

FILED

01-18-2021

Door County

Clerk of Courts

2021CV000005

Honorable D. Todd Ehlers

Branch 1

STATE OF WISCONSIN

CIRCUIT COURT

DOOR COUNTY

FRIENDS OF THE FORESTVILLE DAM, INC.,  
a Wisconsin non-profit corporation,  
597 Sleepy Hollow Drive  
Sturgeon Bay, WI 54235,

Case No.:

ROSALIE & DAVID DITTMANN,  
595 Sleepy Hollow Drive  
Sturgeon Bay, WI 54235,

Case Codes:

Declaratory Judgment 30701

DENNIS HALVERSON,  
561 Sleepy Hollow Drive  
Sturgeon Bay, WI 54235,

Other Injunction or 30704  
Restraining Order

CHRISTINE REID & ROBERT SIJGERS,  
597 Sleepy Hollow Drive  
Sturgeon Bay, WI 54235,

PAUL & JEAN REIFENRATH,  
618 N. Forest Drive  
Forestville, WI 54213,

JERRI & BRIAN WITT,  
658 N. Forest Drive  
Forestville, WI 54213,

GENE & SANDRA ZIMMERMAN,  
704 N. Forest Drive  
Forestville, WI 54213,

FORESTVILLE ONE STOP, LLC,  
111 St Hwy 42  
Forestville, WI 54213,

HAASCH GUIDE SERVICE, INC.,  
E7169 Jackson Road  
Algoma, WI 54201,

DOUG & CHELSEA DAHMS,  
596 Sleepy Hollow Drive  
Sturgeon Bay, WI 54235,

JOHN & JILLIAN MCMAHON,  
632 Ichabod Lane  
Sturgeon Bay, WI 54235,

TERRY MCNULTY,  
300 E. Park Street  
Forestville, WI 54213,

and

COLLEEN MICHIELS,  
289 Old Substation Road  
Forestville, WI 54213,

Plaintiffs,

v.

DOOR COUNTY, WISCONSIN,  
421 Nebraska Street  
Sturgeon Bay, WI 54235,

Defendant.

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**SUMMONS**

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THE STATE OF WISCONSIN, To each person named above as a Defendant:

You are hereby notified that the Plaintiffs named above have filed a lawsuit or other legal action against you. The Complaint, which is attached, states the nature and basis of the legal action.

Within 45 days of receiving this Summons, you must respond with a written answer, as that term is used in Chapter 802 of the Wisconsin Statutes, to the Complaint. The Court may reject or disregard an answer that does not follow the requirements of the statutes. The answer must be sent or delivered to the Court, whose address is Door County Courthouse, 421 Nebraska Street, Sturgeon Bay, Wisconsin 54235, and to Plaintiffs' attorneys, whose address is Davis & Kuelthau, s.c., 318 South Washington Street, Suite 300, Green Bay, WI 54301, ATTN: Ted A. Warpinske,

Esq., M. Andrew Skwierawski, Esq, and Tiffany E. Woelfel, Esq. You may have an attorney help or represent you.

If you do not provide a proper answer within 45 days, the Court may grant judgment against you for the award of money or other legal action requested in the Complaint, and you may lose your right to object to anything that is or may be incorrect in the Complaint. A judgment may be enforced as provided by law. A judgment awarding money may become a lien against any real estate you own now or in the future, and may also be enforced by garnishment or seizure of property.

Dated this 18<sup>th</sup> day of January, 2021.

DAVIS & KUELTHAU, s.c.  
Attorneys for Plaintiffs

By: *Electronically signed by Ted A. Warpinska*  
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M. Andrew Skwierawski (SBN: 1063902)  
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TERRY MCNULTY,  
300 E. Park Street  
Forestville, WI 54213,

and

COLLEEN MICHIELS,  
289 Old Substation Road  
Forestville, WI 54213,

Plaintiffs,

v.

