

Public Rights in Milwaukee's Fresh Coast

Center for Water Policy - UW Milwaukee

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Wisconsin's Green Fire

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Introduction

- I have prepared a “narrative” that will be available online after these presentations.
- My intention in my “10 minutes” is to provide a brief overview of issues relating to lakebeds and riverbeds based on my experience working on these issues for almost 50 years (37 years at the Wisconsin Department of Natural Resources (WDNR))
- I am now retired and am Co-Chair of the Public Trust/Wetlands Working Group of Wisconsin’s Green Fire
- WI’s Green Fire want to assure that these public trust lands remain open to all the public

Public Trust Doctrine

- Emanates from the WI Constitution, Article IX, Section 1
- Sizable body of common law, which holds all navigable waters in trust by the state for the public
- State of Wisconsin has an affirmative duty to protect and preserve these public trust waters

“The legislature has no more authority to emancipate itself from the obligation resting upon it . . . to preserve for the benefit of all the people forever the enjoyment of the navigable waters within its boundaries, than it has to donate the school fund or the state capitol to a private purpose.”

**Priewe v. WI Land & Improvement Co.
(1899)**

State v. PSC, 1957



Photo credit: WDNR

- Public bodies must control
- Devoted to public trust purposes and open to the public
- Minimal area relative to waterway

State v. Trudeau, 1987

- Condominiums placed on the bed of Lake Superior at Madeline Island
- After years of litigation, they were removed after the Wisconsin Supreme Court found they were in violation

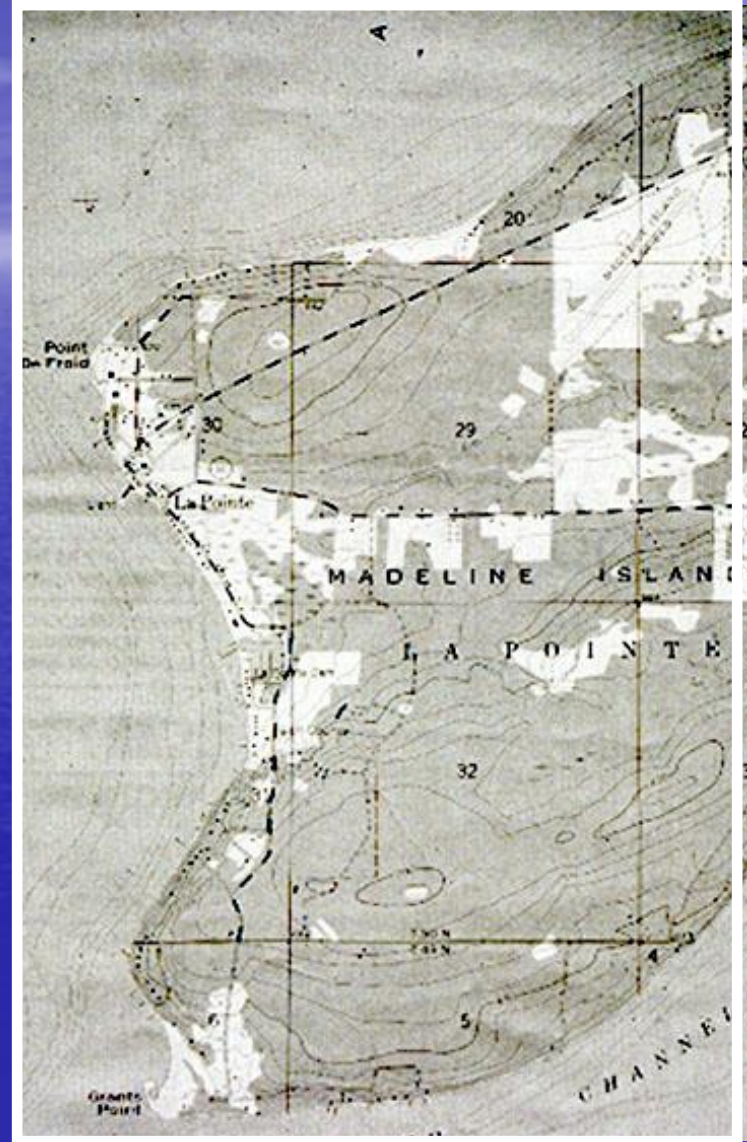


Photo credit: WDNR



Photo credit: WDNR



Photo credit: WDNR

Commercial and Residential Proposals on lakebed and riverbed- approximately 1 per month while at WDNR!

