

# DNR Docks Advisory Committee Meeting Record

November 1, 2007

6-9pm, Watab Town Hall, Sauk Rapids, MN

## Part I: Introductions & Mission

Attending: Roger Landers, Ron Meyer, Ed Carlson, Gary Johnson, Gene Holderness, Henry VanOffelen, Judd Harper, Dan Siems, Patty Gould-St. Aubin, Jason Moeckel, Tom Hovey, Lt. Tim Knellwolf, Steve Enger, Felicia Barnes

Facilitator: Erika Rivers

Meeting Record: Felicia Barnes

The meeting began with committee member introductions. Erika went over a few of the ground rules and reminded everyone that we need to respect the opinions of everyone and that they are neither right or wrong. She also pointed out the need to stay on task and identified how “other issues” and “issues that need clarification” would be handled. See below for topics identified.

Erika stated that the mission of the committee will be to develop recommendations to DNR Commissioner Mark Holsten, DNR Waters Director Kent Lokkesmoe and DNR Senior Managers. The three charges are to: 1) protect natural resources, 2) safeguard public and riparian access, and 3) ensure that recommendations are enforceable. The committee must deliver some kind of recommendations report to Kent Lokkesmoe by November 21. The report will include DAC recommendations, as well as alternative opinions & options, as well as other considerations.

Tom Hovey gave the background of how and why we ended up here.

## Part II: Public Comment Analysis

The group went through a brainstorming session to identify the major themes of the public comments received. Listed below are the themes identified.

### Resources

- The need for a “minimal impact solution”
- How do we measure the exact impact?
- Impact of increased size of platform (e.g., going from 160 sq. ft. to 220 sq. ft.)
- Dock size in relation to shoreline size
- Habitat loss and fragmentation
- Big docks vs. small docks
  - aquatic plants
  - fish species
  - runoff
- In some cases, larger docks may actually minimize shoreland disturbances
- Dock accessories and their impacts
- Shading of aquatic plants from platforms
- Seasonal docks create other associated activities around them, which increases disturbance

- Cumulative impacts must be considered
- Population increases are eminent on and around MN lakes
- Fish habitat is disturbed by docks
- Geographic differences
- Scientific evidence—see the Radomski report to the Alt. Standards for clarity on this issue
- Developed vs. undeveloped shoreline: different species are found in each
- What will stop the spread to lakes that don't have the larger platforms already? The vast majority of docks in MN are compliant with the existing 8' rule. Why should the public give up more public lake surface, when so many people are satisfied with simple access up to 8' wide.

### **Aesthetics & “Human” Elements**

- Sunk costs associated with dock infrastructure (inability to use all sections if platforms are limited)
- Social Equity issues:
  - If larger shorelines are allowed larger platforms
  - Waters are “public property”: all Minnesotans have rights to water and natural aesthetics
- Over last 25 yrs. Lake homes and associated structures are moving toward a more permanent vs. temporary nature (e.g., year round cabin)
- Boating safety issues—larger docks present risks to water recreation users
- Shorelines are getting cluttered with more and bigger docks and accessories
- People greatly value natural shoreline aesthetics and the loosening of the dock rules, or the non-enforcement of the existing rules are having a growing impact
- We know that a lot of growth is predicted for the lakes area, and DNR needs to get out in front of it and do their job of protecting the resource.
- When do the long term economics kick in? What about the lower property values associated with overcrowded shorelines.
- How much space do people need for access? It seems like people are assuming a new riparian “right” of patio over water.
- If dock platforms get bigger, what's to stop the next size increase? At the Wayzata meeting, the dock industry was silent when LMCD asked if they would ever police themselves.

### **Access – Public & Riparian**

- “Ownership” of public waters; “privilege” vs. “right”
- Sensitive areas – perceived “need” for big docks (i.e., wetland fringe, shallow lakes, etc. “need” more dockage to fully enjoy lake)
- People need to remember that the lake surfaces are public. The riparian owner's does not have unfettered rights on the water. Riparian rights include access, not barbeques and picnics.

### **Proposed Solutions**

- Create dock size limits according to lake class
- Limit dock sizes according to size of lot
- Limit dock size by shoreline footage

- Sensitive shoreland areas—different dock limits would exist for sensitive districts
- Have dock size differences based on lake size

### **Enforcement**

- Is this another “Unfunded mandate” of government?
- Enforcement of rules doesn’t appear to be consistent statewide
- Officer turnover—takes time to bring new officers up to speed
- Need the permit provisions to be easily explainable, pragmatic, understandable
- DNR needs to enforce the rules already on the books. The rules are fine and easily enforceable as they are.

### **Part III: General Permit Pros/Cons**

The committee was split into two groups. Group A identified strengths and attributes of the current general permit; Group B identified weaknesses of the current general permit (listed below). The whole group discussed the lists and additional points were identified.

#### **Strengths**

- Square foot value—easy to understand
- Addressed many of docks that are non-compliant; but allowed for enforcement action on really large structures
- All the conditions in the current general permit were positive
- Current general permit is enforceable
- The GP forced conversation of dock issue with a diverse group of people

#### **Weaknesses**

- Narrower dock walk to platform not required: No distinction was made between “dock-walk” vs. “platform”. Group B recommends new GP have a dock walk max. of six ft (ADA)
- Missing clear science justification
- Current platform dimensions don’t consider current manufacturer standards
- Created confusion regarding should I buy more dock?
- Doesn’t take other “accessory” structures into account
- Does 170 sq. ft. include the “dock walk”?
- People could find creative “loopholes” around the dimensions
- Concern that the platforms will “spread” under a general permit (e.g., speed limit increase)
- How do you have “minimal impact” in a five-year permit?
- Doesn’t address the “access-only”-nature of docks in rule
- One size fits all: doesn’t consider the differences amongst lake classes/circumstances
- Rule requires “minimum impact” solution – platforms do more than access
- Does nothing to improve situation, that is, requires almost nothing in return for authorizing a private structure on public surface, which is typically used for more than access.
- Neglects fact that a whole lot of fun and entertainment can be had on an 8’ wide structure, or in a space less than 170 square feet.

