

# Environmental Services

## County Board Agenda Staff Report for T 01/08/2018

### Old Business:

### New Business:

- **Planning Commission recommendation on Shoreland Management Ordinance amendment application**

#### **Enclosed Document(s)**

- Shoreland Management Ordinance Amendment Application by Shawn Morrill
- DNR Fisheries document re: proposed marina use
- DNR Heartland Trail bridge plan sheets
- Aerial photos of Highway 371 & Heartland Trail overpasses and aquatic vegetation in Kabekona Bay
- Kabekona Bay/Leech Lake aerial photos and topographic lake depth maps
- National Wetland Inventory GIS data layer and 2008 color infrared aerial photo of Hubbard Co. side of Bay
- Marina ordinance content ideas from other governmental entities
- Minnesota Pollution Control Agency land use map for Kabekona Bay area
- Aerial and ground level photos of Heartland Trail bridge
- Planning Commission hearing written public comment (3 emails, 2 letters)

Shown below in gray text is the staff report information provided to the Planning Commission (PC) regarding this Ordinance Amendment Application:

The application proposes an amendment to Section 401, Table 1 of the Shoreland Management Ordinance (SMO) to allow a marina as a conditional use on general development classified lakes (Kabekona Bay on Leech Lake is our sole GD class water body.) The Minnesota Department of Natural Resources (DNR) Lake Finder web application states the bay is ~970 ac. and has a 150' maximum depth. The site also lists the bay as meeting mesotrophic or moderately clear water quality/nutrient richness standards. Secchi disk readings reported on the site show an average water clarity depth of 10-15'. The applicant is co-owner of parcel 24.01.01900 located in the northwest corner of the bay where the Kabekona River enters the lake. Mr. Morrill would like to place a marina on the lakeshore portion of his property. This property is covered by a large wetland complex that has a few small islands of slightly higher elevation within it and a permanent ice ridge that runs along the lakeshore. So if the SMO would be amended to allow a marina as a conditional use, there will be the need for Wetland Conservation Act approval as well as likely multiple variances from the SMO to be approved in order for a marina use to occur on the property. The lakeshore along the property is shallow and not ideal for placement of a docking system due to the amount of emergent aquatic vegetation present as is visible in the aerial photography. Permitting approval from the DNR would also be needed by Mr. Morrill for a marina. Minnesota counties that allow marina uses are those that have larger lakes such as Mille Lacs, Leech, and Upper Red where lake size is able to accommodate the additional watercraft that is generated by a marina. Enclosed in your packet are some examples of marina ordinance language found in other

Minnesota counties' ordinances as well as some other governmental entities located elsewhere in the country.

Cass County, in which the majority of Leech Lake lies, allows marinas as a conditional use. One boat at a time can fit under the Heartland Trail bridge with a general distance between the water and bottom of bridge span being 9-11'. Medium-sized craft can pass through, but larger deep hulled craft and sailboats likely cannot pass through from the bay into the rest of the lake. Notice of the application was provided to Cass County which submitted no comments on it.

As a reminder on the amendment process, Section 1107, Amendments, of the SMO is pasted below:

### **Section 1107. Amendments**

The procedure for amendments to this Ordinance shall be as follows:

1. An amendment may be initiated by a property owner, the Planning Commission or the County Board of Commissioners. Property owners wishing to initiate an amendment shall fill out an Application for Amendment form, available from the Environmental Services Director. Such application shall be filled out and submitted to the Environmental Services Director together with the appropriate fee;
2. The applicant shall appear before the Planning Commission at a public hearing that will be held to consider the amendment request to answer any questions that Commission members may have concerning the amendment request;
3. The Public hearing shall be conducted in accordance with M.S. 394.26;
4. The Planning Commission shall make a recommendation to the County Board of Commissioners after the proceedings of this public hearing.
5. The County Board shall consider the Planning Commission recommendation after the public hearing is conducted.

At its December 2018 hearing, the PC unanimously recommended that the County Board not entertain the application's proposal. Information provided by the DNR and long-time residents of the area who are familiar with the Bay, greater Leech Lake, Kabekona River, and Benedict Lake attesting to the area's sensitive environment (wild rice beds, muskie spawning areas, shallow muck lake bottom) was cited by PC members as being factors in their decision-making. Also cited was the difficulty in developing criteria to say how large of a marina is appropriate and allowed in a given location.

The department concurs with the PC recommendation.

The action required of the Board is to pass a motion saying yes or no to the amendment application.

- **Accept the resignation of Environmental Specialist, Nickolaus Phillips, effective 01/10/19, and authorize the re-filling of the vacant Environmental Specialist position, per proper procedure including any resulting vacancies, if necessary;**

Mr. Phillips holds one of two Environmental Specialist positions in the department. These positions provide key technical ordinance administration assistance to landowners including, but not limited to, septic system design review, permit processing, and accompanying field work and AIS program administration. The position is long-standing and included in the 2019 budget. Ms. Teems is aware and supportive of the position's refilling. I therefore respectfully request that Mr. Phillips' resignation be accepted and that the position's refilling be authorized including any resulting vacancies, if necessary.

- **2019 legal services retainer**

**Enclosed Document(s)**

- 2019 retainer agreement

I request approval to renew our retainer with Scott Anderson and his firm for zoning-related legal counsel in 2019. Scott has been on retainer with us since 2005 and provides an invaluable service. His familiarity with our ordinances via this retainer has allowed us to receive his assistance through MCIT on a number of successful litigation defenses. The retainer is a part of the 2019 budget as has been the historic budgetary practice. County Attorney Frieden is supportive of Scott's retainer being renewed. A copy of the proposed 2019 retainer agreement is attached. The language is the same as that in previous years' agreements.

- **SSTS Ordinance violation – request authorization to forward to County Attorney**

I request authorization to forward an SSTS Ordinance violation file to the County Attorney's office for further enforcement. The Commissioner in whose district the property is located has been notified of this item being placed on the agenda per standard procedure.

**Other:**



# Ordinance Amendment Application

Hubbard County Environmental Services  
301 Court Ave., Park Rapids, MN 56470  
Phone: 218.732.3890  
www.co.hubbard.mn.us/departments/environmental\_services/index.php

**Ink must** be used to complete this application. Non-refundable \$200.00 application fee due at application submittal. Make checks payable to "Hubbard County Auditor/Treasurer".

Applicant Name(s): Shawn Morrill Phone: 631/522-2073  
 Street Address: 38 Westbury Dr. City: Sound Beach State: N.Y. Zip Code: 11789

Place "X" in box by ordinance for which amendment is being sought:

<input type="checkbox"/> Adult Uses & Sexually Oriented Business Ord. 32	<input type="checkbox"/> Subsurface Sewage Treatment System Standards Ord. 41
<input type="checkbox"/> Signage Ord. 34	<input checked="" type="checkbox"/> Shoreland Management Ord. 17
<input type="checkbox"/> Subdivision Ord. 35	<input type="checkbox"/> Other: _____

Existing Ordinance Section proposed to amend: Section 401

Existing Ordinance Section language (please write in language verbatim or attach a copy of that portion of the ordinance with the Section clearly identified):

Section 401 states what currently are the permitted, conditional, special and non-permitted uses of public waters.

---

---

---

---

---

---

---

---

Proposed Ordinance Section language changes (please clearly identify proposed new language from existing language by underlining new language and using strikethrough to denote any existing language proposed for deletion):

I would like to add commercial dock space marina usage to the current list of what's available for people on Keweenaw Bay to use. My sisters and I own a piece of property that runs from Baileys resort to Keweenaw River, 600' of shoreline on the Bay. We would like to install a floating dock system for people to lease and give them access to the Bay and all connected bodies of water. On an adjacent parcel we are planning on putting some RV spots in for lease and would like to offer dock space to those people. This piece of property has been in the family name since

**Narrative describing rationale for proposed change:**

my grandfather, Robert Morrill's grandfather Edwin Morrill had it. For my generation to keep this beautiful property going forward, we need to make it economically viable. That is our personal reasoning for this application. Our altruistic reasoning is to share this special place with others and bring vacationers in to spend \$ in our local economy. We would like nothing better than to see the newly renovated Fort Benedict general store, Restaurant-Bar, to be full of folks from "Faith's RV Park" and or "Morrill's Parks on The Bay". My sister Roberta is an R.N. residing in Port Orange Florida, taking care of our father Irving Morrill. I reside in Sound Beach, New York, with my son Jesse in his 3rd yr. of college, wife Sherrill and daughter Faith. While the front years of our lives have played out in these locations, we both agree we feel at home up on the "farm". Please help us by allowing this additional use, so our back years and future Morrill generations can be played out in this very beautiful, special area of the country.



Signature of Applicant(s)

11.4.2018

Date

**Office Use Only:**

Date received by Env. Services: \_\_\_\_\_ Rec'd by: \_\_\_\_\_ Receipt #: \_\_\_\_\_ App. #: \_\_\_\_\_

Date heard by Planning Commission: \_\_\_\_\_

Planning Commission Action: \_\_\_\_\_

Date heard by County Board: \_\_\_\_\_

County Board Action: \_\_\_\_\_

All data and images shared here originate from:

Thompson, K. and D. Perleberg. 2010. Final report on the sensitive lakeshore survey for Leech Lake (11-0203-00), Cass County, MN. Division of Ecological and Water Resources, Minnesota Department of Natural Resources. 74 pp.

## Executive Summary

Forty-nine native aquatic plant taxa were identified in Leech Lake, including 15 emergent, three free-floating, four floating-leaf and 27 submerged taxa. Vegetation occurred in 39% of the survey sites and was influenced by water depth and turbulence. Plant growth was concentrated in protected, shallow bays and the windswept main basin contained little vegetation. Emergent and floating-leaf plants were also found primarily in the bays, including Steamboat Bay, Headquarters Bay, Portage Bay, and Boy Bay. Wild rice, bulrush, and other emergent and floating-leaf plants occupied approximately 5,800 acres in Leech Lake.

