



## Wild Waters Heal at Northwest Passage

**By Northwest Passage**

*This spring, UW-Extension helped fund a visit to Wisconsin from author and photographer Andrew Fusek Peters. In addition to a closing keynote at the Lakes Partnership Convention (viewable online at <https://youtu.be/0ZxVpXYXG1M>). Andrew was able to spend time at Northwest Passage in Burnett County. This report from our friends at Northwest Passage explains why his visit to lake country was so important.*

**K**ids come to Northwest Passage, a residential mental health treatment program in northwestern Wisconsin, for a multitude of different reasons but the one thing they have in common is that they are struggling with their mental health. Can you imagine? It is hard enough to be a teenager, but then layer on top the realities of living with crippling depression or schizophrenia. The inability to get out of bed, to function in school, to see any hope in life; these are our kids. They may feel broken when they get to us, but they're not. We believe in these kids. We know that with support, they can heal.

Our kids are treated with an approach to wellness that borrows from the wisdom of the past and combines it with current research about the importance of living a full and mindful lifestyle. We have learned that kids heal through a variety of channels. We know that sustainable change occurs when our kids are able to depend on their doctor and thera-

pist but also when they are able to connect with their community, explore their identity, develop their passions, appreciate time in nature, build relationships, discover effective recreation opportunities, learn healthy nutritional habits, and move their bodies.

We believe that through this approach we can foster a spirit of stewardship that is vital to not only their own mental and physical health, but to the health of our planet. As Clinical Director Angela Fredrickson says, "we literally immerse our clients in the beauty of Wisconsin which is something they likely have not experienced in any meaningful way before their time at Passage. We strive to expose them to real life experiences of the power of our wild waters. As we immerse them in nature, we encourage them to see their surroundings with new eyes and use nature to help them create unique pieces of art. It's really a one-of-a-kind treatment program."

Throughout this process we introduce them to other adults in the community, like you, who also care for wild waters and who also have a spiritual connection with the process of creating art from nature. Fredrickson goes on to talk about the power of building bonds in the community. She says, "It is a powerful thing to expose youth to non-familial, positive, caring adults in their



In a New Light: DrehSean - Water in Motion

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## Lake Notes, Tips, and Resources

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LAKELINES is published semiannually at no charge by the University of Wisconsin-Extension Burnett County, 7410 Co Rd K, #107, Siren, Wisconsin, 54872.

#### LakeLines Newsletter Funding and Thank You to all!

- **LakeLines has a number of funding sources.** Without contributions from these people and organizations, LakeLines would not be able to be sent to over 6,000 lakeshore property owners in the county.
- **Lake Associations** – The following lake associations contributed dues to BCLRA in 2017: **Austin Lake, Bass Lake (2), Big Bear Lake, Big Doctors, Big Sand, Big Wood, Burlingame, Clear, Deer, Johnson, Birch, Devils, Elbow, Fish, Green, Ham, Hayden, Lipsett, Little Wood, Long (2), Loon, Love, Mallard, Big Mckenzie, Minerva, Minnow, Mud Hen, North Sand, Pike, Point, Prinel, Rooney, Round Trade, Silver, Tabor, Webb Lake.**
- **County of Burnett** – The county provides some funds to help with printing and support staff time for design work.
- **UW Cooperative Extension** – UW-Extension provides some funds for mailing and the donation of educator time to edit the newsletter and write articles.

**SAVE THE DATE** – Northwest Lakes Conference. June 22, 2018. Spooner High School.

**Trees, Plants, and Shrubs.** The Burnett County Land and Water Conservation Department will begin taking orders for trees and plants sometime in December. If you would like to be notified when the order form and species list is available, please email Ann Lane at [alane@burnettcounty.org](mailto:alane@burnettcounty.org).

