

Recommendations

November 28, 2007

Background:

The Minnesota Department of Natural Resources (DNR) convened the Docks Advisory Committee (DAC) in November, 2007 to make recommendations to the Department on the re-issue of a General Permit (GP) for residential platform docks, which are defined for purposes of this permit as structures greater than eight (8) feet in more than one dimension. The group met three times: November 1, 8, and 15 (See “Appendix” sections for meeting minutes). The meetings culminated in the following recommendations to the Department.

DAC Participants:

The following participated in the DAC meetings.

Ed Carlson	DH Docks
Steve Enger	DNR Ecological Resources
John Forney	Whitefish Area Property Owners Association
Patty Gould-St Aubin	Owner/Broker, Itasca Realty
Judd Harper	Lake Minnetonka Conservation District
Gene Holderness	Shoreland Property Owner
Tom Hovey	DNR Waters
Gary Johnson	ShoreMaster
Lt Tim Knellwolf	DNR Enforcement
Roger Landers	Norlake Dock Service
Ron Meyer	Whitefish Area Property Owners Association (alt)
Merilee Meyers	Beltrami County Lakes and Rivers Association
Jim Moe	Shoreland Property Owner (alt)
Jason Moeckel	DNR Fisheries
Rick Pelletier	Minnesota Federation of Bass Anglers
Dana Pitt	Congress of Minnesota Resorts / Bailey's Resort
Dann Siems	Beltrami SWCD
Russ Sparby	ShoreMaster (alt)
Henry VanOffelen	Minnesota Center for Environmental Advocacy
Felicia Barnes	Facilitator/Logistics
Erika Rivers	Facilitator

Scope of Recommendation:

Most members of the DAC expressed *significant* reservations about the wisdom of re-issuing another GP for dock platforms, feeling that doing so might be considered an after-the-fact variance for platform docks (or, “a reward for bad behavior”). Therefore, the following recommendations should not, in any way, be considered a DAC

endorsement of a GP for platform docks, but merely recommendations if the Department decides to pursue this course of action (See “Other Considerations” section below). It was noted that the original 2007 GP was issued without a 30-day review, and there was no specific need shown for dock platforms.

Many of the DAC members are concerned that a recommendation of this committee to issue any sort of General Permit for platform docks will make them complicit in the degradation of aquatic habitat, the further destruction of the natural shoreline character, and the erosion of the “public” nature of Minnesota waters. Some DAC members, on the other hand, feel that a dock platform is a reasonable use of public waters by riparian owners, as long as rules are reviewed and revised in the near future.

**Areas of Group
Consensus:**

The DAC reached informed consent on the following points. Informed consent was defined as the vast majority of committee members concurring, with the remaining members able to accept the decision. Differences of opinion are noted in the “Other Considerations” section below.

New statewide dock Rules are needed. There is broad consensus that the current dock rules are inadequate. The group strongly recommends that the DNR engage in a formal rulemaking process for docks and associated over-the-water structures so statewide rules are clear and enforceable. The DAC recommends that the Department request the appropriations needed to engage in rulemaking as soon as possible, and that the DNR complete this process by Fall, 2009 so implementation can occur in Spring, 2010.

Any General Permit (GP) issued should act only as a bridge to new rules. The DAC strongly recommends that the new General Permit expire upon completion of the formal rulemaking process, no later than Spring, 2010. The group feels strongly that another five-year permit will only prolong resolution of the platform dock issue.

More information about docks, their associated structures and their cumulative impacts is desired. To protect Minnesota water resources, resolution of the dock platform issue is being made without *complete* information. The DAC strongly encourages the DNR to support research on 1) current dock sizes, configurations, and rules throughout Minnesota and surrounding states and 2) the long-term cumulative impacts from docks on aquatic and shoreland resources and public access.

The DNR needs to do a better job of informing the public and dock manufacturers/installers about dock rules. The DAC strongly believes that DNR must do a much better job informing Minnesota citizens about the responsibilities and privileges of riparian property owners. In particular, specific restrictions on dock and platform sizes need to be explicit and unambiguous. In addition to a comprehensive communications plan for the public, the DAC recommends that the DNR collaborate with the dock industry to distribute point-of-sale communications tools for dock retailers and installers (e.g., posters, rules brochures).

The DNR needs a clear, consistent, and well-communicated enforcement policy for docks, as strong concerns exist about consistency and fairness. The DAC strongly recommends that the DNR address the following enforcement-related concerns about platform docks:

- Redirection of CO time toward dock enforcement may impact the Department's current enforcement priorities;
- The amount of conservation officer (CO) time per dock violation when the owner is not immediately available;
- Enforcement lacks funding for additional duties (See "Other Recommendations," for fee-based permit recommendation);
- The number of COs statewide is inadequate to handle the increasing demands for protection of our public waters; and
- The DNR should consider streamlining dock regulation enforcement through legislation that would allow civil citations to include on-the-spot restoration orders for non-compliance.