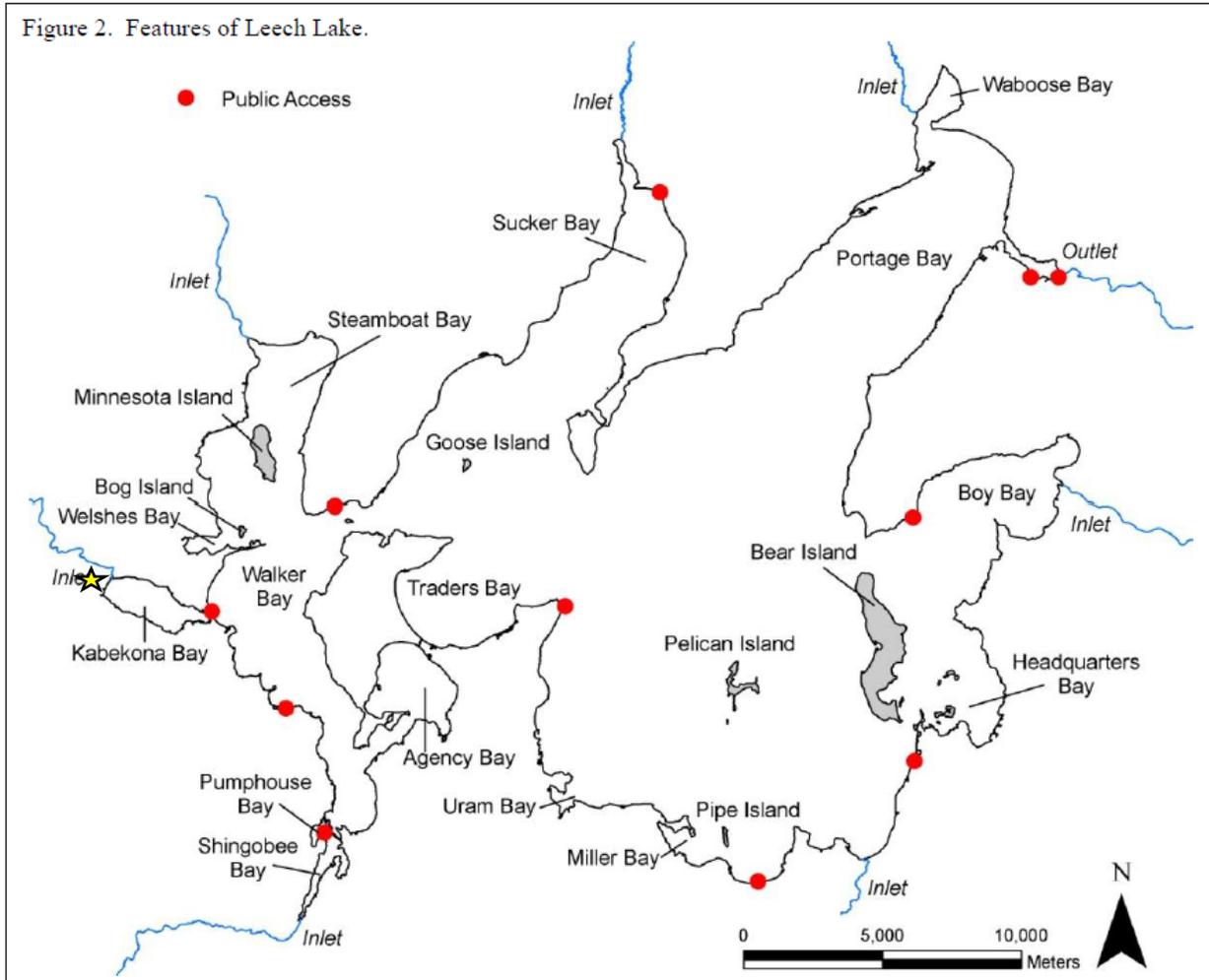
Bird surveyors recorded 130 bird species at Leech Lake. Of these, 38 were species in greatest conservation need. Two species listed as Threatened in Minnesota (common tern and trumpeter swan) and five Special Concern species (American white pelican, bald eagle, Forster's tern, Franklin's Gull, and yellow rail) were among those documented at the lake. Eighteen loon nesting areas were identified at Leech Lake.

Frog surveys were conducted at 797 stations along the shoreline of Leech Lake, and both mink and green frogs were recorded. Previous fish surveys at Leech Lake documented 42 species, including two species in greatest conservation need (pugnose shiner and least darter).

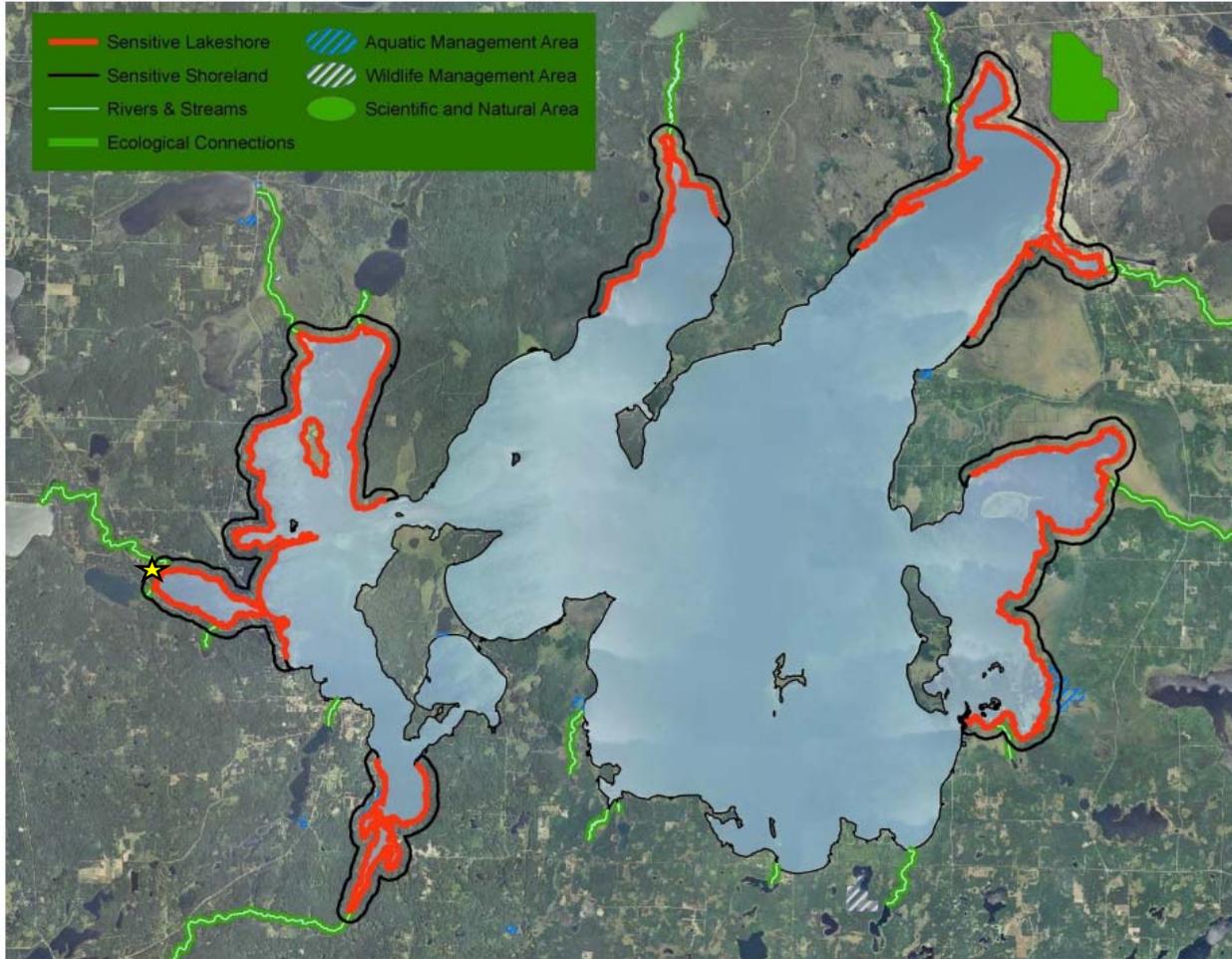
An ecological model based on major conservation principles was used to assess lakeshore sensitivity. The benefit of this approach is that criteria come from the science-based surveys and the value of the lakeshore is objectively assessed. Environmental decision-making is complex and often based on multiple lines of evidence. Integrating the information from these multiple lines of evidence is rarely a simple process. Here, the ecological model used nine attributes (hydrological conditions and documented plant and animal presence) to identify sensitive areas of shoreland. A sensitivity index was calculated for each shoreland segment by summing the scores of the nine attributes. Lakeshore segments were then clustered by sensitivity index values using established geospatial algorithms. Sensitive lakeshore areas were buffered and important ecological connections or linkages mapped. The identification of sensitive lakeshore areas by this method is an objective, repeatable and quantitative approach to the combination of multiple lines of evidence through calculation of weight of evidence. The ecological model results are lake-specific, in that the model results are intended to recognize the most probable highly sensitive lakeshores for a specific lake. Plant and animal assemblages differ naturally between lakes, and sensitivity scores should not be compared across lakes.

The ecological model identified five primary sensitive lakeshore areas to be considered for potential resource protection districting by Cass County. The County may use this objective, science-based information in making decisions about districting and reclassification of lakeshore areas. The most probable highly sensitive lakeshore areas and the recommended resource protection districts are:

Figure 2. Features of Leech Lake.

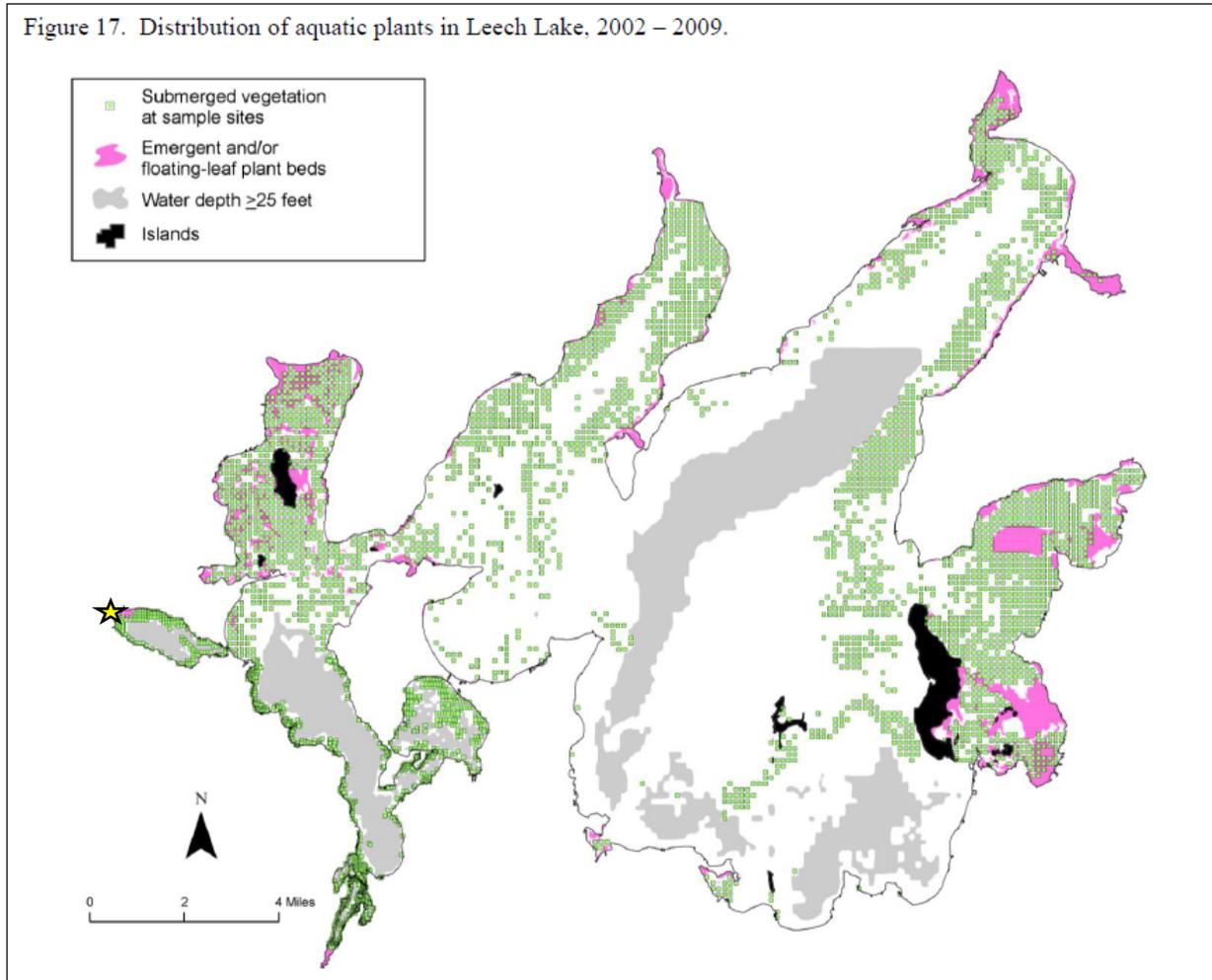


Features of Leech Lake. The Morrill parcel for which a zone amendment request has been submitted to allow marina development, is denoted by a yellow star at the western end of Kabekona Bay. (Thompson and Perleberg. 2010. Final report on the sensitive lakeshore for Leech Lake, Cass County, MN. Division of Ecological and Water Resources, Minnesota DNR).



