprehensive vehicle exists for the dissemination of this information. WCLRA hopes to replicate the results of a similar project carried out by Burnett County a few years ago which saw increased participation in various lake protection programs.

Our county is wonderfully rich in water resources. With roughly 960 named and unnamed lakes, Washburn County ranks third behind only Vilas County and Oneida County for the most lakes in Wisconsin. Surface waters cover 31,761 acres or about 6 percent of Washburn County. Eleven watersheds are contained completely or partially within Washburn County. Seven of these are part of the St Croix River Basin - a federally-protected Natural Scenic Riverway, three drain to the Lower Chippewa River and one drains to the Upper Chippewa River.

Thought for the Summer

We never know the worth of water 'til
the well is **dry**.

Thomas Fuller, *Gnomologia*, 1732

2015-2016 LEGISLATIVE UPDATE

By Cathie Erickson

This year the Wisconsin Legislature made significant changes in water regulations, starting with the repeal of county's shoreland zoning rights last July and several bills affecting our shorelands and waterways introduced over the winter. Several statewide environmental groups that WCLRA supports (Wisconsin Lakes, River Alliance and St. Croix River Alliance) collaboratively lobbied to protect our waters. In addition, a new lobbying group called Wisconsin Shorelands Initiative was formed by a group in Vilas County in an attempt to restore county shoreland zoning rights. The efforts of these groups and citizens who contacted their legislators made a difference in getting some provisions removed or amended.

To give you an overview of the outcomes, we are enclosing a summary of the legislative outcomes prepared by the Wisconsin Lakes association for the Lakes Partnership Convention in late March. Two WCLRA Directors, Dave Vold and Cathie Erickson, attended the convention. Several speakers there indicated that county zoning administrators around the state are still working to determine exactly how shorelands in their counties will be affected. There will be a session on shoreland zoning at the Northwest Wisconsin Lakes Conference on June 24 in Spooner. The panel includes Web Macomber, Washburn County's Zoning Administrator.

PUBLIC TRUST DOCTRINE

by Larry Damman

After the revolutionary war, England ceded its claim to lands east of the Mississippi to the 13 colonies. The colonies determined how to settle these lands in the Northwest Ordinance of 1787. It set up how the wilderness would be surveyed and sold into private hands. The founding fathers realized navigable waterways would be critical travel corridors for explorers, settlers, trappers and commerce in general. To advance settlement, the founding fathers excluded ownership rights to navigable waters from the first deeds or government patents. This is why once you obtain legal access to the shore, you can boat or wade the entire surface of any lake, pond or navigable stream. Wisconsin accepted trusteeship for navigable waters when it adopted the exact words from the Northwest Ordinance into Article IX Section 1 of the state constitution. ... the river Mississippi and the navigable waters leading into the Mississippi and St. Lawrence, and the carrying places between the same, shall be common highways and forever free, as well to the inhabitants of the state as to the citizens of the United States,

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Public Trust Doctrinecontinued from page 5

without any tax, impost or duty therefor. The public trust doctrine is a legal philosophy as to how those words are to be carried out.

The trust doctrine does not require waters to be managed in a pristine condition. "Navigation" and "highway" clearly imply there will be a need for improvements like docks and harbor facilities, and dredging of channels. Still the state, as trustee, can not just abandon navigable waters into private control. Therefore the state must have a permitting process to balance public needs through time. Locally logging dams and log drives dominated waterway uses early on. When the farmers came they needed mill dams to grind grain. The territorial legislature permitted them provided each dam was equipped with a sluiceway to pass the log drives. Over time a large body of laws evolved defining under what conditions new, reasonable uses could be accommodated without turning waters over for narrowly construed purposes. Issues like water quality, fish and wildlife habitat and even scenic beauty aren't really new public rights. They just became more important to the public so the legislature responded with laws that recognize that.

Of course elected officials or state agencies should never promote private interests over public good or decide it's just too much expense and bother to regulate all the navigable waters. The real backbone of the trust doctrine is that any citizen or group of citizens has standing to challenge the government's actions. That's what reels government back when it gets too close with special interests or gets lax in its trustee responsibilities.

The down side is the courts understand the short comings of the legislative process. The doctrine doesn't require the legislature to make only the best, well considered laws, to promote the public trust. A law affecting the public trust must in some sense be reasonable, take into account the cumulative impacts and not transfer the control of public rights into private hands or confiscate legitimate private rights. You can't sue because the legislature failed to pass a law you think is necessary.

It may be reasonable to give a shipping company a permit to dredge a harbor and a hunting club a permit to dam a stream to improve duck hunting. The permittees might feel that their investment entitles them to exclusive use of their improvements. No matter how much government officials might agree, the public rights to the "improved" waters still apply. Anybody can boat, fish hunt etc. in the improved waters. Competing shipping companies might decide to build

their own docking facilities after that the harbor is improved. To get a permit to build a dam you give up ownership rights to the land being flooded so the public has full use of its waterway that you are asking to enlarge. You also consent to allowing the navigating public to portage your dam. Otherwise your dam is an unlawful obstruction which any citizen could take court action to have removed.

Just what does or doesn't constitute a navigable water will be a topic for the fall newsletter.

NEW AND EXISTING OIL PIPELINES CAUSE CONCERNS FOR COUNTY WATERS

By Phil Sylla

Today 570,000 barrels of crude oil are flowing under Washburn County through Enbridge pipeline, Line 61. Later this year, that daily amount will double as a new pumping station in Dane County is completed. After 2016, Enbridge plans to build a new pipeline, Line 66, that will bring the flow of crude to 2.5 million barrels per day.