GP language should clearly define a dock platform. The DAC recommends that the definition be "any structure protruding from the main waterward walkway, which exceeds eight (8) feet in more than one dimension." The DAC further recommends that the dimensional limit for a dock platform be articulated *separately from* the area of the adjacent walkway, whether that walkway is positioned in the center or to the side of the platform. (This is a change from the previous platform GP, which differentiated total dimension measurements between a "T" and an "L." The 170-square-foot dimension *excluded* the walkway in the "L" configuration; but *included* the walkway in the "T" configuration.)

A GP should establish a length limit as a condition of the permit. The DAC strongly recommends that a GP have language in it that limits the "terminal end of a dock to four (4) feet in water depth, or sufficient length to moor a watercraft."

A GP should limit the width of the dock walkway as a condition of the permit. If a platform is permitted by GP, the DAC strongly recommends that the walkway extending to the defined platform should be no more than six (6) feet wide, which is ADA compliant.

GP language should clearly state that permanent, rock-crib platform structures will not be allowed under a GP.

As is the case with the previous GP, any new GP issued should apply to residential docks only. Commercial docks are a separate issue and already regulated through the shoreland and marina rules.

Proposed GP Components:

The DAC recommends the following components be part of any GP issued for dock platforms.

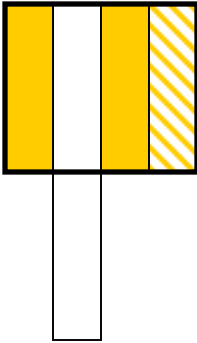
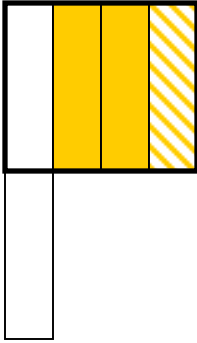
Consensus Components.

- The GP will only apply to owners of a single dock platform as of January 1, 2008. These platforms must be registered with the DNR on or before June 30, 2008.
- The GP should not be read as a guarantee that new dock rules will allow for such platforms in the future.
- The walkway to the platform shall not exceed six (6) feet in width and may extend lengthwise to a water depth of four (4) feet, or sufficient depth to moor a watercraft.

Split Opinion.

The DAC ultimately considered four alternatives for square footage: 100 ft², 120 ft², 170 ft², 400-500 ft². The strengths and weaknesses of each were discussed, and ultimately voting on each of the dimensions resulted in two clusters of opinion: 120 ft² or 170 ft².

The following table illustrates the differences, in total square footage, for each of the proposed dimensions. The proposed dimensions would *exclude* the walkway dimension in *both* a “T” and an “L” configuration (white dock sections, in the graphic below). Note that the previous GP for platforms capped the total square footage of the platform at 170 ft² (*including* the walkway portion in a “T” configuration), making the 170 ft² option described below a liberalization of the previous GP.

Proposed Dimension	Total Square Footage Over the Water	
	120 ft ² <i>(above and beyond walkway)</i>	170 ft ² <i>(above and beyond walkway)</i>
T Configuration (5x10 sections shown)  <i>Solid yellow represents 120 ft² proposal; cross hatch, 170 ft².</i>	Max platform, with... 4x12 walkway: 168 ft² 5x12 walkway: 180 ft² *6x12 walkway: 192 ft² Allows: <ul style="list-style-type: none"> ○ One 5x12 section on each side; –or– ○ One 4x12 section on each side. 	Max platform, with... 4x12 walkway: 218 ft² 5x12 walkway: 230 ft² *6x12 walkway: 242 ft² Allows: <ul style="list-style-type: none"> ○ One 5x12 section on each side; –or– ○ One 5x10 section on one side plus two 5x10 sections on the other side; –or– ○ Two 4x10 sections on each side; –or– ○ One 4x12 section on one side plus two 4x12 sections on the other side.
L Configuration (5x10 sections shown)  <i>Solid yellow represents 120 ft² proposal; cross hatch, 170 ft².</i>	Max platform, with... 4x12 walkway: 168 ft² 5x12 walkway: 180 ft² *6x12 walkway: 192 ft² Allows: <ul style="list-style-type: none"> ○ Two 5x12 sections on a side; –or– ○ Two 4x12 sections on a side. 	Max platform, with... 4x12 walkway: 218 ft² 5x12 walkway: 230 ft² *6x12 walkway: 242 ft² Allows: <ul style="list-style-type: none"> ○ Two 5x12 sections on a side; –or– ○ Three 5x10 sections on a side; –or– ○ Three 4x12 sections on a side; –or– ○ Four 4x10 sections on a side.
* Note that 6x12 is a non-standard dock section dimension, but is presented to illustrate what would be allowable to meet ADA standards (6 feet wide).		

