



Wisconsin Trout

Fall 2000

Council: halt new high-cap wells on trout waters

Resolution says groundwater in the “public trust”

By Todd Hanson

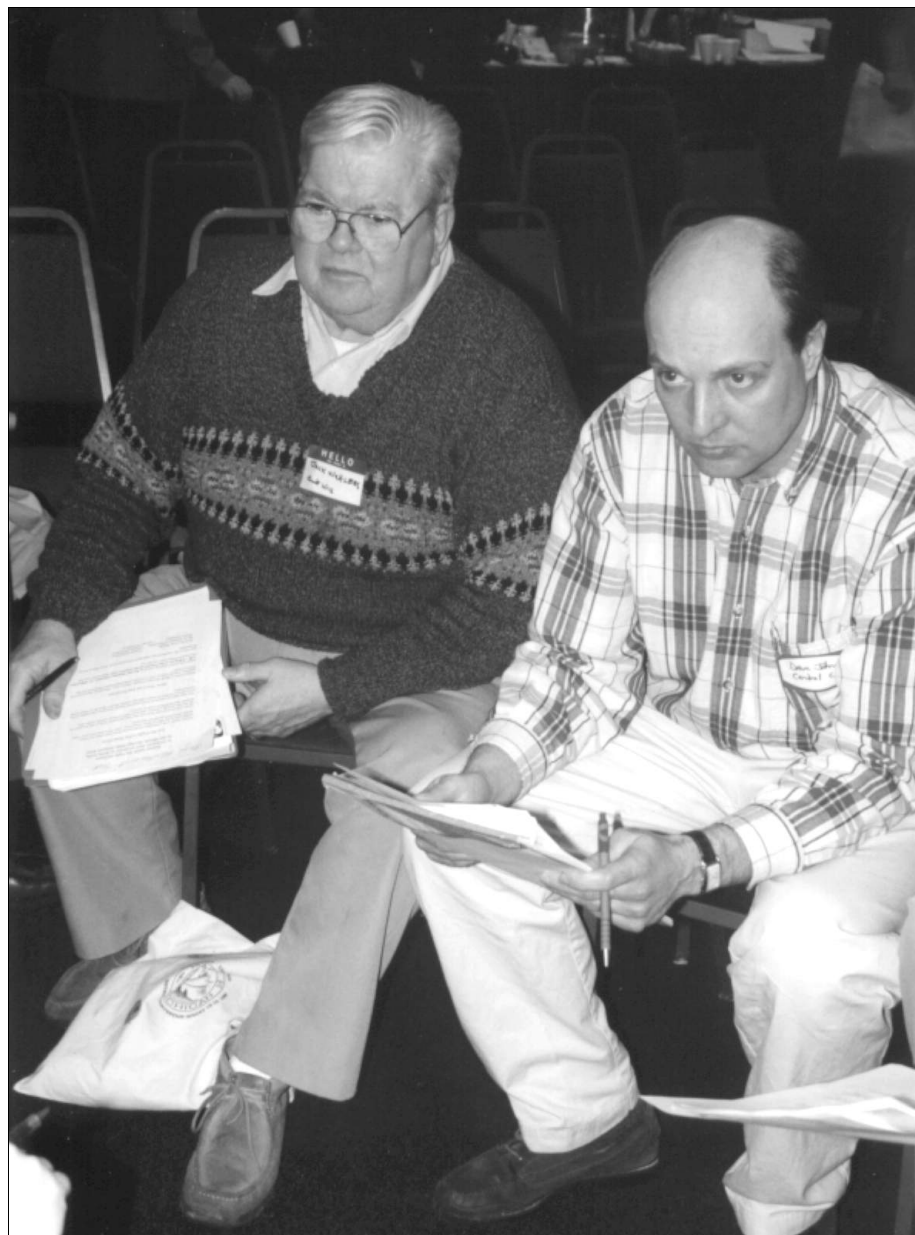
The Wisconsin Council of Trout Unlimited (WITU) passed a resolution at its September meeting calling for a moratorium on all new high-capacity wells in areas directly supporting coldwater resources.

The moratorium asks that no high-capacity well permits be issued in areas supporting coldwater resources until the state legislature acts to protect these resources.

The resolution was the major policy issue passed at the Sept. 9 State Council meeting at the Richford Town Hall near Coloma in Waushara County.

WITU’s Water Resources Committee introduced a draft resolution that it had developed at a recent meeting in Stevens Point. State Council representatives then added wording addressing something TU

Continued on p. 5



CONSIDERING GROUNDWATER ISSUES

Jack Wahlers (left) and Dave Johnson evaluate the consequences of groundwater withdrawals on trout streams at a recent state TU meeting.

Wisconsin TU high-capacity well resolution

“Pursuant to the mission statement of Trout Unlimited, which is ‘To conserve, protect and restore North America’s coldwater fisheries and their watersheds,’ and understanding that uninterrupted groundwater supplies are essential to the health of these fisheries, the Wisconsin Council of Trout Unlimited hereby petitions the Wisconsin State Legislature to:

Uphold its duty under the Public Trust Doctrine to act as trustee of the public’s interest in the water resources of the State by declaring and implementing a moratorium on the permitting of high-capacity wells in areas that directly support coldwater resources until such time as legislation is enacted which enables and requires adequate scientific review to ensure that such wells will not adversely affect the State’s Public Trust resources.

And to:

Enact legislation to include the groundwater of Wisconsin among those resources protected under the State’s Public Trust Doctrine through statutory recognition of the hydraulic continuity of groundwater and surface water resources.”

Perrier battle draws high-profile attention

By Todd Hanson

Just days before the WDNR approved the Perrier Company’s high-capacity well permit on Sept. 20, Perrier headlines spilled over the state’s front pages and into the national press.

Time magazine’s Sept. 25 edition carried a full-page story chronicling the resolve of central Wisconsin people in their nine-month fight against Perrier.

Said author Steve Lopez, “[Perrier] had learned nothing about the state’s long-standing conservation ethic, or that lecturing Badgers on

the environment is the p.r. equivalent of telling them how to make cheese.”

Doyle supports EIS

While the *Time* story was hitting newsstands, Wisconsin Attorney General James Doyle broke his silence on the matter with a highly publicized letter to DNR Secretary George Meyer.

Doyle’s Sept. 19 letter asked the DNR to conduct the more thorough environmental impact statement (EIS) that numerous groups — including WI Trout Unlimited — have called for in recent months.



WITU named U.S. ‘council of the year’

Trout Unlimited initiated a new award for the year’s outstanding state council at its national convention August 12 in Syracuse, NY, and Wisconsin TU was named the first-ever recipient.

The award recognizes the council that has been “the most exemplary in its conservation work while attracting new members, mentoring volunteer leaders, and reaching out to other conservationists.”

The Tomorrow’s Trout State Council Award for Excellence was awarded from a field of 30 other state councils.

During a luncheon ceremony, TU President and CEO Charles Gauvin presented a handcrafted fish carving award to WITU Chair John “Duke” Welter.

In addition to its efforts against Perrier’s Mekan plans, WITU was also cited for advocating for dam removals on two trout streams.

The following month, in bringing news of the award to the State Council, Welter had high praise for the Central Wisconsin Chapter in particular for their courageous efforts during the Perrier Company’s attempts to place a high-capacity well on the Mekan River.

Public trust inserted

In asking for an EIS, Doyle became the highest-ranking state official yet to offer the state’s public trust doctrine as a reason why the DNR should give Perrier’s application greater scrutiny.

Said Doyle, “The waters that will be affected by the proposed project are protected by the public trust and state law. The public trust imbues the state’s navigable waters with heightened value, and imposes a heavier burden on the state as trustee.”

Continued on p. 5

In this issue...

- Key points of DNR pact with Perrier. p. 5
- “Removing small dams” final part: restoration p. 6
- UW groundwater report says WI protections weak. . p. 8
- Chapter input on trout regulation changes sought . p. 12
- Chapter president profile: Clint Byrnes. p. 14
- Scanlan “Public Trust” report Pt. 2 p. 15

Wisconsin TU Directory State Council Leadership

Chairman: John Welter, 2211 Frona Place, Eau Claire, WI 54701-7513 (715) 831-9565 (W); (715) 833-7028 (H); (715) 831-9586 (fax); jwelter@discover-net.net
Vice-Chairman: Chuck Steudel, 1217 Cty. QQ, Mineral Point, WI 53565 (608) 987-2171; csteudel@mhtc.net
Secretary: John Bethke, 118 Vernon St., Westby, WI 54667-1122 (608) 634-3641; qjlb@yahoo.com
Treasurer (interim): Larry Meicher, 5258 Salisbury Rd., Rio, WI 53960 (920) 992-6612
Past Chairman: Bill Sherer, P.O. Box 516, Boulder Junction, WI 54512 (715) 385-0171 (W); (715) 385-9373 (H); (715) 385-2553 (fax); wetieit@centuryinter.net
Central Region Vice-Chair: Jim Hlaban, 1429 Silverwood, Neenah, WI 54956 (920) 722-4335 (H); jhlaban@kcc.com
Chapter Development & Membership: Jim Hlaban (see above)
Education: Dale Lange, N2095 CTH "BB," Marinette, WI 54143 (715) 582-1135; dhlange@webctrl.com
Fund-raising & Friends of Wis.

TU: John Cantwell, 3725 Ken Ridge, Green Bay, WI 54313 (920) 865-4441. (920) 865-4442 (fax); JohnC3989@aol.com
Legal Counsel: Winston Ostrow, 335 Traders Point Ln., Green Bay, WI 54302 (920) 432-9300 (W); (920) 469-1596 (H); waostrow@gklaw.com
Legislation: Jeff Smith, 7330 Old Sauk Rd., Madison, WI 53717-1213; (608) 266-0267; jeffrey.smith@doa.state.wi.us
Northeast Region Vice-Chair: Lloyd Andrews, 8764 Brunswick Rd., Minocqua, WI 54548 (715) 356-5738
Publications: Todd Hanson, 3130 James St., Madison, WI 53714 (608) 243-9025(phone & fax); twhanson@chorus.net
Resource Policy & Rules: Bill Sherer (see above)
Southern Region Vice-Chair: Larry Meicher (see above)
Water Resources: Mike Swoboda, 1312 Ridgewood Dr., Chippewa Falls, WI 54729-1931; mswob@execpc.com
Webmaster: Andy Lamberson, 2104 Chestnut Dr., Hudson, WI 54016; andrewlamberson@hotmail.com.

Chapter Presidents

Aldo Leopold Chapter (#375): Clint Byrnes, 921 S. Spring St., Beaver Dam, WI 53916-2831 (920) 885-5335
Antigo Chapter (#313): Scott Henricks, 213 Mary St., Antigo, WI 54409-2536 (715) 623-3867
Blackhawk Chapter (#390): John Miller, P.O. Box 893, Janesville, WI 53547 (920) 563-9085
Central Wis. Chapter (#117): Jerry Strom, 180 Cty FF, Pickett, WI 54964 (920) 235-9150 (H), (920) 589-4182 (W)
Coulee Region Chapter (#278): Cyrus Post, 2909 James St., La-Crosse, WI 54601-7661 (608) 788-1325
Fox Valley Chapter (#193): Tony Treml, 318 Linwood Ln., Neenah, WI 54956 (920) 725-5925; stchnfsh@execpc.com
Frank Hornberg Chapter (#624): Jim Friedrich, 341 18th Ave. S., Wisconsin Rapids, WI 54495 (715) 423-0517; friedj@dnr.state.wi.us
Green Bay Chapter (#083): Pete Harris, 606 Night Ct., Green Bay, WI 54313 (920) 496-9556; peterharris914@cs.com
Harry & Laura Nohr Chapter (#257): Bill Wisler, 2831 Mt. Hope Rd., Dodgeville, WI 53533 (608) 623-2603; wisler@mhtc.net
Kiap-TU-Wish Chapter (#168): Brent Sittlow, 803 Kelly Rd., Hudson, WI 54016-7640 (715) 386-0820; bsittlow@pressenter.com
Lakeshore Chapter (#423): Doug Leppanen, 2638 N. 20th St., Sheboygan, WI 53083-4525 (920) 458-0707 (W), (920) 459-8139 (H)

Marinette Chapter (#422): Lyle Lange, N3368 River Bend Rd., Peshtigo, WI 54157-9588; lange@webctrl.com
Northwoods Chapter (#256): Brian Hegge, 5077 Sunset Dr. — #2, Rhinelander, WI 54501 (715) 362-3244 (W), (715) 362-3244 (H); bhegge@newnorth.net
Oconto River Chapter: Dave Brunner, 5473 Cardinal Rd., Gillett, WI 54124-9731 (920) 855-6669; dbrunner@ez-net.com
Ojibseau Chapter (#255): Jeff Bartynski, 6450 Whitetail Dr., Eau Claire, WI 54701 (715) 832-2632; bartynski.jeffrey@mayo.edu
Shaw-Paca Chapter (#381): William Wagner, N4334 Willow Creek Rd., Shawano, WI 54166-9436 (715) 524-2426
Southeastern Wis. Chapter (#078): Chuck Beeler, 2954 S. Moorland Rd., New Berlin, WI 53151 (414) 486-1129 (W), (414) 789-6921 (H); cbeeler@lakesd4u.com
Southern Wis. Chapter (#061): Tom Ehlert, 1817 East St., P.O. Box 11, Black Earth, WI 53515 (608) 767-2413
Wild Rivers Chapter (#415): Jeffrey Carlson, Route 1, P.O. Box 268, Mason, WI 54856-9794 (715) 765-4828; wrtrout@cheqnet.net
Wisconsin River Valley Chapter (#395): Herbert Hintze, 629 Hamilton St., Wausau, WI 54403 (715) 842-1365
Wolf River Chapter (#050): Herb Buettner, N4297 Buettner Rd., White Lake, WI 54491 (715) 882-8611 (W), (715) 882-8612 (H)

Change chapter leaders? Let us know

Chapter leaders must inform TU National and the State Council when a new chapter president is elected. Send your name, address, phone numbers, e-mail address, and your chapter ID number to *both*:

- TU National** — Wendy Reed at (703) 522-0200, or mail your information to Wendy at Trout Unlimited, 1500 Wilson Blvd., Suite 310, Arlington, VA 22209. Or e-mail wreed@tu.org.
- State Council** — Todd Hanson at (608) 243-9025, or mail your information to Todd at 3130 James St., Madison, WI 53714. Or e-mail twhanson@chorus.net.

Visit Wis. TU on-line: www.lambcom.net/witu

Chapter meeting times and locations

Aldo Leopold: When needed or called at Beaver Dam Conservation Club, Cty. G, Beaver Dam.

Antigo: Not listed.

Blackhawk: Third Monday of the month at 7:00 p.m. at the DNR office in Janesville.

Central Wisconsin: Second Monday of the month at the Berlin Bowling Lanes, Berlin. Board meets at 6:30; program at 7:30.

Coulee Region: Every third Thursday 7 p.m. at Whitetails, 5200 Mormon Coulee Rd., La Crosse.

Fox Valley: Third Thursday of the month, 7:30 p.m., at the Gordon Bubolz Nature Preserve, 4815 N. Lynndale Dr., Appleton. No meetings June, July, and August.

Frank Hornberg Chapter: Second Thursday of the month 7 p.m. at Shooter's Supper Club, Hwy. 51 & 54, Plover. May-Sept. meetings are evening stream work events.

Green Bay: First Thursday of month (Sept.-Nov. and Jan.-May) at The Watering Hole, 2107 Velp Ave., Green Bay, 7:30 p.m. Christmas meetings/awards dinner in Dec. at site to be determined. No meetings June, July, and August.

Kiap-TU-Wish: First Wednesday of the month at JR Ranch east of Hudson on Hwy. 12 north of I-94. Dinner at 6:30 p.m.; meeting at 8:00.

Lakeshore: Second Monday of the month, 7:30 p.m. at The Club Bil-Mar, Old Hwy. 141, Manitowoc.

Marinette County: First Tuesday of the month, 7:00 p.m., at The Dome Lanes, 751 University Drive, Marinette.

Harry & Laura Nohr Chapter: Not given.

Northwoods: Third Thursday of the month, 7:00 p.m. at Associated Bank (Community Room), Stevens at Davenport Streets, Rhinelander. No meetings June, July, and August.

Oconto River Watershed: First Wednesday of the month, 7:45 p.m., at the Lone Oak Gun Club, Hwy. 32 North, Gillett.

Ojibseau: Second Tuesday of the month, 7:00 p.m., at the Eau Claire Rod & Gun Club, Eau Claire.

Shaw-Paca: Third Thursday of the month, 7:30 p.m., alternating between Anello's Torch Lite, 1276 E. Green Bay St., Shawano, and

Mathew's Supper Club, 155 8th St., Clintonville.

Southeastern Wisconsin: Fourth Tuesday of the month. Dinner at 6:00 p.m., meeting at 7:30 p.m. at the Bavarian Wursthaus, 8310 Appleton Ave., Milwaukee.

Southern Wisconsin: Second Tuesday of the month. Dinner at 6:00 p.m., meeting at 7:00 p.m. at the Maple Tree Restaurant, McFarland.

Wild Rivers: The chapter is currently in the process of changing its meeting location. Contact President Jeff Carlson for late details.

Wisconsin River Valley: First Tuesday of the month, 7:00 p.m., at the Wausau Tile Co.

Wolf River: Second Wednesday of odd-numbered months, 7:00 p.m., at the Wild Wolf Inn, Highway 55 South.

New addresses? Here's what to do

The following is the proper way to inform TU of a new address.

Do not contact the State Council, your local chapter president, or *Wisconsin Trout*. Only TU National keeps a database of member addresses.

Following these procedures will ensure you don't miss any TU alerts, issues of *Wisconsin Trout*, or your chapter newsletter.

- Inform TU National.** Call, write, or email TU National. (See the contact information in the masthead below.)
- Include your ID number.** Your ID number is found on the upper left-hand corner of mailing labels attached to TROUT magazine or your chapter newsletter.
- Note new chapter affiliation.** If you are moving to a different city in Wisconsin and wish to be affiliated with the TU chapter in your area, make note of that, too. (See the chapter directory on this page for the three-digit ID numbers of Wisconsin's TU chapters.)

WISCONSIN TROUT

Vol. 12, No. 4 — October, 2000

Wisconsin Trout is the official publication of the Wisconsin Council of Trout Unlimited and is distributed to the members of Wisconsin's 21 TU chapters. Nonmember subscriptions are \$12.50/year. Publication and distribution dates are the first weeks of January, April, July, and October. Deadlines for articles and advertisements are the 10th of December, March, June, and September. Advertising rate sheets are available, or you may download it at www.lambcom.net/witu.

Contributions and letters to the editor are welcomed. Submit articles and returnable photos (color or b&w) to the editorial office:

Todd Hanson, editor
3130 James St.
Madison, WI 53714-2247
(608) 243-9025 (phone & fax)
twhanson@chorus.net

Change of Address Notices, including the member's eight-digit member ID number, must be sent directly to TU National at:

Membership Services
Trout Unlimited
1500 Wilson Blvd. — Suite 310
Arlington, VA 22209
(703) 284-9400 (fax)
wreed@tu.org

Wisconsin Council of Trout Unlimited Officers

John Welter, Chairman
2211 Frona Place
Eau Claire, WI 54701

Chuck Steudel, Vice-Chair
1217 Cty. QQ
Mineral Point, WI 53565

John Bethke, Secretary
118 Vernon St.
Westby, WI 54667-1122

Larry Meicher, Interim Treasurer
5258 Salisbury Rd.
Rio, WI 53960



Hold elected officials to public trust duties

Editor,

We commend you for the excellent job you are doing as editor of *Wisconsin Trout*. The information presented on the many challenges to our coldwater resources makes all of us aware of the fact that our elected officials have abandoned their constitutionally mandated "Public Trust" responsibilities of the people's natural resources.

Your printing of the Scanlan Report should make all of us aware of the fact that if the people do not demand that their vital resources must be given the protection mandated, each of us are shirking our responsibility to future generations.

With an election approaching for all state assembly seats and half of the senate, we, the people, must educate them to the fact that protection and enhancement of our natural resource is a constitutional mandate with the legislature as the primary trustee.

The legislators, individually and collectively, do not have the option to compromise or trade off the people's vital resources, or to interject "social or economic factors" in their decisions. Their oath of office re-

quires them to uphold the constitution and the laws of the state, and the state constitution mandates them to protect and enhance our natural resources so they will be passed on to succeeding generations undiminished in quality or quantity.

That mandate must be applied to all recent economic speculations threatening the people's resources — the Crandon Mine, commercial bottling of our groundwaters, and threats to our lakes and streams.

The common selling pitch of the "creation of jobs and stimulating the local economies" are not legal options to mandated protection and enhancement. The governor, all legislators, DNR personnel, university extension employees, county and local zoning officials, town boards, and citizens of our state are all responsible for fulfilling that mandate of our constitution.

We are all stewards of the land for our lifetimes and must pass it on to succeeding generations to supply their vital needs.

Herbert Buettner
Wolf River Chapter TU
White Lake, WI

Could be best trout stream in Wisconsin?

Editor,

When I heard someone who should know say, "We could create

the best trout stream in Wisconsin by removing the Amherst dam," I was shocked! The Tomorrow/Wau-

paca River is just down the road! How could this be?

Apparently it's all about heat collecting ponds, water temperatures, barriers to fish movement, change inertia, and awareness.

The pond behind the dam on the Tomorrow River in the Village of Amherst is a shallow, silt-laden, solar-collecting, heat sump.

If the dam were removed, the average temperature below the dam would drop by about eight degrees. This temperature drop and the removal of the barrier the dam presents to trout would double the number of fish below the dam.

At the present time there are 2,000 to 3,000 trout per mile above the dam and 1,000 to 1,500 below the dam. Removing the dam would create ten or more miles of blue ribbon trout water. Maybe the best trout water in Wisconsin.

About ten years ago the dam in Nelsonville, upstream from Amherst, was removed with tremendous success. The water got colder and fish populations rose.

This serves as a good example for what could be. When you look upstream from where the dam was in Nelsonville, you see a beautiful meadow with a gorgeous winding, wild, cold trout stream running through it. Walk a ways upstream and you'll find wild, beautiful brookies. Fish are rising. The meadow is full of colorful wildflowers.

The Amherst dam is owned by the village of Amherst and there are 30 to 40 private homes on the pond. I'm sure these people would not be too excited about losing their pond. I understand this. It is a problem. People are important. But, freeing the river and restoring the cold water fishery may be more important.

Thanks for help with book reprint costs

Editor,

Please convey my appreciation to the oversight board for Friends of Wisconsin TU for authorizing \$2,000 to help defray expenses for a second printing of my book *Trout Stream Therapy*.

People who know, tell me that there are ways to save the pond and free the river. Win-win? It would cost more but it is possible. Another problem is the amount of sediment that would be released after the removal. Experts say sediment traps can prevent this.

Dam removal would lead to more trout downstream, more money coming into the area (see the economic impact study done on the Kickapoo River Valley), and increasing the value of the land along the stream.

