

Pat Mahoney  
1637 White Ash Lane  
Balsam Lake, WI 54810

February 28, 2003

We remain very concerned about the weed harvesting on Both North and South White Ash Lake. We have been property owners on the North Lake since 1998. Although not "Old Timers" we have become very fond of our property and continue to make significant improvements to our benefit and those that live near us. These two lakes form the basis of our enjoyment. The lakes provide considerable beauty and recreational opportunity.

When we bought our property we were assured that although the lake is shallow and supports abundant weed growth the harvesting that is done during the summer maintains a balance of water depth above the weeds to permit boating, fishing, in many spots swimming. With the exception of last summer, truth be told the weeds were not a problem. Simply stated, Because they were cut and hauled away. Through the selective harvesting done year we were able to witness what will occur if we do not return to an aggressive campaign of ridding the lake of the top thirty-six inches of growth. If it had not been for the unusually high water level we cannot imagine what the lake would have resembled. Our guess is a continuous mat from shore- line to shore line.

We attended the meeting of the lake association and with the others voiced our concerns. Terri, my wife made the trip to Spooner and joined in the discussion of what the DNR had proposed to do in regards to the harvesting permit. We remain committed to express our concern and plead with the DNR to permit unlimited weed harvesting so that we again can enjoy the lakes for their recreational value. Our investment into the property is not insignificant. We pay taxes on the property as well as the improvements. We believe we have increased the value of our property and hope that the lake condition will remain a considerable portion of that investment. If the lake is permitted to become over-grown with weeds the value of our investment will plummet. Our lake weeds must be controlled. The plan that has been in place for years and years has proven to be effective. Please allow us to continue to manage the weed growth through aggressive harvesting. There is no risk to this strategy. The equipment is bought and paid for. The labor to run the machinery is paid for through our property taxes. The system works. Please don't mess it up with overly conservative logic about additional weed growth. We have more than enough now. Just let us continue to control it as we see fit. Please allow us to use the lake for the reasons we bought on White Ash Lake in the first place.

Respectfully,

Tom & Terri Kartes  
1750 S. White Ash Dr.  
Balsam Lake, WI 54810

651-730-0986

Feb 28-03

To Home It may concern.

My name is William Erberg.

I have a lake home on upper White ash lake.  
I have been there for 32 yrs.

Before we cut the weeds there was times  
when you could not row a boat out there, then  
late fall all the weeds would go down, but  
I think all the weeds in the bottom of the lake  
lay up there, soon we would have a big mud  
hole out there.

Also now that we cut the weeds the  
ice fishing is good, before you could not  
catch fish in the winter.

I have watched this lake for over 30 yrs and  
I think I know more about the lake than  
most of the people that are in the DNR office.  
We could cut weeds from April first till  
late Nov. and it would not hurt the weeds  
at all.

Maybe we ~~should~~ should do like other  
lakes, ~~then~~ have them come in  
and spray, that will kill all the weeds,  
and we can start over from the beginning.

William Erberg.

MEMO to DNR

TO: DNR

RE: Harvesting of Weeds - White Ash Lakes, Apple  
River Township

DATE: February 25, 2003

FROM: Roland P. Belisle, 706 180<sup>th</sup> Ave., Balsam  
Lake, WI (Upper White Ash Lake)

I firmly believe that the harvesting of weeds on Upper and Lower White Ash Lakes is a mandatory summer task. As a concerned lakeshore owner, the harvesting of weeds has assured adequate fishing opportunities; small boat and pontoon use. IF A NO HARVESTING OF WEEDS OCCURS THE LAKES WILL BECOME TOTALLY USELESS FOR RECREATIONAL USE. I believe that reasonable weed harvesting provide suitable use conditions for us taxpayers. Why can't the White Ash Lake Protection and Rehabilitation District work cooperatively with the DNR to make sure the White Ash Lakes will continue to provide the fun and recreation citizens deserve. A weed harvesting PLAN is necessary.

Appreciatively,  
Roland P. Belisle

3-1-03

SATURDAY

TO WHOM IT MAY CONCERN:

I'M WRITING THIS AT LATE NOTICE, PLEASE EXCUSE THE LONG HAND AND THE STATIONARY.

I'VE BEEN ASKED TO COMMENT BY LETTER WHAT I THINK WOULD HAPPEN TO WHITE ASH LAKE IF WE COULD NOT HARVEST ON IT WE WERE CONSIDERABLY RESTRICTED IN OUR HARVESTING OF PLANT LIFE AND WEEDS ON THE LAKE.

MY WISHES ARE NOT TO DESTROY THE PLANT LIFE OF WHITE ASH LAKE, BUT TO MANAGE THE TOP FEW FEET SO THE LAKE CAN BE USED RECREATIONALLY, AND LEAVE THE PLANT LIFE INTACT BELOW THE SURFACE. UNMANAGED I BELIEVE WOULD UNDOUBTLY RUIN THE LAKE FOR ALL PURPOSES, BOTH RECREATIONAL AND ECOLOGICAL.

I'VE BEEN COMING TO WHITE ASH LAKE FOR TWENTY FIVE YEARS AND HAVE WATCHED THE PLANT ACTIVITY TAKE OVER THE LAKE.

I JUST FINISHED A TWO YEAR BUILDING PROJECT ON THE LAKE AND I'M WORRIED MY INVESTMENT COULD BE SERIOUSLY JEOPARDIZED SHOULD WE NOT BE ABLE TO MANAGE THE WEEDS OR PLANT LIFE AS WE HAVE IN THE PAST.

SINCERELY,

J. Sweet Olson  
J. FORLITI OLSON

1684 W.  
WHITE ASH

TO WHOM IT CONCERNS:

SATURDAY 3/1/03

PLEASE EXCUSE THE STATIONERY AS I AM WRITING THIS AT MY WHITE ASH LAKE RESIDENCE - NOT MY ST. PAUL HOME.

I AM DEEPLY CONCERNED REGARDING THE D.N.R.'S AGGRESSIVE APPROACH PERTAINING TO THE WHITE ASH ASSOCIATION'S METHOD OF LAKE WEED CONTROL.

APPROXIMATELY TEN TO FIFTEEN YEARS AGO OUR LAKE ASSOCIATION, AT THE D.N.R.'S ADVICE, STARTED A WEED CUTTING AND HARVESTING PROGRAM. WE HAVE CONTINUED THIS PROCESS AND HAVE VERY SUCCESSFULLY CONTROLLED THE WEED GROWTH WITHOUT DAMAGING THE WEED OR NATURAL ENVIRONMENT IN ANY FASHION.

I AM VERY FEARFUL THAT WHAT THE D.N.R. IS RECOMMENDING WILL EVENTUALLY RESULT IN TURNING THE TWO WHITE ASH LAKES INTO WEED SWAMPS.

I URGE YOU TO PLEASE DO NOT LET THAT HAPPEN.

William Olson

YOURS TRULY  
Jo Ann G. Olson

February 24, 2003

Pat Mahoney  
1637 South White Ash Lane  
Balsam Lake, WI 54810

To Whom it may Concern

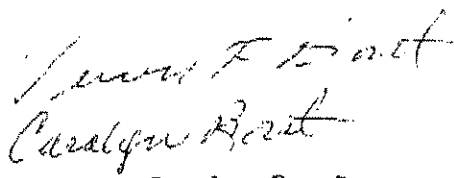
This is in regards to the harvesting of weeds on White Ash Lake.