**Start Planning For Summer 2018!** Winter is a great time to start planning for that summer conservation project on your lake shore property. There are a number of great resources out there to help you plan and implement your shoreline project. A few of them are:

- Top Ten Plants  
<http://www.burnettcounty.com/DocumentCenter/Home/View/283>
- Top Ten Shrubs For Wildlife  
<http://www.burnettcounty.com/DocumentCenter/Home/View/830>
- How To Build A Rain Garden  
<http://dnr.wi.gov/topic/stormwater/documents/rgmanual.pdf>
- Shoreland Restoration Guide  
<http://www.burnettcounty.com/DocumentCenter/View/3278>
- Restoring and Protecting Shoreland  
<http://dnr.wi.gov/topic/shorelandzoning/documents/WT-748.pdf>



# Navigation and the Incidents to Navigation: Common Questions About the Public's Right to Access

By Wisconsin Department of Natural Resources

*This fact sheet is designed to help people understand the state law for accessing lakes and streams in Wisconsin for boating, swimming, hunting, fishing and other public interests<sup>1</sup>.*



## State Law

The Northwest Ordinance of 1787 and the state constitution in 1848 provide that navigable waters are held in the public trust and are common highways. While early common law focused on whether or not a waterway was capable of floating saw-logs to market, in *Muench v. Public Service Commission*,<sup>2</sup> the Wisconsin Supreme Court said “it is no longer necessary in determining navigability of streams to establish a past history of floating logs, or other use of commercial transportation, because any stream is “navigable in fact” which is capable of floating any boat, skiff, or canoe, of the shallowest draft used for recreational purposes.”

Indeed, the *Muench* Court found that a waterway need not be navigable at all times, but only on “a regularly recurring basis, such as during spring runoff periods.” In a later case called *Klingeisen v. DNR*,<sup>3</sup> the Court found that the public trust also applies to artificial navigable waters that are “directly and inseparably connected with natural, navigable waters.”

As the test for navigability evolved over time, so did the concept of what constitutes a public purpose. Initially, public rights were limited to navigation and fishing. In *Diana Shooting Club v. Hustung*,<sup>4</sup> the Wisconsin Supreme Court expanded the concept of public rights in navigable waters. The court held that navigable waters “should be free to all for commerce, for travel, for recreation, and also for hunting and fishing, which are now mainly certain forms of recreation.”<sup>5</sup> Landowners generally hold title to beds of adjacent streams; you need their permission to place or anchor traps because trapping is not an incident of navigation, or to build permanent duck blinds on the bed. Landowners may also own part of the bed of raised lakes and flowages.

## What are the public's rights to navigation?

Everyone has the right to use public water bodies to swim, boat, or walk as long as they “keep their feet wet.” While you must gain access through legal means, anyone may recreate in a public water body provided you stay in the water. If you reach an obstruction (downed tree, bridge, culvert, etc.) in a stream, you have a right to exit the water and enter the exposed stream bed between the water's edge and OHWM as needed to bypass the obstruction.<sup>6</sup> No statutes or court cases have expressly stated that the public has such a

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<sup>1</sup> This fact sheet does not reflect and should not be utilized to determine the state's regulatory jurisdiction over waterbodies under Chs. 30 and 281, Wis. Stats.

<sup>2</sup> *Muench v. Public Service Commission*, 261 Wis. 492, 506 (1952).

<sup>3</sup> *Klingeisen v. DNR*, 163 Wis. 2d 921, 929 (Ct. App. 1991).

<sup>4</sup> *Diana Shooting Club v. Hustung*, 156 Wis. 261 (1914)

<sup>5</sup> *Diana Shooting Club v. Hustung*, 156 Wis. 261, 271 (1914)

<sup>6</sup> Section 30.134, Wis. Stats.