Kabekona Bay (western most bay) on Leech Lake was determined in its entirety to be highly sensitive lakeshore (Thompson and Perleberg 2010). Sensitivity was determined using an ecological model based on major conservation principles using field surveys collected on aquatic and terrestrial plants, bird species, frogs, presence of wetlands and near-shore soil types, presence of loon nests, and presence of rare natural features. This information is used on the Cass County portions of Leech Lake (majority of lake) to inform County-DNR decision-making on permit applications and future development proposals in regards to the potential for significant environmental impact. This same information also guides acquisition priorities on Leech Lake.

Figure 17. Distribution of aquatic plants in Leech Lake, 2002 – 2009.



Distribution of aquatic plants in Leech Lake (Thompson and Perleberg 2010). The yellow star denotes the Morril parcel.

Figure 18. Emergent and floating-leaf plant beds in Leech Lake, 2002 – 2009.

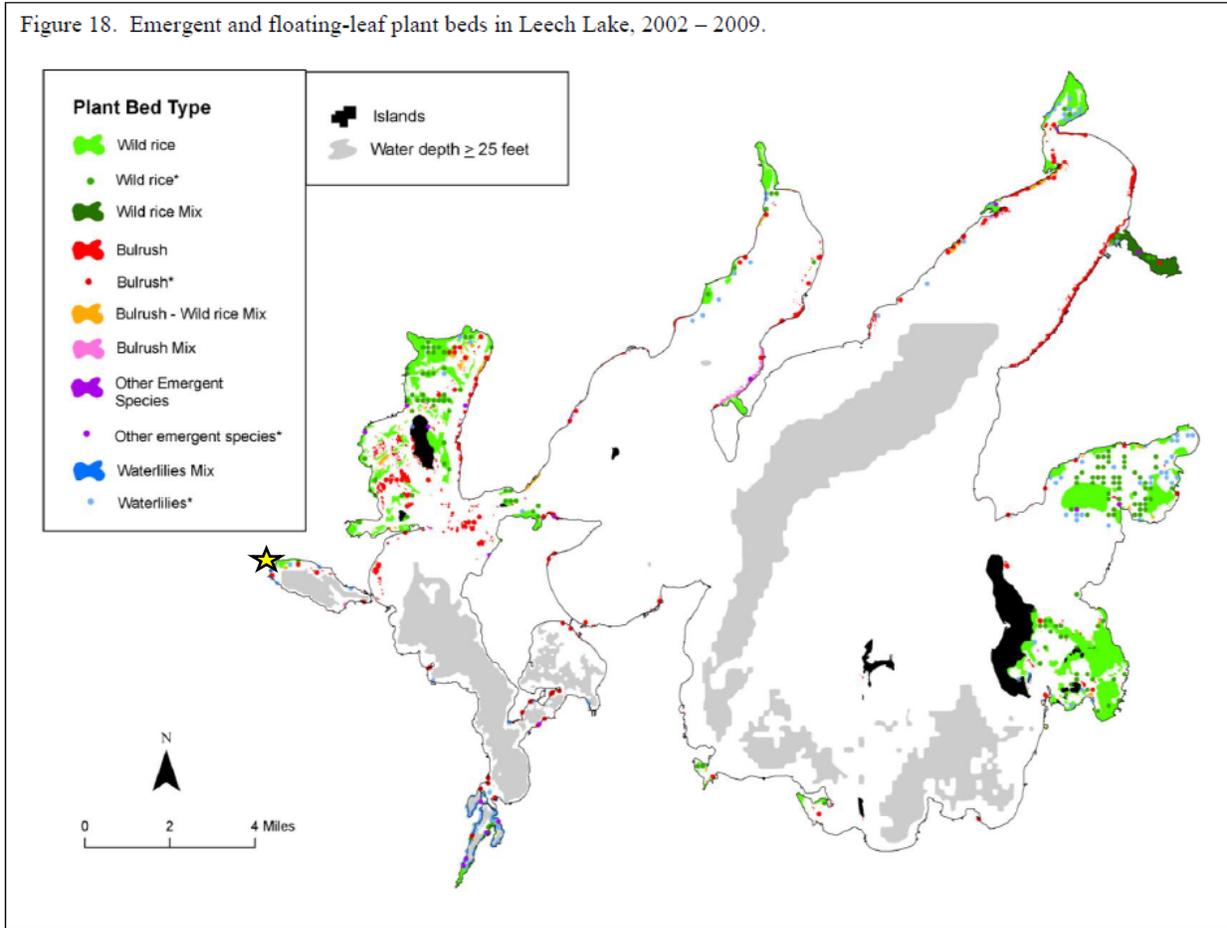
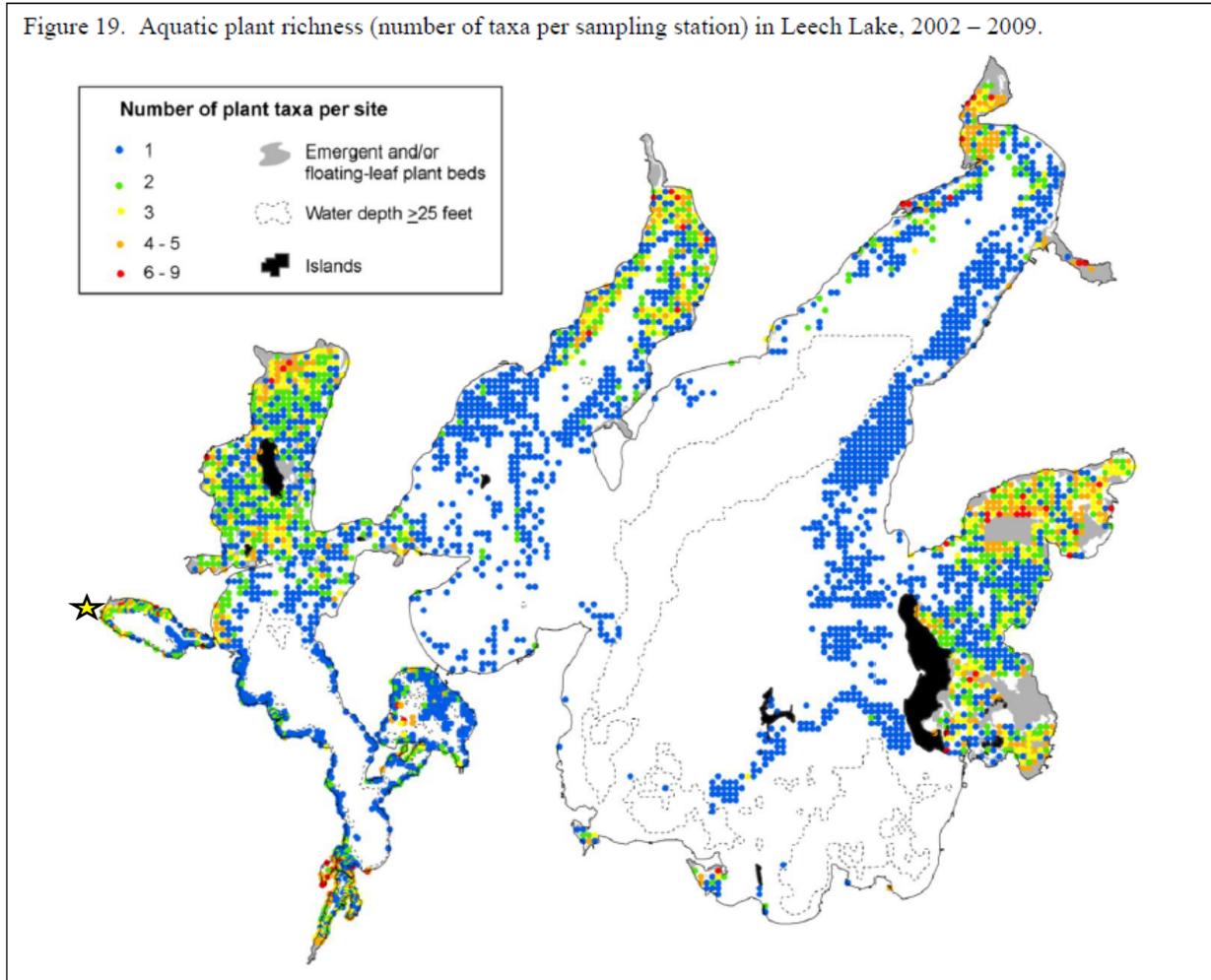
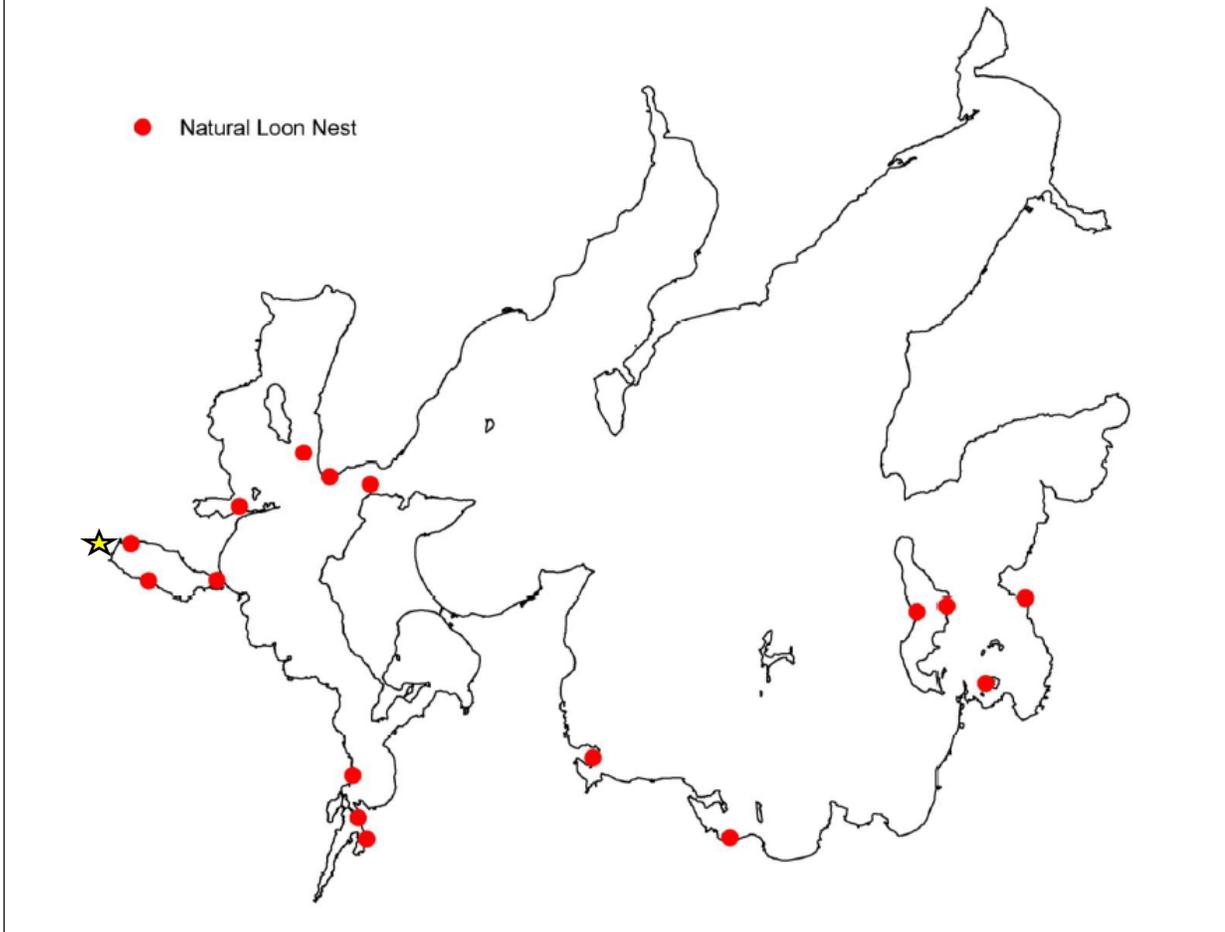


Figure 19. Aquatic plant richness (number of taxa per sampling station) in Leech Lake, 2002 – 2009.