DOOR COUNTY, WISCONSIN,  
421 Nebraska Street  
Sturgeon Bay, WI 54235,

Defendant.

---

## COMPLAINT

---

Plaintiffs, by their attorneys, Davis & Kuelthau, s.c., allege as follows:

### NATURE OF THE CASE

1. This is an action relating to the Forestville Dam on the Ahnapee River located in Southern Door County. The dam has been in place for decades and has created an impoundment known as the Forestville Millpond.

2. Door County approved a two-year temporary drawdown of the Millpond beginning on November 1, 2019, ostensibly to address the presence of accumulated sediment that is causing low water depths and to restore a more diverse and abundant plant community from nuisance aquatic vegetation.

3. It was known that the temporary drawdown, which was opposed by Plaintiffs, would render the Millpond temporarily unusable for traditional recreational uses and would materially affect the rights of riparian property owners to access and use the Millpond.

4. The temporary drawdown has been a failure to date, due, in part, to Door County's failure to follow its own plan for conducting the drawdown. Continuation of the drawdown, even for the remainder of the approved two-year period, is unlikely to meet the stated purposes of the drawdown but will continue to impair the Plaintiffs' rights to the use and enjoyment of the Millpond and constitutes an ongoing nuisance.

5. Plaintiffs seek equitable relief requiring Door County to abate the nuisance by ceasing the temporary drawdown as well as declaratory relief that Door County is required to operate the Dam in a manner to maintain the historic water level of the Millpond at or around the weir of the dam, approximately 592 feet above mean sea level.

### **PARTIES**

6. Plaintiff Friends of the Forestville Dam, Inc., ("FOFD") is a Wisconsin non-profit corporation established by residents of Door County and Kewaunee County communities who support the continued use and enjoyment of the Ahnapee River both upstream and downstream of the Forestville Dam. FOFD members include individuals who own property along the flowage upstream of the Forestville Dam (the "Riparian Plaintiffs"), as well as individuals and businesses who use and enjoy the Ahnapee River (the "Non-Riparian Plaintiffs").

### **THE RIPARIAN PLAINTIFFS**

7. Plaintiffs Rosalie and David Dittmann (collectively the "Dittmanns") are wife and husband and are adult residents of the State of Wisconsin who own and reside at 595 Sleepy Hollow Drive, Sturgeon Bay, WI 54235.

8. Plaintiff Dennis Halverson (“Mr. Halverson”) is an adult resident of the State of Wisconsin who owns and resides at 561 Sleepy Hollow Drive, Sturgeon Bay, WI 54235.

9. Plaintiffs Christine Reid and Robert Sijgers (“Ms. Reid” and “Mr. Sijgers”) are wife and husband and are adult residents of the State of Wisconsin who own and reside at 597 Sleepy Hollow Drive, Sturgeon Bay, WI 54235.

10. Plaintiffs Paul and Jean Reifenrath (collectively the “Reifenraths”) are husband and wife and are adult residents of the State of Wisconsin who own and reside at 618 N. Forest Drive, Forestville, WI 54213.

11. Plaintiffs Jerri and Brian Witt (collectively the “Witts”) are wife and husband and are adult residents of the State of Wisconsin who own and reside at 658 N. Forest Drive, Forestville, WI 54213.

12. Plaintiffs Gene and Sandra Zimmerman (collectively the “Zimmermans”) are husband and wife and are adult residents of the State of Wisconsin who own and reside at 704 N. Forest Drive, Forestville, WI 54213.

#### **THE NON-RIPARIAN PLAINTIFFS**

13. Plaintiff Forestville One Stop, LLC, (“Forestville One Stop”) is a Wisconsin limited liability company, whose registered agent is Dustin May with a registered office located at N9005 Tamarack Rd., Casco, WI 54205.

14. Forestville One Stop is a Forestville business with ownership interest in the property located at 111 St Hwy 42, Forestville, WI 54213.