## Community Foundations - Tools for Lakes Conservation

*By Mike Kornmann, UW-Extension*

**W**e are blessed in Burnett County to have some of the most beautiful and pristine lakes and rivers. However, we still have some issues like aquatic invasive species, water quality, and wildlife and fisheries habitat in various degrees throughout the county. Lake associations in particular are organized to help address these issues through cooperation with lakeshore property owners and other key stakeholders. Financing conservation projects is always a challenge for groups and a variety of strategies are used. Community foundations are nonprofit organizations set up to sustainably fund designated projects and can be an important tool for local lake associations and other conservation groups.

Community foundations are grant making charities that are dedicated to improving the lives of people in a defined geographic area. They bring together the financial resources of individuals, families, and businesses to support effective nonprofits in their communities. Community foundations play a key role in building a community.

In northwest Wisconsin the Northwest Alliance Community Foundation was developed in 2013 as an affiliate of the St. Croix Valley Foundation. Since its inception, the group has developed a growing fund and also has facilitated several designated funds. Last year the foundation created an Environmental Fund sponsored by a local donor. With this funding the foundation supported three projects that provided outdoor recreation learning opportunities for youth and adults. This fund could be also be used for conservation projects on lakes and rivers in Burnett County. Lake associations that are in need of funding assistance may want to consider applying for a grant. Alternately, lake associations may want to set up their own designated fund and use the financial management expertise of the foundation to build a long term funding source for their lake.

Community foundations can play an important role in conservation in Burnett County. As an individual you

can encourage your lake association to work with a community foundation or even donate to a designated environmental/lake fund of your choice. Donating to a community foundation is one impactful way you can help to build a conservation ethic and legacy for your favorite lake or river.

For more information, visit <http://scvfoundation.org/affiliates/northwest-alliance-community-foundation/>.

### Northwest Alliance Community Foundation (NACF)

A regional, grassroots organization made up of passionate volunteers from northern Polk and Burnett Counties in Wisconsin. **NACF** empowers the people of our area by providing learning opportunities, building financial resources, meeting community needs, awarding non-profit grants, and helping individuals and families to leave a legacy.

**Established:** 2013 and based in Frederic, WI.

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**Environmental Fund:** Dedicated to the natural environment. It may include grants to educational endeavors, hiking trails, bike trails, recreational waterways, etc., that get people out in the natural environment with the belief that appreciation of nature leads to concern and care for nature.

**Other funds:** Designated funds can be created for your favorite lake, river, or watershed.

**Contact Info:** To donate to the environmental fund, apply for a grant or set up a designated fund, contact Reneé Nañez at [hq@northwestalliancecf.org](mailto:hq@northwestalliancecf.org) or Margi Miller at 715-386-9490

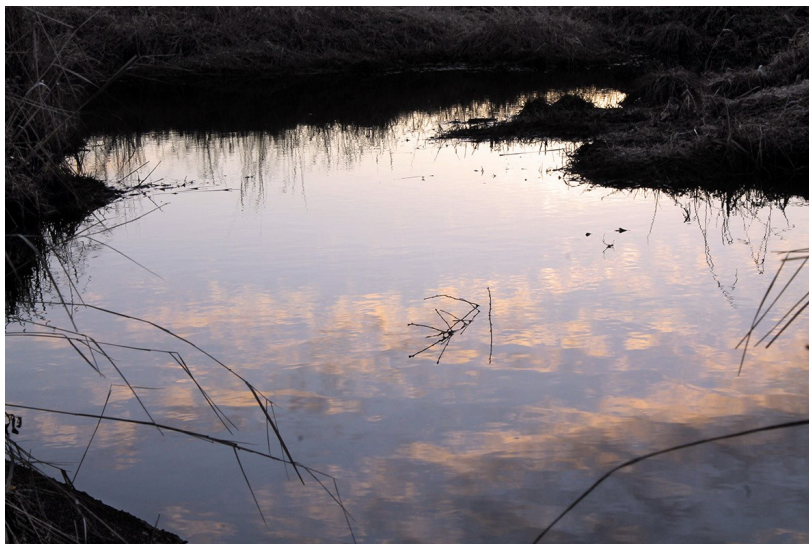


## Wild Waters Heal at Northwest Passage - continued from page 1

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community. It builds a connection with their world and shows them first-hand the importance of connecting to others. They also get to see that other adults have a passion for the stewardship of our shared land and water. There is no better teacher than experience.”