We would like to see the harvesting of weeds continue, since the lake is already below normal and to not remove the weeds from the lake would just add to the problem.

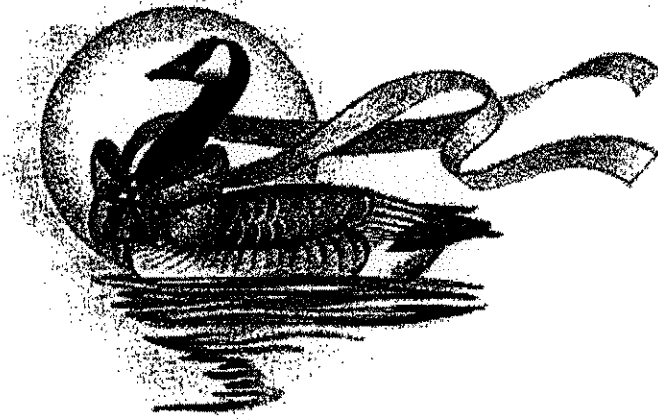
Where we live on the lake the weeds make it very difficult to even get a boat to the dock and going thru the channel to the lake is impossible.

We hope you will reconsider your thinking in the matter

Sincerely,



Vernon & Carolyn Borst  
White Ash Lake Homeowners



Jul. 24'03

To DNR -

I own lake property on White Ash Lake and really enjoy spending time there. One of my concerns is I bought the property to be able to use the lake to fish and for boating. I would find it difficult to do either of these things with the weed problem in the lake. The weeds are so thick they choke out the water and make rowing impossible. as for fishing we can't get around to do any fishing and the lake is shallow to begin with. If we can not harvest the weeds it isn't much better than Swamp land to me. Please let us harvest weeds so we can enjoy the Lake & Lake Home

February 28, 2003

To Whom It May Concern:

We are writing to express our concern of the Department of Natural Resources', DNR, management plan for preservation of aquatic plant life and the ecosystem and habitat on South and North White Ash Lake in Polk County Wisconsin. We want to address issues that are key to the continued existence of the lakes. As we understand, the DNR would like to preserve the lakes to they're past natural state by implementing a plan for minimum aquatic plant control.

Upon talking with a past resident of the lake, Bonnie Gunderson, 35 years ago when her parents lived on the east side of North White Ash Lake she and her siblings recognized the plant life on the lake, but commented that it was not as abundant as its current status. Over the past 35 years, the lake has evolved to its current overgrowth of aquatic plant life due to increased fertilizer usage by agriculture and residences along the lake. This new problem of excess plant growth has been controlled by clear-cut mechanical harvesting practices, similar to a farmer mowing his hay field. The plant life is not eliminated, as the plants continue to grow and management practices have been in place to preserve the top growth in areas that have had top growth as in the past. This practice has not interfered with the fish, insect, amphibian, bird, and wildlife habitat, which continue to flourish on these lakes.

As property owners of North White Ash Lake, we believe that the preservation of the ecosystem and habitat on these lakes are important, but we also believe that excessive management will be detrimental to the future of these bodies of water. The proposed/currently implemented control management practices by the DNR may be the loss of the ecosystem and habitat that has been a part of these lakes over the past 35 years. The proposed practices may lead to the loss of the recreational habitat for humans, birds, fish, wildlife, plant life, amphibians, and insects. Grant it may create a new habitat, but what is wrong with the past habitat.


It is the responsibility of the residents around bodies of water to preserve the ecosystem and habitat, hence the creation of the White Ash Lake Protection and Rehabilitation District several years ago. It is the responsibility the DNR to monitor these ecosystems and habitats and to work with these districts to maintain a constant habitat. It is not the charge of the DNR to "over manage" our limited resources, which will change the future of these lakes forever.

Based upon the changes proposed by the DNR, the officials are looking at the current status of these lakes and projecting short-term benefits for the ecosystem and habitats. Please look back to see how this ecosystem and habitat was in the past and look into the far off future to preserve the pristine beauty of these bodies of water for future generations.

Sincerely,

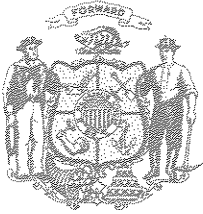


Lyle Gunderson  
149 Hwy. 63  
Baldwin, WI 54002



Sonja Gunderson  
149 Hwy. 63  
Baldwin, WI 54002





# TED KANAVAS

## STATE SENATOR

To: Senate Committee on Environment and Natural Resources

From: State Senator Ted Kanavas

Date: March 13, 2003

Re: Clearinghouse Rule 02-061

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Thank you Chairman Kedzie, distinguished members of the Senate Committee on Environment and Natural Resources, and concerned citizens. My name is Senator Ted Kanavas, and I represent the 33<sup>rd</sup> Senate District. My district consists of portions of Washington and Waukesha County as well as a small portion of Dodge County.

I have come to this committee today to express my concerns with Clearinghouse Rule 02-061 and register my vote against the implementation of this rule. Clearinghouse Rule 02-061 not only gives the Department of Natural Resources (DNR) blanket regulatory powers, but it also has lacked significant public input.

There is no question that Wisconsin has been blessed with an abundance of natural resources. We have beautiful lakes, streams, rivers, forests, valleys, and bluffs. Wisconsin is truly a beautiful place to live and play.

However, since coming to office in 2001, I have had constant reminders from my constituents that the DNR has been both too narrowly focused on their environmental agenda, and not receptive to the needs and wants of land owners.

Clearinghouse Rule 02-061, also known as N.R. 109, has a good overall mission—to protect native aquatic plant life and control the spread of invasive species in our waterways. However, I am leery of what the affects of this rule may have, not only on my constituents, but also the lake property owners and recreational users of this state.

In my interactions with lake property owners in my district, their main concern with this rule, and other like rules N.R. 115 and N.R. 328, is that the DNR has not had an open dialogue with the lake property owners.

Notices are put in their “official” publications, yet the Department does not contact the local lake management districts who have the most vested interest in the sanctity of their waterways. Not everyone has access to the “official” publications; rather, more people could be involved if local land management districts would be contacted. More importantly, the lake management districts do not have the time or resources to constantly monitor the DNR’s website.

More public input should be sought after when developing administrative rules. The DNR needs to have more public hearings that are at reasonable times and locations. They need to realize that individuals do not always have the opportunity to attend meetings during regular business hours.

STATE CAPITOL

P.O. Box 7882 • MADISON, WISCONSIN 53707-7882  
(608) 266-9174 • (800) 863-8883 • FAX: (608) 264-6914

To help increase the public input, I feel that it would be in the best interest of the DNR to set up an email database that would serve as a quick and easy way to announce public hearings to all of the lake management district representatives.

It should not stop there. The DNR needs to listen to the concerns of the public during these hearings. Input from the meetings should not just be taken and then disregarded. Instead, the DNR needs to make certain that all parties involved have their voice legitimately heard. Otherwise, the public hearing process is nothing but a show.

Furthermore, I fear what the implementation of this Clearinghouse Rule will bring. Looking at the other administrative rules that the DNR is working on, it is becoming evident that they want to eliminate the future use of certain types of conventional rip rap for mitigating soil erosion, limiting the amount fallen trees that a land owner can take out of the water on their shoreline, and also controlling the amount of weeds that an individual can take out for swimming purposes.