15. Forestville One Stop generates income by selling convenience store items to tourists and recreational visitors using the Ahnapee River, including but not limited to, those visiting the Millpond.

16. Plaintiff Haasch Guide Service, Inc., (“Haasch Guide”) is a Wisconsin corporation, whose registered agent is Lee A. Haasch with a registered office located at E7169 Jackson Rd., Algoma, WI 54201.

17. Haasch Guide is an Algoma business with ownership interest in the property located at E7169 Jackson Road Algoma, WI 54201. Additionally, Haasch Guide owns a docking facility located at 90 Shanty Rd., Algoma, WI 54201, which accommodates the docking of a 34' charter fishing vessel.

18. Haasch Guide generates income by offering recreational and sport fishing tours, including but not limited to, the Ahnapee River.

19. Plaintiffs Doug and Chelsea Dahms (collectively the “Dahms”) are husband and wife and are adult residents of the State of Wisconsin residing at 596 Sleepy Hollow Drive, Sturgeon Bay, WI 54235. The Dahms are recreational users of the Millpond and have an interest in their continued ability to access and use the Millpond for recreational purposes, including but not limited to fishing, boating, and/or observing wildlife.

20. Plaintiffs John and Jillian McMahon (collectively the “McMahons”) are husband and wife and adult residents of the State of Wisconsin residing at 632 Ichabod Lane, Sturgeon Bay, WI 54235. The McMahons are recreational users of the Millpond and have an interest in their continued ability to access and use the Millpond for recreational purposes, including but not limited to fishing, boating, and/or observing wildlife.

21. Plaintiff Terry McNulty (“Mr. McNulty”) is an adult resident of the State of Wisconsin residing at 300 E. Park Street, Forestville, WI 54213. Mr. McNulty is a recreational user of the Millpond and has an interest in his continued ability to access and use the Millpond for recreational purposes, including but not limited to fishing, boating, and/or observing wildlife.

22. Plaintiff Colleen Michiels (“Ms. Michiels”) is an adult resident of the State of Wisconsin residing at 289 Old Substation Road, Forestville, WI 54213. Ms. Michiels is a recreational user of the Millpond and has an interest in her continued ability to access and use the Millpond for recreational purposes, including but not limited to fishing, boating, and/or observing wildlife.

23. Defendant, Door County, Wisconsin, (“Door County”) is a Wisconsin county whose clerk is Jill M. Lau with an office located at Government Center, Lobby Level, Room A113, 421 Nebraska Street, Sturgeon Bay, WI 54235.

### **FACTUAL ALLEGATIONS**

24. Plaintiffs re-allege all of the allegations in this Complaint as if fully set forth herein.

25. The Forestville Dam and Millpond were created in or around 1877 and legalized by Wisconsin Act 103, March 7, 1885.

26. The original dam was used for milling and lasted until it was washed away by heavy rains in 1920. The original wood structure was rebuilt with a concrete structure in 1934.

27. The dam and surrounding property were sold to the Town of Forestville in 1949.

28. The town gave the dam and surrounding property to Door County in 1963.

29. On December 30, 1981, Door County filed an application with the Wisconsin Department of Natural Resources (“WDNR”) to reconstruct the dam. A true and correct copy of Door County’s permit application is attached as Exhibit A.

30. As a part of the permit, Door County represented that it had obtained flowage easements from “all affected property owners,” which allowed it to increase the water level for the new dam. A copy of one such easement is attached hereto as Exhibit B.

31. Upon information and belief, there are flowage easements affecting the properties owned by Riparian Plaintiffs: the Dittmanns, Halverson, Reid, Reifenraths, Sijgers, Witts, and Zimmersmans.

32. The WDNR issued the new dam permit to Door County on June 2, 1982 (the “1982 Permit”), and shortly thereafter Door County rebuilt the dam.