Aquatic plant species richness on Leech Lake. The yellow star denotes the Morril parcel; some of the highest species richness observations on the lake were in this vicinity.

Figure 60. Location of natural loon nests recorded on Leech Lake between 1988 and 2010.



Location of natural loon nesting sites on Leech Lake from 1988-2010. One nesting site is very near the proposed marina location and would likely be abandoned for future use if a marina were developed.

Figure 63. Distribution of mink and green frogs documented during Leech Lake surveys, 2007 – 2009.

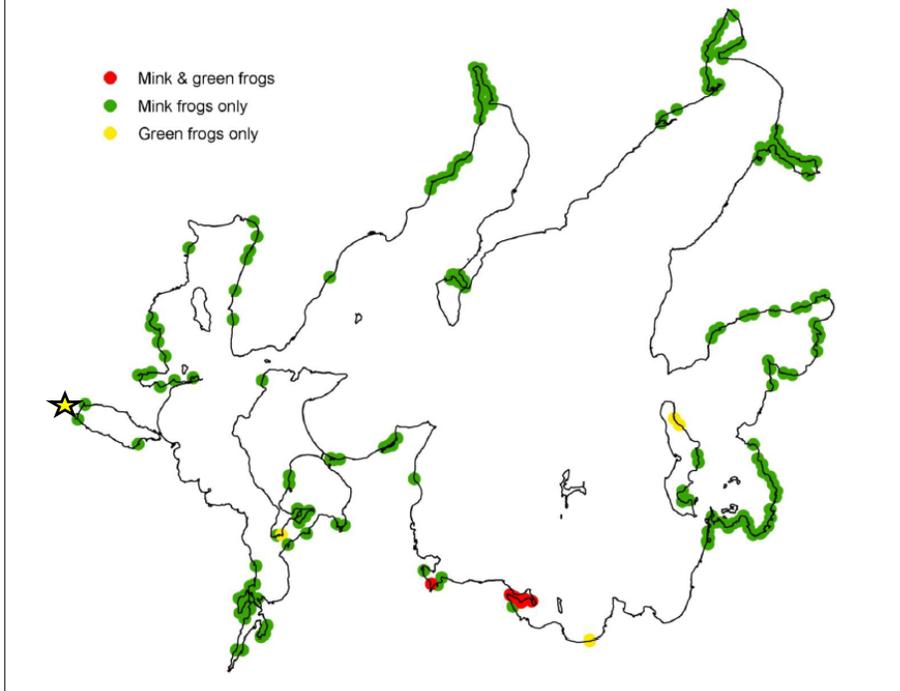
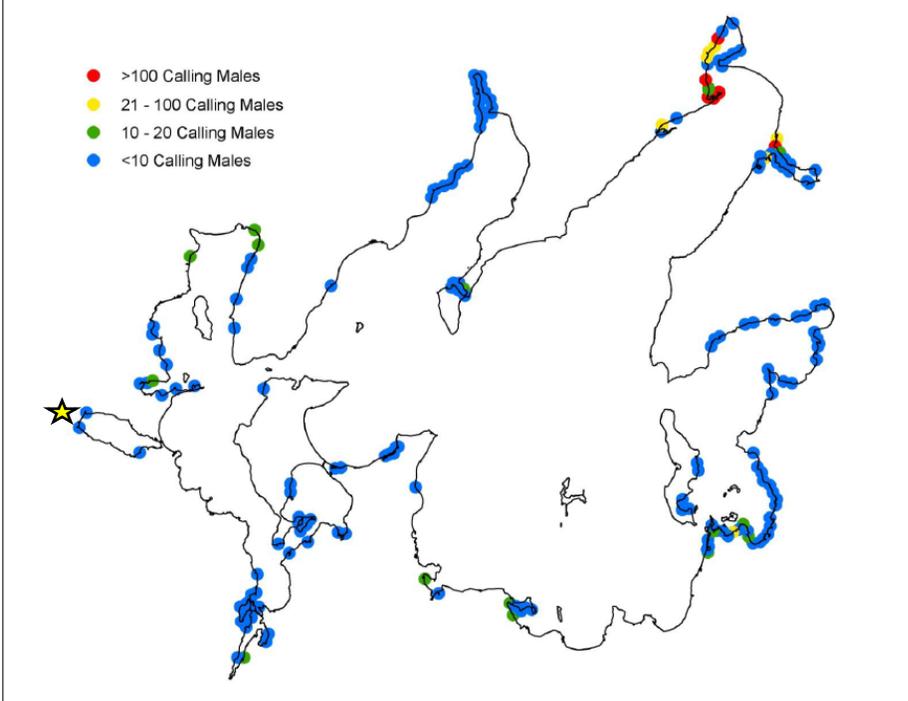
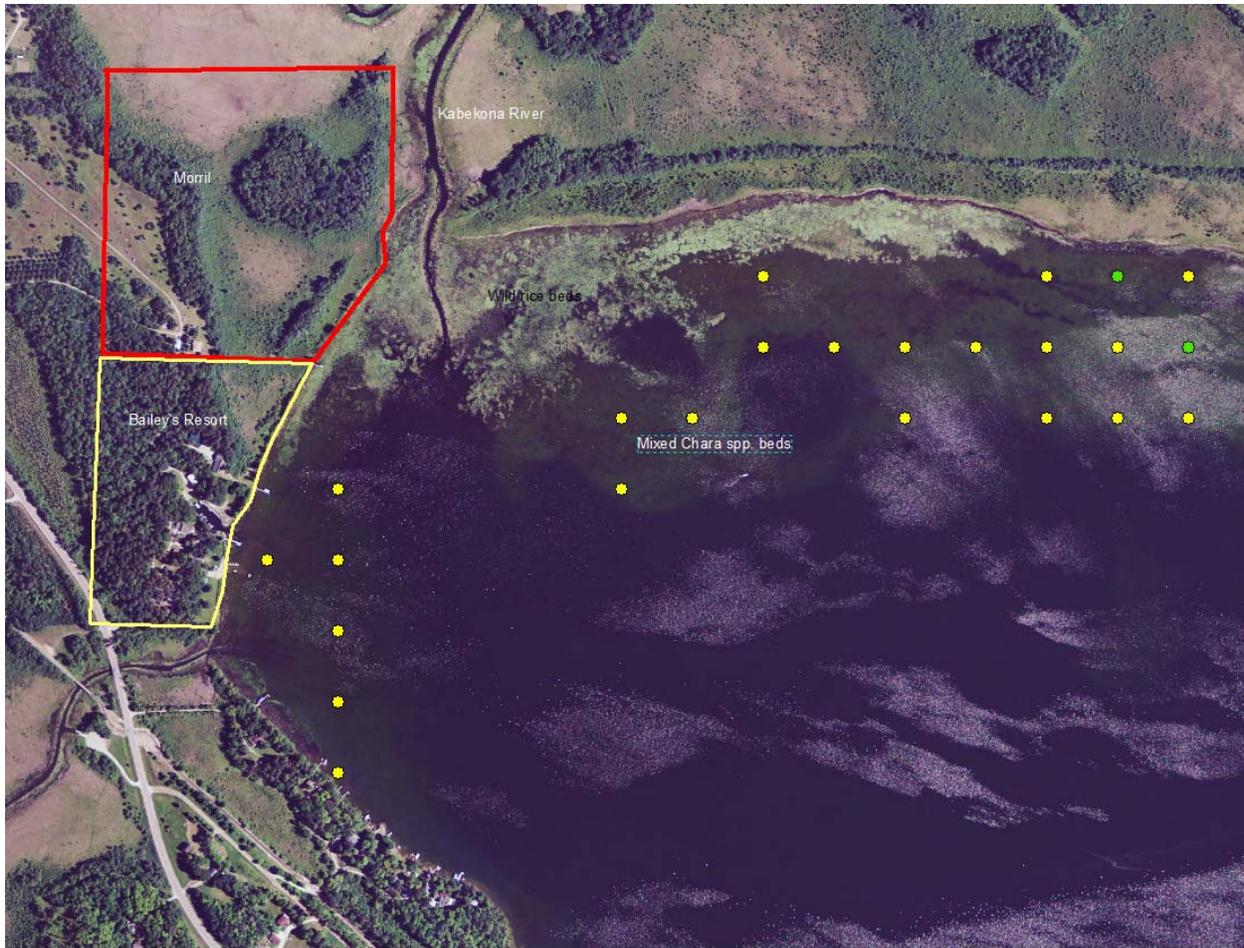


Figure 64. Abundance estimates of mink frogs on Leech Lake, 2007 – 2009.



Distribution and density of green and mink frogs on Leech Lake. Both species are sensitive to shoreline disturbance and serve as an indicator species for shoreline health.



Subject property (Morril) is adjacent to Bailey's Resort on the west end of Kabekona Bay, Leech Lake, Hubbard County. The Morril property is also adjacent to the mouth of the Kabekona River. The Kabekona River is suspected to be used by spawning Leech Lake muskellunge based on reports from anglers and other local property owners who have observed either adult muskellunge spawning in the river or young-of-year muskellunge present in the river mid-summer. No sampling by MN DNR has been conducted to confirm these reports. Previous work by Bob Strand, MN DNR identified muskellunge spawning habitat in Leech Lake to be characterized by 1-2 m deep (3-7 ft) over *Chara spp.* (muskgrass or sandgrass); the location of this habitat type in the west end of Kabekona Bay is shown above. If these in-lake habitats are used by spawning muskellunge in Kabekona Bay, they would be sensitive to increase boat traffic disturbance to and sediment re-suspension suffocation of incubating eggs.



Wild rice and submerged aquatic plant beds on the west end of Kabekona Bay, Leech Lake.



Having not seen a formal project proposal, this represents the approximate minimum impact area if an RV park and marina were developed on the Morril property. The near-shore area is shallow and soft-bottomed, meaning it is not suitable for near-shore recreation (swimming), the substrates would be readily re-suspended by increased watercraft use, and direct impacts to wild rice would be unavoidable and un-mitigatable if the proposed project were approved. Re-suspension of sediments would increase the impact area due to in-lake drift. Shoreland development of this parcel would have additional impacts to other species, such as frogs and loons.