The guidelines set by the DNR would make for a supposed objective determination of aquatic plant management at each site. Realistically, each lake is unique, and not one blanket set of standards should be placed on lakes. Otherwise, these blanket powers will force the DNR to make determinations on a subjective basis. Putting this amount of power into the DNR could prove to be costly for the lake property owners and users.

We need to give credit to some of these lake management districts for the work that they have done. Instead of working without their input, it is essential to work with them. For example, Lake Keesus in my district has an active lake management program. They have gone beyond the DNR in creating environmentally sensitive areas, certain wake policies and boat usage times. I had the opportunity to take a boat ride with the DNR and some lake management officials to check the process of lake. The DNR official was impressed with the actions that the lake management district members had taken to ensure that the lake was not being damaged by erosion, excessive boat usage, and development. Yet now, the DNR will be charging a fee for the need to control programs that have already been successfully implemented in lakes around Wisconsin.

There are lake management districts like these all over the state of Wisconsin. I want to stress that that DNR needs to actively work together with these lake management districts to create more balance in the administrative rules process. We need balance, and this balance will bring forth better environmental policy. This rule does not have balance.

Thank you for allowing me to provide testimony. Again, I urge you to vote against Clearinghouse Rule 02-061. The DNR needs to revisit this rule and gain more public support and have an open dialogue with all those with a vested interest in the viability of Wisconsin waterways.

March 13, 2003

TO: Chairman Kedzie and Members of the Senate Environmental Committee  
FR: Lake Restoration, 12425 Ironwood Circle, Rogers, MN 55374  
RE: CR-02-061 (DNR) Aquatic plant management.

We respectfully request that our rake **not be considered a permanent structure** as currently determined by the DNR. **Or alternatively that NR 109.06 Waivers include the two words "sweeping" and "eliminate"** in section (3) as attached. In addition to the mechanical devices designed for cutting or mowing vegetation currently allowed in NR 109.06, these two words would allow a lake homeowner to also control lake weeds with a sweeper.

**Helps people with disabilities**

Lake homeowners include elderly persons, people with disabilities, and people with heart conditions. A product that attaches to the dock and sweeps weeds will provide a small swimming area without the physically demanding use of rakes or cutters.

**Non-chemical**

This is a non-chemical means of controlling aquatic plants. There are numerous websites offering chemicals to kill lake weeds. The sweeper provides a non-chemical alternative.

**Impacts a very small area**

As allowed under NR109.06 (3) (a), the sweeper would be operated alongside a dock. The area affected would be about 0.03 of an acre.

**Are aquatic plants removed from the lake?**

Aquatic plants die off each fall in entire lakes. This affects less than .03 of an acre.

**Will fragments of Eurasian watermilfoil be spread?**

Eurasian watermilfoil auto fragments on its own at various times during the summer. The lake sweeper would keep Eurasian watermilfoil from growing and autofragmenting.

**Will neighbors be affected?**

The lake sweeper brushes and eliminates aquatic plants. It does not cut or pull out plants. The neighbors will not be affected.

**Will lake sediments be disturbed?**

Because the lake sweeper has light rakes, its impact is minimal. Also, the area impacted is only .03 of an acre.

## Requested Change of Rule

**NR 109.06 Waivers.** The department waives the permit requirements under this chapter for any of the following:

(1) Manual removal or use mechanical devices to control aquatic plants from a body of water 10 acres or less that is entirely confined on the property of one person with the permission of that property owner.

(2) Manual removal of nonnative or invasive aquatic plants as designated under s. NR 109.07 when performed in a manner that does not harm the native aquatic plant community.

(3) A riparian owner who manually removes aquatic plants from a body of water or uses mechanical devices designed for cutting **sweeping** or mowing vegetation to remove/eliminate aquatic plants from an exposed lake bed that abuts the owner's property provided that the removal meets all of the following:

(a) Is limited to a single area with a maximum width of no more than 30 feet measured along the shoreline provided that any piers, boatlifts, swimrafts and other recreational and water use devices are located within that 30-foot wide zone and may not be in a new area or additional to an area where plants are controlled by another method.

(b) Is not located in a sensitive area as designated by the department under ch. NR 107, or in an area known to contain threatened or endangered resources or floating bogs.

(c) Does not interfere with the rights of other riparian owners.

\$300.<sup>00</sup> for permit to use this sweeper



**WISCONSIN ASSOCIATION OF LAKES, INC.**  
ONE POINT PLACE • SUITE 101 • MADISON, WI 53719-2809 • 800/542-5253 (in WI) • 608/662-0923 • FAX 608/833-7179

## **Testimony on CR-02-061 (NR 109) Aquatic Plant Management Rule**

Thank you for the opportunity to **testify in favor of NR 109, the Aquatic Plant Management rule**. My name is Donna Sefton and I serve as Executive Director of the Wisconsin Association of Lakes (WAL).

The Wisconsin Association of Lakes is the only statewide nonprofit organization dedicated to promoting public policy, advancing education, and strengthening local leadership to protect and manage Wisconsin's 15,000 lakes. WAL's membership is comprised of 350 individual lake organizations from throughout the State of Wisconsin. The membership of these organizations tops 100,000. We also serve hundreds of individual "Friends" who love and use Wisconsin lakes and 20 countywide lake and waterway associations.

The Wisconsin Association of Lakes supports adoption of the Aquatic Plant Management rule (NR 109) as proposed. The rule addresses the spread of invasive exotics; protects native, diverse communities of aquatic plants that provide for good fishing; and promotes individual lake management planning to address the specific conditions and situations of individual lakes.

WAL has actively sought comments on the Aquatic Plant Management Rule from throughout the state by articles in our newsletter, on our website, at our statewide convention, at workshops, and in action alerts to our members. Through these means, we know information on the rule has reached at least 5,000 lake organization members and lake users.

This final rule is very similar to the emergency rule enacted in 2002. One hundred twenty permits were issued under the emergency rule in 2002, and we received only two minor concerns from our constituents.

The Wisconsin Association of Lakes urges that these rules be finalized so that lake organizations will be able to obtain permits to begin harvesting and dealing with exotics when they need to do so this spring.

Thank you kindly for your consideration. Feel free to contact me for additional information at the letterhead address and phone number.

Sincerely,

Donna Sefton  
Executive Director



# Mary A. Lazich

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State Senator

Wisconsin State Senate  
Senate Committee on the Environment and  
Natural Resources  
Testimony on CR 02-061  
March 13, 2032

Good afternoon Chairman Kedzie and Committee members, I am here to express my concerns regarding Clearinghouse Rule 02-061 relating to the introduction, control or removal of aquatic plants.

I propose the following language as an amendment to the rule as it is currently drafted.

**NR 109.1 Purpose.** The purpose of this chapter is to establish procedures and requirements for the protection and regulation of aquatic plants pursuant to ss.23.24 and 30.715, Stats., and the promotion of human recreational use.

....

**NR 109.05 Permit issuance.** (3m) Notwithstanding sub. (3)(c) to (g), the department shall issue the requested permit if the department determines that aquatic plants are causing

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March 13, 2003

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impairment of recreational water use activities and the improvement in recreational water use activities resulting from the introduction or control of aquatic plants outweighs the results or impacts determined under sub. (3) (c) to (g).

The rule as currently drafted allows DNR to decide that the while removal or control of aquatic plants would improve the recreational uses of the water, DNR may still deny a permit if it finds that the proposed removal or control will cause any of the adverse effects identified in NR 109.05(3)(c) through (g).