Because a consensus on the allowable size of platforms could not be reached, the DAC submits the following summary of the strengths and weaknesses identified for each dimension the DAC discussed and the number of votes for each option.

100 Square Feet (0 votes).

Strengths	Weaknesses
○ Includes two “typical” dock sections (5x10 ft)	○ Change to GP must be communicated.
	○ More non-compliance will result than with previous GP

120 Square Feet (9 votes).

Strengths	Weaknesses
○ Includes two “larger” standard dock sections (5x12 ft)	○ Change to GP must be communicated
○ Also allows wiggle room for two “non-standard” sections	

170 Square Feet (7 votes).

Strengths	Weaknesses
○ General public is already aware of the dimension from previous GP	○ Demonstrated “need” is not clear
○ Allows for a majority of the oversized dock platforms already out on Minnesota lakes	○ <i>Current</i> practice does not necessarily mean <i>sound</i> practice
○ Dimension suitable to accommodate most industry standard docks, as well as many “non-standard”	

400-500 Square Feet (0 votes).

Strengths	Weaknesses
○ Suitable to accommodate large gatherings over public waters	○ “Need” and “reasonableness” could not be demonstrated
	○ Does not meet the minimum impact standard set by current rules
	○ Detracts from natural character of lakes
	○ Creates clear public safety hazard

**Other
Considerations:**

The DNR should not issue another General Permit. Many DAC members feel that issuing the current General Permit was a mistake (and perhaps even illegal) since it allows activities clearly contrary to the intent and purpose of existing rules. Further, some also feel that extending such a General Permit for three to five more years is “an abdication of the DNR's statutory obligation to protect public waters and public access to those waters.” A suggested alternative to issuing a new GP would be for the Commissioner to impose a one- to two-year moratorium on enforcement of existing dock rules (thus formalizing what has effectively been a decades long *de facto* policy) until new, more comprehensive dock rules can be promulgated. During the period of the moratorium, the DNR would place high priority on 1) an information and education campaign to inform the public about dock rules and public/riparian rights to public waters and 2) gathering more information about current dock structures and impacts to shoreline and aquatic resources.

The General Permit and Rules should take the amount of shoreline frontage owned into consideration. If the DNR is truly concerned about minimum cumulative impacts, some DAC members feel that dock dimensions should correspond to the amount of shoreline frontage owned, thereby limiting the density of dockage over public waters. Others pointed out that allowing larger docks on larger properties still results in more impact than would standard docks on those same properties.

Accessory over-the-water structures also need consideration. Many DAC members feel that Rules should also address the total “footprint” over public waters allowed by an individual riparian property owner. Accessory structures, as well as total square footage of dockage, would be considered part of that footprint. Some members suggested that total square footage limits ought to correspond to lake class. The DAC decided that this proposal would be better considered in the rulemaking process, rather than in a GP for platforms.

A GP alternative also heavily considered by the group was placing a square footage limit on all lateral appendages of the primary waterward dock walkway. In this scenario, all portions of dock lateral to the main waterward walkway (perpendicular to shore) would not exceed a specified square footage set by the DNR (suggested square footages in this scenario were 120, 160, and 200). Again, the main walkway would be limited to a width of 6 ft.; the length would be limited to a water depth of four (4) feet, or sufficient depth to moor a watercraft; and none of the additional non-walkway square footage would be allowed beyond the terminus point of the walkway.

Some DAC members also felt that dockage and associated structures ought to be limited to a linear footage or percentage of shoreline frontage. The proposal was to limit the dockage and accessory structures to 25 feet alongshore, or half of the owner's frontage, whichever is less. The DAC decided that this proposal would be better considered in the rulemaking process, rather than in a GP for platforms.

Some DAC members expressed concern that the four-foot depth limit for docks might pose a safety risk for swimming and diving. Others felt that the DNR obligation is only to make allowance for swimming, and not necessarily accommodate diving from dock structures, as such activity is adequately provided for with permitted floating raft structures.

There was strong support in the DAC for the DNR to pursue a fee-based permit system for docks in the rulemaking process. A fee-based permit would add some additional accountability for the Department as to what kinds of private property is located within and over public waters. The DAC recommends that permit fees be used to fund research, enforcement, education and habitat restoration associated with docks and accessory structures.

The DAC supports a real estate disclosure for compliant dock systems. If a dock structure is part of a real estate transaction, the compliance of that dock to state rules ought to be disclosed as a material fact by the seller of the real property.

Most members of DAC felt Wisconsin's pier rules were comprehensive and reasonable. In the rulemaking process, the DAC strongly encourages the DNR to consult the Wisconsin pier rules and seek opportunities to make Minnesota rules compatible with those of our neighboring state(s).

The DAC also discussed whether riparian owners ought to be limited to one dock per property. The DAC decided that this aspect would be better considered in the rulemaking process.