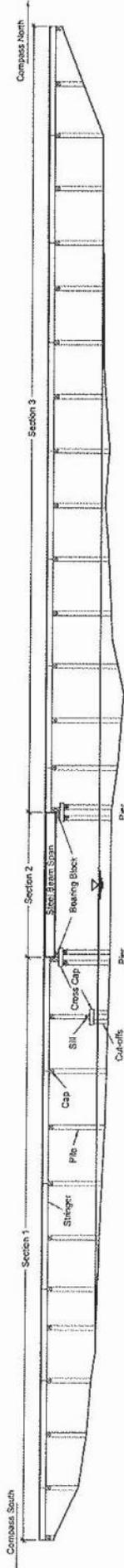
Natural Heritage Database Review (12/12/2018)-

Nothing shows up on the Morril property directly. However, species (status) located in the vicinity of the property in either Kabekona Bay or River include:

- Least Darter (special concern)
- Vertree's Ceracleen Caddisfly (watch list)
- Bald Eagle (watch list)

# State of Minnesota Heartland State Trail Kabekona Bridge Walker, MN

Sheet #	Title
1	East Elevation View Showing Existing Bridge
2	Plan & Elevation View Showing Defects from Section 1
3	Plan & Elevation View Showing Defects from Section 2
4	Plan & Elevation View Showing Defects from Section 3
5	Plan View of Proposed Posting of Piles
6	Elevation View of Proposed Bent Repairs
7	Proposed Stringer Repairs



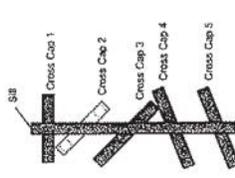
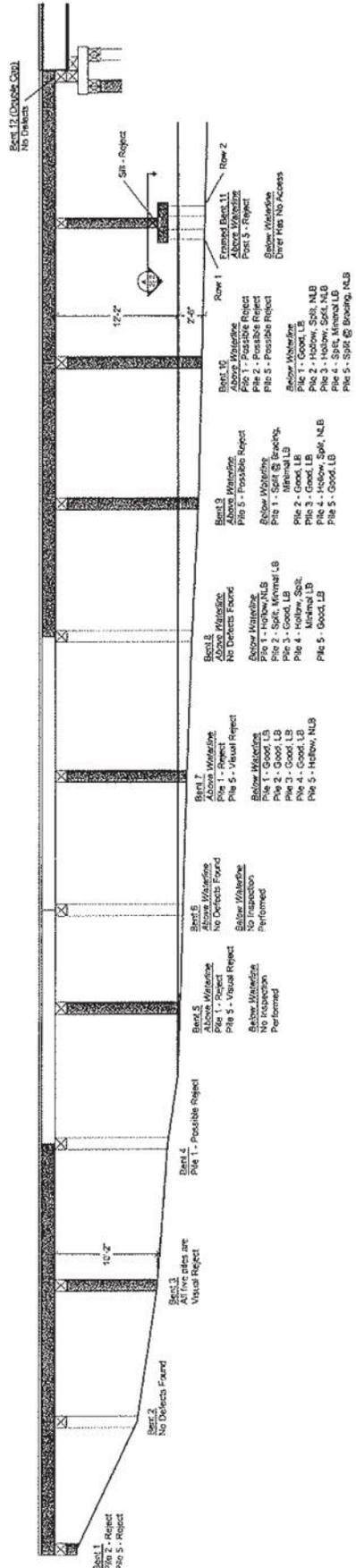
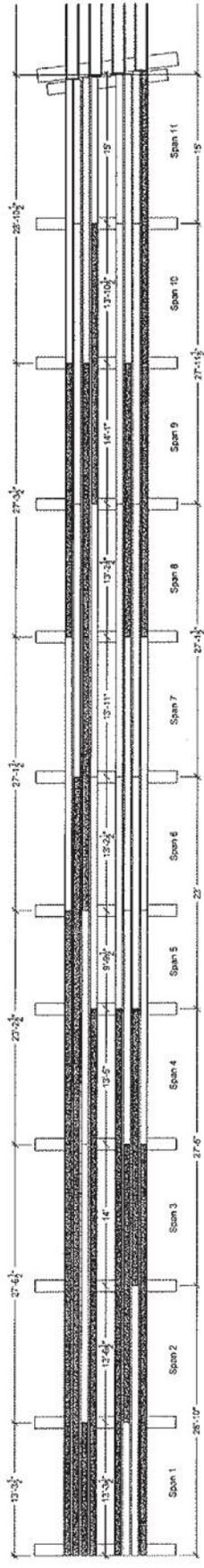
East Side Elevation View  
Showing Existing Bridge  
Scale: N/A

Bridge Location:  
GPS: N 471.342 W 94.6222  
2 miles north of Walker, MN  
East of Highway 200 (Hwy 371)

**PROFESSIONAL ENGINEER**  
 I hereby certify that this plan, specification or report was prepared by me or under my direct supervision and that I am a duly Licensed Professional Engineer under the laws of the State of Minnesota.  
 Signature: *Michael J. Threlk*  
 Date: 12/3/19 License # 48416



Job Number: 565	East Elevation View Showing Existing Bridge	Walker, MN
State of Minnesota		1
Bridge: Kabekona	SCALE: As Shown	Sheet 1 of 7
DATE: 12/3/19	DRAWN: DJS	
APPROVED: MJT		



Plan View of Bent 11  
Existing Sill and Cross Caps  
Scale: 3/32"=1'

Plan & Elevation View  
Showing Defects from Section 1  
Scale: 3/32"=1'

Denotes Reject Timber

- Notes:  
 1. All Measurements are Approximate  
 2. Elevation View Shows Pile 5 and Straps 6  
 3. All Findings below were provided by Great Drivey

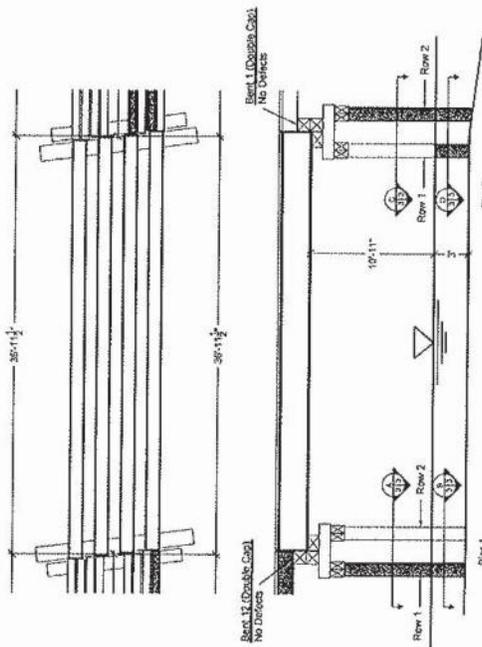
**Osmose**  
 Railroad Services, Inc.

Job Number: 5838  
 Plan & Elevation View  
 Showing Defects from Section 1

State of Minnesota

Bridge: Kalkaska  
 SCALE: As Shown  
 DATE: 12/1/09  
 DRAWN: DJS  
 APPROVED: MJT

Water, MN  
 2  
 Sheet 2 of 7

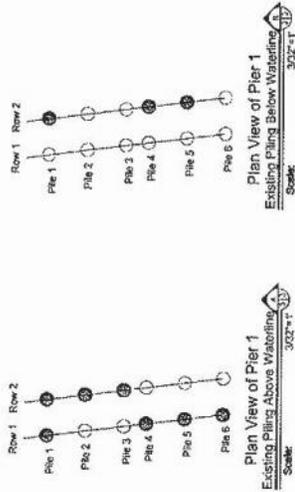


- |  |   |
|--|---|
| <b>Pier 1</b>  | <b>Pier 2</b>   |
| <b>Row 1</b>   | <b>Row 1</b>  |
| <ul style="list-style-type: none"> <li>Pile 1 - Visual Reject</li> <li>Pile 2 - Visual Reject</li> <li>Pile 3 - Visual Reject</li> <li>Pile 4 - Good, LB</li> <li>Pile 5 - Good, LB</li> <li>Pile 6 - Good, LB</li> </ul>    | <ul style="list-style-type: none"> <li>Pile 1 - Visual Reject</li> <li>Pile 2 - Visual Reject</li> <li>Pile 3 - Visual Reject</li> <li>Pile 4 - Good, LB</li> <li>Pile 5 - Good, LB</li> <li>Pile 6 - Good, LB</li> </ul>   |
| <b>Row 2</b>   | <b>Row 2</b>  |
| <ul style="list-style-type: none"> <li>Pile 1 - Good, LB</li> <li>Pile 2 - Good, LB</li> <li>Pile 3 - Good, LB</li> <li>Pile 4 - Split, Minimal LB</li> <li>Pile 5 - Split, Minimal LB</li> <li>Pile 6 - Good, LB</li> </ul> | <ul style="list-style-type: none"> <li>Pile 1 - Hollow Above Water, N.L.B.</li> <li>Pile 2 - Hollow Above Water, N.L.B.</li> <li>Pile 3 - Split, Minimal LB</li> <li>Pile 4 - Split, Minimal LB</li> <li>Pile 5 - Split, Minimal LB</li> <li>Pile 6 - Good, LB</li> </ul> |

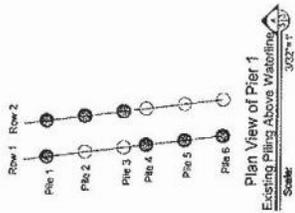
Plan & Elevation View  
Showing Defects from Section 2  
Scale: 3/32"=1'

Denotes Reject Timber

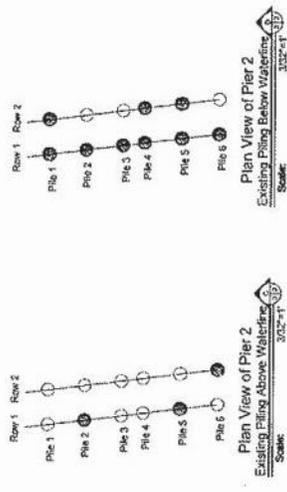
- Notes:
1. All Measurements are Approximate
  2. East Elevation View Shows Pile 6 and Baken 4
  3. All Findings Below Waterline provided by Green Diving



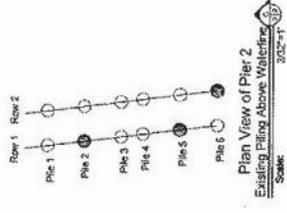
Plan View of Pier 1  
Existing Piling Above Waterline  
Scale: 3/32"=1'



Plan View of Pier 1  
Existing Piling Below Waterline  
Scale: 3/32"=1'



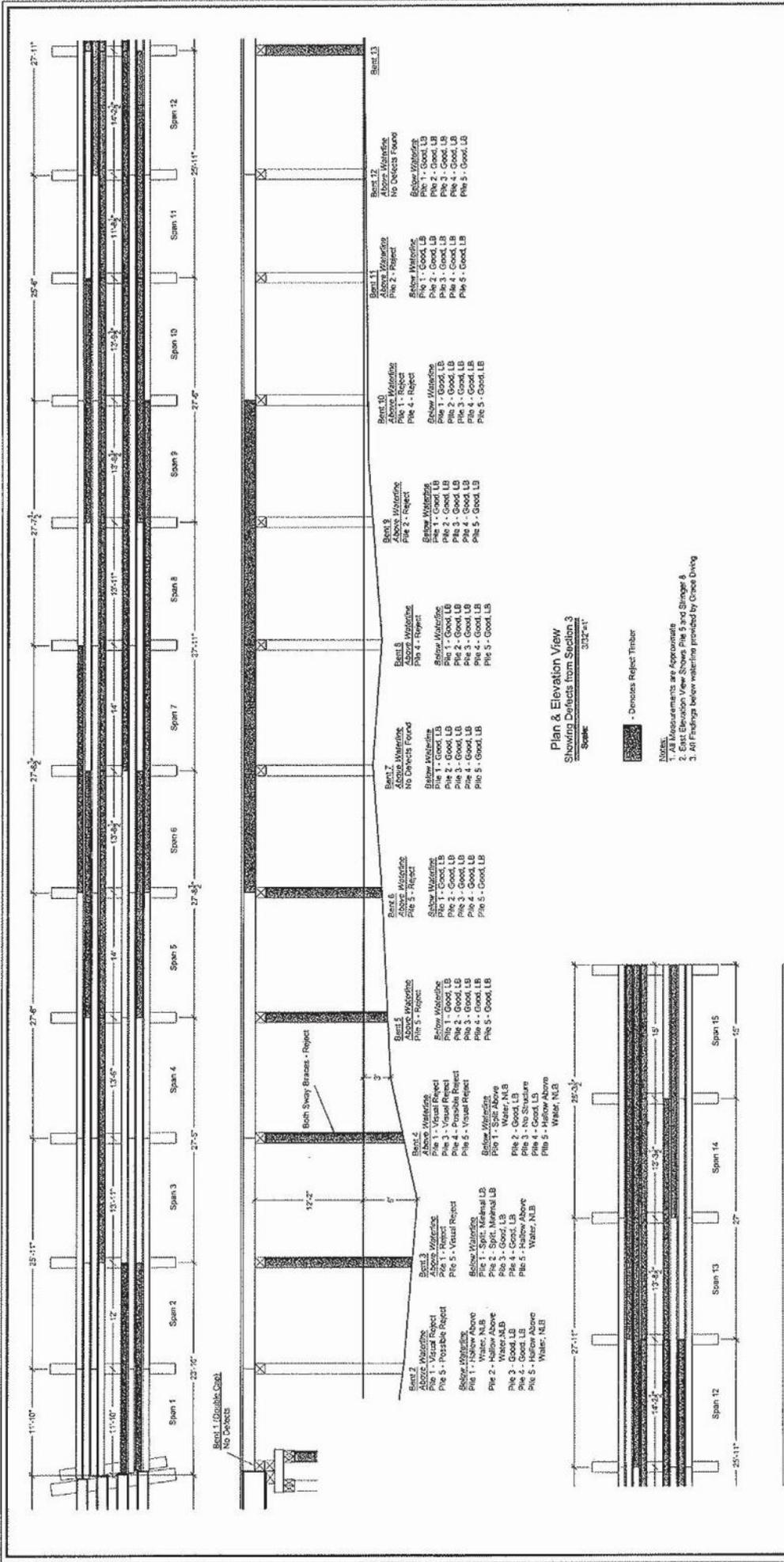
Plan View of Pier 2  
Existing Piling Above Waterline  
Scale: 3/32"=1'