33. Since the reconstruction of the dam, the water level on the Millpond has been maintained at or about the level of the dam’s weir, approximately 592 feet above mean sea level, until November 1, 2019, when Door County undertook a temporary drawdown that is scheduled to last until October 31, 2021.

34. The temporary drawdown was intended to address accumulated sediment and to restore a more diverse and abundant plant community by a reduction in nuisance aquatic vegetation.

35. Plaintiffs, among others, opposed the drawdown out of concerns that it would materially affect their use and enjoyment of the Millpond, even temporarily, and also result in the unimpeded transfer of sediment downstream, thereby causing additional environmental harm.

36. Plaintiffs, among others, also opposed the temporary drawdown out of concerns that there was little chance it would be successful in actually meeting the stated goals.

37. Despite these concerns, on January 22, 2019, the Door County Board of Supervisors voted to approve Door County Resolution 2019-3, which accepted the Door County Soil & Water Conservation Department’s recommendation to drawdown the Forestville Millpond for a period of two years commencing on November 1, 2019.

38. When passing Resolution No. 2019-03, the Door County Board of Supervisors resolved that the “Door County Facilities and Parks Department, in collaboration with the [Door

County Soil & Water Conservation Department], will plan, direct, manage and oversee” the Drawdown Project.

39. Door County did ultimately put forth a “Forestville Millpond Drawdown Plan” (the “Plan”) with defined steps for the Drawdown Project. The Plan required the Door County Facilities and Parks Department to “implement sluice valve & safety preparations; commence drawdown November 1<sup>st</sup> at a rate not to exceed 3” per day; photograph and complete water level documentation daily until drawdown is complete; and monitor the sluice valve at least weekly.” Additionally, the Plan required the Soil & Water Conservation Department to visually monitor the discharge water with the beginning of the drawdown.

40. Despite creating a plan, Door County and its departments have failed to implement and follow even the minimal plan put forward to monitor and control the Drawdown Project. The Drawdown Project has not been conducted in a controlled manner, including, but not limited to, repeatedly exceeding the maximum drawdown rate of 3” per day and repeatedly allowing the Millpond to refill, such that the intended purpose of the drawdown is unlikely to be met within the two-year drawdown period.

41. While the Forestville Millpond Drawdown Plan requires Door County to perform documentation and monitoring of the dam site, there has been no monitoring of changes to the water quality, sediment levels, or chemical levels of the water upstream or downstream of the Forestville Dam.

42. The Drawdown Project, as implemented by Door County, has, however, resulted in the Plaintiffs’ loss of use and enjoyment of the Millpond, including the rights of the Riparian Plaintiffs to reasonably access the Millpond from their property. The uncontrolled nature of the Drawdown Project has, upon information and belief, also resulted in heavy sediment transfer down the Ahnapee River.

43. On May 15, 2020, the Plaintiffs sent Door County a Notice of Circumstances and Notice of Claim pursuant to Wis. Stat. § 893.80(1).

44. Door County did not respond to the Notice of Circumstances and by operation of Wis. Stat. § 893.80(1g) the Notice of Circumstances and Notice of Claim was disallowed as of September 12, 2020.

**FIRST CLAIM FOR RELIEF**  
**(Abatement of Nuisance)**

45. Plaintiffs re-allege all of the preceding paragraphs as if fully set forth herein.

46. Door County had and continues to have a ministerial duty to follow its own plan for conducting the temporary drawdown.

47. The stated purposes of the temporary drawdown will not be achieved by October 31, 2021, as a result of Door County's failure to follow its own plan for the temporary drawdown.

48. Door County's failure to follow its own plan has significantly harmed the Plaintiffs by unreasonably interfering with the Plaintiffs' use and enjoyment of the Millpond, including the Riparian Plaintiffs' rights to reasonably access the Millpond and Non-Riparian Plaintiffs' rights to use and enjoyment of the Millpond through public access.

49. The continuance of the drawdown during 2021 will result in further interference with the Plaintiffs' use and enjoyment of the Millpond and, for the Riparian Plaintiffs, it will unreasonably interfere with the use and enjoyment of their properties.