The amendment would make explicit a requirement that DNR must consider improvement in the recreational use or value of the water and must balance that interest against the conditions for denial of a permit contained in subsection (c) through (g). Riparian owners most often chose to live next to water to enjoy the recreational opportunities created by water, whether that is fishing, boating, swimming or simply enjoying the scenery from the shore. Their interests are important and should be protected and taken into consideration when decisions about the introduction, control or removal of aquatic plants are made.

Requiring consideration of the recreational use of a body of water by DNR is consistent with the decision of the Wisconsin Supreme Court in, *State v. Bleck*, 114 Wis. 2d

Testimony CR 02-061

March 13, 2003

Page Three

454, 465 (Wis. 1983), which held that the public trust doctrine on navigable waters, “was originally designed to protect commercial navigation, it has been expanded to safeguard the public’s use of navigable waters for purely recreational and nonpecuniary purposes.”

Thank you Senator Kedzie and committee members for the opportunity to appear before the committee regarding this important issue.

Senator Mary Lazich



- Shortage in last budget.
- Compared w/ Assoc. of Lakes
- Cost for August next year
- 5500 is \$10 - 15000

- 434 Paul Revere!
- A 16% administration
- Cap man across for
- Due for \$1's demand
- From Fri & Wildly Next
- Paul Revere: Due
- A Don't take Sub Annual.

(Name: Tom Hodge, Hl. of Admin)

2 mil. in common pool

300 of Revere's reimbursement

Div. of Lake

Cost for a report  
lowest

Respect

unspecific  
no definition;  
by the DNR re.  
this rule.

Assembly we have  
already made  
a workshop.

See  
we can not a time  
limit

KANANAS CONCERNS

LACK OF PUBLIC INPUT

NOT ENOUGH DIALOGUE WITH LAKE  
PROPERTY OWNERS

MAYBE HAVE JEFF DESCRIBE THE

"PUBLIC WORKSHOPS"; DESCRIBE THE SURVEYS  
Assoc of lakes members only??

PROBLEM WITH "ONE SIZE FITS ALL"

DETERMINATION FOR PLANS; TOO EASY  
FOR DNR TO DENY RATHER THAN  
APPROVE

WAL (DONNA SEFTON) SUPPORT

120 PERMITS ISSUED UNDER EMERGENCY RULE

JAN ERDMAN (LITTLE MUSKIE & LAKE)

COMMISSIONER ON MUSKIE & LAKE

506 ACRE LAKE

RULE WAS UNDER PUBLICIZED; FIRST FOUND OUT

ABOUT IT ONE YEAR AGO

FORWARD ALL DOCUMENTS TO JEFF BODE

WHY IS THERE A RUSH TO DO THIS RULE?

P.L. ITEM 3(A) MISSING

WANT MORE FLEXIBILITY IN THE RULE

ADDRESS WILDFIRE PROBLEM MORE DIRECTLY

DNR SHOULD DECIDE WHEN THESE SHOULD BE CUT

AND FLEXIBILITY ON THE 30 FT. PROVISION

AB 4:

HUNT/FISH & BG USED FOR HUNT/FISH PROGRAMS

CR 02-061: AQUATIC PLANT MGMT.

JEFF BODE (DNR) SUPPORT

4 PUBLIC HEARINGS

250 SUBJECTS SUBMITTED

WANTS THE RULE DONE BY MAY 1, 2003

CREATED BY DNR BIENNIAL BUDGET REQUEST

MANUAL REMOVAL IS ACCEPTABLE FOR WMA'S

MANUAL REMOVAL FOR NATIVES IS OK WITHIN

A 30 FT. AREA

SEN. LAZLICH (OPPOSE)

COMMENTS SUBMITTED

WANTS TO MEET WITH NEAL

GUNNAR B. / YENUS KRETCH (OPPOSE)

MAKE CHANGE TO NR 109, 06 WATERS

- SUPERINT.

~~THE~~ NR 02-061

3-12-03

Jeff Rode, DNR  
(Ferson)

May 1st Permits  
about to be issued

~ 120 permits last year

2002

Back date  
when done

-1-



State Senator  
**Neal J. Kedzie**

11th Senate District

March 14, 2003

Scott Hassett, Secretary  
Wisconsin Department of Natural Resources  
101 S. Webster Street, Fifth Floor  
Madison, WI 53702

Dear Secretary Hassett,

This letter is to inform you that on March 14, 2003 the Senate Environment and Natural Resources Committee and voted by paper ballot (Ayes, 5; Noes, 0;) pursuant to s. 227.19 (4) (b) 2., Stats., to request the Department of Natural Resources to consider modifications to Clearinghouse Rule 02-061 relating to aquatic plant management

Thank you for your consideration.

Sincerely,

**Neal Kedzie**  
Chair, Senate Environment and Natural Resources Committee  
State Senator  
11th Senate District

NJK: dj

NR 107 = Chemical Harvest of weeds  
→ Manual Harvest of weeds

NR 109 - Aquatic Plant Management  
March 20, 2003

LAZICHT ✓

Modify NR 109.1 - Purpose: The purpose of this chapter is to establish procedures and requirements for the protection and regulation of aquatic plants pursuant to ss. 23.24 and 30.175, Stats. and the promotion of human recreational use.

**Rationale:** Consideration of recreation use or value of the water.

STEP 2

Modify NR 109.04(2)(d) to clarify that the department may **not** require an aquatic plant management plan from an applicant who is an individual riparian owner.

quiet trip

STEP 3

Delete NR 109.04(2)(h) which requires applicants to provide a description of other control methods considered, and an explanation for why alternative methods were not selected.

**Rationale:** This provision is not needed, and makes a complicated (and expensive) permit application even more cumbersome.

see #? in DNR Rule Note

STEP 4

Modify NR 109.05(3)(a) to clarify that "beneficial water use activities include, but are not limited to, fishing, swimming, boating, water-skiing, ~~operating a personal watercraft~~ and other recreational activities enjoyed by humans on bodies of water."

Heavy Lang. according to DNR: ever rides anything hazardous to humans.

LAZICHT ✓

STEP 5

Modify NR 109.05 Permit Issuance to include: Notwithstanding su. (3)(c) to (g), the department shall issue the requested permit if the department determines that aquatic plants are causing impairment of recreational water use activities and the improvement in recreational water use activities resulting from the introduction or control of aquatic plants outweighs the results or impacts determined under sub. (3)(c) to (g).

**Rationale:** Create a more explicit requirement that the department must consider improvement in the recreational use or value of the water and balance that interest against the conditions for denial of a permit.

STEP 6

Modify NR 109.05(3)(b) so that the Department is required to define exactly what constitutes "effective relief of the water use impairment"

**Rationale:** The existing language in this portion of the rule is so vague that it essentially allows the department to deny a permit for any reason, as long as they say that the control method is "ineffective."

Time of year, types of treatment

STEP 7

TALK ABOUT GUNNEL BERGESON - weed rake

**NR 109 – Aquatic Plant Management**  
**March 20, 2003**

1. Modify NR 109.1 – Purpose: The purpose of this chapter is to establish procedures and requirements for the protection and regulation of aquatic plants pursuant to ss. 23.24 and 30.175, Stats. and the promotion of human recreational use. (OUTSIDE OF STAT. LANGUAGE)

**Rationale:** Consideration of recreation use or value of the water.

2. Modify NR 109.04(2)(d) to clarify that the department may **not** require an aquatic plant management plan from an applicant who is an individual riparian owner.  
POSSIBLY COME UP WITH A LIST OF CONSIDERATIONS FOR PLAN REQUIREMENTS
3. Delete NR 109.04(2)(h) which requires applicants to provide a description of other control methods considered, and an explanation for why alternative methods were not selected. DNR MAY PROVIDE LIST OF ALTERNATIVES OR MODIFY TO ASK JUSTIFICATION FOR USE

**Rationale:** This provision is not needed, and makes a complicated (and expensive) OF ONE METHOD permit application even more cumbersome.