Plan View of Pier 2  
Existing Piling Below Waterline  
Scale: 3/32"=1'



Job Number: 5186  
Plan & Elevation View  
Showing Defects from Section 2  
State of Minnesota  
Bridge: Kaleeba  
SCALE: As Shown  
DATE: 12/1/09  
DRAWN: DUS  
APPROVED: MJT  
Water, MN  
3  
Sheet 3 of 7



**Plan & Elevation View**  
 Showing Defects from Section 3  
 Scale: 3/32"=1'

• Devises Reject Timber

- NOTES:  
 1. All Measurements are Approximate  
 2. Elevation View Shows Pile 5 and Stringer 6  
 3. All Findings below waterline provided by Crane Diving

**Osmose**  
 Railroad Services, Inc.

Job Number: 5688  
 Plan & Elevation View  
 Showing Defects from Section 3

State of Minnesota

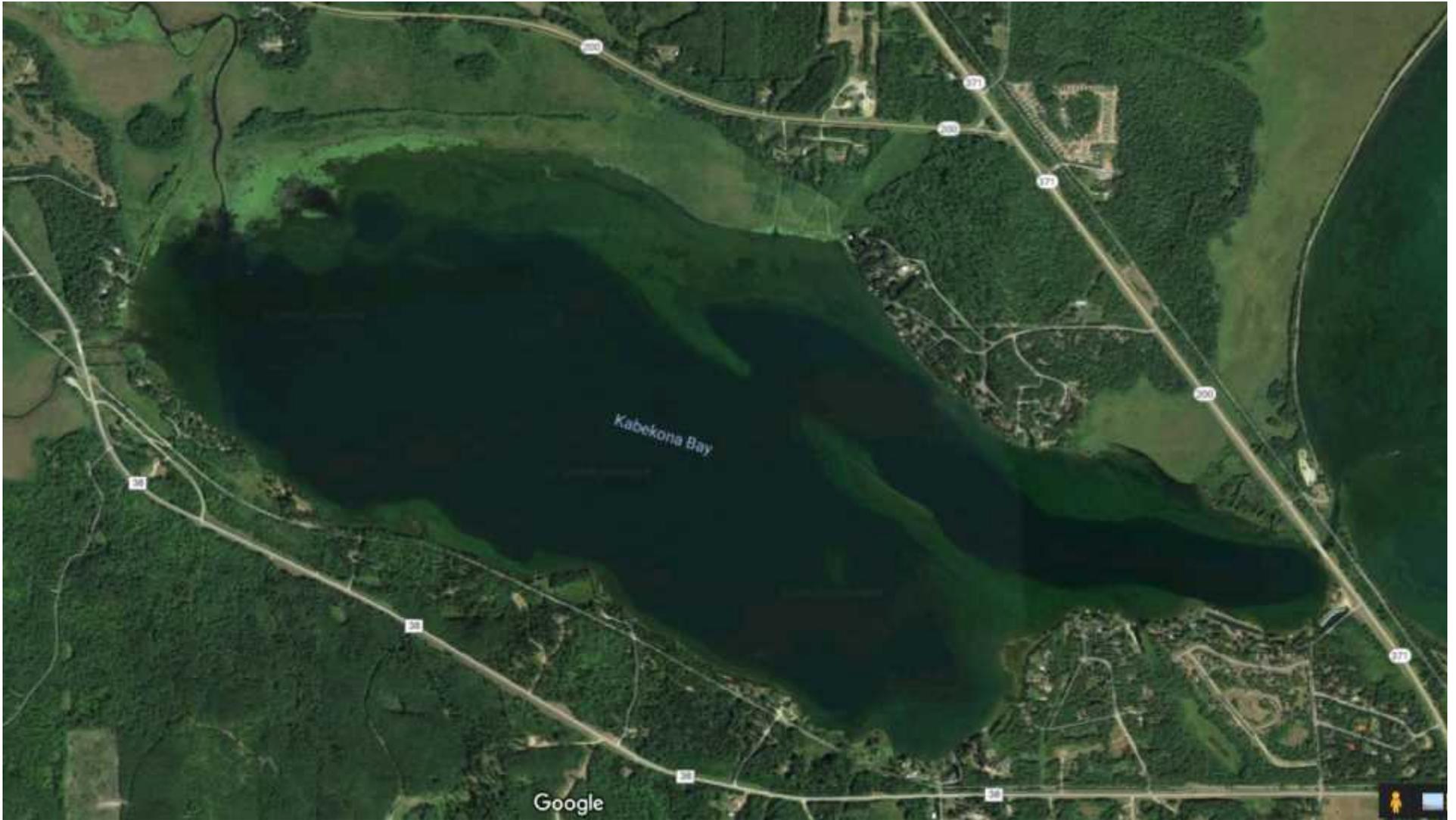
Bridge: Kawadena  
 SCALE: As Shown  
 DATE: 12/31/09  
 DRAWN: DJS  
 APPROVED: MJT

Walker, MN  
 4  
 Sheet 4 of 7

Highway 371 and Heartland Trail overpasses

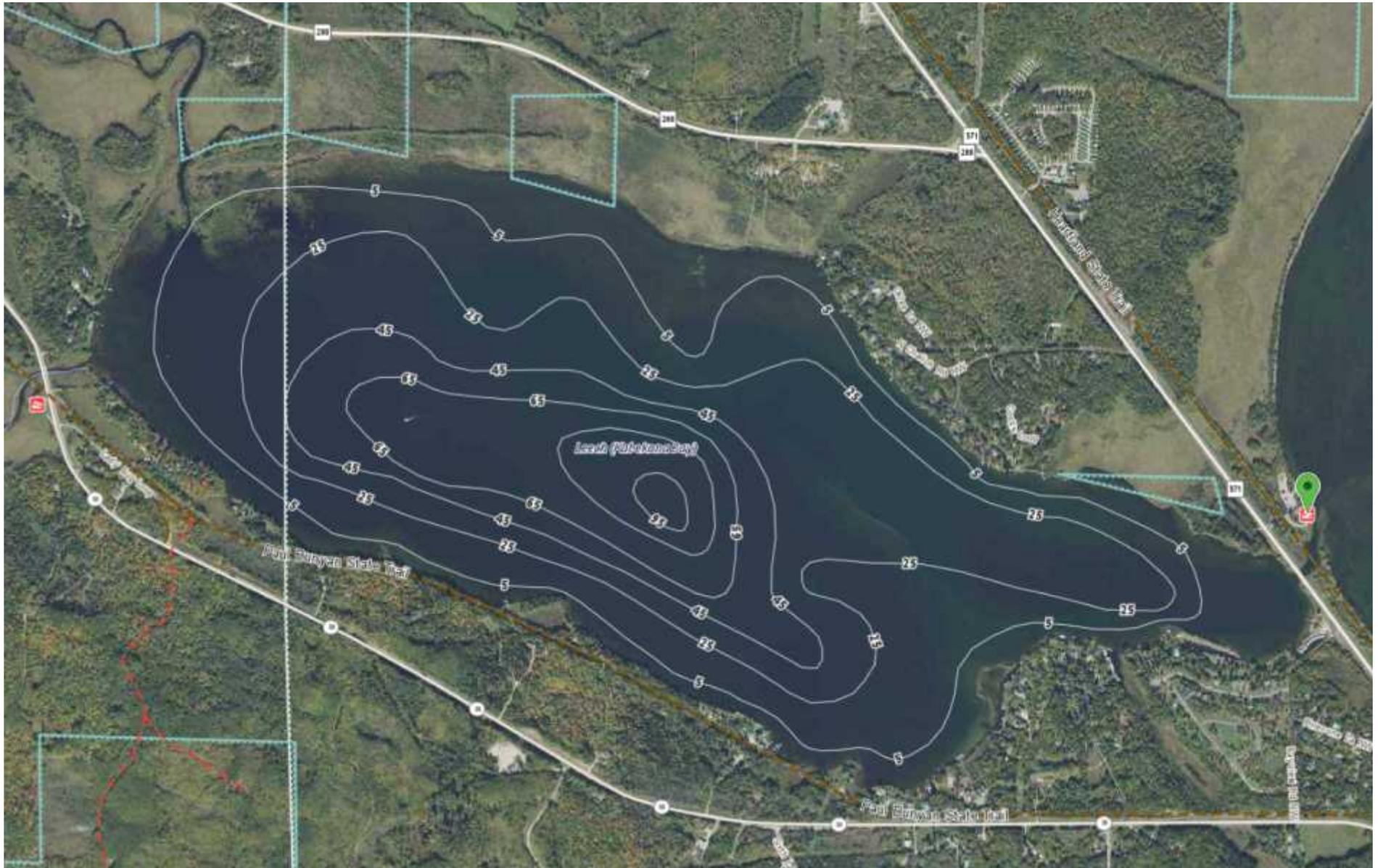


Kabekona Bay aerial photo showing aquatic vegetation





# Kabekona Bay/Leech Lake aerial photos and topographic lake depth maps



# National Wetland Inventory GIS data layer



# 2008 Color Infrared Aerial Photo



# Marina Ordinance Content Ideas from Other Governmental Entities

## Cass County, MN

**Marina:** Either an inland or offshore commercial mooring facility for the concentrated mooring of seven or more watercraft or seaplanes, wherein commercial ancillary services common to marinas are provided.

### 903.9 Water Oriented Commercial - (WOC)

The purpose of this district is to accommodate commercial uses in the shoreland zone where access to and use of a surface water feature is an integral part of the business. Marinas, resorts and restaurants with transient docking facilities are examples of such use.

### 1104.8 Marinas

Marinas require a conditional use permit in a WOC district and shall comply with the following standards:

A. All marinas require an approved MN DNR permit under Minnesota Rules, Chapter 6115.0211.

B. Short-term watercraft mooring for marina patrons shall be centralized, to avoid obstructions of navigation, and be the minimum size necessary to meet the need.

C. The number of spaces available for long-term mooring of watercraft shall be consistent with the number approved in the MN DNR marina permit.

D. Boat launching facilities may be permitted as part of a marina.

E. Uses that depend on marina patrons arriving by watercraft may use signs and lighting to convey information to the public, subject to the following general standards:

1. Signs may be placed, when necessary, within the SIZ. They shall only convey the location and name of the establishment and the general types of goods or services available. The signs shall not be located higher than ten (10) feet above the ground, and shall not exceed thirty-two (32) square feet. If illuminated by artificial lights, the lights shall be shielded or directed to prevent illumination out across Public Waters.