The nature photography you see in this spread was born of this approach. We leverage the power of nature and relationships with our Artist in Residence (AiR) and In a New Light photography programming. We were lucky enough to welcome 2017 Lakes Convention keynote speaker, Andrew Fusek Peters to work with our kids through AiR. Andrew spent three days traveling in northwestern Wisconsin exploring some of the greatest wild waters our state has to offer, connecting both the kids to nature and to his powerful story. Ian Karl, Experiential Coordinator for Passage, helped make the experience possible. He was thrilled to bring Andrew to work with the kids. He said, “To have someone of his skill level, experience and passion spend time with our kids was a life changing opportunity for them. It opened their eyes to a bigger world of photography, healing, and for what their futures could hold.” The kids traveled from the northwest corner of the state capturing the beauty of our waters with Andrew from Crex Meadows Wildlife Refuge, to Pattison State Park to see the biggest waterfall in Wisconsin, ending at the mouth of the Amnicon River and Lake Superior to watch the ice going out. Ian and Andrew took an



In a New Light: Grace - Water

April Fools’ Day swim in the great inland sea and showed the kids true dedication to wild waters.

Andrew’s tale is one of resilience through nature. The English author and photographer has devoted his professional career to capturing and celebrating the power of water to heal our souls. After encountering a bout of severe depression, he turned to numerous forms of treatment and it wasn’t until he returned to his love of swimming in the wild waters of Shropshire, England that he found himself again. Andrew’s story is one we at Passage know all too well... nature holds a key to our well-being. We believe that water is medicine and adventure is transformative. Donors and partners alike have helped ensure that the young artists of Northwest Passage have spent the past three summers submerged in Wisconsin’s rivers and lakes to photograph a story of otherwise unseen magic and beauty.

Of course, we’ve all heard the saying, water is the elixir of life. We’re made of water, are soothed by being in and around it, and are moved to protect and celebrate it. You know this because you’re a part of the effort to preserve our precious shorelines and inland treasures through your local lake group and stewardship activities. Andrew knows it, as it saved his life. We here at Northwest Passage know this because we watch the soothing qualities of water heal the kids we serve. We are grateful to all of you and your work and for your support of our kids. Keep on swimming!



In a New Light: Jade - Animal

## A Second Life for Trees in Lakes

By Michael A. Bozek

For millennia, trees have fallen into lakes, and fish along with other aquatic organisms have used them as habitat.

Trees in riparian areas emerge as seedlings, they grow and mature dropping seeds to establish future forest stands. When these trees die, many fall into lakes creating fish habitat, leaving seedlings in their wake, to again mature and replace dying trees, thus continuing the cycle that links these shoreline areas to lakes and streams.

However, humans have altered riparian areas of lakes at rapid rates across a large portion of the landscape, first by logging and more recently by lakeshore development: the former a temporary impact and the latter a more chronic problem.

### USE OF SUBMERGED TREES BY FISH

Fish use submerged trees in a variety of ways. Many species spawn on, adjacent to or under trees that provide cover which help some species protect their incubating brood. For example, smallmouth and largemouth bass preferentially build spawning nests near submerged trees, particularly large logs, while rock bass place them next to or under logs. Because male bass and sunfish defend their eggs and young in nests, placing nests adjacent to or under submerged trees reduces the nest perimeter that they need to defend against predators. Once young have left the nest, newly hatched smallmouth bass will often inhabit submerged trees. Declines in submerged tree habitats have been linked to reduced abundance of young smallmouth.

