

MANITOWISH CHAIN DEFENSE FUND LLC
PO Box 283
Manitowish Waters, WI 54545

February 7, 2012

Senator Alberta Darling
Senator Thomas Tiffany
Secretary Cathy L. Stepp

Re: Potential Changes to the Rest Lake Dam Operating Order

Dear Friends,

On behalf of the Manitowish Chain Defense Fund and its constituents, I want to thank you for taking the time to meet with representatives of the Defense Fund at the State Capitol on February 7, 2013. We appreciate all the hard work you do for the citizens of Wisconsin.

When the Public Service Commission established the current operating order for the Rest Lake Dam nearly 75 years ago, it followed the Legislature's mandate to establish water level orders "*in the interest of public rights in navigable waters or to promote safety and protect life, health, and property.*" WIS. STAT. § 31.02(1). Last September, after spending 10 years and countless taxpayer dollars studying potential changes to the operating order, the DNR issued an Environmental Assessment suggesting that changes to the operating order should be considered. But, if you take the time to review the EA and the material the Defense Fund submitted in response to the EA,¹ you will see that the existing order has achieved a *near-perfect balance of the relevant concerns*:

- The EA recognizes that the Manitowish River is classified as an Outstanding Resource Water or Exceptional Resource Water both above and below the dam. This means the river and the Chain both provide outstanding recreational opportunities, support valuable fisheries and wildlife habitat, have good water quality, and are not significantly impacted by human activities. Thus, rather than demonstrate the system is in crisis, the EA shows that the river and Chain both exhibit the hallmarks of a healthy system.
- Although every dam creates artificial water levels and flows, all the evidence in the EA shows that because water levels on the Chain have been controlled so consistently for so long, they have become a new natural condition to which the environment has adapted

¹ Please see the enclosed:

- 1) Letter submitted by the Defense Fund in response to the DNR's EA, including expert reports submitted by the Defense Fund;
- 2) Letter submitted by the Chippewa & Flambeau Improvement Company in response to the EA; and
- 3) Letter submitted by James Cagney in response to the EA.

exceedingly well. There is no evidence that the current operation of the dam is causing any ongoing harm to any aspect of the environment.

- The existing order has also fostered vast economic prosperity. The Chain is the crown-jewel in the area's tourism-based economy, with an estimated \$12.2 Million contributed by tourists and an additional \$7 Million contributed by seasonal residents. Local development is also concentrated on the Chain, with nearly 1,400 private lake lots, 1 marina, 1 motel, 1 bed and breakfast, and 24 cabins and resorts, all with a combined assessed value exceeding \$418 Million.

These things did not happen overnight or by accident. Instead, they happened over generations, and they happened because the entire community adapted to the stable water levels on the Chain established by the PSC's order. If the EA proves anything, it proves that the existing order has been an unquestioned success in fostering decades of environmental and economic prosperity for the entire community.

The EA suggests the DNR is considering changes for the Rest Lake Dam that would have minimal impact on riparian property owners. As we explained during our meeting on February 7, however, nothing could be further from the truth. The Manitowish Chain is unique. No other chain has been managed to maintain such consistent water levels in the summer months. No other chain has had a 42-inch winter drawdown every year for the past 100-plus years. And, most importantly, since no other chain has had such a consistent drawdown, no other chain has been developed with so many permanent piers and shoreline protection structures on riparian properties. Because the Manitowish Chain is unique in these respects, the vast majority of riparian owners on the Chain are now being threatened with a double whammy by the DNR's proposed changes to the operating order. In the summer, the DNR's proposal would lead to lower water levels on the Chain, negatively impacting navigability for all. And, in the winter, the DNR's proposal to keep more water in the Chain would undoubtedly lead to millions of dollars in property damage to riparian structures, yet the EA is silent about that.

Although the DNR has the power to revisit the PSC's operating order, the DNR should not experiment with the order just because it feels like it. Instead, if the DNR wishes to modify the order today, it is required to follow the exact same mandate and protect the exact same interests that the PSC considered nearly 75 years ago. Because PSC's order has worked so well for so long, it is incumbent upon the DNR to explain why changes are necessary. Here, the EA comes nowhere close to doing this, and instead confirms what the people of Manitowish Waters have been telling the DNR for years: nothing is broken that needs to be fixed.

Our community waited more than 10 years for the DNR to issue the EA. Throughout that time, we faced incredible uncertainty about the negative impacts that any modification could have on our properties and the larger community. We were extraordinarily patient throughout the entire process. Now that the EA has been released, it is time for the DNR to acknowledge that the existing order is an unqualified success that should not be modified at all. The DNR should end this process by announcing that no changes to the order can be justified.

We understand the DNR may not drop this matter and may instead proceed to a public hearing in the coming months. As we emphasized on February 7, if the DNR does proceed to a public hearing, the DNR owes it to the public to schedule the meeting in June, July, or August, when all the affected property owners will be present and have the ability to be heard. To hold a public hearing before seasonal residents can return to the area would be to show a complete and total disregard for the people who will be most affected by any modifications to the operating order.

On behalf of the Manitowish Chain Defense Fund, our supporters, and the entire Manitowish Waters community, I thank you for your consideration and attention to this vital matter.

Very truly yours,

John McGraw
President
Manitowish Chain Defense Fund LLC