

December 7, 2005

Mr. Gerald O'Brien, Chair
Natural Resources Board
PO Box 7921
Madison, WI 53707-7910

Dear Chair O'Brien and Natural Resources Board Members,

Re: Proposed rule 326

I am writing on behalf of the Wisconsin Association of Lakes (WAL). As WAL's Executive Director, I served on the Department's advisory group on the revisions to NR 326.

I would like to remind you that members of the stakeholder group included a marine contractor, a marina operator, a campground owner, a realtor, a city official, a riparian property owner, and a representative of lake organizations - the statewide representative for Wisconsin's 15,000 lakes.

This stakeholder group all agreed at the beginning of our discussions in 2004 that compromise was necessary to establish an acceptable rule and that a rule was both desirable and necessary because of the complexity of the chapter 30 statute, sections 30.12 and 30.13. Six of the seven stakeholders agreed to the prior draft of the rule. The Realtor representative was the only one that did not compromise at all. He wants all existing piers to continue to be allowed in public waters, no matter how much damage to lakes they are causing and no matter who else's rights are being affected. He also wants to allow all existing piers with no permit - with no way for future neighbors to know if that pier was actually in place before the act was passed.

I'm sure you heard or saw the very misleading radio and newspaper ads the Realtors ran over the last several weeks against pier rules, ads that were severely criticized by both Republican and Democratic legislators last week. These are ads that promote the exclusive use of a portion of lakes by a few at the expense and to the detriment of the rights of many, many others.

Last week there was a public hearing on AB 850. It appears that the Assembly Natural Resources Committee is trying to bypass the rulemaking process the legislature directed the DNR to undertake in 2003 Act 118. At that hearing, Chairperson Gunderson said he was tired of hearing about the Public Trust Doctrine from conservationists. He indicated it was the Legislature's responsibility to protect natural resources under that doctrine, and the legislature controls the DNR.

We think it is the responsibility of the DNR and the Natural Resources Board to provide to the legislature the best rules possible to be sure all Wisconsin's waters are protected, particularly from the few that would abuse them. We think the rules must follow what is written in the statutes, and not what might be intended but not stated in the statutes. We think proposed rules cannot allow a select few to have exclusive use over public waters at the expense of all others.

Representative Gunderson and other members of the Legislature have repeatedly stated that the provisions of 2003 Act 118 were intended to simply codify the Department's informal *Pier Planner*. In fact, Act 118 created s. 30.12(1g)(f), which establishes an exemption from permit requirements for piers that meet standards for pier width, length and mooring density that are consistent with the *Pier Planner*. The present proposed rule retains that exemption standard, as it should.

The statute says nothing about piers that are greater than the exemption size, but does authorize the department to write rules to administer the statute. The proposed rule now before you includes general permit standards for piers that effectively establish a second exemption for existing piers. While we don't favor large piers, and certainly cannot accept party platforms, we think the latest proposed rule requiring a general permit – at no fee – is a compromise that should be acceptable to most lake front property owners and lake users.

We would encourage the department, when they issue such general or individual permits on piers that are larger than those exempted include an informational brochure on the potential harm large piers and corresponding activity surrounding them can have on a lake.

The Wisconsin Association of Lakes endorses the rule before you.

We thank you for your consideration.

Sincerely,

Peter T. Murray
Executive Director

Cc: Wisconsin Association of Lakes Board of Directors