Yellow perch use submerged wood along with aquatic vegetation to lay eggs; long ribbon-like strands can often be seen draped on them in early spring. Three studies found a decline in yellow perch abundance when trees were removed from lakes. Fathead minnows, an important food item of larger fish and fish-eating shorebirds, spawn on the underside of wood in cavities. The young of many species of fish often disperse throughout the branches for protection, while predators, such as northern pike, muskellunge and largemouth bass use the same trees for ambush foraging. Shade from branches and the bole provides daytime refuge for diurnal low-light species such as walleye. Use of trees can be species-, age-, and season-dependent, and trees provide many diverse habitats that attract fish for different reasons.

Current research has found that the association between fish and trees clearly is related to the complexity of branches and

the location and position of the tree in water. More fish and more different species of fish use trees that have more complex branching and in fact, individual, large, complex trees can host entire fish communities. In north temperate lakes, up to fifteen species or more may inhabit a single tree at a time. Walleye and white suckers can be found beneath trees in deeper, darker water, adult smallmouth bass can be found beneath the bole, and many of the other species like cyprinids (i.e., minnows), bluegills, pumpkinseed, rock bass, muskellunge and more can be found throughout the complex web of branches.

### WHAT CAN WE DO?

Riparian trees are an amazing example of a renewable resource: valuable to us on land, then again in the water after they die while more trees are being regenerated on land...for free. We just need to understand and embrace this cycle as a long-term renewable source of habitat.

Isn't it ironic that on many lakes we have reduced or eliminated trees in riparian areas thus preventing them from becoming habitat in lakes, only to then build fish cribs made of trees at substantial additional cost and energy? Riparian trees and shrubs are a "free commodity" provided by nature at no cost. All we need to do is recognize their benefits and let nature provide free fish habitat to its full potential.

Read the entire article at <http://dnr.wi.gov/topic/fishing/documents/outreach/TreesShoreline.pdf>.

### Fish species found in one submerged white pine tree in Katherine Lake, Wisconsin

Black crappie  
Smallmouth bass  
Largemouth bass  
Walleye  
Muskellunge  
Rock bass  
Bluegill  
Pumpkinseed  
Mottled sculpin  
Logperch  
Johnny darter  
Yellow perch  
White sucker  
Minnows\*

*\*Minnows are cyprinids, and in trees, they are often represented by multiple species, but can be difficult to visually identify during diving.*



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## Zebra Mussel Control - Is Zequanox an Option?

By Scott Provost, *Statewide Aquatic Plant Management Coordinator, Wisconsin Department of Natural Resources*

Zebra mussels have been present in North America since 1988 when they were first discovered in the Great Lakes. Since then, they have moved across North America from coast to coast with the greatest populations in the Great Lakes states. Zebra mussels can be very destructive to aquatic ecosystems by disrupting the base of the food web, and also to industry by clogging water intake pipes. Internationally, zebra mussels have been spreading for the last 150 years in Europe, where scientists and managers have been searching for some sort of control mechanism to no avail.

Over the last few years research has been conducted on methods to kill zebra mussels. A product known as Zequanox, which is comprised of the dead cells of naturally occurring soil bacteria, has been approved by the EPA to curtail zebra mussel growth. To date, success is largely limited to closed water systems, such as intake pipes. In open-water applications (lakes and rivers), zebra mussel control was temporarily effective within contained areas on Christmas Lake in Minnesota, but re-population occurred later. Long-term control in open water has not yet been achieved.

### Remember that

reactive control measures are not needed if we are proactive in preventing the spread of these species.

In Wisconsin, Zequanox has been registered for use by the Department of Agriculture, Trade and Consumer Protection, but those interested in using it must first obtain a permit (NR 107) from the Department of Natural Resources. Permits will most likely not be issued until additional information about the product becomes available. Researchers are concerned with the effect Zequanox will have on non-target species, particularly our native mussels, as well as fingernail clams and some fish species. Although studies have been done on some of these species, additional testing is needed to evaluate long-term, sublethal

and chronic impacts on our native mussels and other species. Keep in mind that this product is not a silver bullet for zebra mussels and is NOT suitable for whole lake treatments. In fact, the label specifically states that Zequanox is not for whole lake treatments, and treatments must not exceed 50% of the total volume of water within a waterbody per treatment.