50. Door County has actual notice of the significant harm resulting from the temporary drawdown and is subject to a claim for equitable relief to abate the nuisance under Wis. Stat. § 844.01.

**SECOND CLAIM FOR RELIEF**  
**(Declaration of Water Level)**

51. Plaintiffs re-allege all of the allegations in this Complaint as if fully set forth herein.

52. An artificial water level has been maintained on the Millpond as a result of the impoundment created by the Forestville Dam.

53. The artificial water level has been maintained at or about the level of the weir of the dam, approximately 592 feet above mean sea level, since at least the issuance of the 1982 Permit.

54. The Riparian Plaintiffs have made investments in their property in reliance on the historic artificial water level.

55. There has also been public access to the Millpond since at least the issuance of the 1982 Permit and the non-Riparian Plaintiffs have an interest in the continued use and enjoyment of the Millpond at the historic artificial water level.

56. Defendant has lowered the water levels of the Millpond below the historic artificial levels causing harm to the Plaintiffs' use and enjoyment of the Millpond.

57. By operation of law under *Smith v. Youmans*, 96 Wis. 103 (1897), and by the language in the flowage easements of the Riparian Plaintiffs, the Defendant is required to maintain a minimal water level.

58. Based on the foregoing, Plaintiffs request a declaration that the minimum water level to be maintained by Defendant is at or around the weir of the dam, approximately 592 feet above mean sea level.

**THIRD CLAIM FOR RELIEF**  
**(Equitable Estoppel)**

59. Plaintiffs re-allege all of the allegations in this Complaint.

60. There is an actual and justiciable controversy between Plaintiffs and Defendant because Defendant has lowered the water level of the Millpond, interfering with the Riparian Plaintiffs' rights to have the water levels maintained.

61. Defendant has maintained substantially the same water levels of the Millpond Dam since at least 1963.

62. Plaintiffs have relied upon the water levels maintained by Door County and the advantages resulting from the flooding and submersion of their land as a valuable interest in their Property.

63. The maintenance of the water levels for so long a period has altered the stream such that the prescribed water level has now become the natural water level of the Millpond above the Dam and has vested public rights in these navigable waters.

64. As of the result of the Plaintiffs' reliance on the historic water levels, Door County is equitably estopped from substantially altering the water level maintained by the dam except for reasonable and temporary drawdowns to maintain the dam structure.

**WHEREFORE**, Plaintiffs respectfully request judgment as follows:

- A. For an injunction directing Door County to cease the temporary drawdown.
- B. For a declaration that Defendant is required to maintain a minimum water level at or around the weir of the dam, approximately 592 feet above mean sea level, or such other level as determined by this Court.
- C. For a declaration that Door County is estopped from permanently lowering the water level on the Millpond Dam below the historic levels at or around the weir of the dam, approximately 592 feet above mean sea level, or such other level as determined by this Court.
- D. For their costs, disbursements and fees provided by law; and
- E. For such other relief as the Court deems just and equitable.

Dated this 18<sup>th</sup> day of January, 2021.

DAVIS & KUELTHAU, s.c.  
Attorneys for Plaintiffs

By: *Electronically signed by Ted A. Warpinski*  
Ted A. Warpinski (SBN: 1018812)  
M. Andrew Skwierawski (SBN: 1063902)  
Tiffany E. Woelfel (SBN: 1093779)

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BEFORE THE  
DEPARTMENT OF NATURAL RESOURCES

Application of Door County for a )  
permit to maintain a dam on the )  
Ahnapee River, Town of Forestville,)  
Door County, Wisconsin )