Another benefit would be the money saved on the trout plantings that take place downstream. About 18,000 trout are planted in the Wau-paca every year. Improving the quality of the stream could lead to natural reproduction which would eliminate the costs of raising and planting trout.

This all leads to some questions that I don't completely know the answers to. How do you convince local people that dam removal is a benefit? How do we compensate pond front homeowners? Where do you get funding to accomplish this? Are there people who want to take up this cause and work for removal? What groups would be willing to work to make this happen? Are there groups actively working on this now?

I would like to learn more about this and work toward dam removal. Maybe a group could form with this as their goal. Please contact me if you are interested or have useful information.

John Gremmer
Winneconne, WI
jhg@vbe.com
(920) 582-7802

That reprinting is now completed of 2,500 copies.

Robert Hunt
Waupaca, WI

Choices and decisions ahead for Wisconsin's water

By Lee Kersten

Water, the key liquid for all life on earth. Without it, a member of the human species, under normal conditions, is about 72 hours from eternity. Other forms of life, such as those accustomed to desert living, can make do with less consistent doses and will only bloom, breed, or flourish when those events occur.

Regardless of what is in water, there can be no aquatic life without it. A stream without water is nothing more than

a bed of rocks. We are surrounded with choices and decisions about how to use that water. Water for trout and other fish has become just one of the choices; population growth, economic growth, and jobs are the others.

United States population patterns have changed. Areas that are growing the fastest are those with the most sunshine and, of course, the least amounts of water. Places such as Phoenix, Las Vegas, and Los Angeles lie in the middle of what are desert areas. All that sun and warmth is nice, but each of us still needs our 168 gallons of water per day for a variety of uses.

This past January, I tried fishing on the Salt River just northeast of Phoenix. I had read that this water

had the potential to be a viable trout stream for most of the year. Most of the fish would be stocked, but the guide book promised some holdovers. It also warned that finding any fishing depended on adequate flows. The river is controlled by several upstream dams, and the water stored behind them is in demand for

likely to happen.

Flying in and out of Sky Harbor Airport in Phoenix, I could see canals bringing water into the area. There were areas of bright green that were in sharp contrast to the surrounding area. It took a lot of water to make this happen. I saw a large fountain shooting out of a

Those favoring the jobs argument often fail to realize that fishing and other water-related activities create jobs and economic activity as well. People need gainful employment, but if it is gained at the expense of the environment, we have sold too much.

the toilets, showers, and golf courses of the Phoenix megapolis.

I saw some risers from my vantage point high above the river. "Probably bass," a local angler said. When I checked the water out up close, I found the "river" to be a series of still-water pools barely connected by flow.

With consistent year-round flows, many local fisherman maintain that this river could be a major fishing destination. In an area with several million people, it could provide world-class fishing in a unique setting. With demand for its water increasing, this is, unfortunately, not

large pool of water surrounded by development. Much of this water was going to evaporate into the dry air. Clearly, these uses of water were considered more important than running a trout stream.

The water situation out west is much different than it is in our part of the world. Most waters are governed by what are called water rights. In the absence of owning those rights, you could live on a stream or lake and not be able to remove any water from it for any purpose. These rights are often part of a land sale. Thus, in that fair land, in periods of drought, all the water in a

stream may be spoken for before it gets to you. Once again, we would have no water left for the fish.

Court battles over water ownership are a common occurrence out there. Sometimes the smaller claims are settled by another method — with the help of the Colt and Winchester families.

Conservation organizations have been purchasing these water rights when they come up for sale. They are then owned for the purpose of keeping water in the river and maintaining a minimum flow in critical low-water periods.

Perhaps by now, gentle reader, you are saying 'what's with all this out west stuff, we live in water-rich Wisconsin. We should worry about the quality, but not the quantity, of our water supplies.'

There have even been proposals to export our water to water-poor areas. One of our former governors, the one who wore a red vest, mentioned that concept many years ago. It was likely that his advisors told him to put that idea away and it was not heard from again.

More recently, a company from the Canadian province of Ontario proposed to send Great Lakes water to another country. They soon discovered that their U.S. neighbors were not happy with that proposal, so that idea quietly disappeared also.

Continued on p. 17

From the Chairman

This fall, let's fish for some legislator accountability

By John Welter

Every Wisconsin trout angler should have something productive to do after the season closes. This year, you can contribute to conservation issues by questioning political candidates during their campaigns.

We've already seen political grandstanding and partisan rhetoric splashed across the headlines of both the mainstream and outdoors press. For instance, some legislators glommed on to the constitutional amendment bandwagon, promising that THEIR party would propose a constitutional amendment to protect the rights to fish, hunt, and trap. In response, the other party's legislators adopted a "ho-hum, we-don't-really-need-this" attitude, as did some of the state's major newspapers.

It's a shame such an issue became a partisan one, as is often the case. We can find support for many issues on both sides of the legislative aisle when we start with a basic concern for the state's resources and how to protect them. Democrats who scurried away from the issue, or insisted it wasn't important, did outdoors folk a disservice. Republicans who made it a partisan, election-year campaign issue did, too. If that amendment is to be debated and improved for eventual presentation to the voters, partisan positioning isn't going to help.

The past legislative session was a model of dysfunction, bickering,

working apart rather than together. Both parties will be coming around this fall touting the bills passed by the house THEY dominated, rather than being able to talk about thoughtful legislation that was truly needed by the state and upon whose merits far-thinking lawmakers could reach agreement.

Trout Unlimited members

Every candidate in the fall elections should be asked — repeatedly, not once — for their support for strengthening groundwater protection.

watched a high-capacity well permitting bill — which would have put teeth in the DNR's scrutiny of industrial spring water pumpers — pass the State Senate and then die without action in the Assembly.

Every candidate in the fall elections should be asked — repeatedly, not once — for their support for strengthening groundwater protection. Every single Assembly candidate should be grilled on why the majority party in that house didn't even bother to take up the issue.

At the spring hearings of the Conservation Congress, voters have overwhelmingly demanded the return of the Public Intervenor's office and appointment of the DNR secretary by the Natural Resources Board. Yet bills to take those actions have repeatedly died in the Assembly, and Republican legislators — astonishingly — have claimed they didn't support the 1995 moves to croak the Public Intervenor and have the governor appoint the DNR head.

At every single campaign forum, in every newspaper letters to the editor column in the state, those concerned with coldwater resources have an opportunity to bring up these issues. Only through our members' advocacy will our lawmakers be forced to listen.

§

On a Labor Day trip to the Bighorn Mountains in Wyoming, I had a chance to explore some new and delightful water with fellow Ojibseau Chapter member

Dick Prine and with my sister, Betsy Kelly of Chippewa Falls, who had never fished in the mountains. The first morning, I lost my nymph box, about 250 flies, from an unzipped pocket while fishing the South Tongue River. It was marked with my name and phone number, but could have landed in any backwater along a dozen wild miles of river.

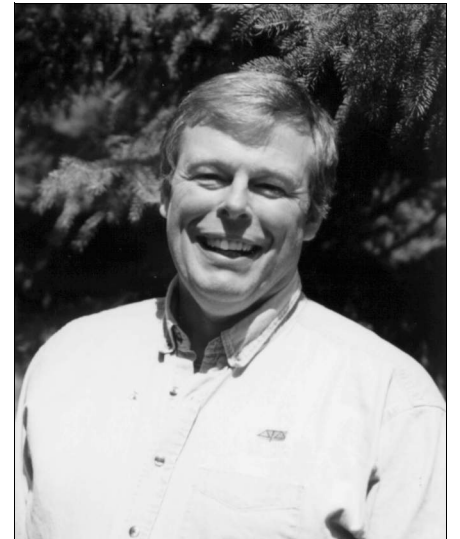
We found fine, fine fishing, some in unexpected places. Watching my sister's skills and confidence grow was a treat, and the last day she stalked, cast to, hooked, played, revived, and released a dandy cutthroat. Instead of splitting up, we fished together throughout the trip, making fishing a social rather than solitary event.

Moose, elk and other game were everywhere, and a walk to the sacred Medicine Wheel gave us a spiritual interlude. Stream work done by the Little Bighorn Chapter of TU in partnership with the U.S. Forest Service has been great for the fish as well.

And, when I called my wife from Buffalo after we came out of the woods, her first words were, "Lose a fly box?"

Now I'm wondering what an appropriate reward might be.

§



John Welter

The TU National Meeting in Syracuse offered some notable moments and heartening news about the progress we are making in various areas for trout and salmon. With the news from the coasts centering on salmon stocks facing extinction, TU's efforts to convince the public of the value of protection and restoration are underlined in dark ink. But there is room for hope.

And Wisconsin TU was recognized by our national organization for the efforts we made this past year to protect our streams and springs from the threat posed by Perrier. Thirty state councils were nominated for the "Tomorrow's Trout Award," and Wisconsin received it. Central Wisconsin Chapter's role was key in the Mecan River imbroglio, but members and chapters from around the state contributed in a hundred ways. We are the stronger for it.

WITU State Legislative Agenda

Cranberry exemption from Chapter 30

Repeal the exemption the cranberry industry has from DNR permitting for water diversions (and other practices) that other industries and individuals have to abide by.

Legislative Council study of Chapter 30 recodification

Monitor this study committee to ensure the essence of Chapter 30 is maintained or strengthened.

High-capacity wells

Work for passage of next session's version of SB 414, but look at other ways to view the issue. Review alternatives that have been laid in the UW's new groundwater report.

Use value taxation

Shape the rule so that buffer zones around waterways are not taxed at market value, providing farmers an incentive to put that land into production.

DNR Secretary

DNR Secretary reports to the Natural Resources Board.

Public Intervenor

Re-establish that office in the Dept. of Justice

Fishing/hunting constitutional amendment

The right to hunt and fish would be constitutionally sanctioned.

Two more legislators agree with DNR/PIO restoration

By Todd Hanson

Two more state legislators have responded to the Wisconsin Stewardship Network's survey on returning DNR independence and the office of the public intervenor.

Representatives Shirley Krug and Mark Meyer recently answered "yes" to both questions.

The WSN initiated the survey in response to last April's Con-

servation Congress meetings where attendees voted overwhelmingly in support of returning these two issues to their status before they were eliminated in Governor Thompson's 1995 budget bill.

The WSN survey asked legislators the identical Conservation Congress questions.

So far, only 40 legislators have responded to the survey.

SURVEY QUESTIONS AND RESULTS

"58. Should the Secretary of the Department of Natural Resources be appointed by the Natural Resources Board rather than the Governor?"

"59. Should the Office of the Public Intervenor be reinstated with all its powers as originally created in 1967, and with sufficient financing to allow it to carry out those powers?"

SENATE

Jim Baumgart (Y-Y)	Robert Cowles (Y-Y)	Jon Erpenbach (Y-Y)	Rodney Moen (Y-Y)	Kevin Shibilski (Y-Y)
Brian Burke (Y-Y)	Russell Decker (Y-Y)	Gary George (Y-Y)	Kimberly Plache (Y-Y)	Robert Wirch (Y-Y)
Chuck Chvala (Y-Y)	Gary Drzewiecki (Y-N)	Richard Grobschmidt (Y-Y)	Fred Risser (Y-Y)	
Alice Clausung (Y-Y)	Mike Ellis (N-N)		Judy Robson (Y-Y)	

ASSEMBLY

Larry Balow (Y-Y)	Joseph Handrick (Y-N)	John La Fave (Y-Y)	Mark Pocan (Y-Y)	David Travis (Y-Y)
Therese Berceau (Y-Y)	Donald Hasenohri (Y-Y)	Julie Lassa (Y-Y)	Marty Reynolds (Y-Y)	Sheldon Wasserman (Y-Y)
Spencer Black (Y-Y)	Tom Hebl (Y-Y)	John Lehman (Y-Y)	Lorraine Seratti (Y-N)	Sarah Waukau (Y-Y)
Peter Bock (Y-Y)	David Hutchison (Y-N)	Mark Meyer (Y-Y)	Christine Sinicki (Y-Y)	
David Cullen (Y-Y)	Shirley Krug (Y-Y)	Joe Plouff (Y-Y)	Tony Staskunas (Y-Und.)	

REFUSED TO RESPOND — SENATE

Roger Breske	Scott Fitzgerald	Alan Lasee	Mary Panzer	Dale Schultz
Alberta Darling	Joanne Huelsman	Mary Lazich	Carol Roessler	Robert Welch
Margaret Farrow	Robert Jauch	Gwendolynne Moore	Peggy Rosenzweig	David Zien

REFUSED TO RESPOND — ASSEMBLY

John Ainsworth	Eugene Hahn	Peggy Krusick	Jeffrey Plale	John Townsend
Sheryl Albers	Tim Hoven	Bonnie Ladwig	Cloyd Porter	Robert Turner
Frank Boyle	Gregory Huber	Frank Lasee	Michael Powers	Gregg Underheim
David Brandemuehl	Mary Hubler	Michael Lehman	Kitty Rhoades	Frank Urban
Timothy Carpenter	Michael Huebsch	Joseph Leibham	Jon Richards	Daniel Vrakas
Spencer Coggis	Jean Hundertmark	Lee Meyerhofer	Antonio Riley	Scott Walker
Pedro Colon	Scott Jensen	Mark Miller	John Ryba	David Ward
Marc Duff	Suzanne Jeskewitz	Phil Montgomery	Marlin Schneider	Steve Wieckert
Steven Foti	DuWayne Johnsrud	Johnnie Morris-Tatum	Dan Schooff	Annette Polly Williams
Stephen Freese	Dean Kaufert	Terry Musser	Gary Sherman	Wayne Wood
John Gard	Neal Kedzie	Stephen Nass	Rick Skindrud	Leon Young
Robert Goetsch	Carol Kelso	Luther Olsen	Joan Spillner	Robert Ziegelbauer
Barbara Gronemus	Steve Kestell	Alvin Ott	John Steinbrink	
Glenn Grothman	Judith Klusman	Carol Owens	Jeff Stone	
Scott Gunderson	Rob Kreibich	Jerry Petrowski	Scott Suder	
Mark Gundrum	James Kreuser	Mark Pettis	Tom Sykora	



NORTHEASTERN WISCONSIN'S FISHING CENTER

Everything from Spin to Fly Fishing gear.

A full selection of:

Rods, Reels, Baits, and Tying Materials

The One Stop Fishing Center.

We specialize in everything from maggots to Salmon Flies!

1512 Velp Ave. Green Bay, WI 54303 1-800-447-2312
http://www.bobsbaitandtackle.net

PERRIER: media flurry precedes permit OK

Continued from p. 1

Doyle's letter also hinted at the possibility of legal action from the attorney general's office.

"My office will be monitoring developments on the Perrier project very carefully," said Doyle. "We are considering all of our options, including the possibility of legal action by my office at some future time, should it appear that the public trust or waters of the state are threatened."

TU asked for full EIS

Wisconsin Trout Unlimited is already on record asking the DNR for a full EIS on the Big Spring permit.

In a letter to DNR West Central Headquarters Public Affairs Manager David Weitz dated August 22, WITU Chair John Welter commented on Perrier's environmental assessment.

"We have reviewed the EA document and concur with Dr. George Kraft's conclusion that the tests performed to date are not sufficient to judge the potential impacts of the proposed operation on the groundwater, stream, and wetland resources near Big Spring," wrote Welter.

"The comments of Mr. James Krohelski of the United States Geological Survey similarly pointed out that testing done to date is inadequate to conclude that there will be no adverse impacts. The Wisconsin State Council of Trout Unlimited feels strongly that a permit must not be issued until it can definitively be shown, by conducting high-rate long-term pump and other appropriate tests, that there will be no adverse impacts to these sensitive resources.

"The Wisconsin State Council of Trout Unlimited therefore requests that the Department of Natural Resources conduct a full Environmen-

tal Impact Statement before issuing a permit."

Meyer: agreement is sound

Meanwhile, DNR Secretary George Meyer has taken a two-prong approach to the Perrier permit:

- noting that the state is getting unprecedented concessions never before received from a high-capacity well permittee, while
- expressing frustration that the state legislature has not provided the DNR with the authority to demand more from high-capacity well applicants.

"This case is a wake-up call," said Meyer. "We are fortunate that Perrier was willing to agree to these protections for the nearby groundwater, surface water, and wetlands, but we may not find the next applicants for high-capacity wells as willing. Our groundwater resources are too important to leave to that kind of uncertainty. Wisconsin citizens want their water resources protected. The legislative framework under which we operate needs to catch up with public values and desires."

Dispute moves to new fronts

As *Wisconsin Trout* went to press, citizens opposing Perrier were announcing legal actions against the DNR.

Citizen groups are also focusing on the next battleground on the horizon — applications related to a pipeline or plant necessary to bottle water from Perrier's proposed wells.

Any pipeline and bottling plant will be subject to an array of DNR permits and environmental review processes, including permits for air emissions, stormwater, wastewater, and wetlands. Perrier is also subject to local government decisions regarding zoning and other issues.

coldwater streams will be at risk.

The TU resolution is being distributed to state political leaders in an attempt to gain bi-partisan support for groundwater law revisions.

RESOLUTION: no new wells

Continued from p. 1

something TU members are well aware of — that groundwater is intimately linked to stream flow, and until groundwater is protected,

Citizens use obscure law against cranberry bog

By John Welter

A citizens complaint alleging water pollution was caused by a Sawyer County cranberry operation asks that the Wisconsin Attorney General's office hold a public hearing to take testimony on the pollution.

The complaint, filed in late August, alleges that Musky Bay in Lac Court Oreilles has been polluted by chemicals and fertilizer runoff from the Zawistowski Cranberry bog nearby. A scientific study conducted by consultants for the Lac Court Oreilles Chippewa tribe concluded that the cranberry operation was the culprit.

Since the bog began its operations, the bay has become algae-filled and musky spawning has been hampered. When the Department of Natural Resources several years ago sought to prevent the pollution, the Wisconsin Supreme Court held that the 1867 Cranberry law exempts the bog from DNR oversight.

The citizens named in the complaint include a tribal member, a property owner along Musky Bay, and other water resource users, in-

cluding John Welter, state council chair of Wisconsin Trout Unlimited.

The complaint asks that the DNR hold the public hearing and take appropriate action if pollution is found to have occurred. Under §299.99 of the Wisconsin Statutes — a little-known provision in Wisconsin law — the hearing is required to take place within 90 days after filing of the complaint.

The complaint was filed shortly before Wisconsin cranberry growers asked the U.S. Department of Agriculture for a \$50 million bailout to help them weather a glut of berries and low prices.

The "Cranberry Coalition," a group of conservation and environmental groups who favor repeal of the 1867 Cranberry Law and appropriate environmental regulation of the industry, have expressed opposition to bailing out growers who insist on a continued untrammelled right to release chemicals, fertilizers, and thermally heated water from their bogs into Wisconsin's coldwater streams. Trout Unlimited is a member of the coalition.

Key points of DNR/Perrier pact

- Commits Perrier to conduct DNR-approved studies/surveys/pump tests and do short- and long-term monitoring.
- Stipulates that well operations, under all climatic conditions but especially during drought, shall have no significant adverse impacts to nearby groundwater, surface waters, or wetlands. A significant adverse impact would occur when the quantity or quality (e.g., temperature, dissolved oxygen, suspended solids, etc.) of the waters available to affected groundwater, surface water, or wetland is reduced or affected such that its physical, biological, social, economic or any other public interest value can't be maintained.
- Studies/monitoring will be used by DNR to develop or subsequently revise operating terms and conditions in any high-capacity well approval to prevent any significant adverse impacts to water resources.
- Perrier may challenge the reasonableness of the conditions but not DNR authority to impose them.
- If DNR finds there's a significant adverse impact to any nearby groundwater, surface water, or wetland, it may unilaterally amend its approval to impose additional conditions to eliminate the impacts.
- Perrier would not be allowed to begin operations until DNR sets the operating terms and conditions.
- Other DNR permits will have to be acquired for a possible pipeline and bottling plant or stream and wetland restoration efforts.
- The maximum combined pumping of the high-capacity wells shall not cause any significant adverse impact to nearby groundwater, surface waters, or wetlands at any time.
- The Applicant(s) shall complete or adhere to all actions as described in the agreement. Design and operational variables will be included in any subsequent modified approval issued by DNR.
- This approval does not allow construction or operation of the proposed high capacity wells. Before those activities could begin, DNR will evaluate the results of additional wetlands, aquatic resources and pumping studies, and groundwater modeling to determine if there's a specific location or locations, and associated pumping rate or rates or other operational conditions, that would allow the high-capacity wells to operate in a way that will have no significant adverse impact to groundwater, surface waters, and wetlands. A significant adverse impact would occur when the quantity or quality (e.g., temperature, dissolved oxygen, suspended solids, etc.) of the waters available to any affected groundwater, surface water, or wetland is reduced or affected such that its physical, biological, social, economic, or any other public interest value cannot be maintained.
- Initial operating conditions in any modified approval may contain minimum flows, water levels, temperatures, and dissolved oxygen levels in the nearby waters, in addition to the approved pumping rate. These operating conditions may be further modified by DNR if groundwater, surface water, habitat, species and wetland studies, and monitoring indicate a reduced rate of withdrawal is warranted to prevent significant adverse impacts to wetlands and surface and groundwater resources.
- DNR reserves the authority to limit the pumpage in any amount that may be necessary to eliminate excessive drawdown in any public utility well that may be affected by high-capacity well operations.
- State Historical Society and DNR archaeologists shall be notified at least 7 business days before the commencement of any well access road or staging area construction in order to offer staff an opportunity to be present to determine if drilling operations expose any historical or archeological artifacts. If during the construction of any well, access road or staging area archeological artifacts are discovered, well construction will cease and further construction will be moved to another location with DNR concurrence.
- The actual construction or operation of any high capacity well shall not commence until the approval is modified to include an approved pumping rate and other operational conditions.
- DNR approval will not negate the protection to which private well owners are entitled under Wisconsin case law relating to groundwater (*State vs. Michels Pipeline Construction, Inc.*, 63 Wis. 2d 278 [1974]). DNR approval does not relieve the high-capacity well property owner or well operator of any liability which may result from injury or damage suffered by any person upon operation of the approved well(s).
- Failure to comply with any term or condition of an approval or the construction, reconstruction, or operation of any drill hole or well in violation of any statute, rule, or department order shall void DNR approval. Perrier would not be able to operate the well system.
- This approval is not transferable to a new owner or operator. A new owner or operator must therefore apply for and receive approval from DNR.



Removing

Small Dams

Final part of a *Wisconsin Trout* series on river restoration through dam removal

Removal day the start of new challenges

By Stephanie Lindloff

When a decision is made to remove a dam, it may seem like the culmination of all this hard work is a time to pause and celebrate. But don't lose sight of the fact that our goal is river restoration, not dam removal.

It is very important that river restoration supporters stay visibly active as you move into the planning and implementation phase of the dam's removal. It's time to help restore the river and to reconnect your community to a free-flowing and healthier river.

Community involvement in planning restoration

Well before removal day, encourage community participation in planning the former impoundment's restoration. This is a chance for everyone with an interest to say what they want for their community's future.