2. Other outside lighting may be located within the SIZ or over Public Waters if it is used primarily to illuminate potential safety hazards and is shielded or otherwise directed to prevent direct illumination out across Public Waters. This does not preclude use of navigational lights.

F. The total number of off street parking spaces provided shall equal one (1) space for each short-term and long-term slip provided in the marina. One (1) boat trailer parking space shall be provided for every two (2) short-term and long-term slips provided in the marina.

G. Sewage treatment systems shall comply with the requirements of the Cass County SSTS Ordinance and the MN DOH.

## Mille Lacs County, MN

**SURFACE WATER-ORIENTED COMMERCIAL USE:** Use of land for commercial purposes where access to and use of a surface water feature is an integral part of the normal conductance of business. Marinas, resorts, restaurants, hotels and motels with transient docking facilities are examples of such use.

## Aitkin County, MN

Lakes	GD	RD	NE
(Rivers)	(Tributary)	(Forested)	(Remote)
Marine, marina	C	C	Not Permitted

## Beltrami County, MN

### II. Water-Oriented Commercial-Recreational Use

	<b>GD</b>	<b>RD</b>	<b>NE</b>	<b>Sensitive Area</b>	<b>SP</b>	<b>River Segments</b>
Marina	C	C	N	N	N	N

## Lake County, MN

### ARTICLE 19.0

#### PC PUBLIC-COMMERCIAL DISTRICT

Sec. 19.00 Purpose: This district provides for the preservation and enhancement of publicly-controlled protected natural resources while allowing for environmentally-sensitive recreational development for the enjoyment of residents and visitors.

Sec. 19.03 Conditional Uses:

- A) Harbors of refuge.
- B) Marinas.
- C) Gift shops.
- D) Recreational camping areas.
- E) Lodging establishments with four (4) or less units.
- F) Commercial Planned Unit Developments.
- G) Residential uses.

# Cook County, MN

## Sec. 4.18 GC General Commercial District

The principal purpose of the General Commercial (GC) District is to provide for basic commercial services to the public. This district is located in areas of greater population density with good access to major roadways. Limited light industrial activities area allowed on a conditional basis in this zone district.

### A. Permitted Uses

1. Hotels, motels and resorts.
2. Public or private schools, churches.
3. Parks and recreation areas.
4. Municipal, county, state or federal administration buildings, police or fire stations, museums, art galleries, libraries, post offices or other community service buildings.
5. Hospital, clinic, rest homes.
6. Automobile service and repair facilities.
7. Eating and drinking establishments (excluding drive-in service where patron remains in the automobile while purchasing goods or services to be consumed on the premises).
8. Commercial retail sales and service establishments such as: food, drugs, general merchandise, apparel, furniture, hardware, motor vehicles, farm machinery, lumber and building materials, offices, personal and professional services, amusement and recreation service, finance, insurance and real estate services.
9. Wholesale and warehousing operations whose operations are principally confined to the interior of a building, such as: food products, automotive parts, drugs, electrical equipment, hardware, paper and container, feeds, and seeds.
10. Marinas on Lake Superior.

# Saint Louis County, MN

## Section 5.5 Use Classification Definitions:

- D. Commercial, Retail and Service Establishments – Class II** – A category of uses that includes, but is not limited to: clinics and other medical facilities, dog kennels, dog parks/training including outdoors, dog sled outfitting, garden centers/greenhouses, gift shops, grocery stores/food co-ops, horse boarding/training, hotels/motels, indoor shooting ranges, liquor sales or micro-breweries, marinas, marine sales and service, meat processing including wild game, mini-storage, outfitting, pet services, professional offices (e.g. finance, insurance, real estate, internet sales), restaurants, and seasonal produce stands.

## Section 6.30 Commercial Uses in Shoreland Areas Conditional Use Standards “C”

- A. Conditional Use Permit Required:** Commercial uses involving docking and marinas in shoreland areas require a conditional use permit and shall meet the following design standards:
1. Structures, parking areas, and other facilities must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks, color, or other means acceptable to the local unit of government, assuming summer, leaf-on conditions.
  2. Shore recreation facilities, including but not limited to swimming areas, docks, and watercraft mooring areas and launching ramps, must be centralized and located in areas suitable for them. Evaluation of suitability must include consideration of land slope, water depth, vegetation, soils, depth to groundwater and bedrock, or other relevant factors.
  3. Shall adhere to all other local, state and federal regulations.
- B. Commercial Planned Development Minimum Standards in Shoreland Areas:** Resorts, marinas, campgrounds, water-oriented restaurants, and recreational vehicle parks in shoreland areas shall follow the overall and specific standards stated in this section. The Planning Commission or Board of Adjustment may require additional conditions should a particular use require a public hearing before either board. Standards

written in this section, except for exterior setback, including shoreline setbacks standards may be waived through the conditional use permit. Exterior setback standard waivers require an approved variance. The following standards shall apply:

1. Properties that do not have an engineered stormwater management plan shall not exceed a total impervious coverage of 15 percent of the total planned development, or as required in the zone district where it is located, whichever is more restrictive.
2. Properties that have an engineered stormwater management plan shall not exceed a total impervious coverage of 25 percent of the total planned development.
3. Dark sky standards shall be followed.
4. Access roads, bridges, and road entrances to all operations shall be sufficient to meet the standards of the local road authority. All entrances onto public roads shall have specific authorization from the appropriate road authority. Facilities not on a public road shall demonstrate authorization to utilize the road.
5. The requirements of the state fire marshall and the local fire department shall be met.
6. Shoreland mitigation standards shall be followed.
7. If the property legal description is changed in any way, the business will undergo an administrative review for compliance with the provisions of this ordinance.

## **Goodhue County, MN**

### **SECTION 3. CONDITIONAL USES AND INTERIM USES**

Subd. 7. Yacht slips, service and storage marinas, harbor and docking facilities subject also to all approved regulations and ordinances of governmental agencies for the same.

## **ARTICLE 30 CR, COMMERCIAL RECREATIONAL DISTRICT**

### **SECTION 3. CONDITIONAL USES AND INTERIM USES**

Subd. 7. Yacht slips, service and storage marinas, harbor and docking facilities subject also to all approved regulations and ordinances of governmental agencies for the same.

## **Washington County, MN**

Marina: An area of concentrated small craft mooring, where ancillary facilities may be provided for some or all of such services as fueling, sewage pump-out, boat launching, boat repair, and boat storage; except that marina does not mean temporary docks associated with riparian residential development if the mooring area is of a size not to exceed the resource limitations of the site and the needs of the residents of the development.

### **SECTION 5. USES WITHIN THE ST. CROIX RIVERWAY**

Rural District Conditional Uses. In rural districts, the following uses may be permitted as conditional uses:

- (A) Government resource management and interpretive activities:
- (B) Marinas between the Boomsite Highway Wayside and the northern boundary of the City of Stillwater.
- (C) Governmental highway waysides, rest areas, information areas, and scenic overlooks.

5.5 Prohibited Uses.

(E) Marinas upstream from the Boomsite Highway Wayside and downstream from Stillwater southern city limits in rural districts.

#### 6.5 Marinas.

(1) New and/or expanded marinas may only be allowed:

(A) Between the Boomsite Highway Wayside and the northern boundary of the City of Stillwater.

(B) Downstream from the northern City limits of Stillwater in urban districts.

(2) New marinas shall meet the design standards of Department of Natural Resources Regulations including NR 2201 (f (2)).

(3) Permit Requirements. Any construction or development associated with a marina prior to obtaining all required permits and authorizations is prohibited.

(A) Marinas are a conditional use in this Ordinance.

(B) For uses and structures above the ordinary high water mark associated with a marina, a public hearing shall be held by the governing body to consider a marina as a conditional use in accordance with Department of Natural Resources Regulations including NR 2202 (d (2)). The governing body may approve or deny the marina on said standards of the Department of Natural Resources. If the governing body approves the marina, final issuance of the local permit shall be conditioned upon granting of all State and Federal permits required in Department of Natural Resources Regulations including NR 2201 (f).

## Anne Arundel County Code

(61) “Marina” means a facility located along the shoreline that has docks, moorings, supplies, and other services for watercraft and watercraft passengers. The following types of marinas have the meanings indicated:

(i) “Marina, commercial” means a marina for servicing, fueling, and storage of watercraft that may include covered or uncovered wet storage slips, dry storage of watercraft, and boat sales.

(ii) “Marina, community” means a marina that provides limited watercraft services in a recorded residential riparian subdivision for residents and their guests and that is located on property leased or owned by a homeowner’s association.

### Use

Marinas, commercial and community

### Parking

1 space for every 2 boat slips or moorings; 1 space for every 3 boat slips in dry covered storage or in multilevel storage rack building; 2 trailer spaces per ramp for community marinas; 5 trailer spaces per ramp for commercial marinas

### § 18-3-310. Signs for marinas; signs in maritime districts.

(a) **Community marinas.** A community marina may have one freestanding sign that does not exceed 36 square feet in area or a height of eight feet.

(b) **Commercial marinas.** A commercial marina may have one freestanding sign at the entrance that does not exceed 200 square feet in area or a height of 25 feet and a freestanding sign on the shoreline or a pier that does not exceed 48 square feet in area or a height of 10 feet.

(c) **Independent uses in a marina.** Each independent use in a marina may have two identification signs on a structure to which the use relates. The total square footage of the signs may not exceed 200 square feet.

Permitted, Conditional, and Special Exception Uses	MA1	MA2	MA3	MB	MC
Marinas, commercial		P		P	P
Marinas, community	P				
Marinas, yacht club			P		
Dwellings for the sole purpose of custodial, managerial, or operational aspects of the marina: one for a marina with less than 250 slips; two for a marina with 250 or more slips		P	P	P	P
Offices and administration facilities necessary for operating the marina		P	P	P	P

## Charter Township of Elmwood Zoning Ordinance

**Marina.** A boat basin which has facilities for berthing and securing three (3) or more of all types of pleasure craft. A public, private or commercial marina may also include facilities for providing supplies, provisions, services, and fueling of watercraft.

**Marina, Commercial.** A marina that is privately owned and operated where slips or moorings are leased or rented to others.

**Marina, Private.** A marina that is used exclusively for the private use of the owner(s) of the adjacent shoreline property.

**Marina, Public.** A marina operated by a public entity.

Commercial Related Uses	A-R	R-1	R-2	R-3	MHP	MC	NC	GC	LI	SC	RR
54. Home occupations*	P	P	P	P	P		P				
55. Kennels	SUP						Psp	Fsp			
56. Marine related sales, service and storage								SUP	SUP		Psp
57. Marina, mooring facilities, and complimentary uses											SUP

### SECTION 6.1.3 Spaces Required

A. The following schedule contains the parking requirements for individual uses and activities within the township.

USE	MINIMUM NUMBER OF SPACES REQUIRED
Marinas	1 space per every 2 slips plus 8 trailer parking spaces for each boat launch ramp plus 4 spaces per each charter boat lease slips

## Article 9 – Special Land Uses

### E. Marinas-Commercial, Private, and Public.

- Sanitary facilities (i.e. bathrooms) shall be provided.
- Marinas must comply with all Federal and State regulations including permitting.
- Sale of motor fuels may be allowed if located more than five hundred feet from any public bathing beach measure along the shoreline, and no closer than one hundred feet from any adjacent property.
- Storage of boats, trailers, and cradles may be permitted provided that trailers and cradles are screened from view or located one hundred feet from any road right of way.

# Minnesota Pollution Control Agency land use map for Kabekona Bay area



### Monitoring Sites

-  Biological
-  Discharge
-  Lake
-  Stream
-  USGS

### Watershed Boundaries

-  Major Watershed

### Land Cover (2006 NLCD)

- |   |  |
|---|--|
|  Water       |  Grassland        |
|  Developed   |  Pasture/Hay      |
|  Barren Land |  Cultivated Crops |
|  Forest      |  Wetland          |
|  Scrub/Shrub |  |



Waterbody Location



Leech Lake bridge  
(Kabekona Narrows)

200 0 200 400 Feet



Looking NE at north end of Leech Lake bridge at Kabekona Narrows (KE – 7/9/2010).



