

Region or Bureau NOR
Type List Designation NR 150.03 (8)(d)1.c.

**NOTE TO REVIEWERS:** This document is a DNR environmental analysis that evaluates probable environmental effects and decides on the need for an EIS. The attached analysis includes a description of the proposal and the affected environment. The DNR has reviewed the attachments and, upon certification, accepts responsibility for their scope and content to fulfill requirements in s. NR 150.22, Wis. Adm. Code. Your comments should address completeness, accuracy or the EIS decision. For your comments to be considered, they must be received by the contact person before 4:30 p.m., Insert Date.

Contact Person: Kelly J. O'Neil
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Applicant: Iron County, C.E. Zinsmaster, Forest Administrator

Address: 607 Third Ave. N, Suite 2. Hurley. WI 54534

Title of Proposal: Fisher Lake Land Withdrawal

Location: County: Iron City/Town/Village: Mercer

Township Range Section(s): T43N R4E Section 3 NESE

**PROJECT SUMMARY**

1. Brief overview of the proposal including the DNR action (include cost and funding source if public funds involved)

Iron County Forestry (ICF) is requesting withdrawal of approximately 6 acres of ICF Land, from the Iron County Forest (from this point forward, the 6 acres will be referred to as "ICF Fisher Lake Land"). In accordance with s. Chapter 28.11(11), Stats., the Division of Forestry will render a decision regarding withdrawal of County Forest land. If the land is withdrawn, ICF has contractually agreed to trade it to Dr. Barry and Mrs. Edelstein, for their \$90,000.00 invested interest in a one-acre property located down stream from Lake of the Falls (from this point forward this property will be referred to as "Haven by the Falls"). On Friday, May 14, 2004, Iron County and the Edelsteins closed on the Haven by the Falls property for \$151,900.00. Iron County contributed \$61,900.00 to the purchase from their Forestry Land Acquisition Account. ICF intends to develop a public boat landing at Haven by the Falls and move the existing structure that is currently on the site to another location.

It has been determined through two separate appraisals by a WI DNR Real Estate Specialist, that the appraised value of the ICF Fisher Lake Land is \$89,250.00 and that the Haven by the Falls property is \$151,900.00

2. Purpose and Need (include history and background as appropriate)

It is the intent of Iron County to develop a more useable public boat landing that will provide access to Lake of the Falls, a 338 acre lake approximately 6 miles west of Mercer. Currently the Town of Mercer owns a parcel of land upstream from Lake of the Falls on the Turtle River designated as a public boat landing, however, this access limits the type and size of boats and does not provide a parking area, except on the shoulder of a dead end town road. Iron County Forestry intends that Haven by the Falls will be developed as a public boat landing for public access to Lake of the Falls, becoming part of Lake of the Falls County Park.

3. Authorities and Approvals (list local, state and federal permits or approvals required)

Approval for the withdrawal of County Forest Land, according to Wisconsin State Statute Chapter 28.11, requires a two-thirds

majority County Board vote for filing an application for withdrawal. The Iron County Board voted 12-3 to file a withdrawal application on April 27, 2004.

ICF Ten-Year Plan, Chapter 400 County Forest Ownership, describes policy and procedure for withdrawal of lands from County Forest Law. This section clearly states that "Lands within the county forest blocking boundary will not normally be considered for withdrawal from the County Forest Law and applications for the purchase of these lands by the private sector will be discouraged by the committee." This chapter also references the Public Lands Handbook that contains details concerning the procedures in making application.

Following procedures set forth by provisions of s. Chapter 28.11(11), Stats., the WI DNR Division of Forestry is required to review applications for withdrawal of County Forest land and render a decision approving or denying the application. Natural Resource Code Chapter 48 provides details for Department investigation and findings regarding the withdrawal application. . NR 48.04(1)(c) provides for "the holding of a public hearing or informational meeting when deemed necessary by the department or requested in writing by a county making a withdrawal application." Also, s. NR 48.04(1)(l) must consider "whether upon withdrawal the land will be put to a better and higher use and whether the benefits of withdrawal to the people of the state as a whole and the county, outweigh the benefits under continued entry."

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**PROPOSED PHYSICAL CHANGES (more fully describe the proposal)**

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**4. Manipulation of Terrestrial Resources (include relevant quantities - sq. ft., cu. yard, etc.)**

This parcel became part of ICF in 1938. No management has taken place on this site for the 66 years as ICF, thus it has retained / evolved its natural characteristics that exist today. This land which is part of stand 11 in compartment 79 (as delineated in ICF reconnaissance data) is scheduled for an uneven-aged thinning (harvest) in 2005. If a timber sale is established, Wisconsin Best Management Practices for Water Quality in a riparian management zone will be implemented. In this case, a 100-foot no management zone would be established from the ordinary high-water mark of Fisher Lake. The intent of this practice is to protect the riparian habitat by minimizing disturbance.