Expand upon and implement the ideas that were raised during the dam repair/removal decision-making process. It is very important that citizens feel a sense of ownership in what becomes of their impoundment. Organize committees that involve community members in planning projects associated with the dam's removal.

There are a wide variety of project ideas that could be, and have been, implemented through dam removal, such as:

- parkland development,
- hiking trails,
- interpretive centers,
- signs or trails,
- historical museums,
- native vegetation plantings,
- public fishing access, handicapped fishing access, and
- boat launches.

This is also an opportune time to consider a riverfront revitalization project in your community. Many places have a "Water Street" or a "River Road" that has fallen into disrepair over time.

Many communities are now ren-

ovating these historic riverfront districts into areas where people can enjoy entertainment, riverwalks, and other such amenities. This helps communities reconnect to their local river, feel a sense of place, and have fun at the same time.

How do you fund these projects?

There are many public and private funding sources at the federal, state, and local level that can be used for river restoration, protection, and revitalization projects.

Don't forget the support of local foundations and other benefactors. Contact the DNR or state historical society. Don't forget that Trout Unlimited chapters are eligible to receive funding through the Embrace-a-Stream Grant program.

The River Alliance of Wisconsin can provide you with a detailed list of many federal and State of Wisconsin funding opportunities.

Encourage research and monitoring

Encourage research and monitoring of the river before, during, and after the dam's removal. There will be changes to the river and surrounding environment over time as the river rediscovers its natural state and functions. Contact local educational institutions, from grade schools to universities, for help in monitoring the health of the river.

Increasing the amount of information that exists will enable river restorations through dam removal to become more predictable, which will help lessen the fear of unknown outcomes that is faced by many communities considering dam removal.

Oversee the Removal Plan Comment on the DNR's environmental review report for the dam's removal (e.g., environmental assessment or alternatives analysis).

Carefully review the report and send your reactions to the DNR within the comment period provided. This report will give you a good grasp of how the structure will actu-

ally be removed. Pay close attention to some common technical issues associated with dam removal. These should be considered in both the planning and implementation phases.

Issues that should be addressed include:

- sediment control,
- stranded fish and mussels,
- storm, sewer, and wastewater treatment outfalls,
- reconstruction of the river channel through the former impoundment area,
- potential groundwater and well impacts, and
- the possibilities of implementing new stormwater treatment efforts.

Continue your educational efforts

Continue educational efforts about the restoration of the river and surrounding environment. Get school kids involved. Encourage teachers to bring kids to the river to learn about biology, history, engineering, botany, etc. Kids can be some of your strongest advocates for cleaning up your local river!

Be sure to visually record the progress, with photographs or video. Encourage any local nature writers to record the progress of events in words. Keep up the public information work that you put into place during the decision-making process. This is an important time to keep the community and other interested people up-to-date about the river restoration.

Organize river cleanups

Talk with the DNR about scheduling a cleanup of the impoundment and getting permission to walk along the former shoreline and onto the newly exposed lands.

Take safety precautions. You may need to wait a bit before venturing out into the exposed lands if it's too soft to walk on.

One general rule to remember during cleanups is this — remove unnatural objects, but leave wood

and other natural debris, unless they would be a safety or navigational hazard.

Cleanups can be a lot of fun, especially for treasure hunters. Reporters also love river cleanups! You never know if someone will come across an historical item or something especially interesting (or simply bizarre!).

Help enable river restorations elsewhere

Celebrate the accomplishment of restoring a river to a healthier free-flowing state. Keep the community (and the media) educated about the restoration's progress.

Also have information available for other communities to refer to when they face similar decisions about their dams. Remember, your local experiences are important to these communities. The knowledge and experience you have gained can encourage additional selective dam removals in Wisconsin and across the nation, leading to more rivers running free and healthy.

(Stephanie Lindloff is the Small Dams Program Manager for the River Alliance of Wisconsin. The Small Dams Program is a collaborative effort of the River Alliance and the National Office of Trout Unlimited. Its goal is to help improve decisions regarding dams through public information and education and by encouraging citizen involvement in these important decisions. -Ed.)

Order collected dam removal tips

If you've enjoyed Stephanie Lindloff's now-concluded series on small dam removal, you can get more detailed information in the River Alliance's *Citizens' Guide to River Restoration Through Selective Dam Removal*.

Contact the River Alliance of Wisconsin at (608) 257-2424 for details.

Shaw-Paca Chapter shares in settlement

Companies pay \$200,000 to repair Mehlberg Creek

A settlement was reached in late August in Shawano County Circuit Court in cases filed against two construction companies whose work along Mehlberg Creek in Shawano County in 1999 caused major damage to that trout stream.

Qwest Network Communications of Denver, CO, had been charged with 23 violations of Wisconsin environmental laws, while Reliance Construction Company of De Pere, WI, had 25 charges issued against them by the WDNR.

Qwest and Reliance were both working on projects relating to the construction of the new Highway 45 from Marion to Wittenberg during the summer of 1999.

While working near Mehlberg Creek in the town of Grant, Qwest's underground boring operation erupted into the creek, causing large amounts of bentonite clay — a material used in their drilling operations — to enter the creek.

Reliance Construction, working under contract with the Wisconsin Department of Transportation

(DOT), failed to erect and maintain proper erosion control measures to prevent massive amounts of soils from eroding off the highway project into the creek during summer rainfalls.

Mehlberg Creek, a high-quality trout water, was severely damaged for more than one-half mile, causing almost a total loss of spawning habitat and aquatic life.

DNR spots violations

The investigation was coordinated by Larry Kriese, a recently retired DNR regional enforcement and science leader for Northeast Wisconsin.

Kriese said the DNR was able to show that Reliance and the DOT were aware of the damage occurring soon after it began, but both failed to take appropriate actions to prevent it from worsening.

The DOT has been granted exemptions from having to comply with many environmental regulations by the legislature and was not charged for their role in this incident, Kriese said.

A DOT spokesperson told *Wisconsin Trout* the department disagrees with the characterization that its employees did not take appropriate actions.

The department said it also would not share whether it had taken any internal actions against its employees involved in the project.

The settlement requires Qwest Communications Network to forfeit penalties totaling \$6,000. Reliance has forfeited penalties totaling \$7,500.

Both companies were required by the DNR to do extensive cleanup work in the creek over the past several months. That work has now been completed at a cost exceeding \$200,000.

Kriese said that while the creek has not been restored to its original condition, the work that has been done should allow the creek to re-

store itself during the next several years.

Shaw-Paca gets donation

In addition to the penalties paid to the court, Shawano County District Attorney Gary Robert Bruno approved a donation the Shaw-Paca Chapter of TU. Qwest and Reliance will be donating \$4,000 to the chapter for future trout stream projects in the area.

Kriese praised DA Bruno for his willingness to take on a complex and challenging case for the good of the natural resources of Shawano County and the citizens of the county who enjoy them.

"Had it not been for the support of Bruno, it is unlikely these large construction companies would have been held accountable for their actions, and Mehlberg Creek would likely not have been restored to the condition it is in today," said Kriese.

Citizen legal action closes leaking Shawano manure pit

Last spring a coalition of family farmers and anglers challenged a permit the DNR issued to a factory farm in Shawano County because it failed to meet basic state and federal water law requirements.

The petitioners included a neighboring small dairy farmer, anglers, and the directors of both the Clean Water Action Council and Wisconsin's Environmental Decade.

They maintained that the DNR approved the permit for the factory dairy farm without adequately examining and controlling the pollution it was causing.

"The agency ignored the law as it relates to factory farms," said Melissa Scanlan, Legal Director of Midwest Environmental Advocates and attorney for the petitioners.

"The law clearly prohibits these facilities from using our public waterways as sewers," said Scanlan. "Yet DNR issued this permit without adequately preventing manure from seeping into drinking water and running into a wetland and the nearby Pensaukee River."

According to Scanlan, federal and state law prohibits discharges from facilities with 700 or more dairy cows, yet the DNR gave the facility a permit that did the opposite.

In a recently signed settlement between the parties, the facility

agreed to close an earthen pit that had been documented to leak manure back in 1980.

The factory farm also agreed to:

- immediately stop any pollution from running off the facility into surface water and
- monitor its ability to prevent runoff on a regular basis.

Ivan Klosterman, a petitioner and fourth-generation family dairy farmer who lives and farms near the factory is vindicated by the settlement.

"I always said they built that old manure pit too close to the wetland," said Klosterman. A small farmer wouldn't be allowed to get away with that, and a large farm shouldn't either. Its just a shame that it took legal action to get this pit closed."

For the Wayne Moericke family — petitioners who live right across the road from the factory — the settlement highlights the inadequacies of our current laws.

Moericke stated that, "Even though the Clean Water Act restricts water pollution from these places, my family still cannot open our windows to enjoy the summer because the odor and dust is so strong. We built in the country to have fresh air, not to live next to a factory that operates 24 hours a day."

Horvath TU's new WSN rep

Gary Horvath of River Falls is Wisconsin TU's new representative on the Steering Committee of the Wisconsin Stewardship Network (WSN).

Horvath succeeds Todd Hanson, who vacated his Steering Committee role in order to become the WSN's new state coordinator in Madison.

The WSN is a coalition of sporting, conservation, and environmental groups that focuses on a handful of core issues all of these groups have in common.

WITU has been part of the network the past three years.

Gary Horvath resides in River Falls and is employed by the Minnesota Department of Agriculture (MDA). He started with the MDA as a pesticide residue chemist specializing in ground and surface water monitoring. Currently he is Assistant Laboratory Director in charge of pesticide residues and formulations, the seed analysis section, and the agronomy analysis section.

Horvath is a member of TU's Kiap-TU-Wish Chapter. He has twice served as a chapter board member, was chapter vice president in 1992-93, and president from 1994-1996.

During Horvath's term as president, the Kiap-TU-Wish Chapter successfully fought for removal of the Mounds Dam on the Willow River and forced the City of River Falls to alter their maintenance procedures on the dam.

He instituted the chapter's educational committee that holds fishing and river awareness classes

through the River Falls City Park Department. He focused attention on the impacts of stormwater and impervious surfaces on trout streams.

The chapter received the State Council Silver Trout award in 1995. Gary has also served at the state TU level, both as State Council vice chair and chair of the Water Resource Committee.

WSN Steering Committee

Citizens for a Better Environment
Clean Water Action Council of NE Wisconsin
ECCOLA
Wis. Audubon Society — Madison Chapter
Federation of Fly Fishers
Izaak Walton League of America
Lake Superior Greens
Northern Thunder
Pheasants Forever
River Alliance of Wisconsin
Sierra Club — John Muir Chapter
Twin Cities Rod & Gun Club
Wis. Council of Sportfishing Organizations
Wisconsin Association of Lakes
Wis. B.A.S.S. Federation
Wisconsin Conservation Congress
Wisconsin Trout Unlimited
Wisconsin's Environmental Decade

Stream Restoration Services

Call NES for comprehensive ecological restoration services. Our experienced biologists, ecologists and hydrologists use a natural approach to restoration to ensure long term success and natural beauty.



Ecological Services Division of
Robert E. Lee & Associates, Inc.

2825 South Webster Avenue, P.O. Box 2100, Green Bay WI 54306-2100 • 920-499-5789 • FAX 920-336-9141 • E-mail rel@releeinc.com

- Watershed Management
- Fisheries Surveys
- Lake and Stream Studies
- Dam Removal Studies
- Water Quality Testing

Free Grant Writing Services

Report: groundwater protection weak

By John Welter

Serious threats confront Wisconsin's groundwater supplies, and legal protection is weak, according to a just-released UW study.

The report *Modernizing Wisconsin's Groundwater Management: Reforming the High Capacity Well Laws* was published in late August by the Dept. of Urban and Regional Planning, UW-Madison/Cooperative Extension.

Water demands from high-capacity wells are already drawing down streams and drying up wells around the state, and inadequate laws prevent regulation to protect the state's supplies.

The study, conducted by a UW-Madison graduate seminar in Water Resources Policy, was supervised by UW Prof. Steve Born.

The study analyzed specific cases in Wisconsin where lack of adequate regulatory protection and no planning have led to serious problems for the state. Cases studied include Bloody Run, a central Wisconsin Class I trout stream which has been

partially dewatered by high-capacity wells used by the Wisconsin Rapids Water Works & Lighting Commission.

The DNR cites Bloody Run as the most severe example in the state of environmental impact from high-capacity wells, an illustration of the need for stronger legislation to al-

water, it might seem we have an inexhaustible supply. However, daily withdrawals reportedly average 759 million gallons a day, and in certain parts of the state declining groundwater levels have been measured.

There is currently no water budgeting mechanism to apportion the state's groundwater supplies, and the DNR can only deny a permit application for a high-capacity well if it will adversely impact the nearest municipal water supply.

The UW report calls for legislative study for ways to strengthen the state's ability to protect groundwater quantity and quality, and suggests that citizens' suits might be another tool to help in the protection effort.

Copies may be obtained for \$7 from the Dept. of Urban Planning at 112-A Old Music Hall, 925 Bascom, Madison, WI 53706.

The report is also on-line at: www.wisc.edu/urpl/facultyf/bornf/projectsf/hicaplaw.pdf.

Look for excerpts from this report in the next issue of Wisconsin Trout. -Ed.

There is currently no water budgeting mechanism to apportion the state's groundwater supplies, and the DNR can only deny a permit application for a high-capacity well if it will adversely impact the nearest municipal water supply.

low the DNR to regulate such wells.

The Public Trust doctrine, which protects Wisconsin's surface waters from many threats, is of arguable use in protecting groundwater. The doctrine — which holds that the navigable waters of the state belong to the people and are to be protected by the DNR — has since a 1903 case been held *not* to apply to groundwater, and subsequent cases have not overturned it.

Since the DNR estimates Wisconsin's aquifers hold an estimated 2 million billion gallons of ground-

Born named to navigable water group

By Todd Hanson

Steve Born, chair of the UW-Madison Dept. of Urban and Regional Planning, has been appointed a public at-large member to a state committee charged with suggesting changes to state navigable water statutes.

Born will serve on the Special Committee on Navigable Waters Recodification.

The committee is chaired by senators James Baumgart and Scott Gunderson.

It will conduct a recodification and review of Ch. 30 of WI Statutes

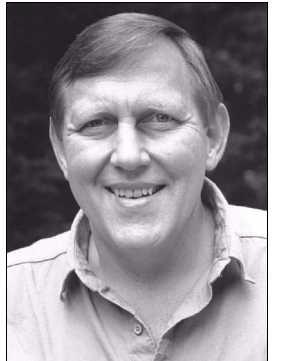
The committee may advise the council of any substantive policy questions requiring further review.

Other legislators on the committee are senator Dale Schultz and representatives Barb Gronemus, Jim Kreuser, Steve Kestell, and Luther S. Olsen.

The other public members include:

- Daniel P. Gustafson, Attorney, Quarles & Brady, Milwaukee
- Jerry Bradley, President, Dane Co. Farm Bureau, Sun Prairie
- Jeff Krueger, Government Affairs Director, Mercury Marine, Fond Du Lac
- James Burgess, Past President, WI Assn. Of Lakes, Madison
- Michael Miller, Mayor, West Bend
- Darren Bush, Vice President, Rutabaga, Inc., Madison
- Kari Zambon, Owner, Holiday Acres Resort, Rhinelander
- Kevin Dittmar, President, Dittmar Realty, Menomonee Falls

The Special Committee will report its recommendations to the Joint Legislative Council by January 1, 2001.



Steve Born

Shell Lake drops plan to drain lake into stream

By John Welter

The City of Shell Lake in Washburn County has canceled moves to siphon high lake water levels into Sawyer Creek, a nearby Class I-II trout stream.

The city in June appealed a decision denying a permit for the si-

phon. The city's attorney, Bill Thiel of Eau Claire, told *Wisconsin Trout* that he had been instructed to dismiss the appeal. A stipulation for dismissal awaits signature by the Wisconsin Attorney General's office, he said.

An administrative law judge

heard three days of testimony in July, 1999, and later found the siphoning project posed a serious threat to the headwaters of Sawyer Creek.

Wisconsin Trout Unlimited and an adjoining landowner objected to the proposed project, and DNR specialists testified that it would harm the stream.

Meyer to lead environmental commissioners

WDNR Secretary George Meyer has been elected to lead the national association of state and territorial environmental agency commissioners, a position political experts say will be especially important because of the group's growing clout and the coming change in presidential administrations.

Meyer was elected president of The Environmental Council of States (ECOS) in mid-August during the group's annual meeting in Alaska. He will serve a one-year term.

ECOS is the national, nonprofit, nonpartisan association representing the state and territorial environmental commissioners.

A DNR employee since 1970 and agency secretary since 1993, Meyer has served in several leadership positions with ECOS, including chairman of the Air Committee and ECOS vice president.

"I'm very pleased to accept these national responsibilities," Meyer

said. "My selection is really a reflection of how Wisconsin environmental programs and DNR staff are respected throughout the country.

According to Don Kettl, a professor at University of Wisconsin's Robert M. La Follette School of Public Affairs and Nonresident Senior Fellow at the Brookings Institution, "It's increasingly clear that anything really serious and important that's going to happen in environmental policy is going to have to happen through a strong collaborative relationship between states and the feds."

"ECOS has been a prime arena for having these discussions. Whoever leads ECOS is going to be in an important position to be able to ensure that the leadership we need takes place," Kettl said. "This is a critical organization for the next generation of environmental policy and Secretary Meyer's election to the head of ECOS is a sign of Wisconsin's leadership in this area."

In addition to Meyer's role as president, DNR Water Division Administrator Susan Sylvester will continue to serve as the vice-chair of the council's Water Committee.

To learn more about ECOS, view its web site at www.ecos.org or call the DNR at (608) 266-2121



ROCKIN' K FARMS

"Quality lodging in secluded Spring Coulee"

And the New

Rockin' K Fly Shop

Check out the stream conditions on our web site:
HTTP://go.to/rocknk

(608) 452-3678

P. O. Box 6
Coon Valley, WI 54623

Paul Kogut, Prop.

FURLED TAPERED LEADERS

We have all experienced the shortcomings of the tapered monofilament leader: we see the rise, then false cast to get the perfect length, judge the distance upstream from the rise, then cast. Your reward is the mono leader, tippet and fly all end up in a big pile, well short of the target. Despite all the claims, mono leaders often do not perform. But there is a solution to this dilemma, and it has been around for generations.



Over 200 years ago, the British developed a furred woven leader made of horse hair. Today, the horse hair has given way to premium nylon, but the concept remains: the taper and weight-to-length balance of this leader is outstanding and will improve your casting.

Attach our leader to the fly line loop-to-loop. Then attach your tippet to the small loop using a clinch knot. Since you do not shorten our leader when changing tippets, the furred leader can last a long, long time.

Experience the amazing turnover, extension and delicate presentation using Ruth's Remarkable furred leaders. Cast like the experts. Why are you still using mono or braided leaders?

Available in three sizes. Light: 3-5 wt.; Med., 5-7 wt.; And Hvy., 7 wt. and higher. \$10.95 + S&H

Order On-line at
BlueSkyFly.com

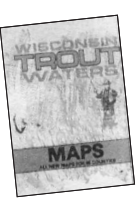
Ph. 920-845-9344
Fax 920-845-5956
E-mail: info@blueskyfly.com

Order these and other innovative leaders from:
BlueSky Flyfishers™
324 Robin Ln., Luxemburg, WI 54217

More info and secure ordering:
BlueSkyFly.com

WISCONSIN TROUT WATERS

TROUT FISHERMAN'S DREAM BOOK



The Wisconsin Department of Natural Resources, in its efforts to catalog the abundant resources of the state, keeps track of trout success throughout Wisconsin. This information has been transferred to the maps included in this publication.

These access maps indicate the best-producing trout streams in the state.

60 pages

\$12.95 each

\$1.50 per book for shipping

CLARKSON MAP COMPANY
1225 DeLanglade St., Kaukauna, WI 54130

Next version out in early 2001

Runoff rules nearing second round of comment

Responding to a flood of public comments on proposed rules to decrease the polluted runoff entering Wisconsin lakes, rivers, and aquifers, state water quality officials expect to bring revised proposals to the public in early 2001.

"Our next step will be to redraft the rules and standards based on the large number of comments we have received from the public," says Al Shea, who directs the DNR watershed bureau.

Revision by early 2001

"Because we anticipate revisions, we'll be asking the Natural Resources Board early next year to authorize us to take those new drafts to the public to see whether we have addressed their concerns."

More than 1,400 people attended statewide hearings in March and 336 of them offered comments about the proposed rules, which would have required for the first time:

- that all farmers control polluted runoff from their land if the state pays the lion's share of those controls,
- that smaller cities join larger cities in controlling their storm water, and
- that smaller construction sites control erosion.

An additional 1,755 written comments about the proposed rules poured in during the comment period, which ended May 5.

"The volume of responses we received to the proposed rules reflects how important people consider protecting and restoring our waters, and it reflects the reality that all of us will be asked to share responsibility for reducing polluted runoff because we all contribute to it," Shea

says. "We hope to emerge from this revision process with a proposal that will protect and restore our waters while being sensitive to the concerns we've heard."

Nonpoint pollution degrades or threatens about 40 percent of Wisconsin's streams, about 90 percent of its inland lakes, many Great Lakes harbors and coastal waters, and a substantial proportion of Wisconsin's groundwater supplies.

Polluted runoff occurs when rain or snowmelt travels over land and picks up manure and soil from farms, trash, storm water and chemical pollutants from urban areas, and sediment from construction sites.

Nonpoint pollution significant

Such pollution degrades or threatens about 40 percent of Wisconsin's streams, about 90 percent of its inland lakes, many Great Lakes harbors and coastal waters, and a substantial proportion of Wisconsin's groundwater supplies, Shea says.

Polluted runoff can reduce the levels of dissolved oxygen that fish and other aquatic life need to live, cause algae growth, cover important fish spawning habitat with sediment, and in some cases, kill scores of fish at once.

Lawmakers required DNR and the Department of Agriculture, Trade and Consumer Protection (DATCP) to create the standards and to restructure existing programs that seek to reduce polluted runoff, which is now regarded as the great-

est threat to water quality and is essentially the final frontier of pollution control.

The DNR had worked with a 20-member advisory group, the Out-

reach Advisory Committee, and met frequently with staff from DATCP and the state transportation and commerce departments to meet that directive.

DNR and DATCP conducted statewide hearings in March on the proposed restructuring to their existing programs regarding manure storage, nutrient management, cropland erosion, construction site erosion, and stormwater control.

Public responses to rule

Generally, comments at the March DNR hearings or in the letters the DNR received fell into four categories, according to Carol Holden, the analyst who compiled and summarized the comments.

1. Some people supported the proposed rules or wanted stronger regulations than what was proposed, she says.
2. Farmers and others in the agriculture business opposed the rules or portions of them for a variety of reasons, but most frequently cited their perception that it would be an additional

economic hardship for them at a time when they're already suffering from low commodity prices.