Individual Permit Guidance:

The DAC gave some consideration to the conditions for which individual permits ought to be issued for dock platforms that exceed conditions in any GP that might be issued. The DAC believes that the DNR should evaluate the criteria for individual permits. An established “reasonable need” should be the basis for individual permit (hardship is the criteria for zoning variances). Once reasonable need is demonstrated then individual site conditions below the OHW, in the shore impact zone, and on the rest of the lot should be considered as mitigating factors to allow for platforms larger than the standard. Mitigation factors could include shoreland best management practices that exceed minimum standards (e.g., native vegetation along shorelines, increased screening, effective reduction of impervious surfaces). The DAC would like to see a fee attached to such individual permits to help enforce the conditions of the permits, pay for accounting/administration, and provide funds for research, enforcement, education and habitat restoration associated with docks and accessory over-the-water structures. Shoreland mitigation requirements should be clearly established with the input of other DNR Divisions, in particular the Fisheries Shoreland Habitat Program and Ecological Resources, and should account for the impacts of all structures placed in the water at a particular site, not just docks/platforms.

Questions to consider for individual permits:

1. What is the specific need for large platform?
2. What are the site conditions (e.g., emergent vegetation vs. sand)?
3. Are dock structures being used in lieu of shoreland habitat alteration (e.g., steep shorelines, heavy natural cover or unsuitable lake-bed conditions)? And, can shoreland buffer mitigation above minimum standards (e.g., replanting of buffers) be clearly defined in the permit?
4. Are dock structures being used in lieu of a permit for aquatic plant management? And, can both shoreland buffer mitigation and aquatic plant maintenance be clearly defined in the permit?
5. Should the DNR make larger platform allowances for shoreland owners with significantly greater *suitable* shoreland frontage than is required by ordinance for the lake class? And, can shoreland buffer mitigation (e.g., replanting of buffers) be clearly defined in the permit?
6. Should the DNR make larger allowances for two or more neighboring shoreland owners sharing one dock in an effort to minimize shoreland and aquatic vegetation disturbance?
7. Should a fee be charged for individual permits?

Appendix 1: DNR Docks Advisory Committee Meeting Record

November 1, 2007

6-9pm, Watab Town Hall, Sauk Rapids, MN

I. Part I: Introductions & Mission

Attending: Roger Landers, Ron Meyer, Ed Carlson, Gary Johnson, Gene Holderness, Henry VanOffelen, Judd Harper, Dan Siems, Patty Gould-St. Aubin, Jason Moeckel, Tom Hovey, Lt. Tim Knellwolf, Steve Enger, Felicia Barnes

Facilitator: Erika Rivers

Meeting Record: Felicia Barnes

The meeting began with committee member introductions. Erika went over a few of the ground rules and reminded everyone that we need to respect the opinions of everyone and that they are neither right or wrong. She also pointed out the need to stay on task and identified how “other issues” and “issues that need clarification” would be handled. See below for topics identified.

Erika stated that the mission of the committee will be to develop recommendations to DNR Commissioner Mark Holsten, DNR Waters Director Kent Lokkesmoe and DNR Senior Managers. The three charges are to: 1) protect natural resources, 2) safeguard public and riparian access, and 3) ensure that recommendations are enforceable. The committee must deliver some kind of recommendations report to Kent Lokkesmoe by November 21. The report will include DAC recommendations, as well as alternative opinions & options, as well as other considerations.

Tom Hovey gave the background of how and why we ended up here.

II. Part II: Public Comment Analysis

The group went through a brainstorming session to identify the major themes of the public comments received. Listed below are the themes identified.

Resources

- The need for a “minimal impact solution”
- How do we measure the exact impact?
- Impact of increased size of platform (e.g., going from 160 sq. ft. to 220 sq. ft.)
- Dock size in relation to shoreline size
- Habitat loss and fragmentation
- Big docks vs. small docks
 - aquatic plants
 - fish species
 - runoff
- In some cases, larger docks may actually minimize shoreland disturbances
- Dock accessories and their impacts

- Shading of aquatic plants from platforms
- Seasonal docks create other associated activities around them, which increases disturbance
- Cumulative impacts must be considered
- Population increases are eminent on and around MN lakes
- Fish habitat is disturbed by docks
- Geographic differences
- Scientific evidence—see the Radomski report to the Alt. Standards for clarity on this issue
- Developed vs. undeveloped shoreline: different species are found in each
- What will stop the spread to lakes that don't have the larger platforms already? The vast majority of docks in MN are compliant with the existing 8' rule. Why should the public give up more public lake surface, when so many people are satisfied with simple access up to 8' wide.