- Bayfield
- Superior
- Kenosha
- Racine
- Milwaukee
- Sheboygan
- Two Rivers
- Madison

Lakebed Grant Issues

- What is an acceptable public trust use?
- How do we assure the project is public and not commercial?
- Milwaukee developments
- Lakebed development proposals in Ashland, Kenosha, Sturgeon Bay, and, in last years Legislative session, Racine

Lakeshore State Park and Summerfest Grounds



Photo credit: Virginia Small

Milwaukee Art Museum



Photo credit: Michael Cain

Ashland Ore Dock- Proposal to put hotel and Condominiums in abandoned ore dock on the bed of Lake Superior



Photo credit: WDNR

Sturgeon Bay- condos “over” the bay

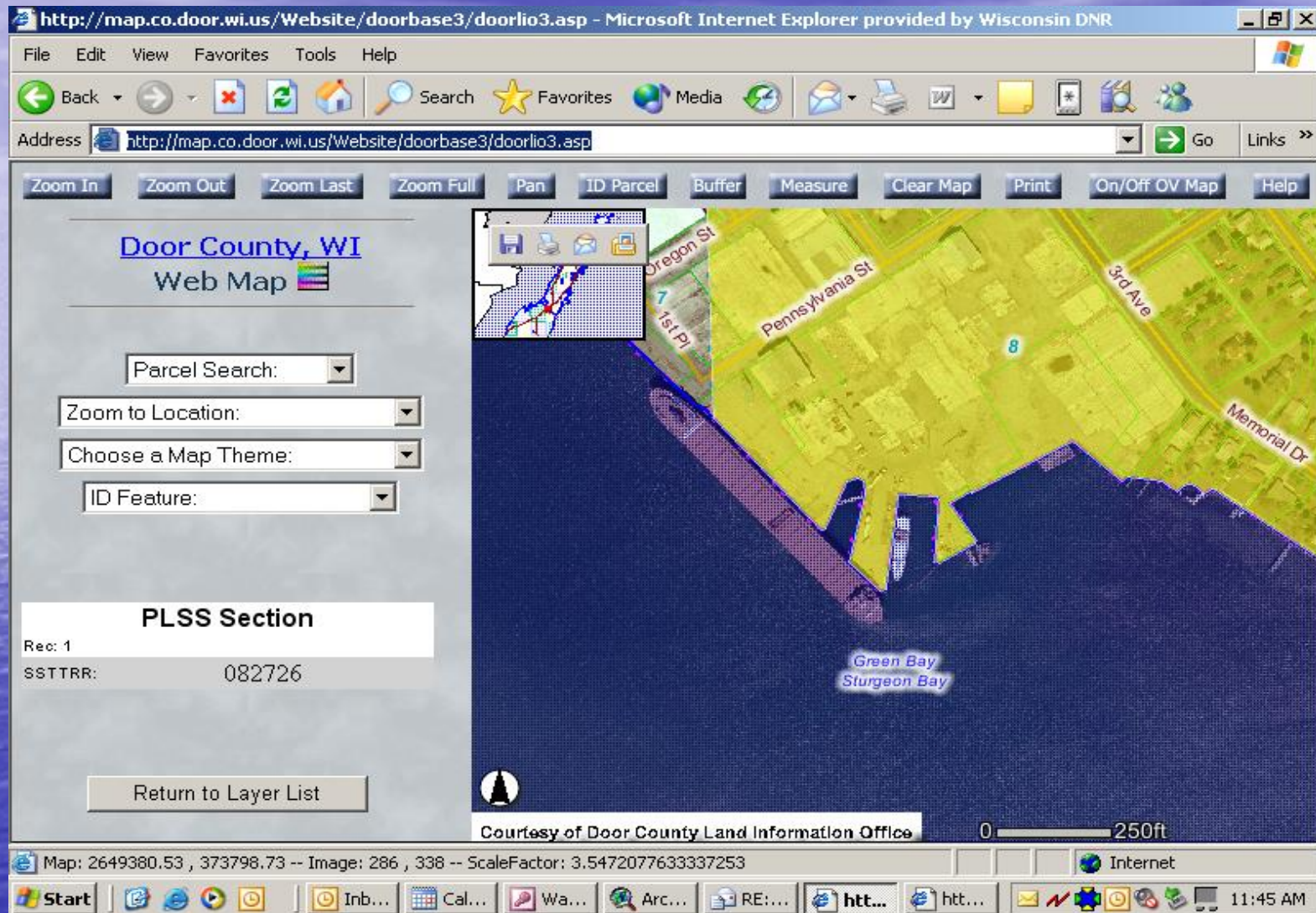


Photo credit: WDNR

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- Photo credit: WDNR

Key points

- There are limited mechanisms to allow public trust uses on lakebed
- No entity, including the Legislature, can authorize uses which abdicate the public trust
- Lakebed areas, even after they are filled, remain public lakebed, subject to the public trust doctrine
- Due to the high monetary value of these lands, there is always a desire to develop them commercially

See attached materials re: Milwaukee's lakefront and public trust uses-

- Pieces of Eight (now Harbor House)
- Bradford Beach
- Coast Guard Station
- Bradford Beach and South Shore Terrace
- Food service guidelines developed while at DNR

Riverbed issues