3. Groups representing the various county or municipal agencies, were concerned that the rules represented an unfunded mandate, were better enforced locally instead of by the state, or could harm development.

4. The fourth group was home construction companies concerned about effects on their business.

Study groups reconvening

To consider those concerns, the DNR is convening study groups of staff and citizens to develop solutions for key issues identified in the comments, Shea says.

The agency also will convene a group of DNR staff and DATCP staff to try to work out differences between the two agencies' rules.

Then the Outreach Advisory Committee that has been meeting for more than two years to develop the original proposals will review the new drafts and suggest revisions.

Shea hopes to take the revisions that emerge from that process to the Natural Resources Board in January. Board members would consider authorizing the DNR to conduct a second round of public hearings on the revised proposals. For more information, contact Shea at (608) 267-2759.

Various state conservation and environmental groups are also working on the nonpoint rules, including the River Alliance of Wisconsin at (608) 257-2424.

Shoreland protection is also a priority issue of the Wisconsin Stewardship Network's affiliate organizations throughout Wisconsin.

Wisconsin Trout Unlimited 16th Annual

Conservation Awards Banquet

Saturday, Feb. 3, 2001

Park Plaza Hotel, Oshkosh



PRIZES! RAFFLES! AUCTIONS! FUN!

Cocktails 5:00 p.m.

Dinner 6:30 p.m.

All ticket orders postmarked by January 15 will be eligible for a \$200 early bird drawing!

Mail check and order form payable to:
TROUT UNLIMITED

c/o Jack Wahlers
430 Broadway
Berlin, WI 54923-1761

Or call (920) 361-0807

YES! I want to attend the 16th annual Wisconsin Trout Unlimited Conservation Awards Banquet!

Enclosed is a check in the amount of \$_____ for:

_____ tickets at \$30 each

_____ "SPONSOR PACKAGES" at \$500 each (Includes 4 tickets, 4 \$100 raffles packages, and 1 print. Packages held at the door.)



Chapter News



I'D TRY RIGHT OVER THERE

Green Bay Chapter President Pete Harris helps a girl spot a likely bluegill hotspot at the chapter's annual Kids Fishing Day at the Brown County Reforestation Camp. The chapter partnered with the Green Bay Exchange Club the event to bring a day of fishing and fun to children in Brown County's PALS program.

Blackhawk Chapter

The installation of lunger structures in **Timber Coulee** has been completed. The project was sponsored by the **Westby Rod and Gun Club** and funded by the Blackhawk Chapter.

Jeff Miller from the **Madison Outfitters** gave casting instructions and presented a program on fishing in Wisconsin in June.

Blackhawk Chapter had a successful outing in June at **Rodger Widner's** place on the **West Fork of**

the Kickapoo. The "gurus" took members in small groups to various creeks in the area.

George Protegere, the conservation warden stationed in Janesville, spoke to members in July concerning fishing and hunting regulations.

Jeff Hastings of the **Vernon County Land and Water Conservation Department** gave updates on present and future stream projects in August.

Coulee Region Chapter

After a three-month summer recess, the Coulee Region Chapter will reconvene for a membership meeting Tuesday, September 19 at **Whitetails Restaurant** on Mormon Coulee Road. Thereafter meetings will continue for the remainder of the year on the third Tuesday of each month at Whitetails.

The September meeting will be a special meeting in that it will include the annual election of chapter officers. Also on the agenda will be a discussion of plans for another new habitat project for the chapter. Facilitating this discussion will be two guest speakers, **Dave Vetrano**, La Crosse area DNR coldwater fishery biologist, and **Laura Hewitt**, TU Upper Midwest Conservation Director.

The selection of a new project for our chapter is occasioned by this summer's completion of the our three-year **Mormon Coulee** project undertaken jointly with the DNR. Over 1,200 feet of streambank were stabilized and about 60 lunger struc-

tures were installed to enhance in-stream habitat. This resulted in a profound rehabilitation of much of a DNR easement encompassing 2,000+ feet of the stream. The overall success of this project has encouraged us to seek out another opportunity to improve the Coulee region's coldwater resources.

The chapter has set Feb. 27, 2001, as the date for its **annual fund-raising banquet at Pogy's Catering** in La Crosse. A banquet committee has been formed. Proceed of the banquet will primarily be reserved for whichever stream project we undertake in 2001.

Three chapter members will be conducting a one-day course entitled "**Getting Started in Flyfishing.**" **Cy Post**, **Don Severson**, and **John Bethke** will hold the course at the **Hixon Forest Nature Center** in La Crosse on October 12. The course is open to the public and is just another way our chapter is making a positive contribution to coldwater angling in coulee country.

Fox Valley Chapter

After a busy summer the Fox Valley Chapter will begin its new meeting season with a variety of great programs at the **Bubolz Na-**

ture Center just north of Appleton on County Trunk A.

Our meeting season will include everything from programs on out-

door photography to slides from various members' western trips to updates on current projects. We will also bring back the very popular **Chef Jeff Engle** of **Fox Valley Technical College** to do a program on cooking (and eating) the fish we don't release.

In February we will hold our annual **Fun Night**, and in April we'll hold our banquet and awards nights. Watch our newsletter for details.

Frank Hornberg Chap.

and overhead covers. We also moved our staging area down stream below the area we've completed.

Our July work was spent at our **Stedman Creek** worksite. We think we actually see the end of our main objectives in sight on this — finally! There is still a cattle crossing to bolster, an overhead structure to finish sodding, and brushmatting to fine tune, but the end appears near.

Several chapter members participated "hands-on" in the annual DNR shocking on the **Tomorrow River** at **Nelsonville** in August. The results of our work continue to become ever more apparent as fish counts continue to climb. This is very rewarding.

But perhaps the most rewarding event of the past summer was the fund-raiser sponsored by chapter member **Gene Shulfer** at **Shooters Supper Club** in Plover. The event was open to the public and thanks to the efforts of Geno, his employees, and chapter members, it was a big success. Fun was had and funds were raised that pushed our trailer fund over the top. It looks like in the near future we'll be shopping for the new equipment trailer we've so badly needed for the last several years.

Green Bay Chapter

The Green Bay Chapter, despite the uncooperative weather, managed to have a productive summer performing stream improvement work.

The beneficiary of the chapter's five work days was the **First South Branch of the Oconto River** where members totaled about 300 man-hours on the stream.

Working with **Gary Zimmer** of the USFS Nicolet National Forest and **Russ Heiser** of the WDNR, workers installed several brush bundles and cleared debris from a lengthy portion of the stream. The impact of these endeavors was immediately seen in a narrower, faster flowing stream.

The chapter also again sponsored its annual **Kids Fishing Day** at the **Brown County Reforestation Camp**. Co-sponsored by the chapter and the **Green Bay Exchange Club**, children involved in the **Brown County Social Services PALS** program are brought out to the camp to fish for bluegills stocked in the ponds. After fishing, they are treated to hot dogs and refreshments.

Lee Meyers, chairman of the event, said that 64 kids attended the event this year, while 62 adult volunteers — 19 of whom were chapter members — enabled the event to run smoothly. Meyers thanked the following for their contributions: **Pat Hill**, **Apple Creek Inn**, **Bob's**

Bait & Tackle, **Brookcrest Hatchery**, **Brown County Park Department**, **Morning Glory**, **Thirsty's Liquor**, and the **WDNR**.

Unfortunately, high water has delayed the construction of the **Lower Oconto River Restoration Project**. It is now hoped we can begin work on this eagerly awaited project by the end of September. The DNR will narrow a significant portion of the stream using heavy equipment to take material from the streambed and place it so that islands are created. Large boulders will also be placed in the stream to create fish habitat.

Although this stretch of the Oconto River will never have a self-sustaining trout population, a project such as this in conjunction with a careful stocking program can create some quality trout fishing near a metropolitan area where going trout fishing normally means traveling a great distance.

Finally, the chapter resumed monthly meetings (the first Thursday of each month) in September. We immediately made several contributions to worthy causes. The largest donation of \$2,000 is intended to help the DNR purchase a portion of the headwaters of the **Mecan River**. Planning for Banquet 2001 to be held on March 16 was also begun.

Harry & Laura Nohr Chapter

The Harry & Laura Nohr Chapter has had another active summer, starting with an all-day director's

outing in June near the **Castle Rock** stream. While rain prevented us from fishing, it was a full day of dis-

Chapter News



cussion and camaraderie.

The highlight of our July general meeting was **Dr. Tom Hunt's** discussion on stream restoration. Tom is a professor from **UW-Platteville** and quite knowledgeable on stream restoration techniques. Prior to the meeting, **Adopt-A-Stream** volunteers, led by **Dave Fritz**, met on **Harker Creek** and reviewed water-monitoring issues. Over 40 people were in attendance that evening.

On July 22 our chapter hosted its **3rd Annual Fly-fishing Class for Youth. Professional Orvis instructors** from their Chicago store held the attention of 27 eager students. This has become one of our chapter's most popular programs for youth and we encourage other chapters to consider it.

Our chapter's first canoe trip was held July 23 on the **Wisconsin River**. **Pete Esser** organized an excellent float and cookout that was enjoyed by 22 paddlers. **Roger Kerr** and **Dave Fritz** exhibited their angling skills but caught nothing.

Work is underway for our **Fall Water Celebration** scheduled for November 11 at **UW-Richland Cen-**

ter. This effort is a partnership with the **Kickapoo Monitoring Group**. **Dave Fritz**, chairperson for **Adopt-A-Stream**, is the principal organizer for this important event that will include a full day of talks and exhibits related to stream protection and enjoyment. Contact Dave at kayndave@mhtc.net for more information.

Other fall activities will include the sale of 240 acres of land on the **Blue River** to the DNR, protecting this important resource for future generations. Our chapter purchased this property a few months ago with the intention of selling it to the DNR once they get authorization. We are also doing a stream restoration project with individuals sentenced to community service.

For more information on any of these activities, contact **Bill Wisler** at wisler@mhtc.net or (608) 623-2603.

Our last general meeting was Sept. 19 at **Billy's Tavern** (not a tavern, but a historic cabin near **Otter Creek**). A trap shoot was held at 4:30, followed by a cook-out and business meeting.

Kiap-TU-Wish Chapter

Summer activities for the **Kiap-TU-Wish Chapter** included a **Rush River** stream survey and a **Cady Creek** work project in August.

We welcome aboard longtime chapter member **Jon Jacobs** as the

new editor of **RipRap**, our chapter newsletter. Jon takes over for **Skip James** who contributed four excellent years of service in this capacity. Thank you Skip, and good luck, Jon.

Lakeshore Chapter

The **Lakeshore Chapter** resumed its monthly meetings in September after the traditional summer break. DNR fisheries biologist **John Nelson** updated the chapter on devel-

opments involving the **Onion River** restoration project.

In August, chapter members participated in the **DU Great Outdoors Festival** in Oshkosh.

Northwoods Chapter

And we are off to another year. The chapter elected new officers and board members at the May meeting. Officers are:

Brian Hegge, President,
Wayne Parmley, Vice President,
Ron Reupert, Treasurer, and
Mike Effinger, Secretary.

Brian Leitinger and **Victoria Houston** were elected new board members.

It has been a busy summer. The **Stream Improvement Committee** held three workdays on the **Bearskin River** and completed two more brush bundles. This stream is really beginning to recover in the area previously damaged by beavers. The stream channel is cutting deeper and deeper, and each time we go back we notice significant changes to the stream channel.

A fourth and final stream day is planned for this fall, so come out and see what your chapter is doing.

Brian Leitinger, **Fred Johnson**, and **Wayne Stevens** are coordinating the work days.

The chapter hosted the **Seventh Annual Northwoods Youth Conclave** on July 7 with 25 youths attending. **Wayne Parmley** and **Bob Tabbert** did a superb job keeping the kids busy while a big thunderstorm rumbled through the area. Fly tying was the big hit with most of the kids, as was learning how to use a flyrod. **Dr. Art Mazzier** from Wheaton, IL, an **FFF** master casting instructor, brought plenty of rods along and managed to get the kids outside in the afternoon once the rain stopped. Also a big thanks to all the other chapter members who helped with knot tying to lunch duties.

opments involving the **Onion River** restoration project.

In August, chapter members participated in the **DU Great Outdoors Festival** in Oshkosh.

On August 12 eight hardy souls accompanied WDNR Fish Manager **David Brum** on an excursion to observe WDNR projects on **Brule Creek** and the **Elvoy**.

The **Deerskin River Dam** removal is well on its way with the WDNR proceeding with actions to gain access to the dam site. The **Northwoods Chapter** met in a special meeting this summer and allocated resources to fund up to \$15,000 toward the renovation of the dam site after the dam is removed.

This action completed a commitment the chapter made four years ago when it was decided to hold off funding other activities and save for this dam removal. We have solicited monies from other chapters and so far have received \$2,200 in donations and commitments to help defray our costs and to establish a fund for present and future restoration activities on this pristine fishery.

The agenda of events for the coming year is as follows. All meetings are held the third Thursday of the month at 7:00 p.m. at the **Associated Bank Building Community Room** in Rhinelander.

September — kickoff meeting at **Pat's Tavern**, Rhinelander. Get to know other members of the chapter and bring your fishing stories and pictures. The chapter will provide munchies, you BYOB (buy your own beverage).

October — board members and officers meet to discuss the banquet and committee plans for next year.

November — no meeting, but the chapter's **Christmas Party** at the **Rhinelander Pub & Café**. Come join in the Christmas spirit and

share your past fishing experiences. Special raffles will be held.

January — **Black Hills Trout Fishing** program by **Mitch Bent**. The infamous Mr. Bent has agreed to provide a presentation on fishing experiences in the Black Hills.

February — **Chequamegon Bay Fishing Opportunities**. **Roger LaPenter** from **Angler's** in Ashland will discuss opportunities on this famous bay. Can't wait for this one.

Shaw-Paca Chapter

We sponsored five students from the **Lincoln School** in Shawano to attend the **Timbertop Nature Camp** at **Camp Glacier Hollow** located 14 miles east of Stevens Point. This camp is a seven-day outdoor adventure camp for students with learning difficulties.

Outside of several workdays on local waters, our summer highlight was a \$4,000 "donation" made to our chapter as a result of a settlement in an **environmental mishap**. This event related to highway construction on US 45 north of Marion in the summer of 1999. While working near **Mehlberg Creek**, a class I brook trout stream, an underground boring operation erupted into the

March 10 — **Fly Tying for Fanatics**. Well, how about for anyone interested?

March — **Banquet Committee** meeting (time to make money to pay the bills).

March 27 — **27th Annual Banquet** at the **Rhinelander Café & Pub**

April — **Spring Ponds of Wisconsin**.

May — End-of-the-year picnic at **Buck Lake**.

creek. This caused large amounts of bentonite clay to enter the creek. More than a half mile of streambed was severely damaged, with almost a total loss of spawning habitat and aquatic life.

Qwest Network Communications of Denver, CO, was charged with 23 violations of Wisconsin environmental laws and **Reliance Construction Company** of De Pere, WI was charged with 25 by the WDNR.

As part of the clean-up operation, which cost these companies over \$200,000, **Shawano County District Attorney Gary Bruno** included that a donation be made to the local chapter of Trout Unlimited, which is where we come in.

Southern Wisconsin Chapter

We held a **Special Needs Day** on June 10 for 61 special needs guests, their families, and support staff. Everyone enjoyed a day of fishing at **Jim Kalscheur's** private ponds. Thirty nine TU volunteers donated their time to provide a memorable time for their guests. Another eight TU volunteers spent the preceding evening assembling tackle.

After a lunch for all, trophies were presented to the special needs guests. Special thanks go to **Bob Zimmerman** who organized this event for TU, **Don Dodge** of the DNR for providing tackle, **Betty Burns** and the **Mt. Horeb Fire and Rescue** for the on-site emergency medical staff, **Jim McDonald** for sending the invitations, **Larry Winsand** of **Oscar Mayer** for luncheon hot dogs, **Dorn True Value Hardware** for leaf worms used as bait, **Russell Scott** of **Scott's Pastry Shop** for doughnuts and sweet rolls, **American Family Insurance** for guest water bottles, **Jim Fladen** for making trophies, **Jill Krueger** and **Camilla Jarman** for their photographic skills, and **Mark Rhinerson** for the use of his truck.

The July chapter meeting was the annual **"On the Stream"** event held Saturday, July 8. Members got a first-hand look at the new project work done on **Deer Creek**. **Scot Stewart** from the DNR lead a shocking crew and showed one and all the diverse number and generations of trout which have benefited from the chapter's monetary and project work commitments. After the shocking, all those in attendance participated in a family picnic lunch featuring the barbecue skills of chef

Mark Rhinerson.

At the June Board meeting a \$1,000 contribution was made toward legal costs associated with opposing the **Perrier** assault on the **Mecan**.

The **Southern Chapter** is contributing \$500 to sponsor five **Middleton High School** students to attend an international competition in **Nova Scotia**. The team won first place in a **State Envirothon** competition by preparing a wetlands management plan in a watershed threatened by development.

Chapter member **Henry Nehls-Lowe** reports that our chapter is continuing to work with the **Dane County Land Conservation Department (DCLC)** on a large project to restore the stream bank and improve fish habitat of almost 10,000 feet of the **West Branch of the Sugar River** from County U downstream to County A. This is part of a long-range plan to restore water quality along the West Branch.

In July **SWTU** entered into an easement agreement with two property owners that allows restoration activities over the next year and public access to this corridor for the next 20 years. Bids are currently being reviewed with **DCLC** for construction activities that will include installation of riprap, fencing, 260 full-sized lunger structures, stream crossings, water ramps and flood gates, as well as streambank shaping and seeding of critical areas.

DCLC expects work to begin once a contractor is selected. **Henry Nehls-Lowe** and **Tom Ehlert** are chapter contacts for this effort.

Wolf River Chapter

The chapter is continuing its beaver removal and working with local DNR personnel to perpetuate the native brook trout population of the **Wolf River**.

With adequate funds on hand we will not have our usual fall banquet.

We are very busy building opposition to the proposed **Crandon Mine**, which both the DNR and the mining company has proven would

violate state laws protecting surface and groundwaters.

We appreciate the **Wis. TU State Council's** support in protecting the **Mole Lake Tribe's** "Treatment As State" rights to protect their waters from degradation before they flow into the **Wolf River**.

Chapter input needed on trout regs and stream reclassification

By Gene Van Dyck

The DNR's Bureau of Fish and Habitat is currently undertaking the long overdue task of updating the DNR's publication *Wisconsin Trout Streams*, i.e., the "Blue Book," which was last published in 1982.

While most fishermen have never even seen of this publication, it is a critically important DNR document. Most anglers think the current *Trout Fishing Regulations and Guide* legally defines the state's trout streams. It does not. The trout fishing guide merely gives the location of trout water regulated differently than the county base.

The Blue Book legally lists and defines all of the state's trout streams for a number of legal purposes, including:

- open and closed fishing seasons,
- seining,
- minnow trapping,
- turtle hooking,
- wastewater limits, and
- exceptional and outstanding water resources of the state, etc.

This book is also appended to Administrative Law. The environmental protections afforded to our coldwater resources are provided solely by this document in that it identifies streams as Class 1, 2 or 3 water. This update can add or subtract streams from the list of trout waters, as well as lengthen or shorten a given stream's miles of official trout-carrying water.

Every TU chapter in the state should meet with their local fish manager to review their proposed updates for this publication.

The initial publication is being put together right now, so this is the time to get started. After the initial publication has been put together, it will undoubtedly be subject to several internal reviews before being noticed and going out to public hearing. Don't wait. Get in on the ground floor.

Trout regs being revisited

When the "new" trout regulations were put into effect in 1990, part of the deal was that they were to be evaluated after five years.

Because of the drought of the late '80s and the early '90s, the regulations did not go into effect in much of the state as planned because the drought was thought to mask the effects of some of the regulatory changes.

Further, the struggles over the early season extension or expansion took up such a great amount of time and energy that modification of the "new" regulations were not given adequate attention. They were put on the back burner.

Now the regulations are on the front burner and coming to a boil. This winter will be a good time to review, modify, and finalize changes to the trout regulations which will govern our trout fishing opportunities in coming years.

DNR fish managers have been meeting on this to a greater or lesser extent all along. The proposals

change as more information is gathered, new public sentiment is brought forward, etc. Fish management is consider the following:

Category #1 (10x0") — has supporters in the NW. However, there is considerable sentiment in the NE to get rid of it as a county base regulation. Room for a lot of input here.

Category #2 (5x7") — has solid support to be maintained as a county base regulation.

Category #3 (3x9") — has relatively solid support for continuation as a county base regulation in Southern Wis. There is some question as to whether the 9" reg kills or saves trout because of hooking-related mortality.

Category #4 (3x8"/12") — generally considered too complex and ineffective to be considered a county base regulation by most of the managers. However, a manager believed its use is justified in two counties in the NW, so it has been maintained as a county base regulation alternative as opposed to being relegated to one of the category #5 alternatives.

Category #5 (Special Regs) — the number of alternatives accepted for use without significant justification for exception has been limited to the following:

1. *No Kill* — proven successful. Does it always have to be limited to artificials only, or are there cases when bait could be allowed? Should its use be small areas of more streams or large areas of fewer streams? Should it emphasize brook trout or brown trout, big trout or numbers of trout, etc.?
2. *High Minimum Size Limit* — will cover all species in the water governed, i.e., it will not have species differential limits on the same water. Choices limited to 8"x3 (brook trout driven), 12"x2, 15"x1 or 18"x1.
3. *Protected Slot* — choice limited to 10.0" to 13.9"x5, including a one-over provision.
4. *Harvest Slot* — choice limited to 10.0" to 12.9"x3. Basically the same as the Max. Size Limit. However, it directs the harvest to a target group of fish and it protects the fast growing yearlings.
5. *Maximum Size Limit* — choice limited to 11.9"x5. Considered simple. Allows for harvest in densely populated brown trout streams with slow-growing or stunted populations. Basically the same as the harvest slot, but simpler; does not protect fast-growing yearlings and targets the stockpiled older fish.

It appears the *number* of different regulations will be significantly reduced, as will the number of streams with special regulations. However, the total *length* of specially regulated water will be *increased*. There is a conscious effort to reduce complexity, something that will hopefully benefit special-reg waters.

Nominations sought for annual Council awards

The State Council's awards committee is now accepting nominations for its yearly awards.

Nominations should be submitted to WITU Awards Chair:

Larry Meicher
5258 Salisbury Rd.
Rio, WI 53960

All nominations must be in the form of a written narrative describing the candidates' accomplishments, be that nominee an

individual, chapter, or other.

Nominations must be submitted to the committee at least 60 days before the annual banquet. This year's banquet is set for February 3 in Oshkosh.

Successful recipients will be notified by the committee at least 15 days prior to the banquet. All award recipients must be present at the awards banquet.

Awards Criteria

Trout Unlimited Resource Award of Merit

- Recipient can be a nonmember of TU.
- Recipient can be a person corporation, organization, employer, or representative of any of the above.
- Award can be presented posthumously.
- Award is given for outstanding contribution to field of conservation (does not need to be given for trout or salmon contributions).

