

October 31, 2020

Dear Department of Natural Resources Secretary Cole, Attorney General Kaul, Board of Commissioners of Public Lands Secretary German, County Executive David Crowley, and Lakefront Development Advisory Commission Chairperson William Lynch:

It has recently come to our attention that there are current development proposals on Public Trust lakebed areas of the Milwaukee waterfront that raise concerns about potentially improper commercial development on these Public Trust lands. It has also been expressed that current proposals raise social justice concerns since some of the areas affected are currently used by a broad spectrum of Milwaukee County and Wisconsin residents and that these proposals will potentially make these public resources less available to all users.

We urge you to investigate the concerns under your respective responsibilities related to these public resources. A number of us have extensive experience dealing with these issues generally, and Milwaukee lakebed development proposals specifically, as will be evident from the attached materials.

The current proposals that have been brought to our attention relate to the development and operation of the Bradford Beach Pavilion and the Roundhouse at McKinley Marina. We attach an article from *The Shepherd Express*, dated September 17, 2020, relating to the Bradford Beach development, and an article from the *Milwaukee BizTimes*, dated April 8, 2019, relating to the operation of the Roundhouse at the McKinley Marina.<sup>1</sup>

There has been a long history of proposed commercial developments of Public Trust Lakebed Grant lands in Milwaukee and elsewhere on Wisconsin lakebeds. Due to the significant value of these lakefront lands and their desirability for commercial development, it is not surprising that developers have sought, through time, to use these public lands for restaurants, bars, hotels, condominiums, and retail facilities.

The State of Wisconsin has historically been vigilant in assuring that the “public” nature of these lands is preserved so that the general public reaps the full benefits of these resources. We believe you are all generally aware of this history, and we will not belabor it here. We do provide, as background, letters relating to these issues on the Milwaukee waterfront from June 1996, relating to a number of commercial development proposals that were considered and reviewed in the 1990’s. We also attach an informal Attorney General’s Opinion, dated August 11, 1987, which specifically relates to the development of restaurant facilities on lakebed granted to Milwaukee County. Lastly, we attach internal documents from the Wisconsin Department of Natural Resources (DNR) relating to its review of these types of proposals around the State of Wisconsin.

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<sup>1</sup> Virginia Small, WILL BRADFORD BEACH'S PAVILION BE PRIVATIZED? (2020), <https://shepherdexpress.com/news/features/will-bradford-beachs-pavilion-be-privatized/> (last visited Oct 28, 2020); Andrew Weiland, Bartolotta to take over operations of restaurant at McKinley Marina BizTimes (2019), <https://biztimes.com/bartolotta-to-take-over-operations-of-restaurant-at-mckinley-marina/> (last visited Oct 28, 2020).

As you will note in the attached letter to then County Executive Ament from the DNR in June 1996, when Milwaukee County had before it a number of proposals for commercializing portions of the lakebed grant areas, the DNR, after conferring with the Attorney General's office, stated: **"We continue to object to the development of "destination" restaurants, bars or similar commercial facilities on lakebed or riverbeds around Wisconsin. These developments are clearly not consistent with the provisions of our Constitution. We have conferred with the Attorney General's office at great length concerning the issues above and they concur in our position relative to these types of developments in our public trust waters...."**<sup>2</sup>

The issues raised by the current development proposals are similar, and the law on these issues remains unchanged.

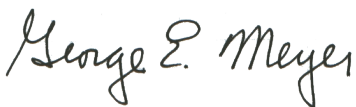
Historically, issues of social justice relating to proposed lakebed developments were not recognized as significant considerations, but we believe social justice considerations are very relevant to the protection and use of these public resources. For many years, beaches in Milwaukee were racially homogenous spaces. As the *Shepherd Express* article notes, "Bradford Beach became a racially integrated space within a mostly segregated Milwaukee." Professor Arijit Sen, quoted in the article, elaborates further, "This happened, in part, after the county closed nearly all the swimming pools that previously served Milwaukee's predominantly African American neighborhoods. The lakefront became the only place for many people to cool off in summer and enjoy water-based recreation." The Public Trust Doctrine protects the public's right to access the lakebed, and the waters of our state more generally. The public means all of us, and, therefore, principles of equity and inclusion should guide how Public Trust lands are used.

Thank you for your attention to these issues. As we indicated above, several members of our respective organizations have extensive history with these issues around the State of Wisconsin, and we would be happy to discuss this if you deem it necessary or useful. We would appreciate it if you could keep us apprised of your reviews of these issues and of any opportunities for public review or input.

Sincerely,



Fred Clark, Executive Director  
Wisconsin's Green Fire



George Meyer, Executive Director  
Wisconsin Wildlife Federation



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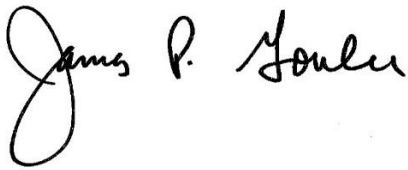
<sup>2</sup> Letter from DNR Secretary George Meyer to County Executive Thomas Ament, dated June 10, 1996, attached.



Tony Wilkin-Gibart, Executive Director  
Midwest Environmental Advocates



Brenda Coley, Kirsten Sheard, Co-Executive  
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Jim Goulee, President  
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