4. Modify NR 109.05(3)(a) to clarify that "beneficial water use activities include, but are not limited to, fishing, swimming, boating, water-skiing, operating a personal watercraft, and other recreational activities enjoyed by humans on bodies of water."

5. Modify NR 109.05 Permit Issuance to include: Notwithstanding su. (3)(c) to (g), the department shall issue the requested permit if the department determines that aquatic plants are causing impairment of recreational water use activities and the improvement in recreational water use activities resulting from the introduction or control of aquatic plants outweighs the results or impacts determined under sub. (3)(c) to (g).  
(MIGHT BE TOO FAR OF A REACH)

**Rationale:** Create a more explicit requirement that the department must consider improvement in the recreational use or value of the water and balance that interest against the conditions for denial of a permit.

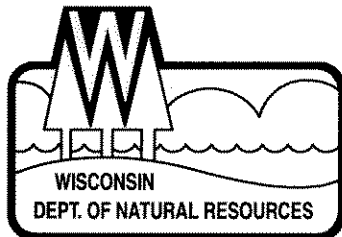
6. Modify NR 109.05(3)(b) so that the Department is required to define exactly what constitutes "effective relief of the water use impairment" TIE IT TO 109.04(2)(e)

**Rationale:** The existing language in this portion of the rule is so vague that it essentially allows the department to deny a permit for any reason, as long as they say that the control method is "ineffective."

↓ NO REFERENCE IN STATUTE TO "RECREATIONAL USE"

109.06(1) TO RESOLVE RECREATION ISSUE

MAR 25 2003



**State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES**

Scott McCallum, Governor  
Darrell Bazzell, Secretary

101 S. Webster St.  
Box 7921  
Madison, Wisconsin 53707-7921  
Telephone 608-266-2621  
FAX 608-267-3579  
TTY 608-267-6897

March 21, 2003

Senator Neal Kedzie  
313 South  
State Capitol  
Madison, WI 53707

Dear Senator Kedzie:

Thank you for your letter informing me of the Senate Environmental and Natural Resources vote on Clearinghouse Rule 02-061. I understand that my staff met with you and Rep. Johnsrud on Thursday, March 20, and that after that meeting we agreed to propose some changes to the aquatic plant management rule. My staff will continue to work with you on these changes.

It is my hope that we can take the rule to this March's Natural Resources Board meeting for their review.

Thank you for your help in clarifying this rule.

Sincerley,

A handwritten signature in black ink that reads 'Scott Hassett'.

Scott Hassett  
Secretary

cc. Rep. Johnsrud  
Todd Ambs  
Mike Lutz  
Mary Ellen Vollbrecht  
Carol Turner



# Mary Lazich

Wisconsin State Senator • Senate District 28



March 27, 2003

Senator Neal Kedzie, Chair  
Senate Committee on Environment  
and Natural Resources  
Room 313 South  
State Capitol  
Madison, WI 53707

Representative DuWayne Johnsrud, Chair  
Assembly Committee on Natural Resources  
Room 323 North  
State Capitol  
Madison, WI 53707

Re: Clearinghouse Rule 02-061, Relating to Aquatic Plant Management

Dear Senator Kedzie and Representative Johnsrud:

I have reviewed the changes to Clearinghouse Rule 02-061 that have been proposed by the Department of Natural Resources (DNR) staff, following your discussion of this rule with DNR staff. The changes do not adequately address my concerns and I wish to restate them for you. Further, I ask you to join me in requesting the DNR to make further modifications to the rule.

In my previous letter to you, I requested the addition of language to the rule that would acknowledge the promotion of recreational use as one of the purposes of the rule and that would add the promotion of recreational use as one of the criteria for issuing a permit for removal of aquatic plants. I have enclosed a copy of my letter, which includes proposed changes to the rule.

The authority of DNR to promulgate these rules is based on s. 23.24, Stats. It is important to examine the statute closely to understand the scope of DNR authority. This is a simple statute. In essence, it states who must have a permit to introduce, remove, or control aquatic plants and who is exempt from permit requirements, and prohibits distribution of invasive aquatic plants.

The statute *does not* contain express criteria for the DNR decision to issue or deny a permit. The DNR, however, has adopted permit denial criteria in s. NR 109.05. Any criteria that the DNR adopts *must be* within the scope of the statute.

The statute has two clearly expressed purposes, and one obviously implied purpose. The first express purpose is in s. 23.24 (2) (a) 1., Stats. The DNR is directed to establish an aquatic plant management program to "implement efforts to protect and develop diverse and stable communities of native aquatic plants." Please note that this does not say that native aquatic plants may not be managed, controlled, or harmed in any way. This is a broad-brush purpose, and allows for significant amounts of removal and control even of native aquatic plants.



Senator Kedzie/Representative Johnsrud  
March 27, 2003  
Page Two

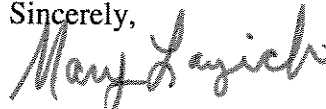
The second express purpose is in s. 23.24 (2) (b), which relates to DNR designation of invasive aquatic plants. The statute defines an invasive aquatic plant as one that "has the ability to cause significant adverse change to desirable aquatic habitat, to significantly displace desirable aquatic vegetation, or to reduce the yield of products produced by aquaculture." Virtually any proposal to remove or control invasive aquatic plants should receive the enthusiastic support of DNR.

The unstated legislative purpose of the statute is the enhancement of recreational uses of our lakes and streams. This point is almost too obvious. There would be little or no reason to be concerned about removal or control of aquatic plants if there was not recreational use of waters. Boating and swimming in particular require areas of water that are relatively free of aquatic plants and this statute would not exist but for the desire for recreational uses of water.

I believe that my suggested amendment allows all of these purposes to be served, and corrects the DNR's omission of recreational uses of water as an objective of this program.

Thank you for your time and consideration of my requests.

Sincerely,



Senator Mary Lazich  
Senate District 28

ML:tr

Enclosure

xc: Senator Zein  
Senator Stepp  
Senator Risser  
Senator Wirch



# Mary A. Lazich

---

State Senator

March 13, 2003

Senator Neal Kedzie  
Chair, Senate Committee on Environment  
and Natural Resources

HAND DELIVERED

Representative Dwayne Johnsrud  
Chair, Assembly Committee on Natural  
Resources

RE: Clearinghouse Rule 02-061  
Relating to aquatic plant management

Dear Senator Kedzie and Representative Johnsrud:

As you know, the Senate Committee on Environment and Natural Resources and the Assembly Committee on Natural Resources are currently considering Clearinghouse Rule 02-061, relating to aquatic plant management. The Department of Natural Resources (DNR) has drafted this rule to meet its statutory obligation to protect the native aquatic plant communities and control invasive aquatic plant species.

It is my understanding that the Assembly Committee on Natural Resources has requested that DNR make modifications to the rule and return to the Committee. It is further my understanding that the Senate Committee on Environment and Natural Resources will hold a hearing on the rule on March 13, 2003.