Nature of the award — TU National's print of the year or the Wisconsin trout stamp print of the year with inscribed plate attached.

Lee and Joan Wulff Award

- Recipient can be any individual who has demonstrated outstanding service in the field of conservation.
- Recipient to be selected by the Exec. Committee of the Council.
- Award remains with a recipient for one year and then travels to the next year's recipient.

Nature of the award — a framed collection of flies tied by Lee Wulff.

Trout Unlimited Gold Trout Award for Service

- Recipient must be a member in good standing of Wisconsin TU.
- Award will be presented to any person who has been an officer of the State Council, a national director, or any committee chairman, elected or appointed. This individual must have served at least one year of his or her term.

Nature of the award — an inscribed plaque with the figure of a leaping gold trout.

Trout Unlimited Gold Net Award

- Recipient must be a member in good standing of Wisconsin TU for a period of at least five years.
- Recipient must have participated in at least one major state or chapter fund-raising event in the last five years.
- Recipient must have worked on or attended at least five TU resource projects in the last five years.
- Recipient must be an individual.

Nature of the award — a handmade net with gold mesh and inscribed handle.

Silver Trout Award for Chapter Merit

- Recipient a state TU chapter that has contributed to the restoration, enhancement, or protection of the Wisconsin's trout or salmon resource.
- Total value of the project, including values placed on man-hours and materials, must total at least \$3,500.
- The project must involve trout and salmon resources available to the public to fish. Projects funded for private use only do not qualify.
- The end result of the project must demonstrate a long-term commitment or benefit to the trout or salmon resource.

Nature of Award — a silver plaque with printed inscription.

Special Appreciation Award for DNR Personnel

- Recipient an outstanding state fish manager who has shown a concern for the trout resource over and above his normal duties.

Nature of the Award — a certificate with bold lettering outlining his or her accomplishments.

Certificate of Appreciation

- Recipient must be members of Wisconsin TU, with the exception of certain landowners only.
- Recipient can be indirectly related to the trout and salmon resource (e.g., the recipient can be a landowner on a project, an educator, a media representative, a contributor of certain equipment, or a related conservation organization).
- Recipient can be someone in an organization for his or her efforts within that organization (e.g., DNR employee).

Nature of the Award — a certificate with bold lettering outlining his or her accomplishments.

NOTES: All award nominations must be submitted to the awards committee as a written narrative describing the candidates' accomplishments, be that nominee an individual, chapter, or other. Nominations must be submitted to the committee at least 60 days before the annual banquet. Successful recipients will be notified by the committee at least 15 days prior to the banquet. All award recipients must be present at the awards banquet. The judgment and selection of all award recipients will be made by the awards committee, and their selections will be final.

Practical, Quality Products for the Fly-fishing Enthusiast

Largest Selection of Fly Tying Materials

Fresh Coffee
Good Conversation



Wild Rose
Fly Shop

Fly Fishing Tackle & Equipment

Locally Tied Flies

Your Central Wis. Fly-Fishing Headquarters

HOURS: Mon-Fri 2-6 p.m. Sat 9 a.m.-2 p.m.
"On the Pond" - Main St., Wild Rose, WI (920) 622-4522




State Council meets near once-threatened Mewan

By John Bethke

The Wisconsin TU State Council met at the town of Richford town hall on Co. Hwy. B near Coloma on Sept. 9.

The meeting was hosted by the Central Wis. Chapter. The promised spanferkle did not materialize, but the hosts provided coffee, doughnuts, and a fine lunch. Thanks to the chapter for a fine job of hosting and for providing the facility.

Council Chair Duke Welter called the meeting to order at 10:05 am. Duke announced that he has copies of easements and covenants that are available to chapters use as a guides in their agreements with property owners for stream access or improvement work. Contact Duke if your chapter has need for this material.

Meicher interim treasurer

Larry Meicher has taken over interim treasurer's duties, and has the treasury in order. The council has about \$40,000 in its treasury.

Duke Welter began his chairman's report with word that he recently attended the TU national convention. The national agenda from the convention is weighted toward the restoration of salmon stocks on both the NE and NW coasts. In the Midwest, small dam removal and water quality and quantity are the main areas of emphasis.

Duke also reported that all chapter presidents have received a copy of the book *Speaking for Trout and Salmon*. This book presents guidelines and how-to info when advocating for trout and salmon on behalf of TU.

WITU year's top state council

Duke also brought an award of excellence to the Wisconsin Council of TU called the Tomorrow's Trout Award. This award was given to WITU in competition with 30 other councils in recognition of the outstanding work that was done with the Perrier issue on the Mewan Springs.

The council was also cited for overall excellence in its presence as a leader for conservation and restoration of trout resources. (See story on p. 1.)

Scanlan public trust report

Chuck Stuedel and the Harry and Laura Nohr Chapter have made copies of the Melissa Scanlan's public trust report available to all Wisconsin TU chapters. This report discusses Wisconsin's public trust doctrine, its origin, history, and the current status of its application. All chapters have a copy, and chapter leaders should read it over and become familiar with it.

Chuck is also experienced with land trust issues through his work with the Nohr chapter. Anyone with a need for guidance on land trust issues should contact Chuck.

Chuck also informed the council that a position with the DNR called The Water Action Volunteer Coordinator has not been filled in some time. It was decided that Larry Meicher and Duke Welter will draft a letter from the council asking that the position be filled asap.

Duke Andrews announced that his nominating committee has a full slate of candidates to run for council positions.

Elections will be held at our Feb., 2001, meeting in Oshkosh. Anyone who has a desire to serve as an officer on the council would be well advised to contact Duke or Larry Meicher.

Water Resources Committee member Mike Swoboda reported on their recent meeting during which they defined the issues they felt

needed attention. (See separate story on p. 12.)

They also agreed to use the WITU website to bring the issues to the attention of members and the public, and to publish issue-oriented articles in *Wisconsin Trout*. They also affirmed that the TU mission statement should be considered when making decisions or taking actions on issues.

It was also noted that requests for grants from Friends of WI Trout monies should be submitted to the water resources committee. These requests will then be passed to the funding committee along with their recommendations.

Water resolutions forwarded

Finally, the Water Resources Committee requested that the council take action on the spring water withdrawal and high-capacity well issues. There followed a long discussion on how to word such a resolution. Members decided to continue discussing the resolution's language over lunch and then return to it.

Jeff Smith reported the issues on which the Legislative Committee has to make progress on in the next legislative session. (See list on p. 4.)

Upcoming DNR trout matters

Gene Van Dyke reported that the DNR is currently in the process of updating the WI trout stream Blue Book. He suggests that chapters contact their area fish managers to review the status of stream classifications in your area. (See separate story on p. 12.)

Todd Hanson reported that his stipend for publication of *Wisconsin Trout* has been increased from \$500 to \$1,000 per issue. Todd showed reports on the hours required to produce past issues of the paper. Even with the increase, his stipend is really only a token compensation for the effort.

Todd announced that any chapters wishing to do so, can purchase a subscription of *Wisconsin Trout* for their local library at a cost of \$12.50 per year. Chapters wishing to do this should contact Todd.

John Cantwell reports that this is the first year in his tenure of 10 years with the Friends of Wisconsin TU that funds have not shown an increase over the prior year. We had a discussion on the possibility of selling items with logos, such as shirts or hats. This idea received lukewarm support, and John will look into it further.

John also announced that the framed trout stamp collections donated by John Shillinglaw are available to chapters for banquet fundraisers at a cost of \$50 plus shipping. Contact John with your requests.

Banquet planning

Our annual awards banquet is booked for February, 2001, at the Oshkosh Hilton as in the recent past. We do not have a banquet committee or chairman. Delegates voted 14-1 in favor of holding the banquet.

Jack Whalers from the Central Wisconsin Chapter agreed to serve on the committee. Northwoods and Coulee Region chapters agreed to contribute prizes, so that's a start.

It was agreed that we will appeal to the chapters to give help to support the banquet effort. Duke Welter will get letters to chapter leaders requesting assistance from them.

Award nominations sought

Larry Meicher's Awards Committee requests that nominations be submitted for specific awards instead of suggesting that "we think Pete should get an award." Also, nominations should be submitted to Larry by Dec. 1. (See awards criteria on facing page.)

Duke Andrews reported that the Conservation Congress has recently moved to shorten the beaver trapping season. He says that beaver dams continue to be a major nuisance on NE Wisconsin streams.

Folks from the NE would prefer to see the beaver season extended. Duke suggests that the most effective way to accomplish this may be to submit a number of local resolutions through the process provided in the Conservation Congress spring hearings.

On a related issue, Gene Van Dyke says that in his area they suspect that otters are seriously depleting trout populations on some streams, notably Harker and Lee creeks. Van Dyke moved that the council encourage the DNR to do some research into otter impacts on trout streams and to possibly provide monies for this. The motion was seconded by Herb Buettner and passed.

Deerskin dam update

Brian Hegge reports that land owners and right of way owners have denied access to the DNR to remove the Deerskin Dam. The justice department has sued for access.

This is still a controversial issue in the area and dam removal supporters are taking flak in the local papers and from the community. The Northwoods Chapter has agreed to do restoration on the site after the dam is removed.

A motion by Herb Buettner was made to send a letter expressing the councils support of the dam removal to Scott Watson, coordinator of the Deerskin River dam removal project. Seconded by Mike Swoboda and Passed unanimously.

Pete Walter reported that a 3.07 acre parcel of property on 10 Mile Creek of the Buena Vista drainage was for sale. He suggested that TU may wish to purchase it to provide public access and parking to the stream.

Discussion revealed that the property is prime for development and the sale price was in the range of \$30,000. The idea was referred to the Friends funding committee

Mole Lake tribe resolution

Herb Buettner introduced a written resolution to the council requesting that the state of Wisconsin should drop its lawsuit against the EPA that seeks to deprive the Mole Lake tribe the right to protect its waters from degradation by the proposed Crandon mine. This proposal passed unanimously and was signed by Welter and Bethke to be forwarded to the governor and legislature by Herb. (See text at right.)

Water resolution adopted

At this point in the meeting, the focus again returned to water resources.

The council introduced a resolution to petition the state legislature to implement a moratorium on permits for high-capacity wells in areas that directly support coldwater resources, until such time as legislation is enacted which enables and requires adequate scientific review to ensure that such wells will not adversely affect the state's public trust resources.

Jeff Smith moved to have the council approve the resolution. After a second by Herb Buettner, the motion passed unanimously.

It was also agreed that the council will provide a liaison to work with Waterkeepers of Wisconsin (WOW). This does not mean that TU is a member of that organization or that we necessarily subscribe to their statements or actions.

The meeting was adjourned at approximately 3:30 pm.

There were 29 persons in atten-

dance representing 12 of 21 chapters. If I may be allowed a personal comment, I think this represents a poor showing. I would encourage chapters to make a better effort in sending at least one delegate to these meetings.

I also must accept some of the blame for lax attendance due to the fact that I have thus far refused to send out announcements by US Post office. I do not see a future where that will improve on a regular basis, either, so I am asking all chapters who currently depend on the mailbox delivery system to get the e-mail addresses of members in your chapter who can receive e-mail to your chapters.

Mole Lake Sokaogen Tribe's "treatment as state" rights resolution

WHEREAS, The "Public Trust Doctrine" embodied in the Wisconsin constitution and verified by the courts' mandates that the waters and other natural resources of the state shall belong the people and shall be held in trust by the state, for the people, to be protected and enhanced, used but not abused, so they will be passed on to succeeding generations undiminished in quality or quantity. And,

WHEREAS, The U. S. Environmental Protection Agency (EPA) ordered Wisconsin to classify its surface waters for maximum protection, and although the upper Wolf River was most deserving it required very strong public demanding to have it classified as "Outstanding Resource Waters," but under heavy pro-mine lobbying they refused to include its trout water feeder streams, especially Swamp Creek, which flows past a proposed zinc and copper mine site into which they planned to discharge mine wastewater. And,

WHEREAS, Swamp Creek flows into the Mole Lake Indian Reservation and its clean water is vital to their 260-acre wild rice lake and after pleading with the state for assurance their waters would be protected, and they were ignored, they applied for, and were granted, "treatment as state" treaty rights to protect their waters, and they designated all of them as "Outstanding Resource Waters" to protect them from certain degradation from sulfide ore mining. And,

WHEREAS, The governor and legislators, under the influence of the mining company, abandoned their "state trust responsibilities and initiated a lawsuit in federal court against the EPA to deprive the Mole Lake Tribe of its rights to protect its waters for it was an obstacle to profitable mining.

THEREFORE, BE IT RESOLVED by the Wisconsin Trout Unlimited State Council that the state of Wisconsin must fulfill its constitutionally mandated trust responsibilities of the people's waters and other natural resources. And,

BE IT FURTHER RESOLVED THAT the State of Wisconsin should drop its suit against the EPA and support the Mole Lake Tribe's right to fulfill its trust responsibilities to future generations, which the state is neglecting to do.

Chapter president profile

Clint Byrnes: an exemplary educator

By Rolf Skogstad

As a continuous member of Trout Unlimited since 1969 — and as a still-energetic and involved 70-year-old — Clint Byrnes of Beaver Dam is probably the oldest active member of today's Wisconsin Trout Unlimited.

His membership credentials alone are impressive. In September of 1969, Clint traveled to Madison to attend a meeting to establish a charter for a new Trout Unlimited chapter. That chapter would become the Southern Wisconsin Chapter, the largest chapter in the state.

Later in 1982 when the Aldo Leopold Chapter formed to represent members in Columbia, Dodge, and Sauk counties, Clint also became a charter member there, and he has gone on to serve a seven-year term as that chapter's president, which continues today.

Almost from the beginning of his TU membership, Clint has been an activist and a leader whose TU efforts and accomplishments distinguished him and resulted in a series of recognitions and awards.

In 1973, Clint and the Southern Wisconsin Chapter began the Crystal Creek (Dodge County) Stream Improvement Project, which was to continue for six full years until finally completed in 1978. The project involved intensive work over four miles of stream. It also included fencing, streambank, and in-stream rehabilitation measures in an era when ways of securing funding and manpower were much more a matter of improvising and inventing than today.

Clint served as manager of this project throughout its duration, and when it was finally completed, the project was the subject of a feature article in the summer, 1979 edition of TU's national magazine, Trout. Clint went on that year to receive the prestigious American Motors National Conservation Award for his project efforts.

In the years that followed, Clint's ongoing work on behalf of Trout Unlimited did not go unnoticed or unappreciated. In 1992 he was honored by Wisconsin TU with its Headwaters Award in recognition of his many years of continuous service at both the chapter and state level where he actually began the State

Council's Awards Program.

In 1998 Clint was again honored, this time by the Central Wisconsin Chapter with the presentation of its Brookie Award. This award recognized Clint not only for his then 29 years of continuous service to TU, but for his intensive personal efforts in promoting TU's CPR (Consider Proper Release) program.

However, Clint Byrnes the conservationist has labored beyond TU over the years on behalf of not only trout and the coldwater resource, but on behalf of wildlife, the environment, and the sports of hunting and fishing in general. And he has done so with characteristic enthusiasm, commitment, and distinction.

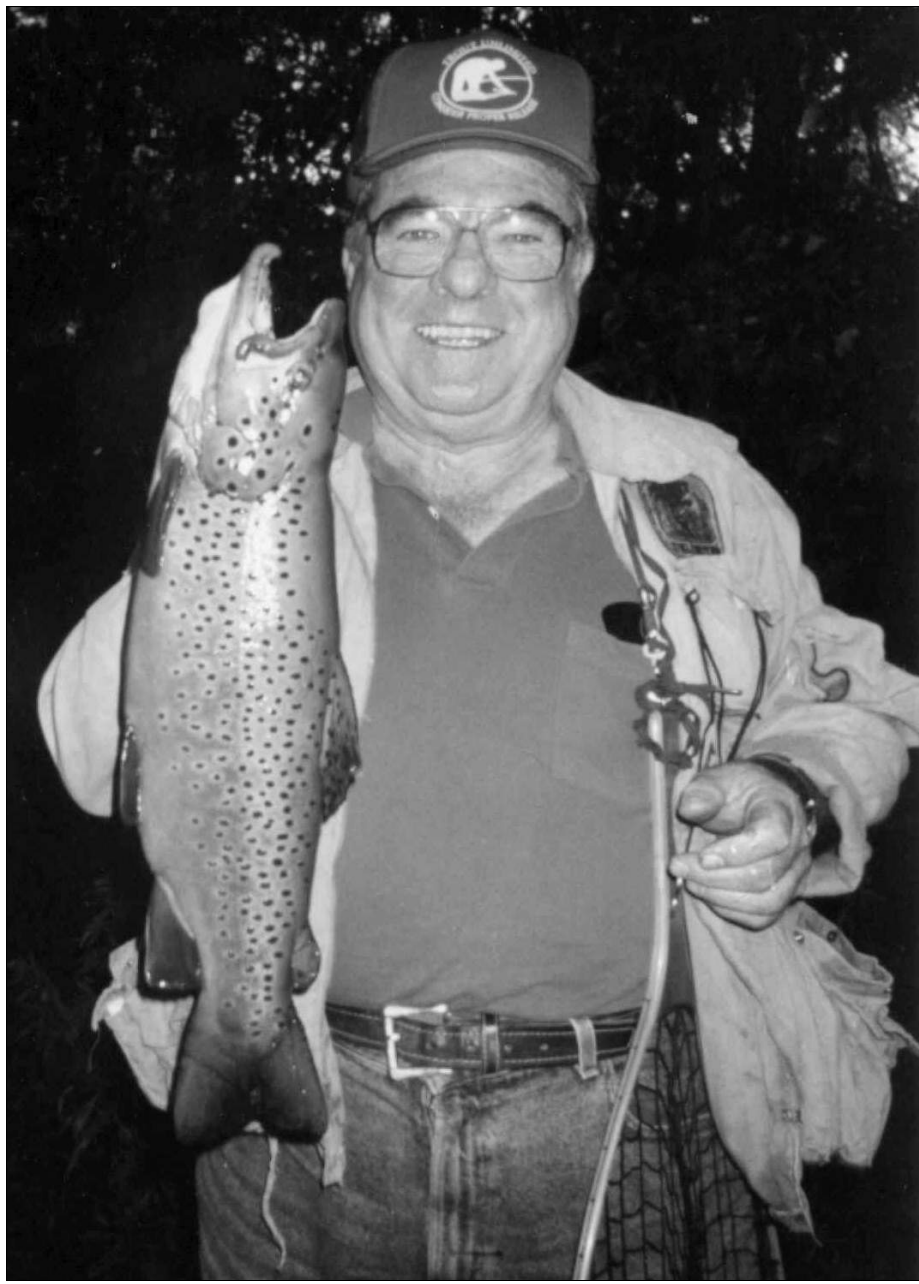
Although not exclusively a fly fisherman even now, Clint has been a fly fisher and tyer since his youth. In 1982 Clint was given the President's Award of the Museum of American Flyfishing in Manchester, VT, for his efforts on behalf of the museum, of which he has now been an active member and supporter for nearly 20 years.

For many years an active member of the Wisconsin Wildlife Federation, Clint was named that organization's Wildlife Conservationist of the Year in 1981. At the same time, Clint represented Dodge County on the Wisconsin Conservation Congress for over 15 years.

More recently Clint has become an admirer and supporter of the conservation efforts being made these days by the Sierra Club and the River Alliance.

Although I'm not sure how he found time for it, Clint Byrnes had a professional life as a teacher. He began as a shop and technology instructor at Beaver Dam High School in 1956 and finished his career in the same department at the same school 35 years later. (By the way, it was as an offshoot of his wood technology instruction that Clint evolved his other professional identity as a handrafter of laminated landing nets. Clint's nets have brought him fame, if not fortune, in the appreciative hands of fishermen as ordinary as myself and as notable as the late Ed Zern!)

In what can now be seen as typical Byrnes fashion, Clint gave of himself in the classroom as well. Going above and beyond what could have been expected, Clint was a co-operating teacher for university stu-



NET BY BYRNES...FISH BY BYRNES

Long-time Aldo Leopold Chapter President Clint Byrnes holds a 5-pound brown caught recently on Black Earth Creek on a grasshopper fly.

dent teachers. As such, he served as a teacher of teachers. So involved did Clint become in training student teachers that he co-authored and produced a film presentation entitled The Student Teacher in Comprehensive High School Activity Program.

In characterizing himself to me, Clint described himself as, above all, an educator. In reviewing his life as a conservationist, the theme of Clint as educator certainly does emerge. He has educated by example. At a time when writing a check or e-mailing an opinion too often passes for activism, Clint Byrnes serves as a living example of true, direct personal activism and accomplishment which can only be the product of a genuine commitment.

Reading between the lines of my recent conversation with him, Clint clearly became involved in TU over

30 years ago because of a desire to help preserve and enhance the state's coldwater resource, and only a continuing commitment to our resource could have sustained him in his uninterrupted activism all these years.

Clint remains active, not only as a TU member, but as a trout fisher as well, and although back and knee problems had limited him to only four outings when I talked to him in late July, Clint had already landed two 20" trout (the "Black Earth Special" strikes again!).

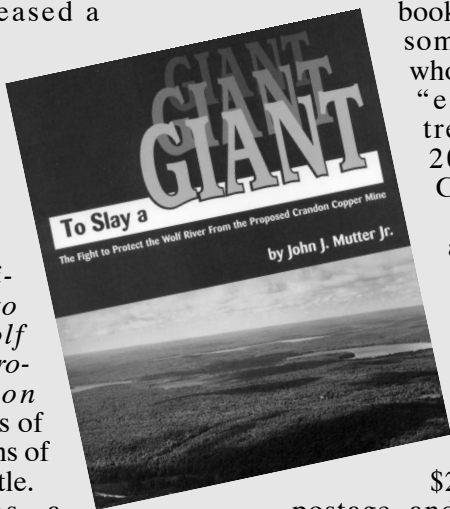
My prediction is that Clint Byrnes will remain an active angler and TU member for many years yet to come, and that he will continue to teach those younger of us through the example of his life, in which deeds speak much louder than the attempts to describe them in my mere words.

Mutter book chronicles the Crandon Mine saga

Shawano writer John J. Mutter Jr. has released a book chronicles the fight by various groups to get the mining moratorium bill passed in Wisconsin.

To Slay a Giant: The Fight to Protect the Wolf River from the Proposed Crandon Copper Mine tells of the ups and downs of this two-year battle.

Mutter was a member of the anti-mining group Protect Our Wolf



River (POWR). His book tells the story of some of the people who have been in the "environmental trenches" for over 20 years on the Crandon Mine.

The book is available at numerous book stores in northern and central Wisconsin.

It can also be purchased by mail for \$20 (including tax, postage, and handling) from Burstone, LLC, P.O. Box 15, Shawano, WI 54166.

Nashville fund-raiser Oct. 5

The Town of Nashville is holding a fundraiser for its Legal Defense Fund. The Fund was established by the town to protect itself from Rio Algom's proposed Crandon Mine.