As we progress in finding effective control measures for zebra mussels, please keep in mind the best form of active control is prevention. Everyone needs to do their part to help eliminate the movement, and ultimately the introduction, of zebra mussels and other invasive species in our lakes and rivers. Remember that reactive control measures are not needed if we are proactive in preventing the spread of these species.

Photo by Government of Alberta, Flickr Creative Commons



Minnesota DNR and some Canadian provinces are using dogs to sniff out invasive mussels that can be hard to detect with the human eye.

### Be a part of the solution!

The Clean Boats, Clean Waters watercraft inspection program is an opportunity to take a front line defense against the spread of aquatic invasive species.



### AIS Prevention Steps

- INSPECT** boats, trailers and equipment.
- REMOVE** all attached aquatic plants and animals.
- DRAIN** all water from boats, vehicles and equipment.
- NEVER MOVE** plants or live fish away from a waterbody.

# Zebra Mussel Update

By Mike Kornmann, UW-Extension

Almost one year ago, the first zebra mussels in Burnett County were found in Big McKenzie Lake. Since then a team of state and local staff, the university and citizens have been working together to develop a response to the outbreak.

## What Was Done and What Did We Learn

**Awareness Campaign.** The team of partners met on a regular basis and developed a response for communicating about the zebra mussel. Awareness and prevention measures were communicated in many online platforms including Facebook, online newspapers, media release, and portable digital road signs. New brochures were also created communicating the good, better, and best practices.

**Powerwashing.** Powerwashing units were set up at Big McKenzie boat landings. Both volunteers and paid staff provided decontamination assistance at landings in the area of Big McKenzie and nearby lakes. Anecdotal data suggested that volunteers had greater success convincing boat launchers to decontaminate than paid staff.

**Sampling.** Twenty lakes were monitored in Burnett and Washburn Counties and only Big McKenzie had both veligers and zebra mussels. Middle McKenzie had zebra mussels. Conclusions from sampling are that zebra mussels are widespread and increasing in abundance throughout Big and Middle McKenzie Lakes.

## Where We Are Going

**AIS Do Not Transport Law Revision.** A work group has been formed to revise the Aquatic Invasive Species (AIS) do not transport law to address zebra mussels. Representation includes county staff, BCLRA leadership, McKenzie Lakes Association, WDNR, UW-Extension, to name a few. Boaters generally choose not to decontaminate when the option exists on site because no one can require them to (it is not the law).

**Exploring expanded voluntary decontamination for "at risk" lakes.** The decontamination units that were supplied at McKenzie and nearby lakes this summer would provide better prevention if also provided at boat landings on at-risk lakes.

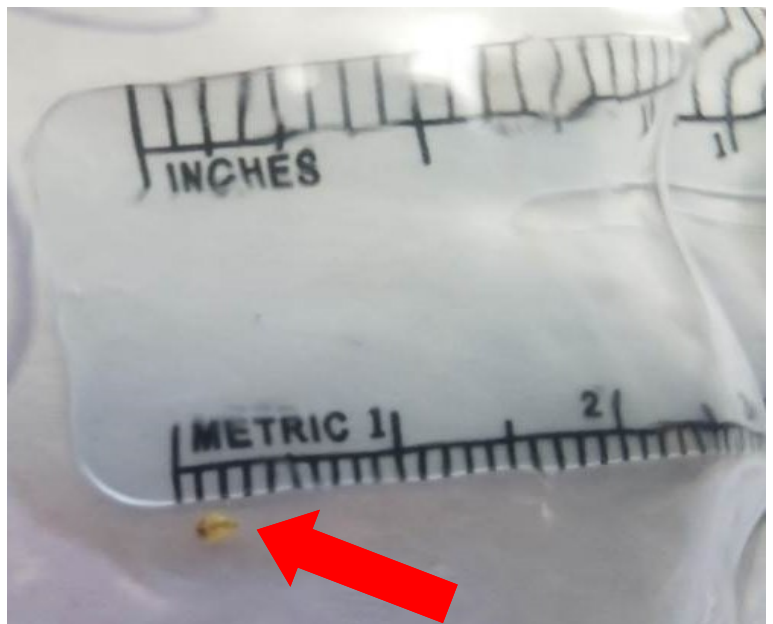
**Re-testing for calcium levels.** The data we used to identify at risk lakes is dated. New testing techniques and greater understanding of how calcium in the water column

