

DIRECT TESTIMONY OF JOHN STOCKHAM  
ON BEHALF OF THE PETITIONERS.

**Question: Please state your name, business address, and occupation.**

Answer: John Stockham, Stockham Consulting, 424 Virginia Terrace, Madison, Wisconsin 53726. I am a consulting land use planner.

**Question: Please describe your employment experience and educational background.**

Answer: I have been a consulting land use planner based in Madison, Wisconsin since 1979. I have been a partner in the following planning consulting firms: Stockham & Vandewalle, Camiros / Wisconsin Ltd., and SmithGroup JJR. I am currently President of Stockham Consulting. Prior to 1979, I was Senior Land Use Planner for Dane County Regional Planning Commission and Environmental Planner for Jackson County, Oregon. My resume is attached to my testimony.

I have a Bachelor's Degree from the University of Wisconsin – Madison with a Major in American Institutions. I have a Masters of Science Degree from Oregon State University, Department of Geography, with an emphasis in Land Use Planning and Natural Resource Management. I been both a student and instructor at numerous professional courses offered by the University of Wisconsin, American Planning Association, and Urban Land Institute.

Attached is my resume (Exhibit \_\_\_\_\_)

**Question: Please list the professional associations to which you belong.**

Answer: I belong to the American Planning Association (APA), American Institute of Certified Planners (AICP), and Urban Land Institute (ULI).

**Question: Please list a representative summary of your work in the area of planning for governmental entities.**

Answer: I have prepared planning documents for over 100 municipalities in the Upper Midwest. My work for municipalities includes community and regional master plans, downtown plans, waterfront and riverfront plans, land use analyses, economic development studies, and development feasibility analyses. The majority of my municipal clients have been communities in Wisconsin with populations ranging from 2,500 to 150,000. I have prepared numerous Comprehensive "Smart Growth" Plans, including plans for Jefferson County, Wisconsin, City of Fort Atkinson, Wisconsin and Town of Albion, Wisconsin, all of which are in the Lake Koshkonong area.

In addition to my work for municipalities, I have done an extensive amount of planning and real estate analysis for private landowners, developers, real estate companies, and institutional and corporate landowners. My work for these private sector clients has included market analysis, development feasibility analysis, site planning, and development permitting assistance.

**Question: Please list the publications for which you are an author.**

Answer: I have prepared over 200 planning documents and studies for state and federal agencies, municipal governments, and private-sector clients. Attached is a publications list itemizing my major publications. (Exhibit \_\_\_)

**Question: Have you reviewed the water levels contained in the Department's December 14, 2004 order, the levels requested by Rock Koshkonong Lake District's April 22, 2004 petition, and the levels contained in the Wisconsin Department of Natural Resources' revised order dated April 15, 2005.**

Answer: Yes.

**Question: Are you familiar with the historical water levels associated with the Lake Koshkonong system?**

Answer: Yes.

**Question: What is the basis for your familiarity with such history?**

Answer: I have read the *Environmental Report* prepared by consultants to the Rock Koshkonong Lake District and the *Environmental Assessment* prepared by staff of the Wisconsin Department Natural Resources. I have had numerous discussions with Mr. Rob Montgomery of Montgomery Associates and Mr. Stephen J. Hjort of Eco-Resource Consulting, LLC regarding the historic water levels and the probable impacts of the proposed orders.

**Question: Please describe any additional information that you have reviewed as part of your engagement in this matter.**

Answer: I have also reviewed a broad range of technical documents published on the RKLD's webpage and the webpage of the LKWA.

**Question: Have you been asked to render an opinion in this matter by the Petitioners.**

Answer: Yes.

**Question: Generally, what is the opinion that you have been asked to render in this matter.**

Answer: I have been asked to render an opinion in my professional capacity as a land use planner with respect to what impact, if any, a reduction in water levels during the summer months from the historical levels during the past twenty years would have on property owners, local governmental bodies or public programs whose finances depend largely on property taxes.

**Question: In connection with your rendering an opinion in this case, have you based your opinion on any assumptions.**

Answer: Yes.

