



September 9, 2021

Mr. Angermeier
759 N Milwaukee St., Suite 615
Milwaukee WI 53212

Subject: Public Trust Doctrine

Dear Mr. Angermeier:

This letter is in response to your correspondence to me on August 30, and to Josh Kaul, Wisconsin Attorney General, on August 4, 2021. As your concern related to a specific Public Trust Doctrine matter, the Attorney General forwarded your letter to the Wisconsin Department of Natural Resources (DNR) Secretary's Office, who asked me to provide you a response.

You expressed concerns about Port Milwaukee leasing their property at 2452 S. Lincoln Memorial Drive, an area of filled lakebed, to Marek Landscaping and its consistency with Public Trust Doctrine requirements.

The department reviewed the submerged lands grant to the City of Milwaukee for the property initially set forth in Chapter 358 in State Law of 1909, and its subsequent amendments (in 1923 and 1931, respectively) which allow commercial navigation activities. DNR conversed with Port Milwaukee and understands that Marek will conduct barge deliveries and warehousing of bulk materials at the site which are valid port activities. The Harbor Commission unanimously approved the Port's lease agreement with Marek consistent with s. ~~Chapter~~ 30.38 of Wisconsin State Statute, which grants the Commission the authority and responsibility to approve long-term leases of Port land. Further, the lease includes upgrades to the Port's Russel Avenue Fishing Pier, which will also enhance public access at the site. A copy of the lease agreement is available as permanent public record via the City of Milwaukee's Legistar system as File # 210691 at <https://milwaukee.legistar.com/>.

In DNR's opinion, Marek's use of the site is consistent with Lakebed Grant requirements for commercial navigation and related activities, and the lease agreement provides an enforceable agreement under the Harbor Commission to ensure compliance with the Public Trust Doctrine and protection of the public's interest in access.

The department's understanding is the Sea Scouts, former lease holder, had previously operated on this site for 60+ years as a tenant of the Port on an en gratis basis. Further, the Sea Scouts were provided due notice of vacation in accordance with a signed 2017 agreement between it and the Port. The Sea Scouts have been offered relocation to the South Shore Yacht Club, a tenant of Milwaukee County, so they can continue their community service offerings going forward. The Club may allow the Sea Scouts to operate for free.

The department acknowledges the Harbor Commission's management role at the Port under State Statute. DNR also recognizes the public is vigilant and protective of public access. Any citizen may contest infringement of the public trust. Stakeholders with non-emergency concerns about Marek Landscaping and Port operations may email Adam Tindall-Schlicht, Director, Port Milwaukee, adam.tindall.schlicht@milwaukee.gov or call 414-286-3511 to report their concerns.

The department has an affirmative obligation to ensure Lakebed Grant areas are used consistently with terms of the grant and public trust requirements. DNR appreciates Port Milwaukee's commitment to Lakebed Grant requirements and active management to promote public access. The department also values the Sea Scouts providing a variety of educational opportunities to the community, including large and small boat sailing, canoeing, rowing and motor boating.

Thank you for expressing your concerns about Port Milwaukee leasing an area of filled lakebed to Marek Landscaping and its consistency with Public Trust Doctrine requirements. The department appreciates the opportunity to present our opinion on the matter and to be a resource to the Sea Scouts and Port Milwaukee.

Please contact me if you have questions or we can assist you further.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael C. Thompson".

Michael C. Thompson
Director, Waterways Program
michaelc.thompson@wisconsin.gov
(414) 303-3408

Cc: Adam Tindall-Schlicht, Director, Port Milwaukee
Emily Ertel, DOJ
Travis Schroeder, DNR
Michael Kowalkowski, DNR
John Budzinski, DNR