A portion of the copper, gold, and zinc orebody rests under the town, which has been battling to block the mine's development. Rio Algom has sued the town for rescinding a secret mining agreement signed by the previous town board.

The event will take place Thursday, Oct. 5 at Derry Hagerty's Irish Pub, 5328 W. Bluemound Rd., Milwaukee. All tax-deductible proceeds benefit the town's Defense Fund.

In addition to a variety of music, a number of speakers will share their perspective on the mining struggle, including:

- Chuck Sleeter, Chair, Town of Nashville,
- Ken Fish, Director of Treaty Rights and Mining Impacts, Me-

- nominee Nation,
- Herb Buettner, Pres. Wolf River Chapter of TU,
- Phil Emmling, V.P. of Conservation of the Great River Council of the FFF.

The Fundraiser is sponsored by the Mining Impact Coalition of WI and co-sponsored by the Wisconsin Stewardship Network, Wolf Watershed Educational Project, River Alliance of WI, ECCOLA, POWR, Sierra Club, Clean Water Action Council, UW-M, WISPIRG, WI Citizen Action, Wisconsin's Environmental Decade, Northern Thunder, S.O.U.L., WI Resources Protection Council, EarthWINS, Midwest Treaty Network, Waterkeepers of Wisconsin, Northwoods Economic Development Project, and the Root River Stewardship Council.

For more information, call (414) 259-9086.

The evolution of the public trust doctrine and the degradation of trust resources: Courts, trustees, and political power in Wisconsin

Because water disputes promise to play an increasing role in TU's efforts on behalf of the state's coldwater resources, *Wisconsin Trout* continues its three-part series on the history and status of the state's water stewardship.

Part one of this series focused on the historical origins of the Public Trust Doctrine, which places all of the state's navigable waters in trust for use by the public. That segment reviewed how Wisconsin's courts and legislature have shaped this doctrine over the years.

Part two of this series now turns to how the Public Trust Doctrine is being implemented by the



Wisconsin Department of Natural Resources. This installment gives background information on the creation of Wisconsin's DNR and its role in administering the trust. This segment also outlines what the author sees as the primary threats to the state's water resources.

This article originally appeared as a comment by Melissa Scanlan in the Spring 2000 issue of *Ecology Law Quarterly*. Scanlan received a law degree from the University of California at Berkeley. She is founder and legal director of Midwest Environmental Advocates, the first environmental law center in Wisconsin.

By Melissa Kwaterski Scanlan

Part I focused primarily on the role of the court in defining and protecting the public trust, and the restrictions the courts place on the legislature, the DNR, and riparians. As Part I demonstrates, the DNR has broad authority to implement the regulatory program designed to protect the public interest in the navigable waters of the state.

II. The application of the public trust doctrine in Wisconsin

When a DNR decision to uphold the trust is challenged in court, the court generally defers to the agency's policy judgment and supports the agency's resolution of the conflict. Moreover, the public trust doctrine is based on the Wisconsin Constitution. In light of this combination of factors, one could reasonably assume that the public trust will be fairly insulated from the ebb and flow of political tides. Indeed, some may worry that the court's broad support for agency decisions protecting the trust is a recipe for agency abuse of power and infringements on private property. This Part demonstrates that this is not the case.

The shortcoming of simply analyzing court decisions is that the published opinions cannot describe how the trust is actually administered on a daily basis. Regulators make thousands of decisions every year about the trust that never reach a court of law. Thus, only through qualitative research interviews with the trustees can one discern how decisions regarding the trust are regularly made.¹

Data gathered from research interviews with the Water Management Specialists (WMSs) who are employed by the DNR show that there is a significant disconnect between legal theory and reality. In reality, the current regulations are insufficient to protect the waters of the state from the increasing impacts of shoreland development, nonpoint source pollution, and increasing recreational uses of lakes and rivers. Further, WMSs face numerous pressures that prevent them from implementing the type of regulatory program that has been approved by the court. The facts that the public trust doctrine is rooted in Wisconsin's Constitution and that the court generally supports agency decisions protecting the trust have not insulated the doctrine's implementation from significant political pressure.

One might argue that the agency should not be protected from political pressure, and that such pressure serves the important function of restraining the agency from infringing on private property rights. The extent to which an agency *should* be subject to political pressure is a highly debatable question that could be the subject of an entire Comment. This Comment does not answer the question of how much political influence is too much, but rather describes the important role that political pressure plays in shaping the behavior of the WMSs. This Comment asks whether the level of political pressure exerted on WMSs is a positive counterbalance on the agency or is a promotion of the type of localized and privatized interests that the court has adamantly held should not influence the administration of the trust.

Part II.A outlines the general authority of the DNR to regulate navigable waters and the role of WMSs in protecting the trust. Part II.B assesses the main threats to water resources in Wisconsin, as identified by the trustees, and whether the trust doctrine is actually being used to protect the waters of the state from contemporary threats. This Section analyzes how trustees interpret their

regulatory jurisdiction under current laws and their ability to use the public trust doctrine to protect public rights in the navigable waters of the state. Part II.C discusses the pressures that WMSs face in carrying out their role as trustee.

A. The Role of Wisconsin's Department of Natural Resources and Its Water Management Specialists

The Wisconsin Legislature created the DNR in 1965 to protect the waters of the state. Clearly, the legislature intended to delegate broad responsibility for the administration of the trust to the DNR and establish the DNR as "the central unit of state government" with "general supervision and control over the waters of the state." The legislature required the DNR to create a "comprehensive action program . . . to protect human life and health, fish and aquatic life, scenic and ecological values and domestic, municipal, recreational, industrial, agricultural and other uses of water."

The legislature also created a regulatory program to control certain activities that impact navigable waters and gave the DNR the authority to implement this program. Among other things, it requires permits to enlarge or dredge waterways, deposit fill on a lakebed, and construct bridges. Under this program, the DNR receives permit applications from riparians whose projects will impact navigable waters, and the DNR must balance all of the project's impacts and determine whether the project is consistent with the public interest in water. The DNR has a duty as trustee of the state's waters to prevent riparians from acting in ways that are detrimental to the public interest in trust resources.

The DNR employs Water Management Specialists (WMSs) to implement this regulatory program. WMSs are field staff based throughout Wisconsin who regulate incursions into the navigable waters of the state. They administer the regulatory program required under Chapters 30 and 31 and associated administrative codes, implement Section 404 of the Clean Water Act (CWA) (regulating wetlands), and provide technical assistance to counties and municipalities in their implementation of shoreland, wetland, and floodplain zoning. In other words, WMSs are called upon to make daily determinations about whether a riparian's proposed activity is detrimental to the public interest.

B. The Power of the Public Trust Doctrine to Protect Public Resources

Part II.B describes the main threats to the water resources of Wisconsin as identified by the WMSs. It then assesses whether WMSs use the public trust doctrine to protect the public interest in water against those threats. The public trust doctrine may theoretically have considerable potential to protect water resources. Yet, it is essential to understand how the doctrine is actually used by WMSs to assess whether the doctrine is a useful tool to address contemporary water management problems. A fundamental question that this Section seeks to answer is whether the WMSs see the current Wisconsin statutes and codes as useful tools to adequately protect the public trust.

1. Contemporary Threats to Water Resources

Every WMS interviewed readily identified the main threats to the water resources in his or her area of supervision. Their responses suggest that there are five categories of threats, with the vast majority of interviewees citing shoreland development as the most significant threat, followed by agricul-

ture. The threats identified by WMSs are listed in order of importance: (1) shoreland development; (2) agriculture and aquaculture; (3) private fish ponds, dams, and other structures; (4) urbanization and toxic pollution; and (5) boat traffic. This Section will identify how these activities impair water resources and the following Section will analyze how the public trust doctrine is actually employed to alleviate these impairments.

a. Shoreland Development

All but one WMS identified shoreland development as the main threat to water resources. Shoreland development directly impacts the public interest in water resources because it leads to the incremental loss, degradation, and fragmentation of upland and aquatic habitat; leads to the loss of riparian corridors for terrestrial wildlife; alters or destroys wetlands; and causes nonpoint source and point source pollution.

Two socioeconomic changes appear to fuel the engine behind shoreland destruction: increased disposable income and increased interest in "sanitizing" the natural environment. Increased amounts of disposable income both within Wisconsin and from people living in the neighboring cities of Minneapolis/St. Paul and Chicago have led to an increased construction of second homes, condominiums, hotels, golf courses, and marinas. Additionally, greater affluence has led to changes in recreational choices. Many people have switched from canoeing and using small fishing boats to using larger boats and owning multiple engine-powered watercrafts. Not surprisingly, people who own larger boats want to put in bigger docks, boat shelters, and seawalls. This is compounded by the fact that in many areas all of the desirable waterfront properties have already been developed, so people are now trying to build houses on wetlands and back bays. These lands, which were once considered "less desirable" areas for development, are the most valuable lands for biology, wildlife, and scenic beauty. Moreover, many owners of vacation homes want to recreate a familiar suburban environment in formerly natural areas. As one WMS observed, "Some lakefront property owners want a swimming pool with fish in it." Another WMS passionately complained that "developers think they can alter everything—they tear out vegetation, put in seawalls, plant grass up to the edge of the shore, and fertilize the hell out of it." This type of development leads to significant alterations of shore lots "to the point where you can no longer see the natural shoreline."

b. Agriculture and Aquaculture

WMSs identified agriculture and aquaculture as the second greatest threat to water resources across the state. Many agricultural practices increase the amount of nutrients and sediments that run off into waterways. These nonpoint source pollutants degrade water quality. WMSs in rural areas found that farmers treat streams as nothing more than conduits to drain water off land quickly. Although buffer strips would slow the runoff, help filter chemicals and sediments, and increase shading, very few farmers use buffer strips. Many dairy farmers allow their cows to graze the stream banks and walk in streams. This increases erosion and sedimentation.

Cranberry farming, in particular, can be very destructive to water resources. Cranberry growers adversely impact wetlands, water quality, and water quantity. Cranberries are grown on wetlands that have either been filled or flooded. Since these farmers are exempt from Chapters 30 and 31, they are able

I. Evolution of the Public Trust Doctrine

A. Historical Origins of the Public Trust Doctrine

1. The Line Between Public and Private: What Water and Land Is Protected by the Public Trust Doctrine
 - a. Navigable Waters
 - b. Lands Underlying Navigable Waters

B. The Role of the Court and Legislature in Protecting the Public Trust

1. Judicial Review of the Administration of the Trust
2. The Legislature's Role in Administering the Trust
 - a. The Legislature Has a Limited Ability to Alienate Trust Property
 - b. Restrictions on the Legislature's Delegation of Its Duty to Administer the Public Trust

C. Public Rights v. Private Rights: Where is the Balance?

1. Evolution of Public Rights in the Navigable Waters of Wisconsin
 - a. Recreation
 - b. Natural Beauty
 - c. Pollution
 - d. Shorelands
2. Public Trust Limitations on the Rights of Riparians
3. The Court's Resolution of Conflicting Rights
 - a. Cases in Which Trustees Acted to Further the Trust
 - b. Cases in Which Trustees Appeared to Jeopardize the Public Trust

II. The Application of the Public Trust Doctrine in Wisconsin

A. The Role of Wisconsin's Department of Natural Resources and Its Water Management Specialists

B. The Power of the Public Trust Doctrine to Protect Public Resources

1. Contemporary Threats to Water Resources
 - a. Shoreland Development
 - b. Agriculture and Aquaculture
 - c. Private Fish Ponds, Dams, and Other Structures
 - d. Urbanization and Toxic Pollution
 - e. Boat Traffic
2. Is the Public Trust Doctrine Used to Control These Threats?
 - a. Shoreland Development
 - b. Agriculture and Aquaculture
 - c. Private Fish Ponds, Dams, and Other Structures
 - d. Urbanization and Toxic Pollution
 - e. Boat Traffic
3. Shoreland Zoning: Unconstitutional Abdication of Authority over Trust Resources?
4. Wetlands: Shortcomings of the Present Regulatory System

C. Pressures Shaping the Trustees' Water Management Decisions

1. Voices from the Field: Commitment and Frustration
2. The Many Faces of WMSs: Eco-Warriors, Harassed Bureaucrats, Clever Politicians
 - a. The WMS's Workload
 - b. Political Pressure Impacting WMSs' Decisions
 - c. Permit Denials and Enforcement Issues

Conclusion

Continued on p. 16

THIS ISSUE: Installment #2

PUBLIC TRUST: courts, trustees, and political power in Wisconsin

Continued from p. 15

to withdraw large quantities of water from streams without a permit. When this water is discharged back into the stream, the return flow from cranberry operations contains elevated concentrations of pesticides and fertilizers, sometimes causing fish kills downstream.

Aquaculture operations similarly adversely impact water resources. These operations reduce the water level of streams by diverting significant quantities of water. Then, like cranberry farms, they discharge warmer water back into the stream that is of questionable quality.

c. Private Fish Ponds, Dams, and Other Structures

The third largest threat that WMSs identified is alterations to waterbodies to create private ponds, dams, and other structures. Requests to build private fish ponds are increasing in most regions of Wisconsin. Private parties create ponds by either damming a creek or altering a wetland. Damming creeks, even those that are not navigable, can have measurable impacts on navigable waters downstream. Dams increase the temperature of the water in the impoundment. The discharge of the warmer water alters the temperature of the water in the downstream reach enough to change the fish composition in that reach. One WMS observed that "we have lost a lot of cold water trout streams because farmers have dammed the headwaters." Dams, whether used for creating ponds or other purposes, have caused a loss of fish and wildlife habitat.

d. Urbanization and Toxic Pollution

A water resources threat that is increasing in three regions of the state is urbanization. Urbanization causes numerous adverse impacts when not adequately designed to protect water resources. A stream becomes urbanized by increasing the amount of impervious surfaces in the area and creating gutters that allow storm water runoff to discharge directly into the stream. This increases stream temperature, sediment loading, and the frequency of flash floods. Not only is development pressure increasing, but the long-term problems of persistent toxins are becoming more apparent. Two large toxic pollution problems that threaten the health of water resources are hot spots in Lake Superior from past industrial uses by a gasification plant on the shore of the lake and widespread PCB contamination along the lower Fox River from Menasha to Green Bay.

e. Boat Traffic

Although navigation for commerce and recreation is protected by the public trust, some WMSs identified increasing boat traffic as a threat to water resources. This is essentially the problem of protecting the public trust from itself. Not only are the numbers of boats increasing, but the engine sizes and speeds are also increasing on many water bodies. This increased activity erodes the shoreline of lakes and rivers, causing problems with sedimentation of public waters, as well as causing riparians to expend large amounts of money on erosion controls. Although many waterbodies are impacted by this, WMSs identified two areas that have significant problems with boat traffic. One is the Wolf River where recreational boating is only regulated on weekends. The other is the Mississippi River where the use of commercial barges has expanded.

2. Is the Public Trust Doctrine Used to Control These Threats?

Public interest considerations could give WMSs the ability to fill in the regulatory gaps left by other laws designed to protect navigable waters, such as the Clean Water Act (CWA). For instance, under its public interest analysis, the DNR could consider the impact of nonpoint source pollution from activities regulated by Chapters 30 and 31 even though it has limited authority to regulate these impacts under the CWA. This Section will show that some WMSs have used the trust doctrine in this manner, but the trustees see significant limitations on their jurisdiction to prevent activities that jeopardize the trust.

When the WMSs were asked whether they used the public trust to protect waterbodies from the threats they had identified above, all of them quickly responded in the affirmative. This immediate "yes" does not accurately describe the situation, however, because when the interviewee was asked to provide an example of how he or she has used the public trust to counterbalance these threats, the answers centered more on where the law falls short. The following is a summary of how WMSs view the reach of the law for every threat discussed above.

a. Shoreland Development

WMSs believe that they have limited jurisdiction to control shoreland housing development despite its adverse impact on public trust resources. Building a single home or a residential development is not, per se, regulated by the WMSs unless part of the project falls into one of the statute's categories of regulated activities. Chapters 30 and 31 of the Wisconsin Statutes require permits for certain enumerated activities such as grading, dredging, or filling a water body. One WMS explained that if a subdivision developer was going to grade "a slope that drains to a navigable stream," then he would require a permit under Section 30.19 of the Wisconsin Statutes and would assess the impacts of that part of the development on the public interest. If the grading project is on a slope that drains to a wetland that is con-

nected to a navigable water, then the DNR can also control the project under its administrative rules on wetlands. To require a permit for grading, however, the area to be graded must be greater than ten thousand square feet.

When the DNR does have jurisdiction over a development, the public trust doctrine's persuasive value may be as important as the environmental impacts that it allows resource managers to analyze. Some WMSs have found it useful to refer to their general responsibilities as trustees of the state's waters when they are involved in confrontations with developers or politicians. They are able to use the general authority of the doctrine as a rationale for their decisions.

The public trust doctrine also allows WMSs to consider the full impacts of a development. In Northern Wisconsin, one WMS uses the public trust to prevent dredging and filling of lakebeds, as well as to limit the removal of shore cover. When proponents of a large marina wanted to increase the number of boat slips by 100, he was able to oppose the project based on the public trust doctrine as codified in Chapter 30. He contends that once there is a permit required under chapter 30, WMSs are able to consider all of the impacts that a development will have on the public interest in water. To undertake the expansion, the marina needed to get a Section 30.20 permit to dredge. The WMS analyzed the site and successfully opposed the project because the dredging would have removed aquatic plant bed that supported twenty-five species of fish.

In some areas where all of the desirable properties have already been developed, there is more pressure to develop wetlands and back bays. This is a scenario that WMSs "deal with all the time." One WMS described a recent situation where an applicant bought "mucky" property that contained a unique wetland. The property owner wanted to dredge the lake, remove the vegetation and muck, and deposit sand for a beach. The WMS was able to deny the permit based on precedent found in *Just* and *Bleck* which supported the conclusion that the project was inconsistent with public rights. The alterations would have made no improvement to navigation and would have destroyed water quality, natural habitat, and the fishery. The WMS also considered this project in the context of all the other impacts that were already occurring on the lake and found that the cumulative impacts would have been too great. In his opinion, "This was an unreasonable use of the property because the property owner was attempting to convert an area that was rich in species diversity into a homogeneous, sandy beach." In that case, the project proponent appealed the denial and an administrative law judge, considering the undisputed expert testimony on these impacts, upheld the permit denial.

In some regions, the taking of public lakebed for private structures is a recurring problem. In one of these regions, a WMS objected to a proposal to construct a 325 foot breakwall. The Hearing Examiner ultimately denied the permit, finding that the project would be detrimental to the public interest because it would adversely impact water quality, increase erosion, and destroy habitat. Thus, this was clearly "an unreasonable use of land for a private purpose."

A final shoreland development pressure is the desire of riparians to build numerous boat slips and large decks over the water. Some WMSs rely on the public trust in order to analyze the cumulative impacts of these projects on natural scenic beauty and public access. "We won't permit decks or excessive pier slips (that is, those beyond a reasonable use) because of the impacts on the public trust."

Although WMSs use the public trust doctrine to limit the adverse impacts of shoreland development, the current statutes fall short of truly protecting the resources for public use. Many shoreland developments may comply with Wisconsin's statutes and local ordinances, while at the same time they impair the public interest in water. All of the WMSs recognized that the current law leaves tremendous gaps in their ability to protect the public trust from damage caused by shoreland development. One WMS summed up their concerns, "We are distributing Band-Aids. Water quality is not improving. We are just creating a paper trail showing how the resource was destroyed."

WMSs are unable to regulate a housing development that does not physically alter a water body and grades less than ten thousand square feet. Most WMSs recognized, based on experience and scientific data, that these projects will adversely impact the public trust by increasing storm water runoff and destroying wildlife habitat, among other things. Furthermore, even if a project requires greater than ten thousand square feet of grading, one very experienced WMS pointed out that Section 30.19 only requires a grading permit for grading that is adjacent to or on the bank of a navigable water. He went on to explain that the bank is "any continuous uninterrupted slope," and since there is no numerical distance set he is cautious about applying this Section to any riparians. In his opinion, grading one thousand feet from a navigable water is "too far away" for him to require a permit. Upon further discussion, he reflected that in his greater than ten years of experience he has never denied a grading permit under Section 30.19, partly due to problems with knowing when it applies and partly due to the fact

that procedurally "only a Hearing Examiner can deny these permits."

Confusion over the reach of the agency's jurisdiction does not only impact its administration of grading permits, it similarly plagues the administration of other statutes. For instance, although one WMS claimed that he used the public trust to limit the removal of shore cover, that view was not widely held. A WMS in a different region thought that there was little he could do to limit the removal of shore cover. He asserted that removal of shore cover was only regulated by local zoning, and as long as the land owner does not clearcut, he or she is in compliance with local zoning. Another WMS concurred with this. He said that he had "no regulatory authority to prevent the cutting of upland or aquatic vegetation" even though it is detrimental to the public interest because it destroys habitat and increases erosion. He felt that the only approach he could take was educational, so he works with the University of Wisconsin-Extension to educate land owners about the importance of buffer strips.

Moreover, one WMS explained that unless a project is larger than five acres, the DNR will not require a storm water permit. Even when the project is large enough to require a storm water permit, some WMSs are concerned that there simply are not enough staffers to handle the workload, and that the standards for storm water permits do not protect the public interest. One WMS explained that the engineer in Madison who issues these permits only looks at water quality, not water quantity or the public interest. Another WMS observed that the DNR has understaffed the storm water program. In his region there is one person who issues storm water permits for seventeen counties in addition to issuing CWA discharge permits for fifteen point sources, "so obviously this issue isn't getting the attention it should."

When faced with shoreland development situations where WMSs do not have statutory jurisdiction, their reactions fall along a wide continuum from taking no action to finding other agencies with jurisdiction to act. Of the fourteen WMSs who were asked whether they had a responsibility as a trustee of the waters to take some action on shoreland development projects where they did not have jurisdiction, 71% answered yes and 29% answered no. Of the 71% who felt a responsibility to take action, their reactions followed three general themes focusing on local zoning, education, and the jurisdiction of sister agencies.

First, some WMSs advocate for the public trust on the local government zoning level. They go to zoning meetings and submit comments on the environmental consequences of the project. They also encourage local governments to adopt stricter regulations. Second, other WMSs make an effort to educate landowners and convince them not to take action or to choose a less environmentally destructive alternative. Third, one WMS searches for another agency that has jurisdiction and informs them of the situation.

By contrast, all of the WMSs who felt they did not have a responsibility to take action based their position on the rationale that they cannot do anything if the DNR does not have jurisdiction. Unlike the WMSs above who rely on educating property owners in the absence of jurisdiction, these WMSs thought that they would "break the law" if they "did not have statutory jurisdiction and tried to tell a land owner what to do." These WMSs tended to highlight divisions in jurisdiction and did not recognize the persuasive impact they could have on riparians. They felt that since shoreland zoning is a local government issue, they should not try to influence local decisions at all. Two spoke in terms that indicated that they erroneously believed that the DNR had no supervision over administration of the public trust. One said that "we [the DNR] rely on the local government to regulate the trust for the most part," while the other claimed that "there is nothing we can do" if the local governments give permits under their shoreland zoning ordinances. "Citizen groups are the only entities who can stop this."

b. Agriculture and Aquaculture

WMSs uniformly stated that they have very limited regulatory authority over agriculture and aquaculture. Agriculture is exempt from several laws designed to protect the public trust. Under Section 30.20 of the Wisconsin Statutes, the DNR can, however, regulate dredging projects that will impact a cold water fishery or that are on waterways that are not drainage ditches.

