



Before The
State Of Wisconsin
DIVISION OF HEARINGS AND APPEALS

In the Matter of the Application of Terry Family
Conservancy, LLC for a Permit to Place a Pier on the
Bed of Middle Lake, Town of La Grange, Walworth
County
(Permit No. IP-SE-2013-65-00762)

Case No. DNR-13-047

NOTICE OF PUBLIC HEARING
AND
ORDER FOR PUBLICATION

The Terry Family Conservancy, LLC, c/o Attorney William O'Connor, filed an application with the Department of Natural Resources (Department) to place a pier on the bed of Middle Lake of the Lauderdale Lakes. The proposed project would include the installation of a new pier with a maximum of two watercraft moored at the pier, including but not limited to boats and personal watercraft. The proposed pier would be five (5) feet wide and approximately 140 feet long. The exact length of the proposed pier would be determined on-site as it is constructed and with the Department's approval. It is proposed that it be allowed to extend out to the nearest border of the maintained navigational channel that is marked with buoys, but would not extend into or impede navigation within the channel. It is proposed that boats or personal watercraft could be moored on either side of the pier at the waterward end. The proposed pier would be installed and removed on an annual basis between December 1 and May 15. No dredging would be authorized by the permit. The proposed project is located in the Town of La Grange, Walworth County, also described as in the SE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 34, Township 4 North, Range 16 East.

On July 12, 2013, the Department issued a Pier Permit with limitations.

On August 9, 2013, the Department received a request for a contested case hearing and request for a stay from Attorney Teague D. Devitt on behalf of Lauderdale Lakes Lake Management District. By letter dated August 19, 2013, the Department granted a contested case hearing and stay pursuant to Wis. Stat. §§ 30.209 and 227.42 limited to the following issues:

Whether the proposed project is reasonable and not detrimental to the public interest in navigable waters, specifically:

- Whether the placement of a pier will materially obstruct navigation, including for recreational purposes;
- Whether impacts to fish and wildlife habitat are sufficiently minimized;
- Whether the pier will have a detrimental impact on natural scenic beauty;

- Whether the Department adequately considered potential cumulative impacts of similar projects in the future.
- Whether the proposed project will not adversely affect water quality.

On September 30, 2013, the Division of Hearings and Appeals received the Request for Hearing from the Department.

NOTICE IS HEREBY GIVEN that the State of Wisconsin Division of Hearings and Appeals will initiate and hold a public hearing pursuant to Wis. Stat. §§ 30.12 and 30.209 on **January 22, 2014 at 9:30 a.m.** in the Basement Meeting Room at the Walworth County Government Center, 100 West Walworth Avenue, Elkhorn, Wisconsin. The hearing will continue, if necessary, on January 23 and 24, 2014, at the same location.

The hearing will be a Class 1 contested case pursuant to Wis. Stat. § 227.01(3)(a) and the fair play provisions of Wis. Stat. ch. 227 will apply. The procedures relating to contested cases set forth in Wis. Admin. Code ch. NR 2 will be followed. The procedure that will be followed at the public hearing will closely resemble that normally followed at a court hearing. All parties are advised that they have the right to seek the aid and assistance of legal counsel and to be represented by legal counsel at the public hearing.

Pursuant to the Americans With Disabilities Act, reasonable accommodations will be made to any qualified individual upon request. Please call the Division of Hearings and Appeals at (608) 266-3865 with specific information on your request at least 10 days before the date of the scheduled hearing.

ORDER

THE DIVISION, THEREFORE, ORDERS:

That the applicant, Terry Family Conservancy, LLC, shall cause a copy of the foregoing Notice to be published once at least one week before the date of hearing in the "Elkhorn Independent, 11 West Walworth Street, Walworth, Wisconsin, 53121. The applicant shall furnish proof of such publication to the Division of Hearings and Appeals by **Monday, January 20, 2014.**

Dated at Madison, Wisconsin on October 24, 2013.

STATE OF WISCONSIN
DIVISION OF HEARINGS AND APPEALS
5005 University Avenue, Suite 201
Madison, Wisconsin 53705-5400
Telephone: (608) 266-7709
FAX: (608) 264-9885

By: 
Mark F. Kaiser
Administrative Law Judge



State of Wisconsin DIVISION OF HEARINGS AND APPEALS

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October 24, 2013

Attorney William O'Connor
Wheeler, Van Sickle & Anderson, S.C.
25 West Main Street, Suite 801
Madison, WI 53703-3398

Re: In the Matter of the Application of Terry Family Conservancy, LLC for a Permit to Place a Pier on the Bed of Middle Lake, Town of La Grange, Walworth County
(Permit No. IP-SE-2013-65-00762) – Case No. DNR-13-047

Dear Mr. O'Connor:

We are enclosing Notice of Hearing and Order for Publication issued by the Division of Hearings and Appeals in the above-entitled proceeding.

In accordance with the requirements of Wis. Stat. § 30.208(5), the text of the entire Notice, with the exception of the Order paragraph, must be turned over to the "Elkhorn Independent", 11 West Walworth Street, Walworth, Wisconsin, for publication.

Our records show that the "Elkhorn Independent" is a weekly paper. We suggest that you make immediate arrangements for publication of the Notice in this paper. The latest date for publication is **Wednesday, January 15, 2014**, and most newspapers require several days lead time prior to insertion in the legal notice section. State law provides that the cost of the publication is to be borne by the applicant.

Proof of publication must be made by affidavit of the publisher, with copy of the printed Notice attached. Such proof is to be filed with the Division of Hearings and Appeals by **Monday, January 20, 2014**, after the Notice has been published in the paper.

PLEASE COMPLY STRICTLY WITH THE ABOVE REQUIREMENTS. Failure to comply will result in rescheduling the hearing or the dismissal of your application. These requirements are necessary to comply with the law. It is also necessary that the applicant or an authorized representative appear at the hearing to present testimony.

Sincerely,

Mark F. Kaiser
Administrative Law Judge

Enclosure

c: Attorney Teague D. Devitt
Attorney Michael Kowalkowski
Attorney Megan Correll

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