3 LM-79-811

FINDINGS OF FACT, CONCLUSIONS OF LAW,  
PERMIT AND ORDER

1. Door County, Courthouse, Sturgeon Bay, Wisconsin 54235, completed filing an application with the Department on December 30, 1981, for a permit to maintain and operate an existing dam on the Ahnapee River, Town of Forestville, Door County, Wisconsin. The Department and the applicant have complied with all procedural requirements of Chapter 31, Wisconsin Statutes.
2. The Forestville Dam was first constructed in approximately 1877 under authority of Chapter 70 Laws of 1855 and was used for milling purposes.
3. The dam will be reconstructed after the permit has been issued. The dam will consist of a weir type concrete spillway with a crest elevation of 592.2 and 592.3 feet with a dike approximately 800 feet long and a top elevation of 595.3.
4. The applicant owns the following described property which encompasses the dam site:  
*Chippewa River*

The SW<sub>1/4</sub>, SW<sub>1/4</sub> of Section 29, Township 26 North, Range 25 East,  
Town of Forestville, Door County, Wisconsin.

5. Flowage easements have been obtained from all affected property owners by Door County for the increase in water levels above the ordinary high water mark.

-2-

6. The proposal will not adversely affect water quality nor will it increase water pollution in the above named waterway nor will it cause environmental pollution as defined in Section 144.01(3), Wisconsin Statutes, if the conditions in the permit are complied with.

7. The Department has evaluated the proposed project in light of the Wisconsin Environmental Policy Act (Section 1.11, Wisconsin Statutes) and has determined that the grant or denial of the permit would not be a major state action significantly affecting the quality of the human environment.

8. The proposal will not adversely impact wetland as defined in Section NR 1.95(4)(c), Wisconsin Administrative Code.

9. The applicant has supplied to the Department a copy of resolution No. 38-82 which has been determined to be sufficient proof of financial capability to repair, operate and maintain the Forestville dam for a reasonable period of time, not less than 10 years.

#### CONCLUSIONS OF LAW

1. The Department has authority under Sections 31.05, 31.06, 31.07, 31.11, 31.12, 31.13, Wisconsin Statutes, and in accordance with the foregoing findings of fact to issue a permit for the repair, operation and maintenance of this dam and to establish water levels for the flowage.

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.

-3-

PERMIT

AND THEREBY DOES ISSUE AND IS GRANTED to the applicant, Door County, a certificate evidencing the granting of a permit under Chapter 31, Wisconsin Statutes, to construct, operate and maintain the Forestville Dam in the SE one-quarter of the SW one-quarter of Section 29, Township 26 North, Range 25 East, Town of Forestville, Door County, Wisconsin, subject to the conditions in the order.

ORDER

IT IS THEREFORE ORDERED:

1. Not later than 30 days from the date hereof Door County shall advise the Department in writing of their acceptance of the permit and all the conditions specified herein.
2. The applicant shall install a benchmark, provided by the Department, on the dam as indicated in the approved plans.
3. Door County shall maintain the dam in good and sufficient condition at all times.
4. Door County shall rebuild or completely remove the dam in the event of failure or washout. The dam must be rebuilt to essentially the current configuration, subject to approval of the rebuilding plans by the Department.

-4-

5. The dam shall not be abandoned or ownership transferred without first obtaining a permit from the Department.
6. The applicant shall waive any objection to the free and unlimited inspection of the premises, site, or facility at any time by any employee of the Department for the purpose of investigating the repair, operation and maintenance of the project.
7. All appeal rights are outlined in attachment "A" which is made part of this order.

Dated at Green Bay, Wisconsin

June 2, 1982

STATE OF WISCONSIN-DEPARTMENT OF NATURAL RESOURCES  
For the Secretary  
Charles E. Higgs, Director  
Lake Michigan District

By

Ronald L. Fassbender  
Ronald L. Fassbender  
Water Management Coordinator

Subscribed and sworn to before me  
this 2<sup>nd</sup> day of JUNE, 1982

Robert L. Stein FEB. 16, 1986  
My commission expires

## ATTACHMENT "A"

Set out below is a list of alternative methods available to persons who may desire to obtain review of the attached decision. This notice is provided to insure compliance with Section 227.11(2), Stats., (Chapter 378, Laws of 1981) and sets out the rights of any part to this proceeding to petition for rehearing and administrative or judicial review of an adverse decision.