**Question: What are those assumptions?**

Answer: I have based my testimony on the technical findings of Dr. Rob Montgomery with respect to water levels which indicate the following:

- a. The 1991 DNR order will result in lower Lake Koshkonong water levels than those observed over the past 18 years for approximately 50% of the summer season, when water levels have been above approximately elevation 776.3. The reduction in water levels produced by the 1991 DNR order is expected to be as much as approximately 0.5 feet. The 1991 DNR order will produce slightly higher water levels than those that have been observed under lowest flow conditions, which occur approximately 10% of the season. For the remaining 40% of the summer season, the DNR 1991 orders will produce water levels very similar to those that have occurred over the past 18 years.
- b. The difference between the recorded 1987 through 2005 water levels on Lake Koshkonong and the model results for the 1991 DNR order is primarily due to the fact that until recently, Indianford dam has not been fully operable. Therefore, if the 1991 DNR order is maintained in force in the future, Lake Koshkonong stage will be significantly lower (as described above) than has been observed for the past 18 years.

- c. The District's proposed order will produce slightly lower water levels than have been observed for the past 18 years for approximately 30% of the summer season, for times when existing water levels have been above approximately elevation 776.8. The District's proposed order will produce water levels higher than those observed historically for approximately 70% of the season, when water levels have been below elevation 776.8. During the time that the District's proposed orders result in higher water levels on Lake Koshkonong, the increased water level is typically 0.2 to 0.3 feet higher than historical conditions.
- d. Both orders produce similar results for Lake water surface elevations above approximately 777.3 feet.

**Question: Based upon these assumptions about measurable decreases in water levels resulting from DNR's water level order, can you describe the relationship, if any, between the bathymetric characteristics of shoreline and the change in useable water access that can be expected from a given change in water level.**

Answer: Decreases in the water levels of Koshkonong Lake would have a number of impacts on the use of the shoreline and both public and private access to the water. The impacts would generally be most pronounced in areas where there are shallow conditions near the shoreline. These area include the Gilbert Bay – Vinne Ha Ha area, the Bingham's Bay area, the area west of Charlie Bluff, the Olsons Bay – Lake Road area, and the Joyce Road – Koshkonong Manor area.

The impacts include:

- 1) Potential loss of functionality of piers and ability to use the piers for boating, swimming and other water activities;
- 2) Loss or diminishment of the ability to access the shoreline with watercraft;
- 3) Degradation of the appearance of the shoreline and exposure of “mud flats” under low water level conditions;
- 4) Reduction of the areas of navigability by larger motorized craft;

- 5) Exposure of rocks and other obstacles that can damage watercraft.

**Question: Have you supervised the preparation of any exhibits which demonstrate the bathymetric characteristics of Lake Koshkonong and the impacts of a decrease in water levels upon usable water access which corresponds to your opinion on this matter.**

Answer: Yes.

**Question: Could you please identify the exhibit and explain what it depicts.**

Answer: I have prepared the following graphic exhibits:

- 1) Lake Koshkonong Area Map: A generalized map depicting topographic contours, names of prominent bays and points on the lake, streets and roads, and areas of wetlands. The source of information contained in this map is USGS Quadrangle Maps.

(Exhibit \_\_)

- 2) Lake Koshkonong Aerial Photograph: An aerial photograph showing the entire lake with parcel boundaries and 1-foot bathymetric contour projections depicted as overlays on the aerial photograph. The date of the orthophoto imagery is July 5, 2005.