affects zebra mussels will improve the risk assessment of each lake in the county.

**Build on what we learned.** We learned about how lake users respond to people encouraging decontamination at boat landings. Encouraging and recruiting more volunteers can improve participation rates of those using boat landings. Consider other AIS control measures including:

- Suppression of zebra mussels on Big McKenzie by manual removal via snorkel/dive teams.
- More staff and volunteers
- More awareness and public information
- Partner more with other organizations such as tourism organizations
- Revising AIS law because decontamination is not the law
- Require fishing tournament participants to decontaminate

**Continue Aquatic Invasive Species (AIS) awareness.** We used a variety of communication tools including Facebook, websites, news releases, posters, and signs to create awareness of increased risk of zebra mussels. Expansion of these tools along with more partnerships with lake service providers will continue.



## Public Access Fact Sheet - continued from page 3

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right on a lake or that the public has a right to enter above the OHWM of a waterbody as needed to bypass an obstruction.

If you are a riparian landowner, the land above the OHWM is your private domain. When the water levels drop below the OHWM, the riparian property owner has exclusive use of the exposed lake or stream bed (except as noted above). A water-front property owner may prevent a member of the public from walking on the exposed bed of the waterway through non-structural means (fences and walls are not allowed, however temporary signs and verbal warnings are acceptable). Trespass complaints are handled through the local sheriff's department or police department.

### Where is the ordinary high water mark?

In *Diana Shooting Club v. Husting*<sup>7</sup>, the Supreme Court defined the OHWM as "the point on the bank or shore up to which the presence and action of the water is so continuous as to leave a distinct mark either by erosion, destruction of terrestrial vegetation or other easily recognized characteristic."

Water marks are often at various elevations, but the most permanent and prevalent marks constitute the ordinary high water mark. The OHWM does not change with temporary fluctuations in water levels, nor is it always at or near open water, as is the case with cattail marshes and bogs.

### How can I tell if I have the right to navigate on a water body?

A good general rule is that any water body that has an official name, or is shown as a water way with a solid or dashed blue line on the topographic maps and has a defined bed and bank is likely to be public. To determine if the waterway is likely a public waterbody, check a local topographic map or the department's surface water data viewer at <https://dnrgis.wi.gov/H5/?Viewer=SWDV>. As long as access is gained legally, the public may navigate and recreate within these water bodies as long as they keep their feet wet. The public may boat, fish, hunt or conduct other incidents of navigation on unnamed water bodies if you can float from a named water body into an unnamed water body. For ponds or ditches that are located wholly on a private property and that are not connected to a named water body, the ponds or ditches are most likely for private use only unless the property

owner grants you legal access. The department recommends that you err on the side of caution, so if you are uncertain whether the pond or ditch is a public water body then you should stay out until you are able to verify whether or not the water body is public and access may be gained legally.

For more information on this topic, please see <http://dnr.wi.gov/topic/fishing/questions/access.html>



<sup>7</sup> *Diana Shooting Club v. Husting*, 156 Wis. 261, 272 (1914).





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FALL/WINTER 2017

VOLUME 22, ISSUE TWO



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