

Responses to Eagle Springs Lake Water Level Order EA Comments

The Department considered approximately 200 public comments received at a public information meeting at Old World Wisconsin held on September 10, 2009, and during the Environmental Assessment (hereafter EA) public-comment period, August 31, 2009 to October 13, 2009.

Department staff compiled questions or statements from the written and verbal comments and they are summarized below. Public comments that expressed a personal opinion without addressing the draft EA, were read and acknowledged, but are not included in the summary. Department staff responded to each of the questions or statements. The questions and statements covered in the following summary section are representative of the major concerns and issues that the public believed needed to be addressed in the EA. All comments are available for review by appointment at the DNR Waukesha Office located at 141 NW Barstow St., Room 180.

The EA has been modified to reflect the public comments as discussed below. The revised EA is available for review on our website (<http://dnr.wi.gov/org/water/wm/dsfm/flood/eaglespringlakeea/>) or by appointment at the DNR Waukesha Office located at 141 NW Barstow St., Room 180. Please contact Michelle Schneider at (262)574-2127 or at michelle.schneider@wisconsin.gov to set up an appointment to review the comments and/or the EA.

We appreciate the time, effort, and careful thought on the part of those who commented and provided input that was valuable in producing the EA. A news release will inform people how to get a copy of the revised EA from the Department's web site.

Summary of Public Comments

Comment 1: The discrepancy between the water level order and the current operation of the dam is due to survey error or from reconstruction of the dam and replacement the staff gage. The EA does not adequately address the historical data of the lake level. Who determines the permanent level of the lake? Why is this discussion taking place at this time?

Response: As stated in Section 2 of the EA, the Department has historical water level and designed maximum levels from approved dam plans. Additional documentation regarding the 1966 reconstruction of the dam has been added to this section to provide further support that the water level order and current operation are not consistent. The Department reviewed all available data and determined that the current water level is not in compliance with the existing order. The DNR has regulatory authority to establish

ordered minimum and maximum lake levels on navigable waters impounded by dams (Chapter 31.02, State Statutes).

Comment 2: The DRAFT EA that was written by SEWRPC was much longer and more scientific. Why did the WDNR rewrite and change the EA?

Response: The WDNR EA was written to comply with WEPA (Wisconsin Environmental Policy Act), the state's environmental policy that requires state agencies to consider environmental effects of permitted actions to the extent possible under WDNR statutory authority. In this case, that authority is outlined in section 13 of the EA. The EA is a WDNR document, written to be understood by all members of the public.

Comment 3: An Environmental Impact Statement (EIS) is needed.

Response: EAs are similar to EISs in both content and process. The primary difference is that an EIS includes an administrative hearing. An EIS is not required for a change in the ordered water level of Eagle Springs Lake and if prepared would likely add little new information or additional value.

Comment 4: The EA does not adequately explain the need for easements from riparian owners if the water level is to remain as it is today.

Response: As stated in sections 15 and 17 of the EA, a new water level order would require flowage easements or court-determined prescriptive rights for the land flooded above the 1954 PSC order. These legal proceedings allow land to be legally flooded permanently.

Comment 5: At the public information meeting, WDNR stated that the preliminary determination is to leave the lake level as it is. What will solidify or change that decision? When will the final decision be made?

Response: In compliance with WEPA the EA is an informational document that discloses impacts and discusses alternatives. The final decision will be made on technical analysis of all data available and will be based on the standards required in Chapter 31, State Statutes. The final decision will be made available shortly after final approval of the EA document and will be a legal decision document with appeal rights. A Citizens Guide to the Role of the Wisconsin Environmental Policy Act in DNR Decision-making is available at <http://dnr.wi.gov/org/es/science/eis> to help explain the role of the EA in the decision process.

Comment 6: The Wambold Dam has withstood a number of high lake levels due to regional flooding; can't it be assumed that it can handle the present lake levels and future regional changes?

Response: As stated in section 6, officially raising water levels would also require the dam to be certified by a Wisconsin-licensed Professional Engineer to ensure that no structural changes to the Wambold Dam or its appurtenant structures are required and that the dam can safely handle the higher water level. This is set forth in Chapter 31 of Wisconsin Statutes.

Comment 7: The EA is not written to look at the impacts of lowering the water level on our lake.

Response: As stated in section 1 of the EA, the EA was written to address the impacts of the *increased* water because the impacts of maintaining the higher water level have not been previously assessed. However, the EA does address both impacts from increased water level order and maintain water level order. These sections can be found under Environmental Consequences (sections 15-19) and are broken down to address both lowering the level to maintain the water level order and allowing the current water level through a new water level order.

Comment 8: The EA does not adequately analyze potential impacts to groundwater and wetlands if the lake level was lowered.

Response: Section 12 discusses the existing wetlands and groundwater surrounding the lake. The impacts to these systems of both current water level and lowering the water level are discussed in sections 16 and 20.

Comment 9: The area surrounding Eagle Spring Lake including Lulu Lake and the Mukwonago River are valuable habitat that support threatened and endangered resources. The impacts to these resources have not been fully explored in the EA.

Response: The EA discusses these issues in section 12, 14, 18, and 21.

Comment 10: The EA does not adequately address the impact that a lowered lake level would have on the fish population, specifically, winter fish kill, fish quality and invasive species.

Response: The EA discusses the existing fish community in section 12 under FISH and impacts to the fish community in section 16. Section 16 discusses the impacts of both increased water level order and maintained water level order. Additional information regarding winterkill has been added to section 16.

Comment 11: The EA does not adequately address the economic impacts of a lowered water level (i.e., compliance with the existing water level order), i.e., extensions to piers, lowered property values.

Response: The EA addresses economic impacts in section 17 b.

Comment 12: The EA does not adequately address the potential for invasive aquatic and terrestrial plant species due to the decreased depth of the lake if the water level order was enforced.

Response: The potential for invasive species are addressed in section 16 under maintain water level order. The existing invasive species present in Eagle Spring Lake are discussed in section 12.

Comment 13: The EA references other lakes in which the water levels have been manipulated. Why wasn't there more specific information given on those lakes?

Response: The EA addresses this specifically in Section 20c and the significance of precedent in section 23. The WDNR wrote the EA using all available data, professional experience and knowledge of lake ecology. The EA explains that each lake water level order is assessed on a case by case basis.

Comment 14: The EA does not adequately address the increased traffic impacts as a result of less surface water area due to a lowered water level (i.e., compliance with the existing water level order) – turbid water, damage to boats, decreased navigability, safety of boaters and swimmers.

Response: The EA addresses recreational impacts to the lake in sections 13b and 17b. Potential impacts to the lake regarding turbidity are discussed in sections 15 and 17. Additional information has been added to the EA in section 20 and 17b to discuss the effects of changing water level on boating.