I propose the following language as an amendment to the rule as it is currently drafted.

**NR 109.1.** The purpose of this chapter is to establish procedures and requirements for the protection and regulation of aquatic plants pursuant to ss.23.24 and 30.715, Stats., and the promotion of human recreational use.

....

**NR 109.05 Permit issuance.** (3m) Notwithstanding sub. (3)(c) to (g), the department shall issue the requested permit if the department determines

that aquatic plants are causing impairment of recreational water use activities and the improvement in recreational water use activities resulting from the introduction or control of aquatic plants outweighs the results or impacts determined under sub. (3) (c) to (g).

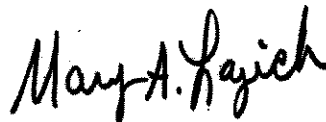
The rule as currently drafted allows DNR to find that the while removal or control of aquatic plants would improve the recreational uses of the water, DNR may deny a permit if it finds that the proposed removal or control will cause any of the adverse effects identified in NR 109.05(3)(c) through (g). The amendment would make explicit a requirement that DNR must consider improvement in the recreational use or value of the water and must balance that interest against the conditions for denial of a permit contained in subsection (c) through (g).

Requiring consideration of the recreational use of a body of water by DNR is consistent with the decision of the Wisconsin Supreme Court in, *State v. Bleck*, 114 Wis. 2d 454, 465 (Wis. 1983), which held that the public trust doctrine on navigable waters, "was originally designed to protect commercial navigation, it has been expanded to safeguard the public's use of navigable waters for purely recreational and nonpecuniary purposes."

I would appreciate the opportunity to meet with you to discuss this amendment, or in the alternative to have our staff meet to discuss it. I also plan to testify before the Senate Committee on the Environment and Natural Resources at its hearing on March 13, 2003.

Thank you for your time and consideration of my request.

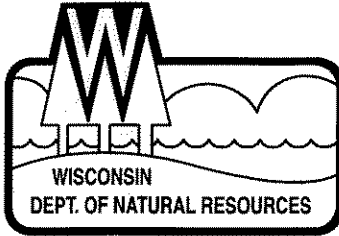
Sincerely,



Mary Lazich  
State Senator  
Senate District 28

ML/cc

MAR 28 2003



State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Jim Doyle, Governor  
Scott Hassett, Secretary

101 S. Webster St.  
Box 7921  
Madison, Wisconsin 53707-7921  
Telephone 608-266-2621  
FAX 608-267-3579  
TTY 608-267-6897

March 27, 2003

Honorable Neal Kedzie, Chair  
Senate Committee on Environment and Natural Resources  
313 South  
State Capitol

Honorable DuWayne Johnsrud, Chair  
Assembly Committee on Natural Resources  
Room 323 North  
State Capitol

Re: Clearinghouse Rule No. 02-061  
Aquatic plant management

Gentlemen:

Following public hearings, both the Senate Committee on Environment and Natural Resources and the Assembly Committee on Natural Resources requested modification to Clearinghouse Rule No. 02-061 regarding aquatic plant management. At its March 26, 2003 meeting, the Natural Resources Board adopted the following modifications:

NR 109.03(2) "Beneficial water use activities" mean angling, boating, swimming or other navigational or recreational water use activity.

NR 109.04(2)(h) A description of other introduction or control methods considered and ~~an explanation of why alternative methods are not selected~~ the justification for the method selected.

(3)(a) The department may require that an application for an aquatic plant management permit contain an aquatic plant management plan that describes how the aquatic plants will be introduced, controlled, removed or disposed. Requirements for an aquatic plant management plan shall be made in writing stating the reason for the plan requirement. In deciding whether to require a plan, the department shall consider the potential for effects on protection and development of diverse and stable communities of native aquatic plants, for conflict with goals of other written ecological or lake management plans, for cumulative impacts and effect on the ecological values in the body of water, and the long-term sustainability of beneficial water use activities.

NR 109.05(3)(b) The proposed introduction or control will not ~~provide effective relief of the water use impairment caused by aquatic plants~~ remedy the water use impairments caused by aquatic plants as identified as a part of the application in s. NR109.04(2)(e).

NR 109.06(7) Incidental cutting, removal or destroying of aquatic plants when engaged in ~~angling, boating, swimming or other navigational or recreational water use activity~~ beneficial water use activities.

A copy of the complete Natural Resources Board Order No. FH-29-02 showing the changes incorporated is attached.

Under s. 227.19(4)(b)2., Stats., the Department of Natural Resources refers this action to your Committees for an additional 10 working day review. If the Department does not hear from you within 10 working days of the receipt of this notification, the Department will continue processing this rule.

Sincerely,

A handwritten signature in cursive script that reads "Scott Hassett".

Scott Hassett  
Secretary

cc: Ken Stigler – 208-RJC  
Donna Doyle – 401-RJC  
Jeff Bode – FH/3  
Chuck Hammer – LS/5  
Carol Turner – LS/5

Attach.



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## WISCONSIN LEGISLATIVE COUNCIL

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*Terry C. Anderson, Director  
Laura D. Rose, Deputy Director*

TO: SENATOR NEAL KEDZIE  
FROM: John Stolzenberg, Staff Scientist  
RE: Modifications to Clearinghouse Rule 02-061, Relating to Aquatic Plant Management  
DATE: April 4, 2003

This memorandum, prepared at your request, summarizes the modifications to Clearinghouse Rule 02-061 submitted to the Senate Committee on Environment and Natural Resources on March 27, 2003, by the Department of Natural Resources (DNR). The committee's review period for these modifications ends on April 10, 2003.

Clearinghouse Rule 02-061 creates ch. NR 109, Aquatic Plants: Introduction, Manual Removal and Mechanical Control Regulations. The rule interprets ss. 23.24 and 30.715, Stats. Under s. 23.24, Stats., no person may introduce a nonnative aquatic plant into waters of the state or control or remove aquatic plants in specified waters, unless the person has a valid aquatic plant management permit issued by the DNR. Under s. 23.24 (3) (b), Stats., the DNR may require that an application for an aquatic plant management permit contains a plan as to how the aquatic plants will be introduced, removed, or controlled. Under s. 30.715, Stats., no person may launch or use a boat or boating equipment or place a boat trailer in navigable water if the person has reason to believe that the boat, trailer, or equipment has any aquatic plants attached. This law also prohibits the launching or use of a boat or boating equipment or placing a boat trailer in the Lower St. Croix River if the person has reason to believe that the boat, trailer, or equipment has zebra mussels attached.

The modifications to Clearinghouse Rule 02-061 are described below. These modifications amend provisions in the rule relating to the following topics:

- Definition and use of the term "beneficial water use activities."
- Permit application requirements.
- Grounds for permit denial.

### **Definition and Use of the Term "Beneficial Water Use Activities"**

The original rule uses the undefined term "beneficial water use activities" in the permit denial criterion in s. NR 109.05 (3) (a). The original rule also refers to an "angling, boating, swimming, or other navigational recreational water use activity" in one of the permit waivers in s. NR 109.06 (7).

The modifications to the rule define "beneficial water use activities" to mean "angling, boating, swimming, or other navigational recreational water use activity" and replaces the phrase in s. NR 109.06 (7) on various types of water use activities with this defined term. The modifications also use the new term in the factors that the DNR must consider in determining whether to require an aquatic management plan as part of an aquatic plant permit application. This use of the term is described below.