The bathymetric projections have been provided by Montgomery Associates. Parcel data is from Dane County, Rock County, and Jefferson County Departments of Land Information. (Exhibit \_\_)

- 3) Areas of Greatest Impact Map: An annotated aerial photograph illustrating the geographic areas on Lake Koshkonong that would likely be most severely impacted by a reduction in water levels or by greater fluctuations in water level. (Exhibit \_\_)

**Question: Mr. Stockham, do you have an opinion to a reasonable degree of certainty as a planner on whether or not these impacts on water access would affect an individual's use of their property?**

Answer: Yes

**Question: Generally, what is your opinion on this matter?**

Answer: Waterfront property owners would potentially experience either loss or impairment of the use of their piers in areas where there are shallow conditions near shore. For example, in areas where the 1-foot contour is 50' from the shoreline, a summer reduction in water level of 0.2 to 0.3 feet, piers would potentially need to be extended 10' to 15' feet to compensate for the water level reduction. In areas where the 1 foot contour is 100' from the shoreline, piers would need to be extended 20' to 30' in order to compensate for the reduced water level. In some cases the reduction of water levels would make a piers totally unusable. The access impacts would be greatest in areas with the shallowest near shore water depths. In areas with a steeper near shore water bottom gradient would be less severely impacted.

There could also be additional adverse impacts to individual property owners. These impacts could include exposure of "mud flats" along the shoreline, loss of useable beach front, and aesthetic degradation.

In addition, a related impact on lakefront property owners would be broader seasonal fluctuation in water levels and less predictability regarding water access. The District's proposed order would have the impact of dampening the amount of fluctuation in water levels between May and October.

**Question: Mr. Stockham, have you conducted any interviews with assessors who are employed by local jurisdictions who have taxing authority in areas located adjacent to Lake Koshkonong.**

Answer: Yes I have met Mr. Ron Jacobson, who is the Assessor for the Towns of Koshkonong, Sumner and Albion and I have communicated via phone with Mr. Patrick Clark, who is the Assessor for the Town of Milton.

**Question: Could you please explain what information you have gleaned from these interviews regarding water levels on Lake Koshkonong, and the relationship, if any, of those water levels to assessed values of the property?**

Answer: Mr. Jacobson indicated property sales and assessments flattened significantly several years ago when there was uncertainty regarding the future operations of Indianford Dam. This is a good indication that the real estate market is quite sensitive to threatened changes in water levels.

**Question: Based upon your expert credentials as a land use planner, do you have an opinion to a reasonable degree of planning certainty as to whether or not there is an impact on property value based upon the quality of the property's usable water access.**

Answer: Yes.

**Question: What is that opinion?**

Answer: It is my opinion that it is likely that over time there would be an adverse impact on property values in areas which have diminished access to water or degraded shoreline conditions by virtue in changes in water level.

**Question: Do you have an opinion on whether a decrease in usable water levels associated with the DNR's water level order would have an impact on assessed valuation for properties located on Lake Koshkonong?**

Answer: Yes.

**Question: What is your opinion?**

Answer: Assessments are based on accumulated sales data. As the sales prices of individual properties are either flattened or decline relative to other properties in the area, this would result in lower assessments for lakefront properties in impacted neighborhoods. I believe that ultimately reductions in lake water levels would result in relatively lower assessment for affected properties.

**Question: Mr. Stockham, please explain the relationship, if any, between a decrease in the assessed valuation of properties and tax revenues generated by local governmental bodies in the Lake Koshkonong area.**

Answer: Tax revenues received by local governments are based primarily on real estate assessments, which are in turn based on real estate sales data. If assessments in an area decline relative to the surrounding area, the tax revenues received by local governments will be less than they would have been without the drop in assessment values.

**Question: Mr. Stockham, do you have an opinion to a reasonable degree of planning certainty as to whether the decrease in market values in the Lake Koshkonong area will have an impact on finances for local governmental bodies in the Lake Koshkonong area?**

Answer: Lower assessments of lakefront properties would likely have an adverse financial impact on all taxing jurisdictions in the area, which include local units of government, school districts, vocational and technical school districts, and the respective counties.

**Question: Please describe the impacts, if any that the reduction in finances would have on the ability of these local governmental bodies to perform essential governmental functions in these communities.**

Answer: The governmental functions of most local governments and school districts in Wisconsin are financed through property taxes. While there a variety of State aids and shared-

revenues, property taxes are the major revenue source for local government, schools districts and vocational and technical schools. Generally, a loss of tax base means either that government services and functions are reduced or property tax rates are raised with result that other taxpayers will, in effect, make up for the loss of tax revenues from the properties that would be adversely impacted through payment of higher taxes. Thus, all of the taxpayers, including both lakefront and non-lakefront property owners, have a stake in maintaining property values for lakefront properties.