1. Any part to this proceeding adversely affected by the decision attached hereto has the right within ten (10) days after entry of the decision, to petition the Secretary of the Department of Natural Resources for review of the decision as provided by Wisconsin Administrative Code NR 2.20. A petition for review under this section is not a prerequisite for judicial review under Sections 227.15 and 227.16, Stats.

2. Any person aggrieved by the attached order may within twenty (20) days after service of such order or decision file with the Department of Natural Resources a written petition for rehearing pursuant to Section 227.12, Stats. A petition under this section is not a prerequisite for judicial review under Sections 227.15 and 227.16, Stats.

3. Any person aggrieved by the attached decision which adversely affects the substantial interests of such person by action or inaction, affirmative or negative in form is entitled to judicial review by filing a petition therefore in accordance with the provisions of Sections 227.15 and 227.16, Stats. Said petition must be filed within thirty (30) days after service of the agency decision sought to be reviewed. If a rehearing is requested as noted in paragraph (2) above, any party seeking judicial review shall serve and file a petition for review within thirty (30) days after service of the order disposing of the rehearing application or within thirty (30) days after final disposition by operation of law. Since the decision in the attached order is by law a decision of the Department of Natural Resources, any petition for judicial review shall name the Department of Natural Resources as the respondent. Persons desiring to file for judicial review are advised to closely examine all provisions of Sections 227.15 and 227.16, Stats., to insure strict compliance with all its requirements.

HT RIP RAP ROCK).

(CRUSHED STONE).

ATIVE CLAY SOIL)

URED (GRAVEL BACKFILL)

(SEEDED AS / SPEC'S)

K, AND DELETERIOUS SOIL  
OF NATIVE CLAY SOIL. REPLACE  
A SOIL CLASS D-2 COMPACTED  
PROCTOR MAXIMUM DRY DENSITY.

State of Wisconsin Department of Natural Resources

Applicant DOOR COUNTY

Body of Water AHNAPEE RIVER

Location SE 1/4 SWK SEC 29 T26N R15E

Date of Plans 12/30/81

Plan Distinction FORESTVILLE DAM

Examined And Found Satisfactory  
In Accordance With Section

31.12, Wis. Statutes

By Kenneth S. Johnson PE 4/16/82  
Engineer Date

Recommended For Approval  
By Ronald J. Muller PE 4-16-82  
Section Chief Date

Approved By The State Of Wisconsin  
Department of Natural Resources

For The Secretary Realtor Johnson 4-19-82  
By Realtor Johnson Bureau Director Date

File No. 3-LM-79-811

APR 12 1982

3-LM-79-811

I & VAN DYKE Associates, Inc. Engineering 2737 S. RIDGE ROAD WI, WISCONSIN 54303 (414) 497-2500	RECORD			MISCELLANEOUS DETAILS				
	CONST.							
	BIDDING							
	AGENCY REVIEW							
	DRAFTING			DRAWN BY	E.P.Y.	SCALE	AS SHOWN	DRAWING NO.
	RELEASES	DATE	BY	BOOK NO.		JOB NO.	DC 8101	6

## RESOLUTION NO.

## TO THE DOOR COUNTY BOARD OF SUPERVISORS:

1 WHEREAS, Resolution 38-82, transferring funds to allow completion of the  
2 Forestville Dam reconstruction project, was approved on May 20, 1982, and  
3

4 WHEREAS, it is desirable and in the best interest of the County, that  
5 the County of Door, by its Parks and Highway Departments, do a part of the  
6 construction work for the Forestville Dam project. to wit: The spillway work  
7 be awarded to the appropriate bidder and all other work be done by the Parks  
8 and Highway Departments.  
9