### **Permit Application Requirements**

#### ***Justification of Introduction or Control Methods***

The original rule specifies in s. NR 109.04 (1) (h) that an application for an aquatic plant management permit must include a description of other introduction or control methods considered and an explanation of why alternative methods are not selected.

The modifications amend this provision to require the application to include a description of other introduction or control methods considered and the justification for the method selected.

#### ***Optional Aquatic Management Plan***

The original rule specifies that the DNR may require that an application for an aquatic plant management permit contains an aquatic plant management plan. See s. NR 109.04 (3) (a). The plan must describe how the aquatic plants that are the subject of the permit application will be introduced, controlled, removed, or disposed.

The modifications expand this provision to specify factors that the DNR must consider in determining whether to require an aquatic plant management plan as part of the permit application. The factor specified in the modifications are as follows:

- The potential for effects on protection and development of diverse and stable communities of native aquatic plants.
- The potential for conflict with goals of other written ecological or lake management plans.
- The potential for cumulative impacts and effect on the ecological values in the body of water.
- The potential [for] the long-term sustainability of beneficial water use activities.

### **Grounds for Permit Denial**

The original rule lists 10 grounds under which the DNR may deny issuance of an aquatic plant management permit. One of the grounds, s. NR 109.05 (3) (b), is that the proposed introduction or control of aquatic plants will not provide effective relief of the water use impairment caused by aquatic

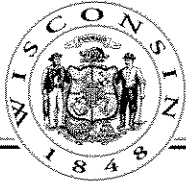


plants. The modifications amend this provision to delete the reference to "effective relief" and substitute that the proposed introduction or control will not remedy the water use impairment caused by aquatic plants as identified in the permit application.

The modifications also correct another one of the grounds for permit denial by deleting the word "not" in the original rule in s. NR 109.05 (3) (i) as follows: "the proposed introduction control will ~~not~~ interfere with the rights of riparian owners."

If you have any questions on the DNR's proposed modifications to Clearinghouse Rule 02-061, please feel free to contact me directly at the Legislative Council staff offices.

JES:ksm:wu



## State Senator Sheila Harsdorf

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April 9, 2003

Senator Neal Kedzie  
Chairperson, Senate Committee on Environment and Natural Resources  
Room 313 S  
State Capitol

Dear Senator Kedzie:

In response to the modifications to Clearinghouse Rule 02-061, that were made by the Department of Natural Resources at the request of your committee, I have collected feedback from my constituents regarding the proposed changes. Attached is the reaction from Mr. Pat Mahoney, a weed harvesting manager from White Ash Lake, Polk County. Mr. Mahoney also supplied written testimony to your committee and spoke before the Assembly Committee on Natural Resources on this issue.

I appreciate you taking the time to review this letter.

Sincerely,

Sheila Harsdorf  
State Senator  
10<sup>th</sup> Senate District

SH/mw

Cc: Senator Cathy Stepp  
Senator Dave Zien  
Senator Fred Risser  
Senator Robert Wirsch

Dear Committee Members

After reviewing the revisions for clearinghouse rule 02-061, I feel that the revisions are very minimal and still unclear. The DNR has acknowledged that people should be able to use the lake but will they allow us to cut weeds so we can?

There appears to be a lot of ifs and maybes. For example: NR 109-04(3)(a). I don't know if I have to have a plan or not. This will be a judgment call by the DNR and will probably not be in my favor. We are at their mercy if this rule passes in this form.

We were also hoping there would be a revision to NR 109.06(2)(a). 30 feet is not enough room when you have a dock, boat lift, swimming raft or what ever. We are allowed to manually remove weeds from a 30 foot width along our shore line. The weeds we have along our shoreline are not pretty. We have 4 Grandsons and they like to play in the water not in weeds!

As the rule reads now, people with 50 feet of shoreline are allow to clean a 30 foot width; people with 100 feet of shoreline are allow to clean a 30 foot width; and people with 200 feet are allow to clean a 30 foot width. This should be a percentage. Maybe, 60% of the total length of your shoreline? Then, people with 50 feet of shoreline would be able to clean weeds from a 30 foot width; People with 100 feet of shoreline would be able to clean weeds from a 60 foot width. This would be more fair. I feel more could be done

THANKS,  
Pat Mahoney  
White Ash lake District

**Johnson, Dan (Legislature)**

**To:** Environment Committee members and staff  
**Cc:** Loomans, Scott; Heinen, Paul H; Vollbrecht, Mary E; Lutz, Michael; Turner, Carol J; Bode, Jeff B  
**Subject:** DNR modifications to CR 02-061: aquatic plant management

Dear Environment/NR Committee members,

As you know, on March 14, 2003 the Committee voted 5-0 to request modifications to Clearinghouse Rule 02-061 (aquatic plant management). Last Thursday, Senator Kedzie, along with Assembly Natural Resources Committee Chairman DuWayne Johnsrud, met with the DNR to discuss concerns raised at the March 13th public hearing.

Modifications have been made by the department and will be submitted to the Natural Resources Board on Wednesday, March 26, 2003. If the Board agrees to those modifications, they will be referred back to the standing committees for a 10 day review period. We would like to share those modifications with you now as they may be a topic of informal discussion in Executive session on Thursday, March 27, 2003.

The intentions of the changes to this rule are as follows:

1. An acknowledgement of the recreational value of the water
2. A definition of "beneficial water use activities"
3. A rational permit process that does not encumber the applicant with an exhaustive or unknown list of alternative methods
4. The ability for applicant to justify the use of one method rather than asking them to explain why they did not use other methods
5. A requirement of the department to consider statutory guidelines if a management plan is necessary
6. A process by which the department may deny a permit if they believe it will not affect the impairment specified under 109.04(2)(e)

We believe that these modifications satisfy many of the concerns raised during the public hearing and we would like to assist the department in its goal of having the rule in place by May 1, 2003. If you have any questions prior to Thursdays hearing, please contact me.



CR 02-061 modified  
by DNR.doc

(modifications shown in bold, colored text)

Dan Johnson

Clerk, Senate Environment and Natural Resources Committee

**State Senator Neal Kedzie, Chair**

11th Senate District

**Chapter NR 109**  
***Aquatic Plants: Introduction, Manual Removal and  
Mechanical Control Regulations***

**PURPOSE**

Establish procedures and requirements protecting native aquatic plants and dealing with invasive non-native aquatic plants and organisms.

Any person conducting any of the above actions must obtain an aquatic plant management permit from the DNR.

**APPLICATION REQUIREMENTS AND FEES**

Applications must include the following:

- A non-refundable aquatic plant management application fee. Fees are as follows:
  - \$30 for a project less than one acre.
  - \$30 per acre to a maximum of \$300. Partial acres are rounded up to next full acre to determine fee. A renewal of this permit may be requested with an additional application fee equaling ½ of the original fee, but not less than \$30.
- A legal description of the body of water including township, range and section number.
- One copy of a detailed map of the body of water with proposed introduction or control project area clearly shown. Also provided shall be the name of the land owner riparian to the proposed area, the street address, lot and fire number, telephone number and any other information necessary to locate the property.
- One copy of any existing aquatic management plan and an explanation of how new plan will effect existing plan.
- Any impairments to water use caused by plants to be managed.
- A description of plants to be controlled.
- Type of equipment/ methods proposed for introduction, control or removal.