Looking ENE at south end of Leech Lake bridge at Kabekona Narrows (KE – 7/9/2010).

RECEIVED  
DEC 10 2018

-----Original Message-----

From: Steve DeKoster [<mailto:hutchcerrec@me.com>]  
Sent: Thursday, December 06, 2018 9:14 PM  
To: [ebuitenwerf@co.hubbard.mn.us](mailto:ebuitenwerf@co.hubbard.mn.us)  
Subject: Harbor opposition

Hi Eric. I just heard about a proposed harbor application on the leech lake side of the kabekona river. I want to express my and many of my neighbors absolute opposition to this project that would permanently alter and damage the natural shoreline in an area that has never been developed and is not conducive to anything but maybe a bunch of trailers. Many kabekona bay folks will be sending their feelings of disgust also. Ruining a great resource for crappies and our wonderful musky spawning area should not be allied merely for someone to try to make money off of marginal land that they paid very little for. So please forward this to your fellow board members and let me know if there is anyone else or any meetings we can attend to be sure this ridiculous project doesn't go thru.

Thanks. Dr Steve DeKoster

Dr Steve DeKoster  
320-221-4542  
[Hutchcerrec@me.com](mailto:Hutchcerrec@me.com)

RECEIVED DEC - 7 2018

Sirs

My name is Keith Karlan and I own property in Hubbard Co. on Kabekona Bay. I noticed in the Hubbard Co. web site that the planning committee was looking into approving a vote on a planned marina proposal for what I assume is on the lake not far from out property.

This is the first that I have heard of this proposal and I would like the committee to consider holding off on the vote until they have made the marina details and location public. Since this could affect the surrounding land owners, I feel that more information should be make public so that their input may be also added to the consideration. Please do not rush into this vote without proper notice and consideration.

Thank you

Keith Karlan (Southside Properties)



2443 SW Brookhaven Ln

Topeka, Ks 66614

Our property address is

32706 Co. 38

Laporte Mn. 56461

(All mail goes to the Topeka address)

RECEIVED  
DEC 11 2018

**From:** Ineke Leer [<mailto:Ineke@leertitle.com>]  
**Sent:** Tuesday, December 11, 2018 8:37 AM  
**To:** Buitenwerf Eric  
**Subject:** Harbor opposition

Good Morning Eric;

this email is in regards to the Attached application.

We do not have a problem with Expansion of Business on Kabekona Bay as long as the Normal Rules apply  
Property gets assessed as commercial to be used for commercial

I do not feel that a residential Property should be able to put out Doc's for Rental without some sort of Commercial base behind it. Hope that makes sense.  
I am a resident of Kabekona Bay on Silver Springs Lane NW.

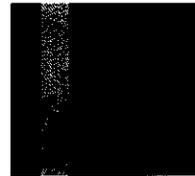
**Happy Holidays!**

LEER Title Services will be closed on the following dates:  
Thursday and Friday, November 22<sup>nd</sup> & 23<sup>rd</sup>  
Monday thru Wednesday, December 24<sup>th</sup> to 26<sup>th</sup>  
Tuesday, January 1<sup>st</sup>

Ineke C B Leer

LEER Title Services, P.O. Box 610, 201 5th Street North, Walker, MN 56484, Phone: 218.547.7500,  
Cell: 218-252-4044, email: [ineke@leertitle.com](mailto:ineke@leertitle.com), web address: [www.leertitle.com](http://www.leertitle.com)  
Issuing Agent for Stewart Title Guaranty Company [www.stewart.com](http://www.stewart.com)

**Brett Fish**  
1152 Hollybrook Dr  
Wayzata, MN 55391  
612-940-5462 brett.fish@genmills.com



RECEIVED  
DEC 12 2018

12/11/18

Eric Buitenwerf  
Environmental Service Director  
301 Court Ave  
Park Rapids, MN 56470

Dear Eric Buitenwerf,

I am writing to you to appose the shoreland management ordinance amendment application by Shawn Morrill.

We own a cabin and lake shore on Kabekona Bay. Address is 33525 Librarian Lane. The proposed marina will be in full sight line of our cabin and subtract from the tranquil beauty of our end of Kabekona Bay. The marina will increase the already excessive boat traffic on the bay that will add to the already in progress shore erosion.

The proposed marina and RV park will impact the water quality of Kabekona Bay and Leech Lake, destroying the vegetation and driving up the sediment levels in the bay. The water depth a long the shore line owned by Mr Morrill's family is very shallow making it difficult for navigation without destroying the vegetation or dredging the shoreline to get boats in for a marina.

In addition, having marina and RV park at that end of Kabekona Bay will increase the traffic along county road 38 that will cause traffic noise to increase to levels that will have environmental impacts.

For Mr. Morrill to ask to have an ordinance changed so he and is family can keep their property at the expense of all the residences on Kabekona Bay which is in both Hubbard and Cass Counties is not right. His proposal will have negative impacts to all residences in



the area. What the Morrill family should do is sell their property if they are in hardship versus negatively impacting the lives of area residences.

Thank you for your attention to this matter as the Environmental Director of Hubbard County.

Sincerely,

Brett Fish



## Eric Buitenwerf

---

**From:** Sharon Natzel <sharonmnatzel@gmail.com>  
**Sent:** Wednesday, December 12, 2018 4:29 PM  
**To:** Buitenwerf Eric  
**Subject:** shoreland maint amendment

12-12-2018

Eric Buitenwerf  
Environmental Services Director  
Hubbard County Environmental Services  
301 Court Avenue  
Park Rapids, MN 56470

Subject: Hubbard County Shoreland Maintenance Ordinance Amendment Application by Shawn Morrill

Board of Adjustments and Planning Commissioners and Hubbard County Commissioners,

My comments are regarding the addition of a marina use on general development classified lakes in Section 401, Table 1 of the Shoreland Management Ordinance.

I am concerned that the proposal will be changed by the BOA / Planning Commissioners from general development classified lakes to a broader context of recreational development lakes. The two lakes that I could find in my research that are currently in / over the boundary into Hubbard County in General Development are Steamboat 11050400 in Cass and Kabekona Bay 11020302 (used to be 0300) on Leech which is also GD 11020300. These may be lakes that can handle a marina. However recreational development lakes cannot.

Sincerely, Sharon Natzel, citizen

## RETAINER AGREEMENT FOR LEGAL SERVICES

This Agreement is entered between Hubbard County (“County”), and Rupp, Anderson, Squires & Waldspurger, P.A., attorneys at law (“Attorneys”).

**WHEREAS**, the County desires professional legal services relating to land use and zoning issues; and

**WHEREAS**, the Attorneys provide services relating to land use to Counties, and have the skill and expertise necessary to perform the duties as set forth in this Agreement.

**NOW, THEREFORE**, in consideration of the mutual promises and covenants contained herein, the parties agree as follows:

1. Scope of Services: The Attorneys shall provide advice and consultation upon issues relating to zoning matters pursuant to an annual Retainer Agreement for the sum of \$7,500.00. The primary attorney to render all such advice will be Scott T. Anderson. If Scott T. Anderson is not available, then Jay T. Squires, or their delegates, shall render such advice.

For purposes of this Retainer Agreement, advice and consultation shall consist of telephone conversations, e-mail communications, and/or short letters on non-recurrent matters, but shall not include any research and/or drafting beyond the above that may be requested by the County, except as may be otherwise set forth in this Agreement. Any requested research and/or drafting will be billed at hourly rates set forth herein. The County and the Attorneys may conclude that a particular matter or issue will not be resolved through one or several telephone calls. If so, then upon agreement of the County and the Attorneys, the Attorneys will open a separate file for the matter and perform the work on hourly basis, to be billed at the hourly rates set forth herein.

The advice and consultation covered under this Agreement shall include the follow areas:

- A. Questions relating to the permitting process for all permits called for under the County’s land use ordinances, as well as questions relating to rezoning;
- B. Questions pertaining to conducting hearing processes on land use requests including, but not limited to, any questions pertaining to the Open Meeting Law or Minnesota Government Data Practices Act, as they may pertain to such hearings;
- C. Questions pertaining to EAW’s, EIS’s, or any other environmental review;

- D. Questions pertaining to enforcement of land use ordinances; and
- E. Questions relating to ordinance and statutory interpretation.

It is the intent of the parties to this Agreement that the scope of this Retainer Agreement shall include short written letters confirming telephone advice and consultation, as deemed necessary by the County and/or the Attorneys, to the extent that such letters do not involve any additional research or other drafting.

2. Authorized Contact Persons: Those County personnel who will be authorized to contact the Attorneys for services included within this Agreement are the Environmental Services Officer, the County Coordinator, the County Attorney, the County Board Chair, and/or their delegates.
3. Term: From January 1, 2019 through December 31, 2019.
4. Payment for Services: The Attorneys shall bill the County quarterly in equal installments for the amount due under the retainer. Payment is due thirty (30) days after the receipt of the bill. Each quarterly bill for retainer services will include within it a statement of costs and disbursements incurred during that quarterly period that are to be paid by the County under this Agreement.
5. Costs: In addition to the annual retainer amount, the County agrees to pay actual, necessary and reasonable costs and expenses incurred by the Attorneys in the performance of the services under this Agreement. Those costs include mileage at the I.R.S. rates; photocopying at 20 cents per page; facsimile at \$1.00 per page/\$5.00 maximum per transmission; and the actual costs of long distance phone calls and postage. If additional services are rendered under Paragraph 7 herein, the County also recognizes that it would be responsible for costs and disbursements incurred by the Attorneys, including, but not limited to, costs for messengers, court costs, arbitration, or mediation expenses, deposition expenses, and/or other trial or administrative hearing related expenses.
6. In-Service Training: The Attorneys will provide up to three hours of on-site in-service training to County officials, officers, and/or staff. This in-service training will occur in one three-hour session, upon any subject relating to the area of land use or, at the choice of the County, upon any other topic(s)

mutually agreed to by the County and the Attorneys that are within the normal working areas of Rupp, Anderson, Squires & Waldspurger.

7. Services at Hourly Rates: Any special projects or services provided by the Attorneys that are outside the scope of services covered by the retainer will be provided at the hourly rates set forth below. Any services contracted at hourly rates will be billed on a monthly basis. Payment is due 30 days after the receipt of the bill. Invoices will be in the standard format of Rupp, Anderson, Squires & Waldspurger, and will indicate the amount of time spent on each legal issue, the attorney providing the service, the nature of the work done, and the exact amount of time spent.

**Hourly Rates:**

Scott T. Anderson	\$190.00/hour
Jay T. Squires	\$190.00/hour
Amy E. Mace	\$190.00/hour
Trevor S. Helmers	\$190.00/hour
John Edison	\$190.00/hour
Tessa S. Wagner	\$180.00/hour
Liz J. Vieira	\$180.00/hour
Kristin C. Nierengarten	\$180.00/hour
Zachary J. Cronen	\$180.00/hour
Michael J. Ervin	\$180.00/hour
Jake Kimmes	\$180.00/hour
Abbi R. Kelzer	\$180.00/hour
Steve R. Gershone	\$180.00/hour

**COUNTY OF HUBBARD**

**RUPP, ANDERSON, SQUIRES &  
WALDSPURGER, P.A.**

By: \_\_\_\_\_

By: Scott T. Anderson

Its: \_\_\_\_\_

Scott T. Anderson  
333 South Seventh Street, Suite 2800  
Minneapolis, MN 55402  
(612) 436-4300

Date: \_\_\_\_\_

Date: 12-13-18

RASW: 74107