One WMS described what he considered a "common example" of how to use the public trust to prevent natural resource damage by agriculture. When he discovers that a farmer wants to dredge a water course, he checks old maps to see if the waterway has historically been mapped as a perennial stream. If it has, then the DNR has jurisdiction, and this WMS will try to persuade the farmer to withdraw his permit application because of the direct, indirect, and cumulative impacts that the dredging will have on downstream fisheries.

By contrast, aquaculture is not exempt from Chapter 30. WMSs use Chapter 30 to regulate commercial aquaculture operations. In the case of aquaculture, some WMSs contend that Chapter 30 and the public trust doctrine allow the DNR to go further than the CWA. One WMS observed that DNR regulators who implement the CWA do not require discharge permits for aquaculture

operations. They have interpreted the CWA to allow unpermitted discharges up to a certain level, and the discharges of many aquaculture operations are just under that level. Although the DNR has not required CWA discharge permits for aquaculture, one WMS used the language in Section 30.19 that discusses pollution to support permit conditions requiring the project proponent to sample and report discharges. This use of the public trust doctrine may be coming to a close, however. In 1999, there was a proposed bill to exempt aquaculture from Chapter 30 and to transfer all regulatory oversight over aquaculture from the DNR to the Wisconsin Department of Agriculture, Trade and Consumer Protection. Ultimately, this proposal was defeated.

Since agriculture is for the most part exempt from Chapters 30 and 31, most WMSs contend that nonpoint source pollution from farms, although classified as a main threat to water resources, could not be limited by the public trust doctrine. For example, Chapter 30 does not prohibit stream grazing by dairy cows despite the negative impact that cows have on water quality. Another problem is that Best Management Practices (BMPs) to reduce nonpoint source pollution are voluntary and are only temporary. One WMS observed that farmers are able to get cost-share financing to implement BMPs, but that there is no long-term contract to ensure that a farmer continues to use the BMPs.

Further, cranberry farms are exempt from Section 30 and 31 of the Wisconsin Statutes despite the fact that these farms withdraw large quantities of water and discharge water that contains elevated levels of pollutants. One WMS lamented the fact that "the waste water regulators have determined that the discharge from these farms cannot be regulated as waste water." Although cranberry farms are exempt from regulations of dams and water diversions, they can be regulated under the CWA if they alter wetlands. Under the CWA, when the Corps of Engineers has jurisdiction over a cranberry farm's wetland alteration, the DNR reviews the project and issues or denies a water quality certification. When WMSs review the project for certification they can and do base their decisions on the public trust doctrine. One WMS said that he looks at the impacts of the project on the resource and tries to "protect it for the public."

c. Private Fish Ponds, Dams, and Other Structures

If a party wants to dam a spring in order to create a pond, he or she must get a permit under Section 31. Another WMS added that under Section 30.19 of the Wisconsin Statutes, a permit is required for anyone who wants to build a pond that "ultimately connects to navigable waters; this is a regulated enlargement." Once pond building activity falls under the jurisdiction of Sections 30 and 31, WMSs are able to use the public trust doctrine to justify finding less damaging alternatives to project proposals. For instance, when one WMS recently received an application to dam a spring "near an outstanding resource water," he explained to the applicant that it was his duty to look at the cumulative impacts of this project because "even though the spring is on private property, building a pond is not a private issue—the waters of the state are for everyone to enjoy." The applicant returned later with an alternative proposal to change the site of the pond so it would be fed by groundwater instead of springwater.

Not all interactions with people who want to build ponds are so amicable, especially when the applicant has the financial resources to fight a permit denial, and there is not a reasonable alternative like changing the pond site and water supply. One WMS is currently involved in an administrative appeal over his denial of a permit to build a pond on a non-navigable tributary or headwaters of a cold water trout stream. He denied the permit because he has scientific documentation that trout spawn in this non-navigable tributary. If the applicant constructs the pond, he believes that it will eliminate trout reproduction, increase the temperature of the stream, and decrease the food supply for fish by changing the biodiversity of invertebrates. In his words, "The public trust should prevent an applicant, such as this one, from taking a public resource and converting it for private gain."

The WMSs contend that if someone creates a pond by altering a wetland that is not connected to a navigable water, there are no Wisconsin statutes that give the DNR independent jurisdiction to consider the impacts of that activity on the public trust. The DNR only has jurisdiction when the Corps of Engineers has issued a permit under Section 404 of the CWA. One WMS discussed the reach of his wetland jurisdiction. In his opinion, "If someone wants to excavate a wetland—even a pristine wetland—that is not connected to a navigable water body, the DNR does not have the ability to stop this because the Corps of Engineers no longer has jurisdiction."

d. Urbanization and Toxic Pollution

None of the WMSs who cited urbanization and toxic pollution as a main threat to water resources could describe how they used the public trust doctrine to counteract this threat. Despite the fact that there is "a lot of data on the impact of storm water runoff on streams in Milwaukee County, the

Continued on p. 17

CHOICES: water decisions ahead for Wisconsin

Continued from p. 3

We may have a lot of water both above and below the ground, but we do not take kindly to having some of it hauled off somewhere.

I remember talking to an old fisherman many years back. The conversation was the usual fisherman stuff, except for one comment which has stuck in my memory. He said that the local creeks had more water in them when he first started fishing. From his age and the time, at that time about 1965, I would have gathered the comments applied to a time in the 1930s.

Since that time, usual human activity, coupled with the occasional drought, has lowered our water table somewhat. At this point, our streams are still running, but we have no surplus of water in them for most of the year. In areas of intense development, water levels have dropped and streams have dried up. The famous Kinnickinnic River near River Falls used to start several miles upstream from its current source. In a recent news release, a state geologist stated that aquifers in the Fox Cities area are in danger of being depleted. Perhaps this the fate of many of our state waters.

A more straightforward skirmish of the Water War is being fought in central Wisconsin where the Perrier Company proposes to drill high volume wells. The company promises jobs for an area that certainly could use them, and there were those willing to accept them in trade for the possible degradation of trout streams.

Perrier says that taking out 500 gallons of water per minute should not cause any problems. The area opposition rose up quickly. People did not wish to see their beloved Mecan River and others sent off in bottles to end up being flushed down toilets thousands of miles away.

At this point in time, Perrier is now looking at another area in southern Adams County at a site called Big Spring. The local stream over there is not famous, but the plan is the same.

We will need to stay tuned on this development. In the meantime, we will hear the usual claims that "it's only a small amount of water; it will not hurt a thing," or "let's see what happens."

In the argument of what might happen when such an operation starts up, we might have a local model to use. The West Branch of the Shioc River flows through the western Shawano County Village of Bonduel. This small river holds a population of brook trout. Because this population is isolated and probably has been since the last glacier went through, it may well be a subspecies.

Last year, the local DNR fish manager, Ross Langhurst, did some habitat improvement on a length of water. Funding for the project came from a variety of sources including trout stamp fees and our local Shaw-Paca Chapter of Trout Unlimited.

Soon after the stream work, construction began on an improvement to the local sewage plant. The plan was to send sewage off to Shawano via pipeline rather than use the older local plant for treatment on site. To do this, a new building and collecting area had to be built and the old building removed.

The area near the existing plant occupied a low area next to a small tributary of the main river. Several wells were drilled to remove excess water from the construction area. It was pumped into the small tributary and sent on its way. All of this occurred as rainfall became sparse at

the end of the summer.

The result was that some area wells went dry, and the area of the Shioc River that had just been "improved" went dry. Since the construction wells drained into the formerly tiny tributary, it now was the only part of the upper river system that held water. The trout were now concentrated in the tiny tributary.

Once construction was over, the company wanted to discontinue the original wells. This would mean that the tiny tributary would also go dry,

*The choices still remain
about our water
resources and will be
played back in future
situations.*

leaving the entire portion of trout water bone dry. Since winter was approaching, it would be unlikely that any sort of flow in the main river would come back until spring.

At the present time, it appears that a water flow is being kept up in the tributary while the main stream is still no more than a series of still-water pools not unlike the Salt River mentioned earlier.

The scenario could easily be replayed in those areas where a large amount of water would be removed

by high volume wells. The choices still remain about our water resources and will be played back in future situations. Choose jobs and development or preserve the resource and esthetic beauty. These are indeed tough choices.

Those favoring the jobs argument often fail to realize that fishing and other water-related activities create jobs and economic activity as well. People need gainful employment, but if it is gained at the expense of the environment, we have sold too much. There are places where the trout have already come up on the wrong side of the choice. In Wisconsin, we need to be vigilant and make sure that such situations do not happen here.

PUBLIC TRUST: political power in Wisconsin

Continued from p. 16

practices are lagging behind the science. We don't have ordinances in place that sufficiently protect these waters." Another obstacle to protecting water quality is that the suggested BMPs are not updated due to political pressure. "We don't want to change the status quo because it will cost someone money."

Moreover, understaffing in urban areas may decrease the effectiveness of WMSs in those areas. Most WMSs who work in urban areas assert that the DNR does not have the personnel to adequately regulate the amount of development that is occurring. A WMS in southeastern Wisconsin claimed that he "knows there are violations every day—there are a lot of illegal structures going in," but that he cannot do anything about it because "there is no way" he can tour all of the areas.

Additionally, the public trust doctrine is at times limited more by the individual WMS who is interpreting it than by the actual regulations. In southern Wisconsin, at least one WMS interprets the law in a way that facilitates unregulated urbanization. This WMS does not make a navigability determination for the entire water body, but instead divides a stream into a navigable part that requires Section 30 permits and a non-navigable part that is outside his jurisdiction. He said that many developers buy open fields in order to create residential housing. This WMS determined that part of the stream running across the open field was non-navigable in order to allow the developer to do whatever he or she wanted with that part of the stream—encase it, channelize it, etc. For instance, after so dividing a stream, he allowed a project proponent to put detention ponds in a stream despite the negative ecological impacts of the project both locally and on the navigable part of the stream.

e. Boat Traffic

In fiscal year 1999, wardens issued 5,851 citations for boating violations. This is the highest number of citations issued for any sector regulated by the DNR, yet some WMSs contend that boating is unregulated. This contention rests on the WMSs' observation that the environmental aspects of boating are not being controlled by the current regulations. High-powered motor boats damage the public trust by eroding shorelines and destroying fish eggs and habitat. "The DNR has the responsibility to protect the public trust, but it does not have the legal tools to deal with harmful boating activities."

3. Shoreland Zoning: Unconstitutional Abdication of Authority over Trust Resources?

Part of the WMS's job is to work with local governments to implement shoreland, wetland, and floodplain zoning. The vast majority of WMSs identified development as one of the major threats to water resources in their management area. Yet, most of the harms caused by development are not directly controlled by the DNR. For instance, a shoreland development that does not grade more than ten thousand square feet on the bank or adjacent to a navigable water or does not occupy more than five acres of land probably will not require a DNR-issued permit and considerations of the public trust. Rather, local zoning boards determine the resolution of most of these shoreland development issues. These local boards are, at times, not the best guardians of the public trust. One WMS opined that "local ordinances and those who administer them reflect an overall attitude that water ways are merely conveyances of water rather than vibrant ecosystems." Another seasoned WMS in a rural area that is under severe development pressure observed that zoning is no longer doing its job. "The zoning laws were drafted in the 1970s and need to be updated to better equip local governments to deal with lakeshore development."

There appears to be no consistent DNR policy on how to work with local governments on zoning issues. Zoning is such a high priority in some areas that there are WMSs or assistants who only handle zoning issues, while in other areas supervisors tell WMSs not to oversee any local zoning decisions. Northeastern Wisconsin has a WMS who al-

most exclusively works on local zoning issues. Similarly, in western Wisconsin a WMS worked with eighteen counties to upgrade their local zoning ordinances to protect buffer zones along water bodies. He claimed that this work has been extremely successful; twelve to fifteen counties are now working on making their zoning more stringent, and both of his counties have passed better ordinances.

By contrast, a WMS in southern Wisconsin said that his supervisors told the WMSs "to cut their time spent on zoning issues." He continued to say that "in [his] region the locals are granting variances all the time, so it is really awful that the DNR isn't overseeing zoning anymore." Despite his supervisors' directives, he contended that he still had a duty under the public trust to oversee zoning decisions in these counties. Therefore, he still talks to the zoning administrators in his counties of supervision and tries to remind them of "the riparian's duty to protect the public trust."

Somewhere between these extremes lies the law. Wisconsin Administrative Code NR 115 requires counties to give the DNR notice of every variance or conditional use permit decision. Similarly, NR 117 and 118 require municipalities to give the DNR notice of decisions. Despite the legal requirements for notice, there are three primary impediments to protecting the public trust. First, not all local governments give the DNR notice of their decisions. Second, even when given notice, some WMSs do not comment on variances and conditional use permits that adversely impact the public trust. Third, some local governments violate the law despite DNR input.

Although many WMSs said that it was part of their job to review these notices and comment on impacts to the public trust, not all WMSs understand their legal responsibilities and jurisdiction. For instance, one WMS in southern Wisconsin did not know that municipalities and villages were required to send notices under NR 117. He noted that he rarely received notice and thought that whether he got notice of these decisions was dependent on whether he had a good relationship with the local governments. In his opinion, whether or not he receives notice is based on "politics", not a legal requirement. "If they liked my last comments, then they will notify me about upcoming decisions." WMSs in several parts of Wisconsin described very poor relationships with local zoning administrators. Although the DNR has oversight authority for county and municipal decisions to issue variances or conditional use permits, in these areas of supervision the local governments do not send every decision to the DNR. One WMS interpreted the counties' attitudes as pro-private property rights and territorial. In other words, "The counties do not want the DNR involved in local zoning decisions."

As noted above, even when WMSs in southern Wisconsin get notice of decisions they may not comment due to pressure from their supervisors to focus their attention on other matters. Finally, even when local governments give proper notice and the DNR takes the time to comment, violations occur and are not adequately enforced. When asked to discuss local zoning, one WMS responded that his counties in western Wisconsin are "very diligent, the municipalities are in total compliance, and the DNR responds to all of the notices." This WMS went on to say that he regularly testifies at county proceedings on the impacts that the proposed project will have on the public trust. Yet, despite all of this notice and comment activity, not all of the counties comply with their shoreland zoning ordinances. This same WMS noted that two of his counties "are notorious for violating the ordinances all the time." In fact, in his last audit he found 222 violations on one lake alone.

As evidenced by these WMSs' experiences, the DNR is not consistently supervising the zoning decisions of local governments. Even when the DNR does oversee these entities, they do not necessarily follow the DNR's suggestions. The ability of local governments to make zoning decisions that impact navigable waters is essentially a

delegation from the legislature of its trust responsibility. In order to constitutionally delegate trust responsibility, the DNR must actively oversee the delegates and ensure that their activities do not infringe upon the trust. It appears that the current system of shoreland zoning does not meet these requirements.

4. Wetlands: Shortcomings of the Present Regulatory System

The DNR's Secretary Meyer asserts that Wisconsin has the best wetland protection program of any state in the country. "We were losing around 1,000 acres of wetlands per year before we created NR 103 in 1991. Since 1991, we have only lost around 2,000 acres of wetlands." Yet most WMSs contend that current laws give the DNR very limited power to control alterations to wetlands. They believe that while the DNR has jurisdiction over some activities on wetlands that are connected to navigable waters, the Corps of Engineers administers wetland permits for all other wetlands under Section 404 of the CWA. The Corps of Engineers can issue one of two types of wetland permits: individual or nationwide. The individual permits require stricter review and public notice. By contrast, the nationwide permits require no public notice and no site-specific review. One WMS estimated that 95% of the wetland permits that the Corps of Engineers issues in Wisconsin are nationwide permits. In his opinion the Corps of Engineers fails to protect wetlands. "There are two problems: the Corps grants too many nationwide permits and there are many situations where the Corps should require a permit but does not." If the Corps decides that it does not have jurisdiction over a wetland that is not connected to a navigable water, then the DNR does not have jurisdiction either.

Once the Corps of Engineers issues a wetland permit, the DNR then has the responsibility to review the site and grant, deny, or waive a water quality certification. However, some WMSs asserted that the DNR does not have enforcement powers under this statutory scheme. The DNR faces a situation where, on the one hand, they are the only agency that substantively reviews a wetland project, and on the other hand, their power is severely curtailed by their inability to enforce the law. For instance, if the DNR denies water quality certification and the project proponent proceeds with the project, the DNR must rely on the Corps of Engineers or the Environmental Protection Agency (EPA) to take an enforcement action.

¹Part II of this Comment is based largely on narratives obtained in research interviews with the DNR staff who administer the state laws that regulate the use of navigable waters. The author interviewed 18 of the 28 Water Management Specialists (WMSs) in Wisconsin.

In order to insure confidentiality, the interviewees are not mentioned by name and details that would reveal the counties they supervise have been extracted. The author uses the masculine pronoun to refer to WMSs in order to further conceal their identity. With the exception of one interview with the Secretary of the DNR and a staff attorney, the author only interviewed WMSs and not upper-level managers. Thus, this Comment largely reflects the perspective of the field staff and does not purport to give multiple perspectives on the issues raised in it. There will always be a variety of perspectives on events, and no one person holds the truth. The author's purpose in limiting this research to the field staff was to show their beliefs and motivations, for those are what influence their decisions about how to manage our trust resources.

(This comment can be downloaded in its entirety at the Midwest Environmental Advocates' web site at www.midwest-e-advocates.org. Footnotes have been eliminated from this reprint. -Ed.)

WI Natural Resource Board

The following currently serve on the NRB:

Trygve A. Solberg
P.O. Box 50
Minocqua, WI 54548
(715) 356-7711

President and owner, T.A. Solberg Company, Inc. Appointed to Board February, 1991; reappointed May, 1993 and April, 1999. Served as Vice-Chair May, 1993, to February, 1997. NRB Chair since February, 1997. Term expires May 1, 2005.

James E. Tiefenthaler, Jr.
W228 N683 Westmound Drive
Waukesha, WI 53186
(414) 513-1111

President, Tiefenthaler Machinery Co. Appointed to Board June, 1991; reappointed April, 1999. Term expires May 1, 2003.

Gerald M. O'Brien
Box 228
Stevens Point, WI 54481
Herbert F. Behnke
(715) 344-0890

Attorney. Appointed May 1, 1999. Term expires May 1, 2005.

Howard D. Poulson
1212 Deming Way
P.O. Box 5550
Madison, WI 53705
(608) 828-5700

President, Wisconsin Farm Bureau Federation. Appointed August, 1995. Term expires May 1, 2001.

Catherine L. Stepp
14520 50th Rd.
Sturtevant, WI 53177
(262) 835-2609

Co-owner and Vice President, First Stepp Builders. Appointed April, 2000. Term expires May 1, 2005.

Stephen D. Willett
P.O. Box 89
Phillips, WI 54555
(715) 339-2125

Attorney. Appointed June, 1991; reappointed April, 1999. Term expires May 1, 2003.

Air, Waste, and Water Management/Enforcement Committee

Stephen D. Willett, Chair
Howard D. Poulson
Catherine L. Stepp

Land Management, Recreation and Fisheries/Wildlife Committee

Herbert F. Behnke, Chair
James E. Tiefenthaler, Jr.
Gerald M. O'Brien

Water Resources group setting path for WITU

The WITU Water Resources Committee held a meeting July 22 in Stevens Point to discuss future directions for TU's water resource policy.

In attendance were Stu Grimsstad, Marty Melchior, Tom Wilson, Brent Sittlow, and Mike Swoboda.

The purpose of meeting was to:

- define the role of the Water Resources Committee, and
- determine how to carry out that role.

Committee's role for TU

The role of the Water Resources Committee was defined as follows:

1. Protection of natural resources,
2. Define coldwater resource positions for the State Council,
3. Education of officers and members,
4. Conscience of the organization, and
5. Coordinate with the Legislative Committee.

Carrying out that role

1. Emphasize education.
 - Use the website to post informational essays on a variety of subjects like those developed earlier by Gary.
 - Update existing subjects and add new subjects as needed.
 - Place similar essays in *Wisconsin Trout* to reach members not on the web.
2. Network via the Internet.
 - Establish links between our website and others of similar interests.
 - Create an e-mail network of people with a richer-than-average knowledge of particular issues to be available as a resource for others.

3. Ally with other conservation and environmental groups.

- Link up when there is an agreement on a position about a particular issue
- Let others take the lead when appropriate

4. Develop positions on issues.
 - Committee members will follow issues close to their heart and of interest to them in order to stay on top of developments and to focus the organization on a particular action when appropriate.
 - Bring reports to the State Council meetings in order to provide information on developments related to particular issues.

5. Employ the following guiding principles.
 - Follow the Trout Unlimited Mission Statement.
 - Frame each action taken by revisiting the Mission Statement and making sure it fits.

Groundwater withdrawal issue

The group recommended the following positions for the State Council:

1. Oppose any large-scale extraction of spring water.
2. Return to the position established for the Mekan, i.e., require an EIS prior to any withdrawal coupled with an extensive and independent monitoring of the effects.
3. Call for a state moratorium on permits for high capacity wells in the vicinity of springs until protective legislative policy can be defined and put in place.
4. Have a Wis. TU representative participate in Waterkeepers of Wisconsin coalition.

Consider joining TU's water resources committee

By Mike Swoboda

My own vision of the Water Resources Committee is a group of people who are committed to the resources that support wild trout and who are willing to fight for that goal. On that basis, most all of our membership qualifies to be on the committee. And that is my point.

When it comes to fulfilling our mission statement every one of us can help. There are statewide issues that need to be addressed, but the State Council is not some separate organization with unlimited resources to take on any and all issues as they arise.

TU is a grassroots organization. That means its strength comes from each of us collectively working together on issues. The Water Re-

source Committee can serve as a resource for anyone who wants to make a difference on a given issue.

We can help connect people who need information with those who have knowledge and experience on the issue. There are many issues that have statewide significance that are only effectively fought at the local level.

That is why it is important for local chapters to spearhead efforts to protect the resource. The current political climate (read that as anti-environmental and pro-resource abuse) will not provide us with the tools we need to fight these efforts. Furthermore, we can see that the DNR is not in the forefront of resource protection as shown by their actions on the Crandon Mine, the Perrier spring development, non-point rule development and the Bloomer Dam. We the people have to stand up if we want resource protection.

The Committee can also lead the way on issues that its members find

Member Trout Tip

Don't bend your graphite rods at tip

By Robert Hunt

Your flyrod or spinning rod can probably be bent safely into an impressive arc (hopefully by a big fish), but never attempt to bend just the first few inches of your rod tip.