Enbridge has not announced its plans for Line 66 locally. However, on Oct. 7, 2015, Bloomberg News quoted Guy Jarvis, president of Enbridge's liquid pipelines division, "Enbridge is doing 'early development' work on a plan to twin Line 61... from Superior, Wisconsin, to Flanagan, Illinois." Further evidence of the plan comes from Benjamin Callan, Water Management Specialist in the DNR, who said "The WDNR has received notification that Enbridge is considering a new pipeline project in WI, but we don't know if or when Enbridge will advance a proposal or submit necessary permit applications." Enbridge may be waiting to finalize its plans for Line 66 pending the resurgence of crude oil prices and the outcome of an Environmental evaluation in Minnesota.

Pipeline spills happen. Last month, in South Dakota, the Keystone pipeline was shut down after a crude oil spill. In 2014, 445 U.S. pipeline accidents spilled 1.9 million gallons of hazardous liquids, mostly crude oil. In 2012, Enbridge spilled 50,000 gallons of crude oil in Adams County, Wisconsin forcing the evacuation of two homes. It was Enbridge's worst spill since the 2010 Kalamazoo, Michigan disaster, according to the Los Angeles Times.

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A potential oil spill in a state or federal wild river, the Namekagon, the Totogatic or the St. Croix is of special concern. Exposed pipes, tucked underneath all three rivers, can be worn thin by the passage of sand, gravel, and rock. This happened in Michigan in July 2010 when an Enbridge pipeline burst in the Kalamazoo River resulting in the largest inland oil spill in U.S. history. Aging pipes are another risk for oil spills. Some pipes have been in use since the 1960s.

You can monitor the pipeline by watching for oil puddles on land, oily bubbles in water or gaseous odors. Contact civil authorities at 911 or call Enbridge Energy, 119 N 25th St E, Superior, Wisconsin (715) 394-1400. Landowners who are approached for new easements for Line 66 should contact The Wisconsin Safe Energy Alliance (WiSE) at their website <https://wisconsinsafeenergy.org/>

YOU CAN MAKE A DIFFERENCE

By Barb Robinson

Organizations like WCLRA and local lake associations need the participation of a lot of people to function effectively. Many of the necessary functions go unnoticed. Who keeps the financial records, who keeps the membership rolls, who implements education programs, who produces the newsletter? The list can be lengthy. For WCLRA, most of the work is done by board and committee members.

At our Annual General Meeting a few years ago, one of our members noted that everyone in the room had grey hair! He was right but for a good reason. Our board of directors is made up largely of retired people who, in their retirement, decided to take on their passion for protecting the water resources of Washburn County because they now had the time to do so. Many of our directors are also very active in other organizations pertaining to those water resources. All are very special people who bring many and varied talents to this county and this organization; however, they also have lives outside those organizations. Pressures from family, changing life styles, etc. make it important that WCLRA brings in new blood from time to time. Just as important are the fresh ideas and enthusiasm that new participants bring to an organization. We encourage each of you to consider getting more involved in WCLRA. Doing so does not have to be time consuming, it does not require full-time residency, and you don't have to have grey hair. In this computerized society, many functions can be effectively carried out by people who are not permanent residents of

Washburn County. Here are some areas where you can help:

- **Join a committee.** This is a good way to learn what WCLRA is all about and meet other people who care about our waters as you do. Our standing committees are: Education, Communications, Finance, and Government/Environment.
- **Write articles** for our newsletter or website or get involved with the technical aspects and layout of those communications.
- **Become a director.** We have slots for 13 directors. At this time we have 11 filled positions so there is room for more. Having full slate of directors with a variety of talents enables us to function most effectively and expand our horizons.
- **Keep us informed.** Let us know if there's something you would like us to be working on or if you hear about an activity or issue that we should be aware of.

We in WCLRA have found that there are people among you who have the desire to help with the broader effort to protect all of Washburn County's waters. We are grateful when they come to us occasionally asking if they can help. As we expand our sphere of influence we find we need more help from our members. If you have an interest in helping to publish the newsletter or if you have an interest in accounting, contact me or any one of our directors (contact information is in every newsletter) to indicate an interest. We can familiarize you with the workings of WCLRA and discuss where your abilities and talents might best be put to use.

CALENDAR OF EVENTS

- June 18** **Learn About Your Lakes**
See page 2 of this newsletter
- June 24** **NWLC**
See page 2 of this newsletter
- June 25** **Learn About Your Lakes**
See page 2 of this newsletter
- July 9** **Learn About Your Lakes**
See page 2 of this newsletter
- July 16** **Learn About Your Lakes**
See page 2 of this newsletter
- August 27** **WCLRA ANNUAL MEETING**
Spooner DNR Conference Ctr.
9:00am General Meeting followed at 10am with Speaker Presentation

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Totogatic River Dam
 Photo supplied by Kathy Bartilson, DNR

Contacts to protect lakes and rivers

“We need more than ever to provide what help we can to protect our lakes and rivers from environmentally damaging activities. Keep your eyes open! We are the last line of defense! However, **do not trespass** to obtain further information. Let those in authority check it out.”

DNR Water Regulation Violations and Information:

Dan Harrington (Water Management Specialist, Spooner Office).....715-635-4097

Jon Hagen (Conservation Warden for Southern Washburn County).....715-635-4099

Emergency Spill Hotline.....800-943-0003

Dave Swanson (Conservation Warden for Northern Washburn County).....715-645-0053

If wardens are in the field, messages can be related to them through the Washburn County Sheriff's Department at 715-468-4720 or at the DNR's toll-free tip line.....1-800-TIP-WDNR (847-9367)

County Shoreland Zoning Questions or Violations:

Web Macomber (Zoning Administrator).....715-468-4690

County Planning, Land/Water Resource Management:

Lisa Burns.....715-468-4654