Aesthetics & “Human” Elements

- Sunk costs associated with dock infrastructure (inability to use all sections if platforms are limited)
- Social Equity issues:
 - If larger shorelines are allowed larger platforms
 - Waters are “public property”: all Minnesotans have rights to water and natural aesthetics
- Over last 25 yrs. Lake homes and associated structures are moving toward a more permanent vs. temporary nature (e.g., year round cabin)
- Boating safety issues—larger docks present risks to water recreation users
- Shorelines are getting cluttered with more and bigger docks and accessories
- People greatly value natural shoreline aesthetics and the loosening of the dock rules, or the non-enforcement of the existing rules are having a growing impact
- We know that a lot of growth is predicted for the lakes area, and DNR needs to get out in front of it and do their job of protecting the resource.
- When do the long term economics kick in? What about the lower property values associated with overcrowded shorelines.
- How much space do people need for access? It seems like people are assuming a new riparian “right” of patio over water.
- If dock platforms get bigger, what's to stop the next size increase? At the Wayzata meeting, the dock industry was silent when LMCD asked if they would ever police themselves.

Access – Public & Riparian

- “Ownership” of public waters; “privilege” vs. “right”
- Sensitive areas – perceived “need” for big docks (i.e., wetland fringe, shallow lakes, etc. “need” more dockage to fully enjoy lake)
- People need to remember that the lake surfaces are public. The riparian owner's does not have unfettered rights on the water. Riparian rights include access, not barbeques and picnics.

Proposed Solutions

- Create dock size limits according to lake class

- Limit dock sizes according to size of lot
- Limit dock size by shoreline footage
- Sensitive shoreland areas—different dock limits would exist for sensitive districts
- Have dock size differences based on lake size

Enforcement

- Is this another “Unfunded mandate” of government?
- Enforcement of rules doesn’t appear to be consistent statewide
- Officer turnover—takes time to bring new officers up to speed
- Need the permit provisions to be easily explainable, pragmatic, understandable
- DNR needs to enforce the rules already on the books. The rules are fine and easily enforceable as they are.

III. Part III: General Permit Pros/Cons

The committee was split into two groups. Group A identified strengths and attributes of the current general permit; Group B identified weaknesses of the current general permit (listed below). The whole group discussed the lists and additional points were identified.

IV. Strengths

- Square foot value—easy to understand
- Addressed many of docks that are non-compliant; but allowed for enforcement action on really large structures
- All the conditions in the current general permit were positive
- Current general permit is enforceable
- The GP forced conversation of dock issue with a diverse group of people

Weaknesses

- Narrower dock walk to platform not required: No distinction was made between “dock-walk” vs. “platform”. Group B recommends new GP have a dock walk max. of six ft (ADA)
- Missing clear science justification
- Current platform dimensions don’t consider current manufacturer standards
- Created confusion regarding should I buy more dock?
- Doesn’t take other “accessory” structures into account
- Does 170 sq. ft. include the “dock walk”?
- People could find creative “loopholes” around the dimensions
- Concern that the platforms will “spread” under a general permit (e.g., speed limit increase)
- How do you have “minimal impact” in a five-year permit?
- Doesn’t address the “access-only”-nature of docks in rule
- One size fits all: doesn’t consider the differences amongst lake classes/circumstances
- Rule requires “minimum impact” solution – platforms do more than access
- Does nothing to improve situation, that is, requires almost nothing in return for authorizing a private structure on public surface, which is typically used for more than access.

- Neglects fact that a whole lot of fun and entertainment can be had on an 8' wide structure, or in a space less than 170 square feet.

Positive Attributes for a New General Permit

- Further defining "platform"
- Idea of having a general permit is good
- GP could be the bridge to a long-term solution
- Square foot value was a promising concept, groups thought
- Would cover many of docks that are non-compliant
- Want to see all of the conditions in the current general permit
- Could be agent for positive change if it required certain things in exchange for private occupation of a public space, such as limited disturbance of frontage

List of Other Issues that Need Clarification:

- Where did 5-year general permit commitment come from? What was the Rationale?
- Rules = egress/ingress. Is general permit reasonable?

Parking Lot: Ideas We May Need to Return to Later

- What Other general permits has DNR issued?
 - water appropriation
 - bridge/culvert
- Leave rules alone and enforce the ones we have vs. New Rules
- Explore possibility of a shorter permit
- We need to allow for public comments at the end of these meetings (10 min.)

Follow Up

1. Send WI pier standard to committee (Tom Hovey)
2. Lake Minnetonka over 8' numbers for 2007 (Judd will bring to next meeting.)
3. Scientific evidence (DAC members should forward all references they have to the DAC)

Next Meeting

Thursday, November 8, 2007, from 1:00-5:00 pm, Watab Town Hall

Closing Thoughts / Take-Away Messages

- Jason: Need to think about the Tragedy of the Commons; lakes are part of commonwealth
 Need to have some rules that deal with cumulative impacts
 Need to think about square footage limits
 Minimal impact solution needs to be forefront of our minds
- Ron: Cumulative impact is the key issue; need to also consider accessory structures
- Ed: The 8-foot width is really more width than anyone needs for the walkway portion of the dock; however, platforms must be allowed.
 Whatever we come up with truly needs to make sense
 Riparian access is a privilege; everyone owns Minnesota waters
- Gene: Permit needs to be reasonable and practical to avoid angering the public
 We can't be enforcing things selectively
 We need to be thinking about permitting all docks & accessory structures
- Henry: Everyone should look at the science summary document in the comments