10  
11  
12 NOW, THEREFORE, BE IT RESOLVED, that the Door County Board of Supervisors,  
13 pursuant to statute 59.08(1), approves of the County of Door, through its  
14 Parks and Highway Departments, performing the construction described above.  
15  
16

17 submitted by:  
18  
19  
20 AIRPORT & PARKS COMMITTEE  
21  
22  
23  
24 Robert Nelson  
25  
26  
27  
28 William Overbeck  
29  
30  
31  
32 Fred Wickman

BOARD MEMBERS	AYE	NAYE	ABS
ANSCHUTZ			
AUSTAD			
BAUDHUIN			
BOGENSCHUTZ			
CONLON			
HERLACHE			
JOHNSON			
MADDEN			
MALZAHN JR			
MCCORMICK			
MILLARD			

DOCUMENT NO.

426534

VOL 343 PAGE 832

THIS INDENTURE, Made by Robert J. Schmelzer and  
Gloria J. Schmelzer, his wife grantor,  
of Door County, Wisconsin, hereby quit-claims to  
----- County of Door -----  
grantee, of Door County, Wisconsin, for the sum of  
----- One (\$1.00) and No/100 ----- Dollars,

the following tract of land in Door County, State of Wisconsin:

A perpetual easement over the following described tract of land for the purpose of granting the right to flood, inundate and cause the flooding of waters over such tract of land as the result of the reconstruction, and ensuing operation and maintenance of the dam located at the Forestville Dam County Park by the grantee and the raising of water levels by said grantee at the said park.

This easement pertains only to that area of the following described property that lies below the 596 foot elevation (the datum is mean sea level as determined by the United States Department of the Interior Geologic Survey):

The Southwest Quarter (SW<sub>1/4</sub>) of the Southwest Quarter (SW<sub>1/4</sub>) of Section Twenty-nine (29); the West One-Half (W<sub>1/2</sub>) of the Northwest Quarter (NW<sub>1/4</sub>) of the Southwest Quarter (SW<sub>1/4</sub>), being the Twenty (20) acres lying West of a line drawn from the Southeast corner to the Northwest corner of said forty (40) of Section Twenty-nine (29), Township Twenty-six (26) North of Range Twenty-five (25) East.

EXEMPT 77.25 (2)

(IF NECESSARY, CONTINUE DESCRIPTION ON REVERSE SIDE)

In Witness Whereof, the said grantors have hereunto set their hands and seals thisday of May 23, A. D., 1979

SIGNED AND SEALED IN PRESENCE OF

Tammy SchmelzerRobert J. Schmelzer (SEAL)Gloria J. Schmelzer (SEAL)Gloria J. Schmelzer (SEAL)Gloria J. Schmelzer (SEAL)Gloria J. Schmelzer (SEAL)

State of Wisconsin,

Door

County, } ss.

Personally came before me, this 23 day of May,  
A. D., 1979, the within named, Robert J. Schmelzer and Gloria J. Schmelzer, his wifeto me known to be the persons who executed the foregoing instrument and acknowledged the same.

THIS INSTRUMENT WAS DRAFTED BY

Attorney James C. Pankratz



(Section 59.51 (1) of the Wisconsin Statutes provides that instruments to be recorded shall have plainly printed or typewritten thereon the names of the grantors, grantees, witness and notary public. Section 59.513 similarly requires that the name of the person who, or governmental agency which, drafted such instrument, be plainly printed or typewritten, stamped or written thereon in a visible place.)

Form No. 13

QUIT CLAIM DEED  
STATE OF WISCONSIN - FORM 13  
THIS SPACE RESERVED FOR RECORDING DATA  
426534  
RECORDED  
Time..... 8:30 a.m.  
OCT 20 1981  
Dorella Meyer  
REGISTER OF DEEDS  
DOOR COUNTY, WIS.  
by: Tract Indexed  
RETURN TO  
no fee

EXHIBIT B