#### **Positive Attributes for a New General Permit**

- Further defining “platform”

- Idea of having a general permit is good
- GP could be the bridge to a long-term solution
- Square foot value was a promising concept, groups thought
- Would cover many of docks that are non-compliant
- Want to see all of the conditions in the current general permit
- Could be agent for positive change if it required certain things in exchange for private occupation of a public space, such as limited disturbance of frontage

### **List of Other Issues that Need Clarification:**

- Where did 5-year general permit commitment come from? What was the Rationale?
- Rules = egress/ingress. Is general permit reasonable?

### **Parking Lot: Ideas We May Need to Return to Later**

- What Other general permits has DNR issued?
  - water appropriation
  - bridge/culvert
- Leave rules alone and enforce the ones we have vs. New Rules
- Explore possibility of a shorter permit
- We need to allow for public comments at the end of these meetings (10 min.)

### **Follow Up**

1. Send WI pier standard to committee (Tom Hovey)
2. Lake Minnetonka over 8' numbers for 2007 (Judd will bring to next meeting.)
3. Scientific evidence (DAC members should forward all references they have to the DAC)

### **Next Meeting**

Thursday, November 8, 2007, from 1:00-5:00 pm, Watab Town Hall

### **Closing Thoughts / Take-Away Messages**

- Jason:      Need to think about the Tragedy of the Commons; lakes are part of commonwealth  
                   Need to have some rules that deal with cumulative impacts  
                   Need to think about square footage limits  
                   Minimal impact solution needs to be forefront of our minds
- Ron:         Cumulative impact is the key issue; need to also consider accessory structures
- Ed:          The 8-foot width is really more width than anyone needs for the walkway portion of  
                   the dock; however, platforms must be allowed.  
                   Whatever we come up with truly needs to make sense  
                   Riparian access is a privilege; everyone owns Minnesota waters
- Gene:        Permit needs to be reasonable and practical to avoid angering the public  
                   We can't be enforcing things selectively  
                   We need to be thinking about permitting all docks & accessory structures
- Henry:      Everyone should look at the science summary document in the comments  
                   Just because people have changed behaviors doesn't mean we should change the law  
                   DNR needs to protect natural resources; it's the agency's responsibility
- Tom:         Visual values and aesthetics are difficult to deal with, but they are very important and  
                   it is part of DNR's responsibility, so we cannot ignore it. There are inconsistencies in

the existing dock rules, so the GP needs to even out some of these while protecting the resource.

Need to be cognizant of the growth projections of MN—limit the spread of damage, as there is a limited supply of shoreline, with growing demand. We need to be out in front of an issue we absolutely know is on the horizon

Steve: Good discussion tonight; I'm not sure what part of the elephant I'm holding onto

Patty: Need consistency

Non-riparian citizens have rights too; need to think about them too; they're not at this table

Gary: Platform limitations will have economic impacts on dock manufacturers and installers; may be unpopular to think about, but it's real

Judd: Need to clarify the grey areas with platform GP, maybe rules.

Consider public use and population trends

Need to be able to communicate rules/permit easily

Tim: Game wardens need something enforceable in the field

We are sworn to protect natural resources

The GP needs to address Bald-Eagle-type situations too—compliant, but an eyesore

Dann: Bullets: Ecologically sustainable; Minimal impact; Enforceable; Understandable.

Roger: Need Enforcement to tell us how to better enforce the rules. They've got so much to do, how can we expect them to add this to their duties?

## Dock Advisory Committee Members

|                          |   |
|--------------------------|---|
| Merilee Meyers           | Beltrami County LARA, Bemidji                                 |
| Roger Landers            | Norlake Dock Service, Nisswa                                  |
| Ed Carlson               | DH Docks, Nisswa  |
| Gary Johnson             | ShoreMaster, Fergus Falls                                     |
| (Alternate: Russ Sparty) |   |
| Gene Holderness          | Lakeshore Owner, Edina  |
| (Alternate: Jim Moe)     |   |
| John Forney              | Whitefish Area Property Owners Assn., Cross Lake              |
| (Alternate: Ron Meyer)   |   |
| Henry VanOffelen         | MN Center for Environmental Advocacy, Detroit Lakes           |
| Judd Harper              | Lake Minnetonka Conservation District, Deephaven              |
| Dan Siems                | Beltrami Soil & Water Conservation District, Bemidji          |
| Dana Pitt                | Bailey's Resort, Walker                                       |
| Patty Gould-St. Aubin    | Itasca Realty, Grand Rapids                                   |
| Rick Pelletier           | MN Federation of Bass Anglers, Anoka                          |
| Jason Moeckel            | DNR Fisheries, St. Paul                                       |
| Steve Enger              | DNR Ecological Resources, St. Paul                            |
| Tom Hovey                | DNR Waters, St. Paul  |
| Lt. Tim Knellwolf        | DNR Enforcement, St. Cloud                                    |
| Erika Rivers             | DNR Northeast Regional Operations, Grand Rapids (Facilitator) |
| Felicia Barnes           | DNR Waters, St. Paul  |