- Just because people have changed behaviors doesn't mean we should change the law
DNR needs to protect natural resources; it's the agency's responsibility
- Tom: Visual values and aesthetics are difficult to deal with, but they are very important and it is part of DNR's responsibility, so we cannot ignore it. There are inconsistencies in the existing dock rules, so the GP needs to even out some of these while protecting the resource.
Need to be cognizant of the growth projections of MN—limit the spread of damage, as there is a limited supply of shoreline, with growing demand. We need to be out in front of an issue we absolutely know is on the horizon
- Steve: Good discussion tonight; I'm not sure what part of the elephant I'm holding onto
- Patty: Need consistency
Non-riparian citizens have rights too; need to think about them too; they're not at this table
- Gary: Platform limitations will have economic impacts on dock manufacturers and installers; may be unpopular to think about, but it's real
- Judd: Need to clarify the grey areas with platform GP, maybe rules.
Consider public use and population trends
Need to be able to communicate rules/permit easily
- Tim: Game wardens need something enforceable in the field
We are sworn to protect natural resources
The GP needs to address Bald-Eagle-type situations too—compliant, but an eyesore
- Dann: Bullets: Ecologically sustainable; Minimal impact; Enforceable; Understandable.
- Roger: Need Enforcement to tell us how to better enforce the rules. They've got so much to do, how can we expect them to add this to their duties?

Appendix 2: DNR Docks Advisory Committee Meeting Record

November 8, 2007

1-5pm, Watab Town Hall, Sauk Rapids, MN

Part I. Overview & Introductions

Attending: Roger Landers, Ed Carlson, Russ Sparby, Jim Moe, Henry VanOffelen, Judd Harper, Dan Siems, Patty Gould-St. Aubin, John Forney, Merilee Meyers, Rick Pellitier, Dana Pitt, Jason Moeckel, Tom Hovey, Lt. Tim Knellwolf, Steve Enger, Felicia Barnes

Facilitator: Erika Rivers

Meeting Record: Felicia Barnes

I. Introductions

Erika reiterated the mission of the committee. Committee members that were not at the last meeting introduced themselves.

The draft meeting record from the November 1, 2007 meeting was approved with a suggestion to add the committee members and their affiliation to the record. When posted on the DNR Web site, a list of participants and their affiliations will be included.

II. Warm-Up Exercise: Why are You Here

Members were asked to individually think about “What Do You Want from This Process?” and record their thoughts on the participant worksheet. Members were then asked to individually think about and record what aspect(s) the general permit should include to make them feel that they have accomplished what they came to do as part of the DAC. Later, participants were asked to rank the importance of each of these factors (# who see as priority):

- The GP should not be more restrictive than 8 ft. wide (2)
- Easily communicated and enforced (7)
- Clear, concise recommendations based on facts not assumptions (2)
- Protect rights of the fishing public (3)
- Focus on residential not commercial (3)
- Has to be fair to everyone
- Whatever comes out of this process has to take safety issues into consideration (1)
- Has to be reasonable (2)
- Greater definition of dock platform (1)
- Enforce current rules until new rules can be promulgated (6)
- Reduces impacts to littoral zone (1)
- Considers all perspectives
- Understandable and enforceable by COs (4)
- Consistent and effective enforcement (6)
- Better information and education by DNR on the outcome (1)
- Has to be a true compromise
- A 1-year bridge to new rules (3)
- Reasonable access and protects aesthetics and ecological values (9)

- By defining: need, reasonableness and impacts (5)

III. Positives & Negatives of a GP as the approach DNR is Taking

The committee held a discussion on the positives and negatives of a general permit. See items below. The conversation quickly moved into the duration of a new general permit. A show of hands was asked on which of the three options committee members agreed with (number in parenthesis). See “Emerging Consensus” items below. Items were also added to the “Parking Lot” list of other aspects to consider regarding the general permit.

Positives

- Consider navigable depth in the general permit—four feet of water depth as a limit to the length of docks

Negatives

- Some on the DAC felt that lake-type differences in dock sizes would be confusing to the general public and difficult to enforce. Some also felt that this added an unnecessary level of complexity to the GP, since different lake types already have different lot lengths.