That slender, surprisingly brittle portion can be easily fractured or completely broken as easily as a match stick.

On a recent fishing trip with a partner, his fly and leader got snarled up around the tiptop and adjacent guide. While sitting in the canoe, he did what he, I, and probably you have safely done on many such hang-up occasions.

While holding the rod about midpoint with one hand extended behind him, he reached out and only slightly flexed the graphite tip while he unsnarled his fly and leader.

Three inches of his tip suddenly snapped off, much to his surprise and chagrin. An expensive lesson was learned the hard way.

I thought at the time that the accident was a freak one, but in subsequent casual conversations with several veteran anglers I learned that similar mishaps had happened to them, too. In one case a pet bamboo rod was the casualty.

I'm now convinced there is a clear lesson to be learned and consistently practiced.

Never deliberately flex just the upper few inches of a flyrod or spinning rod. Set your rod down and keep the entire rod straight while untangling hang-ups. Don't get careless just to save a few seconds of fishing time.

(Bob Hunt is a longtime friend of Wisconsin TU. He was employed for 33 years with the WDNR as the leader of the Coldwater Research Group. -Ed)

Do you have a "trout tip" to share with your fellow TU members? If so, contact *Wisconsin Trout*.

of personal interest. In fact, we invite anyone who has ideas on the committee or has an issue that they would like thrust to the forefront to become a member.

Another effort the committee is going to be making is to resurrect the website for Water Resources with the informational articles to help members educate themselves on different issues that threaten trout. We will have these same articles printed in a series in *Wisconsin Trout* so members without the internet are as informed as are others with it.

Keep up the fight and enjoy the resource.

FFF forms Wisconsin council

The board of directors of the Federation of Fly Fishers (FFF) voted unanimously to give the state of Wisconsin independent state council status at their national meeting in Livingston, Montana, in August.

Wisconsin had been part of the FFF's Great Rivers Council, which consisted of seven states and one Canadian province.

Wisconsin FFF members have

been pursuing independent status for three years under the leadership of past Great Rivers Council President Robert G. Reeners of Green Bay and current President Ray D. Larson of Sheboygan.

Hans Strom of Colgate, WI, heads the newly formed Wisconsin Council of the FFF.

At present Wisconsin has about 325 members in its new council.



Bill Sherer's We Tie It

In Downtown Boulder Junction

Cold water, Warm water,
and Salt water fly tying materials,
lessons and tackle

Northern Wisconsin's Premiere
Full-Service Fly Shop

Call for your free fly tying materials
and fly fishing supplies catalogs

P.O. Box 516, Boulder Junction, WI 54512
(715) 385-0171 Fax 715-385-9373
www.wetieit.com

Northern Adventures Guide Service

P.O. Box 516
Boulder Junction, WI 54512

Specializing in Flyfishing
for Trout, Bass, Muskie,
Walleye & Panfish

Phone: 715-385-0171 * Fax: 715-385-2553
e-mail: wetieit@centuryinter.net
www.boulderjct.org/sherer.htm

TU helping finance follow-up study

Avery hopes trout thriving 17 years after beavers removed

More than 17 years after they first removed hundreds of beaver dams from the Pemey River and its tributaries in northeast Wisconsin, researchers are returning to study whether the intervening years and constant vigilance in keeping the river free-flowing have helped trout populations recover.

"We're hoping we're going to see the end result of nature healing itself on its own time table," says Ed Avery, a WDNR fisheries research scientist who began his follow-up study on April 17.

"Many times administrators and the public expect instant results, but Mother Nature rarely works that way," says Avery. "We hope this study will quantify the value of looking at things over a long period of time and of being patient, allowing the watershed and the trout populations to recover on their own."

Ground-breaking survey

The study is believed to be the first long-term study in the world to track how removing beaver dams affects low-gradient streams like those common to Wisconsin.

Low-gradient streams descend at a rate of less than 15 feet per mile, and the Pemey River is such a stream.

In the early 1980s, the Pemey and its seven tributaries were clogged with beaver dams which damaged the habitat needed by brook trout, the lone trout species native to Wisconsin.

Research up to that time suggested that beaver dams created impoundments that raised summer water temperatures, decreased dissolved oxygen available for fish, decreased insects that trout preferred for food, and blocked trout movement and spawning runs. The impoundments also attracted other fish species that competed with trout for food, and drew more of the birds and mammals that preyed upon trout.

Beaver dams were widespread in the 1970s and early 1980s in many other northern trout streams as beaver populations spread largely unchecked by natural predators.

Avery as well as DNR fisheries manager Russ Heizer of Peshtigo decided to study whether removing the dams helped brook trout populations recover in low-gradient streams.

Starting in winter 1982-83 and continuing for the next few years, DNR crews blew up 546 dams along the Pemey and its tributaries after trappers removed the beavers. Crews found an average of 11 dams per mile along the river and 19 per mile along tributaries.

Some tributaries had as many as 50 dams per mile, and some bigger dams hid scores of smaller, abandoned dams, Avery recalls. At No Name Creek, for instance, crews removed a seven-foot high dam to reveal 36 other abandoned dams within the impoundment.

U.S. Department of Agriculture Wildlife Services crews have since been removing dams along the Pemey system and other designated watersheds in northern Wisconsin.

Encouraging signs

The researchers compared information they collected before the dams were removed, and for the next four years. They noted encouraging signs in the tributaries — wild brook trout were found in all seven tributaries, compared to only four before the dams were removed. The trout densities in those tributaries increased, and reproduction increased in all of the tributaries where sampling was done, Avery says.

But the researchers' measurements showed that the Pemey River trout populations were not recovering, and in fact, declined despite signs that the habitat was improving through lower summer water temperatures and increasing insect populations.

Avery speculated that the decline in brook trout in the Pemey River reflected in part river trout moving into the tributaries where conditions had improved even more.

"Our suspicion in 1986 was that the much larger, lower-gradient Pemey River would need a much longer period of time for the habitat and the wild brook trout population to recover," says Avery.

Follow-up study

Now, 14 years later, Avery, Heizer, and fisheries technician Kent Niermeyer are testing that hypothesis.

They are conducting population estimates of trout and other non-game fish species, and measuring water temperature and various physical characteristics of the river.

In addition, they'll conduct anglers creel surveys of the river throughout the 2000 trout fishing season. All of these measurements will be compared to measurements taken from 1982-1986.

"I expect to see continued improvement in the tributaries, and I want to see improvement in the main stream," Avery says.

"If the brook trout populations have improved substantially, it will document that continued DNR expenditures to control beaver and remove beaver dams on Wisconsin trout streams are justified."



TANGLED MASS GIVES WAY TO A RESTORED FLOW

The Green Bay Chapter has been taking on the First South Branch of the Oconto River. Here a mass of downed tree limbs (top) brings the stream's water flow to a trickle. The bottom picture shows the improved flow once the brush had been cleared.



Visit the Sportsmen's Center at

Mike's Mobil Service in Langlade



New For 2000

Fenwick and St. Croix rods, waders, vests, custom nets by Neil Sanvidge, custom rods by Jim Curry and quality flies by Jim Curry and other tyers.

We have all the sports Licenses

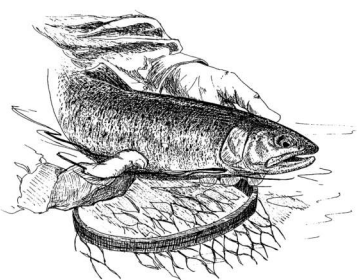
Mike's purchased the inventory of the former Fishful Thinking Fly Shop and moved it to Mike's Mobil at the Hwy 55-64 junction along the famous Wolf River.

Stop In And Have A Look!

We also carry a variety of spinning tackle plus minnows, crawlers, worms, leeches and other bait.

715-882-8901 • Hwy. 64 & 55, Langlade

Consider Proper Release



1. **Don't play fish to exhaustion.** Instead, use a landing net to bring fish under control before they're played out.
2. **Handle fish in the net.** Grasp them across the back and head for firm but gentle control. Use the net fabric as your "glove."
3. **Turn fish belly up while removing hooks.** This disorients fish momentarily for easier, quicker handling.
4. **Don't remove swallowed hooks.** Just cut the line...doing so saves two-thirds of deeply hooked trout.
5. **Don't keep fish out of the water more than 10-15 seconds.** Fragile gills are damaged after that...especially in cold weather.

Practice these CPR steps to give the fish you release their best chance of survival

Besadney grants available

Grant applications are currently being accepted for 2001 C.D. Besadney Conservation Grants Program that is administered by the Natural Resources Foundation of Wisconsin.

The Besadney grants range from \$100 to \$1,000. Moneys are awarded upon approval of the applicant's proposal in March. Grants provide financial support for natural resources projects and programs which support the Foundation's mission at the relatively small-scale, grassroots level.

To receive a Besadney Grant, applicants must:

- 1) Be a private nonprofit organization, an individual, or a government agency.
- 2) Use funds for a project or program which (a) benefits the public or public resources and (b) involves management, restoration, applied research, or education pertaining to Wisconsin's natural resources.
- 3) Use the Besadney Grant to fund a definable unit of the project or program. Preference is given where this grant would significantly impact completion of the project.
- 4) Match the requested funds on a 1:1 basis with funds or in-kind services.
- 5) Show that any previous grant received from the Natural Resources Foundation was for a different project than the current proposed project. (First-time applicants receive priority consideration.)
- 6) Submit a grant report summarizing the project, including how grant moneys were spent and whether objectives were met.
- 7) Provide the NRF with copies of all publications and press releases associated with the project receiving the grant, as well as photographs or slides documenting the project.

The application deadline is January 15, 2001. To obtain application materials, contact:

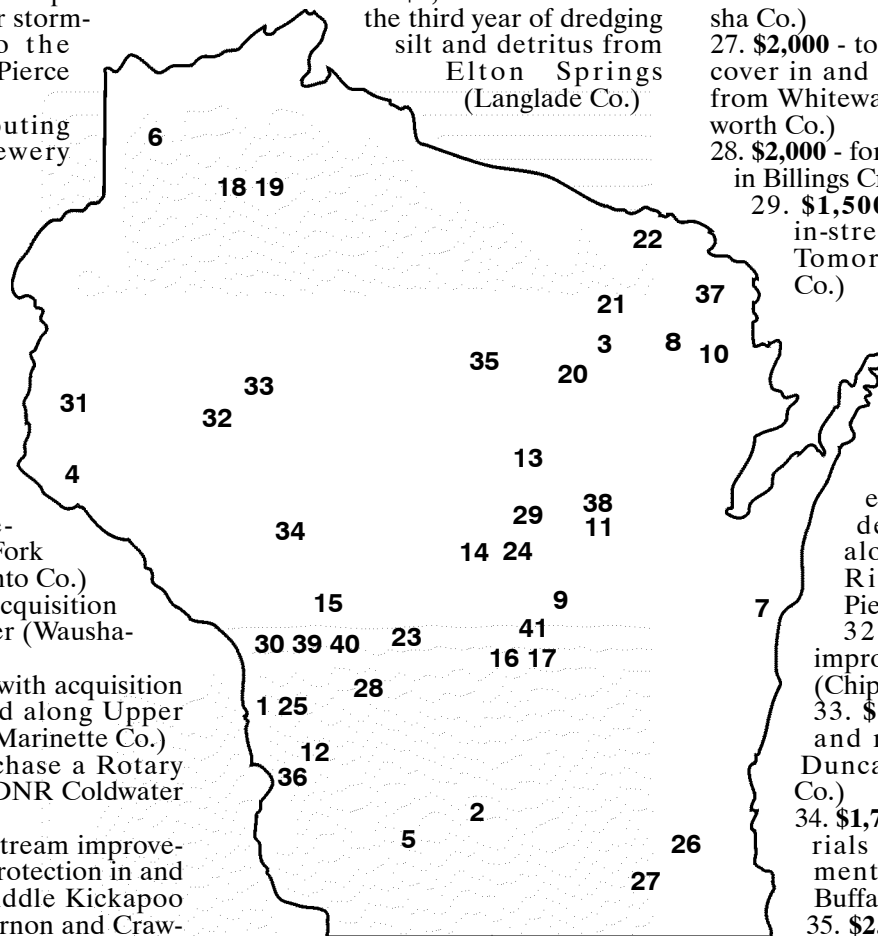
Natural Resources Foundation
P.O. Box 129
Madison, WI 53701-0129
608/266-3138

"Friends" Project Locations

1. **\$4,000** - for rip-rapping and structural improvements on the West Fork Kickapoo River (Vernon Co.)
2. **\$1,500** - for placement of LUNKER structures and bank stabilization in Black Earth Creek (Dane Co.)
3. **\$1,000** - for hydraulic dredging of Saul Spring Pond (Langlade Co.)
4. **\$750** - for purchase of special thermometers to monitor storm-water runoff into the Kinnickinnic River (Pierce Co.)
5. **\$2,000** - for rerouting and stabilizing Brewery Creek (Iowa Co.)
6. **\$75** - for purchase of catch and release signs for the Bois Brule River Douglas Co.)
7. **\$2,500** - for renovation of trout rearing facilities in Lincoln Park (City of Manitowoc)
8. **\$500** - for bank, stabilization, and structural improvements on the North Fork Thunder River (Oconto Co.)
9. **\$1,000** - for land acquisition along the White River (Waushara Co.)
10. **\$1,000** - to assist with acquisition of 64+ acres of land along Upper Middle Inlet Creek (Marinette Co.)
11. **\$7,000** - to purchase a Rotary Screw Fish Trap for DNR Coldwater research
12. **\$3,000** - to fund stream improvements and riparian protection in and along streams of Middle Kickapoo River watershed. (Vernon and Crawford counties)
13. **\$1,000** - to help fund instream habitat work in the Plover River (Marathon Co.)
14. **\$551** - to help purchase recording thermographs to monitor thermal regimes in trout streams in the Buena Vista and Leola marshes (Portage, Wood, Adams counties)
15. **\$3,372** - for installing bank cover and closing side channels in Sand Creek (Jackson and Monroe counties)
16. **\$3,296** - to continue and extend stream bank brushing along Chaffee Creek (Marquette Co.)
17. **\$1,000** - to continue population and movement studies of brown trout in the Mecan River (Marquette County) I-or potential stream reclassification
18. **\$1,700** - to conduct follow-up surveys on wild brown trout in the

- Namekagon River (Sawyer/Bayfield counties)
19. **\$2,000** - to conduct studies of fall movements and concentrations of spawning wild brood fish in the Namekagon River (Sawyer/Bayfield counties) for capture and use in raising wild trout for the river
20. **\$1,000** - to assist with the third year of dredging silt and detritus from Elton Springs (Langlade Co.)

- threat from agricultural/cranberry operation encroachment
25. **\$250** - toward habitat work on the West Fork Kickapoo River (Vernon and Crawford counties)
26. **\$2,000** - to fund dredging (silt/debris removal) from McClintock Springs in the southern unit of the Kettle Moraine State Forest (Waukesha Co.)
27. **\$2,000** - to create overhead bank cover in and remove beaver dams from Whitewater/Bluff Creek (Walworth Co.)
28. **\$2,000** - for stream improvements in Billings Creek (Vernon Co.)
29. **\$1,500** - for materials for in-stream structures in the Tomorrow River (Portage Co.)
30. **\$2,500** - for stream restoration in Mormon Coulee Creek (La Crosse Co.)
31. **\$1,500** - to assist in production of an educational video on development impacts along the Kinnickinnic River (St. Croix and Pierce counties)
32. **\$7,000** - stream improvement on Elk Creek (Chippewa Co.)
33. **\$4,000** - rock hauling and restoration work on Duncan Creek (Chippewa Co.)
34. **\$1,750** - to purchase materials for stream improvements on the North Fork Buffalo River (Jackson Co.)
35. **\$2,000** - to fund backhoe work on intensive habitat improvement in the Prairie River (Lincoln Co.)
36. **\$500** - for stream rehabilitation in Tainter Creek (Crawford Co.)
37. **\$1,000** - for expenses to study the long-term effects on brook trout following the removal of beaver dams on the Pemebonwon River in northern Wisconsin (Marinette Co.)
38. **\$2,000** - to help fund reprinting *Trout Stream Therapy* book (Waupaca Co.)
39. **\$1,000** - to defray expenses involved in holding the Midwest Trout Angling Workshop in La Crosse in July, 2000 (La Crosse Co.)
40. **\$2,000** - to fund stream improvement work on Mormon Coulee Creek (La Crosse Co.)
41. **\$2,000** - to fund restoration work on the Little Pine River. (Waushara Co.)



21. **\$1,000** - for stream brushing, debris removal, and brush bundle installation in Swanson Creek (Forest County), a tributary to the Rat River
22. **\$500** - for building a sand/ sediment trap in Wisconsin Creek (Florence County), a tributary to the boundary Brule River, to enhance trout spawning potential.
23. **\$2,750** - to purchase materials for fencing projects approved under the Streambank Easement Program (part of the state's Stewardship Program) for the Wisconsin Rapids Area; and for fencing materials for the Little Lemonweir River project (Monroe Co.)
24. **\$350** - to conduct trout population studies in the lateral ditches listed as trout waters (Portage, Wood and Adams counties) that are under

Friends of Wis. TU

Your name would look great here!
Join the Friends today...

Mark Adams	Elm Grove, WI
Bob Adams	West St. Paul, MN
Ed Anderson	Peshigo, WI
Edwin Barnes	Middleton, WI
David E. Beckwith	Milwaukee, WI
George Bereza	Marinette, WI
Jeff Berg	Fredonia, WI
Walter Bettin	Townsend, WI
Robert Bolz	Madison, WI
Olaf Borge	Viroqua, WI
Steve Born	Madison, WI
Robert Bray	Middleton, WI
Cheryl Ann Brickman	Mequon, WI
Gerald A. Bristol	Ellsworth, WI
Thomas J. Buettner	Sheboygan, WI
Richard R. Burgess	Madison, WI
John Cantwell	Green Bay, WI
R. G. Chamberlain	Markesan, WI
Jeff Christensen	River Falls, WI
Andrew E. Cook II	Sister Bay, WI
Bruce Davidson	Wauwatosa, WI
Claude 'Nick' Davis	Chippewa Falls, WI
Chris De Deker	Appleton, WI
Sal Digiosia	Oshkosh, WI
Dale Druckrey	Bonduel, WI
John Dunagan	Verona, WI
Richard Duplessie	Eau Claire, WI
Donald Ebbers	Plover, WI
Richard M. Evans	Milwaukee, WI
Alan G. Finesilver	De Pere, WI

- | | |
|------------------------|-------------------|
| William Flader | Madison, WI |
| Dan Flaherty | La Crosse, WI |
| Dennis Grundman | Appleton, WI |
| Lewis H. Krueger | Brillion, WI |
| Robert Hackinson | Appleton, WI |
| Dean R. Hagness MD | Stevens Point, WI |
| R. Chris Halla | Appleton, WI |
| David J. Hanson | Madison, WI |
| Jerry M. Hardacre | Marshfield, WI |
| Henry W. Haugley | Sun Prairie, WI |
| Steven Hawk | Madison, WI |
| Brian Hegge | Rhineland, WI |
| Chris Heikenen | Junction City, WI |
| Brian Heine Memorial | Whitewater, WI |
| Walter Hellyer | Fish Creek, WI |
| R. Robert Howard | Mequon, WI |
| John B. Hutchinson | Sun Prairie, WI |
| James Jacquart | Madison, WI |
| Fred L. Johnson | Tomahawk, WI |
| Sidney Johnson MD | Marshfield, WI |
| Robert Kauffman | Lake Geneva, WI |
| Gordon E. King | Merrill, WI |
| Lane A. Kistler | Whitefish Bay, WI |
| Ron Koshoshek | Bloomer, WI |
| Richard & Leitha Kraus | Pine River, WI |
| Herm Kuhn | Verona, WI |
| David A. Ladd | Dodgeville, WI |
| John Limbach | West Bend, WI |
| Lowell Lutter | River Falls, WI |
| Ted L. Mackmiller | Hudson, WI |
| Anna Magnin | Marshfield, WI |
| Thomas J. Manogue | Janesville, WI |
| Stacy Meanulty | Oregon, WI |
| Kim McCarthy | Green Bay, WI |
| Bruce Miller | Cross Plains, WI |
| Colleen Moore | Madison, WI |
| Ross Mueller | Appleton, WI |
| John Nebel | Menasha, WI |
| William D. Nielsen Jr. | Eau Claire, WI |
| Robert Obma | Fond du Lac, WI |
| Richard W. Ouren | Muscoda, WI |

- | | |
|-------------------------|---------------------|
| Bill Pielsticker | Lodi, WI |
| Bob Ragotzkie | Madison, WI |
| Ron Rellatz | Merton, WI |
| Bob Retko | Cedarburg, WI |
| Dr. Thomas & Carol Rice | Marshfield, WI |
| Thomas Rogers | Princeton, WI |
| Bill Rogers | Superior, WI |
| James J. School | Kaukauna, WI |
| Del Schwaller | Appleton, WI |
| Robert Selk | Madison, WI |
| David C. Sherrill | Maplewood, MN |
| John Shillinglaw | Appleton, WI |
| Michael Stapleton | Pardeeville, WI |
| Joseph T. Steuer | Naples, FL |
| Bill Stokes | Madison, WI |
| Gary & Jan Stoychoff | Green Bay, WI |
| Sterling Strause | Wild Rose, WI |
| Jack Sullivan | Oshkosh, WI |
| Robert Tabbert | Lac Du Flambeau, WI |
| Dr. James C. Tibbetts | Sturgeon Bay, WI |
| Tim Van Volkingburg | Shorewood, WI |
| Rollie Vander Zyl | Mcfarland, WI |

- | | |
|---------------------------|----------------|
| Dick Wachowski | Eau Claire, WI |
| Don A. Wagner | Gillett, WI |
| John H. Wahlers | Berlin, WI |
| Bob Weber | Oregon, WI |
| Dave Westlake | Reeseville, WI |
| Ray J. White | Edmonds, WA |
| J. Nash Williams | Madison, WI |
| Christopher M. Willman | Green Bay, WI |
| Norb Wozniak | Juneau, WI |
| Henry J. Wurtzer Memorial | Amherst, WI |
| Chris Young | Wausau, WI |
| R. E. Zimmerman | Madison, WI |
- Wisconsin TU Chapters:**
- | | |
|------------------------|-------------------|
| Coulee Region | West Salem, WI |
| Frank Hornberg | Stevens Point, WI |
| Kiap-TU-Wish | Hudson, WI |
| Lakeshore | Sheboygan, WI |
| Oconto River | Suring, WI |
| Southeastern Wisconsin | Wauwatosa, WI |

Yes, I want to join the "Friends" of Wisconsin Trout Unlimited.
Enclosed is my check for \$100 or more.

MAIL TO: Friends of Wisconsin TU
John H. Cantwell
3725 Ken Ridge Ln.
Green Bay, WI 54313-8271

Name _____

Address _____

City, State Zip _____ Phone # _____