**Question: Do you have an opinion to a reasonable degree of planning certainty as to whether the Lake Koshkonong functions as an economic resource for the governmental entities surrounding the lake?**

Answer: Yes.

**Question: Please describe your opinion?**

Answer: Lake Koshkonong is a key natural and economic resources for the five towns that have lakefront, which include the Towns of Koshkonong, Sumner, Albion, Milton, and to a lesser extent Town of Fulton. In addition, the lake is an important natural and economic resource for the nearby incorporated municipalities, which include the City of Fort Atkinson, City of Edgerton, and City of Milton. All of these communities rely on Lake Koshkonong as a regional attraction that brings residents, seasonal residents, and tourists to the area. There are numerous small business in the Lake Koshkonong area that are dependent on lake uses. The most obvious of these businesses are lakefront marinas, taverns and restaurants that rely on boating access and tourist traffic for a significant portion of their business. However, there are many other businesses in nearby communities, such as service stations, convenience stores, boating and fishing supply business, and eating and drinking establishments that rely on summer boaters, anglers, and other users of Lake Koshkonong.

To the extent that decreasing or fluctuating water levels, adversely impacts boating and other lake uses, these businesses would be directly impacted. Ultimately loss of business would lead to lower volume of sales and sales taxes, lower area employment, and lower tax base.

**Question: How, if at all, does the success of land use plans adopted by local governmental bodies surrounding Lake Koshkonong depend upon the availability of the lake to act as an economic resource?**

Answer: All of the jurisdictions that adjoin Lake Koshkonong have either prepared or in the midst of preparation of Comprehensive “Smart Growth” Plans. To varying degrees, all of these plans identify Lake Koshkonong as both a natural and economic resource for their communities. The stability and predictability of water levels is essential to maintaining the lake as a meaningful economic resource.

**Question: How, if at all, will the reduction in water levels that you have assumed to be caused by the DNR’s water order impact the availability of the lake to act as an economic resource for these planning entities.**

Answer: To the extent that water levels adversely affect the commercial viability of businesses on the lake, the lake would have a declining value of as a community economic resource. Likewise, to the extent that residential property values are impacted by changing lake water levels, there would be direct financial and economic impacts to all of the area communities.

**Question: In addition to the impacts on shoreline access and property values, do have an opinion on whether or not lower water levels would affect public interest?**

Answer: Yes.

**Question: Please describe your opinion.**

Answer: Any action that has the effect of lowering water levels would adversely impact the public interest in a variety of ways:

First, physical access to the lake and shoreline would likely be adversely impacted for owners of private property along portions of lakeshore. Ultimately, this would likely impact property values and would have economic consequences for the entire community.

Second, public access via public lands and boat landings would potentially be adversely impacted by lower water levels.

Third, navigability would likely be impacted by reductions in the usable surface waters, and by increasing safety hazards posed by submerged obstacles such as rocks and stumps which would be nearer to the surface as a result of the lower water levels.

**Question: Given the work which you have performed in this case, do you have an opinion to a reasonable degree of planning certainty as to whether the DNR's water level order, and the assumed resulting decrease in water levels, will operate to serve the public interest from the perspective of local governmental entities in areas surrounding Lake Koshkonong.**

Answer: Yes.

**Question: What is that opinion?**

Answer: In my professional opinion, any order that would have the affect of decreasing water levels would adversely impact public interest with respect to water access by both individual lakefront property owners and residents and the general public. In addition, a decrease in water levels would likely have an adverse impact on the tax base of the surrounding area resulting in impacts on local governmental and school districts. Ultimately owners of both

lakefront and non-lakefront property owners would likely be impacted by higher tax rates to compensate for loss of tax revenues from impacted lakefront properties.

MW1084450\_3.DOC