- Riverbeds are also protected public trust lands
- Milwaukee River and “Riverlink guidelines”- developed after City of Milwaukee proposed permanently moored restaurants, bars and other commercial venues on Milwaukee River
- As with lakebeds, these river shorelines are important public trust lands

What will the next 174 years bring?

- The issues are complex, with many competing interests
- As trustee, the State of Wisconsin, has a solemn responsibility to all the citizens of the state
- Citizens must be actively involved
- We all must keep these concepts in mind, and we must consider the “cumulative impacts” of our activities
- Based on almost 50 years working on these issues, it is clear these public trust lands could, without vigilance, be lost to the public for commercial or residential uses

Social Justice Issues-

Wisconsin's Green Fire recognizes that the preservation and uses of public trust lands and waters goes beyond traditional ecological concerns.

The need for open space, accessible to all citizens, has been shown to be critically important over the past two years.

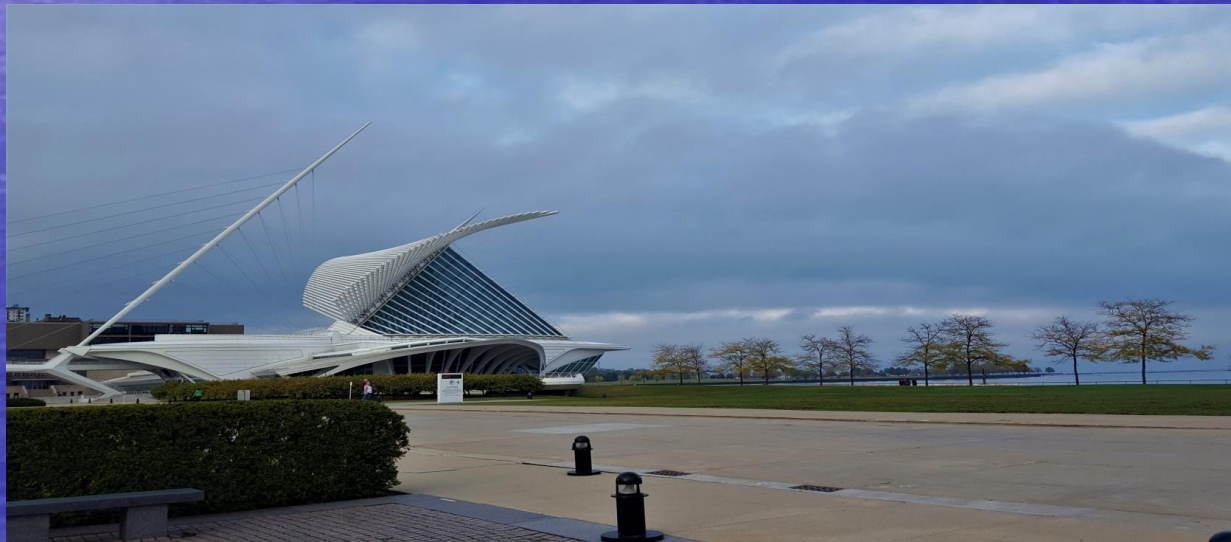


Photo credit: Michael Cain

Citizen Involvement

These issues will continue to be challenging. It is critical that citizens get involved and provide input into the important decisions that continue to be made relative to these public trust lands and amenities.

Thank you!



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