

WHEELER, VAN SICKLE
& ANDERSON, S.C.

GODFREY  KAHN S.C.

May 7, 2015

Governor Scott Walker
Office of Governor Scott Walker
115 East Capitol
Madison, WI 53702

Re: DNR - Lake Koshkonong Water Level

Dear Governor Walker:

We are writing on behalf of the Rock-Koshkonong Lake District (“RKLD” or the “District”), the Lake Koshkonong Recreation Association and the Rock River-Koshkonong Association to urge your immediate action to resolve a threat to the regional economy surrounding Lake Koshkonong that has persisted for almost 12 years.

As explained in the enclosed letters and memorandum, Lake Koshkonong’s water level is controlled during the summer boating season by the Indianford Dam, which is owned and operated by the District. For some 30 years, one of the dam’s discharge gates was frozen shut. When the dam was finally repaired in 2002, RKLD petitioned DNR to modify its operating order for the dam in order to prevent a significant reduction from the water levels that had prevailed since the 1960s.

That petition was handled by DNR during the early years of the Doyle administration, which launched a broad agency effort to catalogue the claimed impacts of high water levels on wetlands adjoining Lake Koshkonong. *The Department’s analysis systematically excluded any consideration of the economic and other impacts of low water levels expected to result from the dam repairs.*

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DNR denied RKLD's petition based on claimed impacts to public and private wetlands. The District challenged that decision because it was inconsistent with State law. After nearly a decade of litigation, in 2013 the Wisconsin Supreme Court reversed DNR's order, holding the agency had unlawfully failed to consider the economic impact of its water level decision and failed to distinguish between private and public wetlands. More than a year ago, the matter was formally remanded to DNR to reconsider the District's 2003 petition.

DNR rules set a 120-day deadline for consideration of water level orders. Despite that, DNR has delayed its reconsideration of RKLD's petition for more than 20 months following the Supreme Court's decision. The Department finally announced its plan to reconsider the petition by issuing a press release on February 16th of this year. That plan (developed without discussion with the District) proposes further discussion and analysis by DNR leading to a decision sometime next fall. Under DNR's plan, the dam owner and others were given less than a month to provide pertinent information and comment. The balance of the two plus years of deliberation would be reserved for DNR.

Because DNR claims it does not have the institutional ability to analyze *economic impacts*, the District engaged the Fiscal and Economic Research Center and Small Business Development Center of the University of Wisconsin-Whitewater to evaluate the impacts of the lowered water level on Lake Koshkonong economic activity, property values and the local tax base.

Dr. Russell Kashian of the Economic Research Center has undertaken a detailed hedonic study to determine the impact of lower water levels on property value on and near Lake Koshkonong. Using a sophisticated model comparing Lake Koshkonong to comparable lakes in the region, the report estimates that the lowered water levels from the dam repairs and DNR's orders has already resulted in some \$70 million in lost value! That reduction in the tax base translates to a loss of local property tax revenues of more than \$1 million each year! Lowered water levels on the lake also have a significant impact on economic activity, especially in the critical recreation and hospitality sectors in the region. These additional negative economic impacts have not been quantified in the Kashian report.

Wisconsin voters have supported you based on your focused interest in economic development and job creation. Lake Koshkonong users, voters and business owners have had it with DNR's endless evaluation and re-evaluation of the Lake Koshkonong water level. If the agency thought the water levels prevailing on the lake since the 1960s were too high, they had ample power to compel repairs to the dam's discharge gates that would have resulted in a lower water level. It is entirely unreasonable for the Department to punish RKLD for assuming responsibility to manage and (expensively) repair the Indianford Dam by imposing a new water level that is well below what has been in place since the Kennedy Administration.

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Please let your team at DNR know that the time has come to bring this sad saga to a prompt conclusion by immediately granting the RKLD petition.

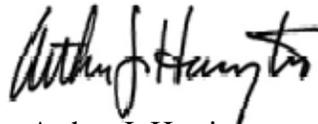
Very truly yours,

WHEELER, VAN SICKLE
& ANDERSON, S.C.
Attorneys for Rock-Koshkonong Lake District



William P. O'Connor

GODFREY & KAHN, S.C.
*Attorneys for Lake Koshkonong
Recreational Association, Inc. and
Rock River-Koshkonong Association, Inc.*



Arthur J. Harrington

Enclosures

Cc: Attorney General Brad Schimel
DNR Secretary Cathy Stepp