

BEFORE THE

DEPARTMENT OF NATURAL RESOURCES

Order re-establishing water levels)
of Clarks Lake, Towns of Sevastopol)
and Jacksonport, Door County, Wisconsin)

3-1M-91-368

FINDING OF FACT, CONCLUSIONS OF LAW, AND ORDER

Finding of Fact

1. Clarks Lake dam is located in Section 3, Township 28 North, Range 27 East, Town of Sevastopol, Door County.
2. The dam is owned, operated and maintained by the Town of Sevastopol.
3. The dam controls water levels on Clarks Lake.
4. The dam was built in 1937 by the WPA.
5. In docket 2-WP-703, dated November 13, 1947, the Wisconsin Public Service Commission, a predecessor agency of the Department of Natural Resources, issued an order establishing the following water level operation:

Maximum Level: 97.80 feet
Minimum Level 9 sill of dam): 95.01 feet
Maximum Level to be restored by May 15

6. All elevations refer to Department of Natural Resources Benchmark 818C which has an assumed elevation of 99.10 feet.
7. The purpose of the original order referred to in Finding of Fact number 5 was to establish maximum operating levels and provide winter drawdown both to prevent flooding and ice induced shoreline damage.
8. On September 16, 1982, the Department issued a temporary order re-establishing water levels on Clarks Lake. This order expired on September 16, 1988.
9. The temporary order minimized water level complaints, reduced the wide level of fluctuation of water levels and has benefitted the fishery population of Clarks Lake.
10. The Department of Natural Resources proposes to re-establish by order water levels on Clarks Lake as follows:
 - a. From May 15 to December 1, water levels would be maintained from 97.50 feet (minimum) to 98.00 feet (maximum).
 - b. From December 1 to December 15, the maximum level would be lowered to 97.50 feet. (This drawdown shall be done slowly. No more than 1 board is to be removed at a time.)
 - c. From December 15 to March 20, the maximum level would be 97.50 feet and the minimum 97.30 feet.
 - d. From March 20 to May 1, the minimum level may be lowered to 96.25 feet. (This draw down shall be done slowly so no more than 1 board is removed at a time.)
 - e. From May 1 to May 15, the level would be raised to the summer levels of 97.50 feet (minimum) to 98.00 feet (maximum).
 - f. The fish barrier shall be in place at all times.

11. As proposed, the change in water levels should have little impact on erosion and shoreline damage.
12. The proposal will not adversely impact wetlands as defined in Section NR 1.95(4)(c), Wisconsin Administrative Code.
13. The Department of Natural Resources has evaluated the proposal in light of the Wisconsin Environmental Policy Act (Section 1.11, Wisconsin Statutes) and has determined that the grant or denial of the order would not be a major state action significantly affecting the quality of the human environment.
14. The proposal will not adversely affect water quality nor will it increase water pollution in Clarks Lake nor will it cause environmental pollution as defined in Section 144.01(3), Wisconsin Statutes, if the conditions in the order are complied with.

Conclusions of Law

1. The Department has authority under Section 31.02, Wisconsin Statutes, and in accordance with the foregoing Finding of Fact to issue an order re-establishing water levels on Clarks Lake.
2. The Department has complied with Section 1.11, Wisconsin Statutes.
3. The proposal is in conformance with Section NR 1.95, Wisconsin Administrative Code.

Order

IT IS, THEREFORE, ORDERED THAT: the Town of Sevastopol operate the Clarks Lake Dam in accordance with levels as stated in Finding of Fact number 10.

If you believe that you have a right to challenge this decision, you should know that Wisconsin statutes and administrative rules establish a time period within which requests to review Department decisions must be filed.

For judicial review of a decision pursuant to sections 227.52 and 227.53, Stats., as renumbered by 1985 Wisconsin Act 182, you have 30 days after the decision is mailed, or otherwise served by the Department, to file your petition with the appropriate circuit court and serve the petition on the Department. Such a petition for judicial review shall name the Department of Natural Resources as the respondent.

This notice is provided pursuant to section 227.48(2), Stats., as renumbered by 1985 Wisconsin Act 182.

Dated at Green Bay, Wisconsin June 24, 1991

STATE OF WISCONSIN, DEPARTMENT OF NATURAL RESOURCES
For the Secretary
William Selbig, Director
Lake Michigan District

by Richard J. Koch
Richard J. Koch
Water Management Coordinator