Emerging Consensus

- General Permit Duration
 - Up to 5 years, but preferably less (13)
 - One year (3)
 - Until new rules can be promulgated (Spring, 2010) (14)***
Department should commence rulemaking ASAP
- ***Terminal end of dock walkway should not to exceed 4 feet in water depth, or be of sufficient length to moor a watercraft. (All members were in agreement.)***
- ***If a platform is permitted by GP, the walkway extending to it should be no more than 6 feet wide (ADA accessible). (Most present were in agreement.)***

Parking Lot Items

1. Some concern existed around the table about the precedent that members felt would be set for issuing what might be considered an “after-the-fact variance” for platform docks, which is different from a “typical” general permit. The question was raised, “Aren’t we just rewarding bad behavior?”
2. Several also raised concern about the need for DNR to deal with lifts/accessories—which are becoming more prevalent around MN lakes and create a significant footprint over public waters.
3. General consensus is that, whatever the recommendation is for a new General Permit, DNR needs to do a better job at public information and education for docks—both to the general public, and in particular with dock manufacturers and installers
4. Some feel that DNR should go straight to rulemaking and simply enforce the existing dock rules, rather than re-issue a new general permit.

The discussion then changed to what does “reasonable need” mean when trying to obtain an individual dock platform permit (# of participants considering answer “reasonable”):

Individual Permit “Reasonable Need”

- Fishing (4)
- Social Gathering (5)
- Wildlife viewing
- Swimming (1)
- Boat mooring/access (22)
- Safety (4)
- Minimal impacts to all users (4)
- View of lake
- Physical disability (1)

The committee considered many different platform dimensions for a new general permit.

Ecological Concerns of Terminal Platform

- Shading
- Preclude public use
- Cumulative impacts

IV. Concluding Exercise: Individual Ideas for GP Language

All DAC members were asked to write their preferred language for a GP on a notecard before they left for the evening. The responses are grouped by similarity (See also diagrams).

Square footage limitation for any/all appendages extending from a single walkway

- Authorize total of 200 sq. ft. for any appendage extending off of a straight 6 ft. wide dock. Appendages would not include lifts or watercrafts.
- Exclusive of the “walkway”, which in any event can be as long – i.e., OHW lakeward – as necessary to reach, at its terminus, a water depth of 4’ (navigable depth), a landowner may have without special permit or penalty, an additional 170 sq. ft. of dock sections configured in any manner the landowner desires, provided none of the additional 170 sq. ft. is erected beyond the terminus point of the walkway.
- Any (all) portions of dock outside of the main walkway (perpendicular to shore) must not exceed 160 sq. ft. in total. Main walkway must be 6 ft. or less in width and “ends” at the terminal end or furthest point perpendicular to shore.
- Combined total of 120 sq. ft. outside of a single lakeward extended walkway.

Limit on Platform size, *excluding* the calculation of the walkway

- Platform: A space attached to the end or side of walkway that is no greater than 150 sq. ft., if the walkway is greater than 6’ in width or no greater than 180 sq. ft. if the walkway is 4’ in width.
- General Permit: Walkway extended away from shore no more than 8 ft. in width to extend to navigable water depth of 4 ft. Platform is considered any portion of dock measuring more than 8 ft. in any direction from the original extension from shore. Square footage of platform cannot exceed 170 sq. ft.
- Just as the general permit is today – 170 sq. ft. for platform.