- Description of other methods considered but not used and why not used.
- Description of any other method being used/ intended by applicant or neighboring property.
- The area used for removal, reuse or disposal of aquatic plants.
- Names of persons or commercial providers of control/ removal services.

DNR may require applications include plan describing how plants will be managed, removed, introduced or disposed.

Requirements for plan are to be made in writing stating reason for plan requirement.

W/in 30 days of receiving the plan the DNR must notify applicant of any additional requirements. If additional information is not submitted, DNR can dismiss application.

DNR must approve plans before application is complete.

Permit sponsor may request renewal in writing if no changes to original is proposed.

### **PERMIT ISSUANCE**

DNR shall issue or deny permit w/in 15 working days.

(2) DNR may condition the permit as follows:

- (a) Quantity of plants introduced or controlled.
- (b) Species of plants introduced or controlled.
- (c) Areas where plants can be introduced or controlled.
- (d) Methods used to introduce or control.
- (e) Times when plants can be introduced or controlled.
- (f) Allowable methods for disposing plants removed or controlled.
- (g) Annual or other reporting requirements to DNR relating to (a) –(f)

(3) DNR may deny permit if they determine any of the following.

- (a) Plants are not causing significant impairment of beneficial water uses.
- (b) Plan will not solve problem caused by plants.
- (c) Plan is hazardous to humans.
- (d) Plan will threaten endangered resources.
- (e) Plan will adversely impact water quality, aquatic habitat and native plants.
- (f) Proposed area is designated as sensitive by DNR, unless applicant can demonstrate that project will not hurt sensitive area.
- (g) Plan will cause long-term or permanent changes to highly valued plants.
- (h) If wild rice is involved, existing stipulation shall be followed.
- (i) Plan will not interfere with riparian land owners' rights.
- (j) Plan is inconsistent with approved DNR plan for water body.

(4) DNR may approve application in full or part. Denial should be in writing.

(5)

- (a) Permit can be issued on < one acre in single riparian area for 3 year term.
- (b) Permit can be issued for one year term for more than one acre or one riparian area. Permit can be renewed up to 3 times via written request.
- (c) DNR can issue a permit with DNR approved plan for a 3-5 year term.
- (d) Permit can be issued to a licensed nursery for a 3 year term for harvesting plants from a publicly owned lake bed or for a 5 year term from privately owned beds w/ land owner permission.

(6) Approval of plan does not mean endorsement of activity.

## NR 109 Aquatic Plant Regulations

### NR 109.05 Application Requirements & Fees

- The rule requires a copy of any existing aquatic management plan, and a description of how the proposed control of aquatic plants is compatible with the existing plan. How would the department review an application from a riparian who lives on a lake that does not have an existing aquatic management plan?
- Why is there a requirement to include a description of other control methods considered, and an explanation of why alternative methods were not selected. It seems like the department is trying to make the permit process as difficult and cumbersome as possible.
- Permit requestors may be required under proposed NR 109.04(3)(a) to submit a plan with their application describing how the aquatic plants will be controlled, removed or disposed.
  - This information appears to be covered by the other permit application requirements. Why should an applicant be required to submit a separate plan for approval?
  - Under what circumstances will the department impose this additional regulatory burden by requesting a separate plan approval as part of the permit process?
- In addition to the permit fee, there are 10 requirements that an applicant must meet in the permit process, and that doesn't include the possibility of having to submit a separate plan for approval before the application is deemed complete. Is there a reason why the process needs to be so complicated for people who are trying to control invasive species on their lakes?

### NR 109.05 Permit Issuance

- The rule allows the department to deny a permit if the invasive plants "are not causing significant impairment of beneficial water use activities." What does this mean? What criteria will the department use to evaluate what constitutes "significant impairment?"
  - Could this criteria prevent lake associations from addressing problems on a proactive basis, before the problem gets out of hand?
  - In the past, the department has denied permits to treat Eurasian water milfoil unless the plant was so pervasive that there was virtually no reasonable use of the lake. Will the department continue to use this standard when issuing permits?
  - How much of an invasive plant such as purple loosestrife or Eurasian water milfoil is acceptable to the department?
  - Give us some examples of what the department would consider to be "beneficial water use activities."
- The rule allows the department to deny a permit if the control method "will not provide effective relief of the water use impairment caused by the plants." What criteria will the department use to determine what is "effective?"
  - Milfoil is a very hearty plant, and in many instances can only be controlled - but not eliminated. In the past, the department has used this as a basis for denying permits to chemically treat milfoil: because the plant re-established itself two years later, the department deemed chemical

right to navigate (boating)  
swimming, fishing



treatment as ineffective. Is it the department's position that chemical treatment of invasive plants is ineffective? Is there a bias against chemical treatment?

- The rule lists 7 conditions that the department may impose on the permit, and 7 reasons why the department may deny a permit. The rule appears to be written in a manner that gives the department broad authority to deny permits. What assurances can you give us that you will work with riparian owners to approve permits, and give them the tools they need to address problems in their lakes?

***SENATE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES***

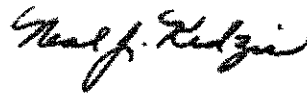
***MOTION ON CLEARINGHOUSE RULE 02-061***

1. Moved by **Senator Kedzie** that the Senate Committee on Environment and Natural Resources, pursuant to s. 227.19 (4) (b) 2., Stats., requests the Department of Natural Resources to consider modifications to Clearinghouse Rule 02-061 relating to aquatic plant management.

VOTE ON MOTION:

YES   X  

NO       



Signed: \_\_\_\_\_

Date:   March 14, 2003

Paper Ballot

March 14, 2003

**SENATE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES**

**MOTION ON CLEARINGHOUSE RULE 02-061**

1. Moved by **Senator Kedzie** that the Senate Committee on Environment and Natural Resources, pursuant to s. 227.19 (4) (b) 2., Stats., requests the Department of Natural Resources to consider modifications to Clearinghouse Rule 02-061 relating to aquatic plant management.

VOTE ON MOTION:

YES

NO

Signed:

*Fred A. Risser*

Date:

*March 14, 2003*

**SENATE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES**

**MOTION ON CLEARINGHOUSE RULE 02-061**

1. Moved by **Senator Kedzie** that the Senate Committee on Environment and Natural Resources, pursuant to s. 227.19 (4) (b) 2., Stats., requests the Department of Natural Resources to consider modifications to Clearinghouse Rule 02-061 relating to aquatic plant management.

VOTE ON MOTION:

YES

NO

Signed: David Zier

Date: 3/14/03

**SENATE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES**

**MOTION ON CLEARINGHOUSE RULE 02-061**

1. Moved by **Senator Kedzie** that the Senate Committee on Environment and Natural Resources, pursuant to s. 227.19 (4) (b) 2., Stats., requests the Department of Natural Resources to consider modifications to Clearinghouse Rule 02-061 relating to aquatic plant management.

VOTE ON MOTION:

YES

NO

Signed: Robert W. Winch

Date: 3-14-02

**SENATE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES**

**MOTION ON CLEARINGHOUSE RULE 02-061**

1. Moved by **Senator Kedzie** that the Senate Committee on Environment and Natural Resources, pursuant to s. 227.19 (4) (b) 2., Stats., requests the Department of Natural Resources to consider modifications to Clearinghouse Rule 02-061 relating to aquatic plant management.

VOTE ON MOTION:

YES

NO

Signed: Cathy Stepp

Date: 3-14-2003