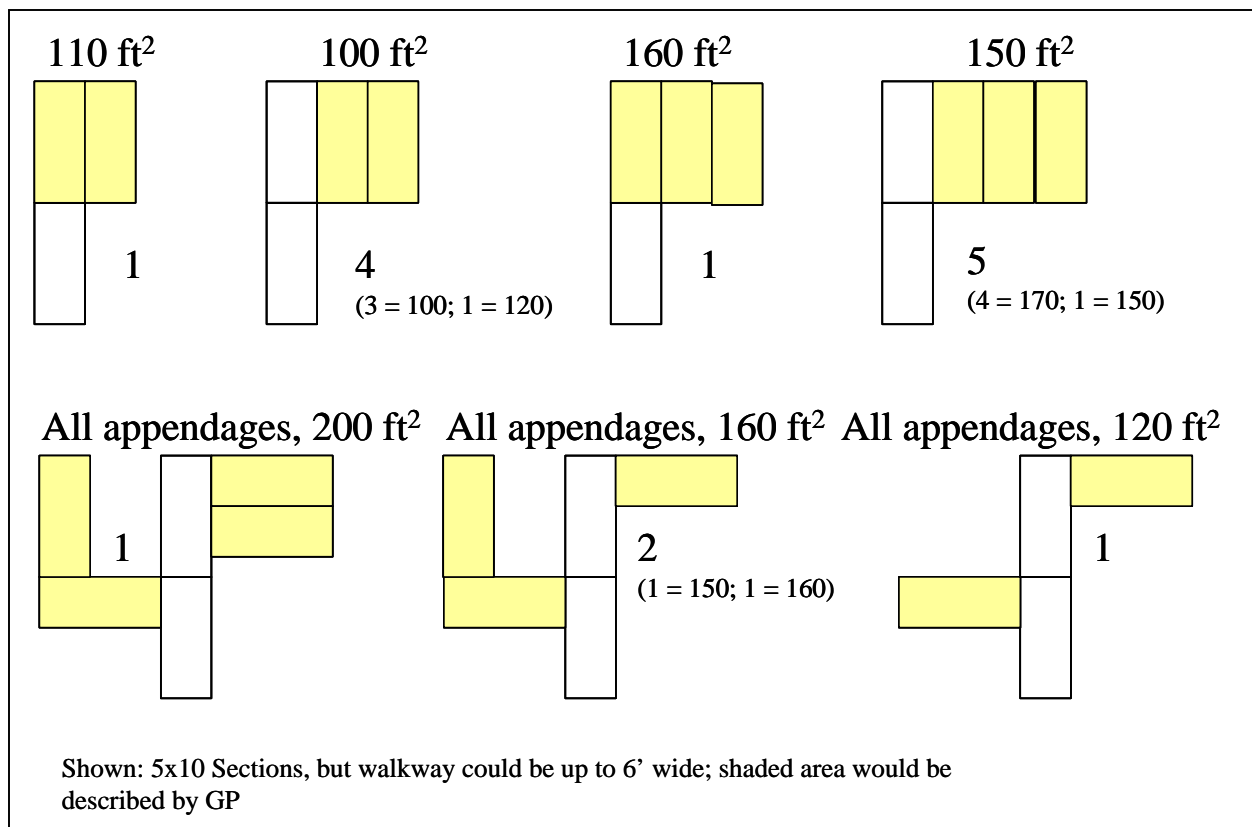
- A dock may have one appendage that exceeds 8 ft. width and this platform shall not exceed 100 sq. ft.
- Total allowed square footage would also include walkway to keep total impact to the public waters and wildlife. If walkway not included, platform not to exceed 100 sq. ft.
- Platform only – general permit for platform would not exceed 100 sq. ft. not including the walkway. The platform is described as a piece of a dock not part of the general walkway.
- If not just regulate under existing 8 ft. rule, if a general permit is drafted, should allow up to 170 sq. ft. not including walkway. To go to 4 ft. of water depth for mooring boats – length out. Only one dock per platted lot.
- 170 sq. ft. platform at the end – last section is not included as part of the platform.
- If the platform/dock exceeds 8 ft. in width in any direction the total square footage off the main walkway will be limited to 120 sq. ft.

Limit on Platform size, including the calculation of the walkway—if alongside rather than terminal.

- A rectangular shaped configuration that does not exceed 160 sq. ft., includes the walkway that abuts the platform; only one dock per property allowed; must be registered with the state. Temporary until new rules by 2009 preferred, 2010 at latest.
- Walkway terminates at platform and platform no larger than 110 sq. ft.

Next meeting:

Thursday, November 15, 2007, from 1:00-5:00pm, Watab Town Hall



Appendix 3: DNR Docks Advisory Committee Meeting Record

November 15, 2007

1-5pm, Watab Town Hall, Sauk Rapids, MN

Attending: Roger Landers, Ed Carlson, Henry VanOffelen, Judd Harper, Dan Siems, Patty Gould-St. Aubin, Merilee Meyers, Rick Pellitier, Jason Moeckel, Tom Hovey, Gary Johnson, Lt. Tim, Knellwolf, Steve Enger, Felicia Barnes
Facilitator: Erika Rivers

- I. Enforcement Issues were discussed by Lt. Tim Knellwolf. Language was recommended to include in the recommendations document regarding the public's enforcement concerns. The group was particularly intrigued by the idea of a CO being able to issue an order for restoration at the time he/she finds a non-conforming structure.
- II. DAC Recommendations were discussed using a "straw dog" document distributed to members of DAC. The straw dog was based on discussions and recommendations made throughout the previous two meetings. Key discussion elements included:
 - Clear statement questioning the wisdom a GP.
 - Clear need for the DNR to communicate better on dock rules.
 - Pros/cons of Wisconsin's pier rules.
 - Pros/cons of including the dock "walkway" in the recommended figure.
 - Pros/cons of the idea to consider a "total square footage" off of the walkway, as opposed to a "platform" permit;
 - Pros/cons of the square footage recommendations previously brought forward by DAC members.
 - Discussion of pros/cons of a moratorium on dock rule enforcement
 - How the recommendations document would cover alternative considerations
 - Limiting the scope of a new GP to already-existing structures.
 - Implementing a fee-based individual dock permit system.
- III. Review/Finalization of Recommendations Document
 - Erika agreed to send out revised version by Friday afternoon.
 - Comments are due back by the close of business on Monday, Nov. 19.
 - Final review will be send out on Tuesday, Nov. 20.
 - Document will be submitted to Waters on Wednesday, Nov. 21.
- IV. Closing remarks: Participants were asked to summarize their feelings about the process and outcome in one word. Answers ranged widely, from relieved, to satisfied, to nervous, and disappointed.