If withdrawn, future use of this land is unknown, as a contractual agreement would trade it to Dr. Barry and Mrs. Edelstein.

**5. Manipulation of Aquatic Resources (include relevant quantities - cfs, acre feet, MGD, etc.)**

This parcel became part of ICF in 1938. No management has taken place on this site for the 66 years as Iron County Forest: thus the aquatic vegetation and bottom substrate remain in relatively natural condition. This land which is part of stand 11 is scheduled for an uneven-aged thinning (harvest) in 2005. If a timber sale is established, Wisconsin Best Management Practices for Water Quality in a riparian management zone will be implemented. In this case, a 100-foot no management zone would be established from the ordinary high-water mark of Fisher Lake. The intent of this practice is to protect the riparian habitat by minimizing disturbance.

If withdrawn, future use of this land is unknown, as a contractual agreement would trade it to Dr. Barry and Mrs. Edelstein.

**6. Buildings, Treatment Units, Roads and Other Structures (include size of facilities, road miles, etc.)**

This land, which is part of stand 11, is scheduled for a select harvest in 2005.

Approximately 12 years ago, the Iron County Forest Administrator granted the Edelstein's an easement to build a driveway/road across the eastern portion of the County Forest to access their dwelling built on the point of the peninsula. There is also a power-line ROW along the eastern boundary/section line and the northern property line.

If withdrawn, future use of this land is unknown, as a contractual agreement would trade it to Dr. Barry and Mrs. Edelstein.

**7. Emissions and Discharges (include relevant characteristics and quantities)**

Under current ICF ownership and management, no known discharges or emissions have occurred.

If withdrawn, future use of this land is unknown, as a contractual agreement would trade it to Dr. Barry and Mrs. Edelstein.

**8. Other Changes**

None identified.

9. Identify the maps, plans and other descriptive material attached

Attachment X County map showing the general area of the project

Attachment X USGS topographic map

Attachment Site development plan

Attachment X Plat map

Attachment DNR county wetlands map

Attachment Zoning map

Attachment X Other - Describe:

1. Certified survey map of Edelstein's property.
2. Copy of original ICF deed (the ICF Fisher Lake Land is part of 2600 acres listed as 65 individual 40's in 8 sections).
3. County Forest Withdrawal Application from Iron County.
4. Correspondence/Memorandums from Colleen Matula, Regional Forest Ecologist/Silviculturist, Woodruff; Jeff Roth, WI DNR Fish Biologist, Mercer; Daniel Houston, WI DNR Water Regulation and Zoning Specialist, Park Falls; Bruce Bacon, WI DNR Wildlife Biologist, Mercer.
5. Landtype Associations of WI.
6. A joint paper funded by USFWS State Partnership Grant titled "Shoreland Zoning Regulations Do Not Adequately Protect Wildlife Habitat in Northern Wisconsin" (SZRPWH) (1997) written by WI DNR and Loon Watch.
7. Iron County Zoning Laws.
8. WI DNR appraisal narratives for ICF Fisher Lake Land and Haven by the Falls.
9. Wisconsin's Forestry Best Management Practices for Water Quality.

AFFECTED ENVIRONMENT (describe existing features that may be affected by proposal)

10. Information Based On (check all that apply):

Literature/correspondence (specify major sources)

1. County Forest Withdrawal Application from Iron County.
2. Correspondence/Memorandums from Colleen Matula, Regional Forest Ecologist/Silviculturist, Woodruff; Jeff Roth, WI DNR Fish Biologist, Mercer; Daniel Houston, WI DNR Water Regulation and Zoning Specialist, Park Falls; Bruce Bacon, WI DNR Wildlife Biologist, Mercer.
3. Landtype Associations of WI.
4. WI DNR NHI portal.
5. Archeological and Historical Structures maps.
6. A joint paper funded by USFWS State Partnership Grant titled "Shoreland Zoning Regulations Do Not Adequately Protect Wildlife Habitat in Northern Wisconsin" written by WI DNR and Loon Watch.
7. Iron County Zoning Laws.
8. WI DNR appraisal narratives.
9. Wisconsin's Forestry Best Management Practices for Water Quality.

Personal Contacts (list in item 26)

Field Analysis By:  Author  Other (list in item 26)

Past Experience With Site By:  Other (list in item 26)

11. Physical Environment (topography, soils, water, air)

ICF Fisher Lake Land is located on a peninsula extending into Fisher Lake (a 432-acre Class 1 lake approximately 9 miles NE of Mercer). It is predominantly high ground with significant northern hardwood timber on it (containing some decent saw logs). As the land is on a peninsula, it has approximately 1200 feet of undeveloped lakeshore.

The Land Type Association (LTA) for this area is 212Xb – Northern Highlands Pitted Outwash Subsection. It is a nearly level to

rolling mantle of sandy outwash. A high density of kettle lakes with sandy beaches makes this Subsection very popular for recreation. Bogs and swamps are also abundant and provide important habitat for uncommon species. Common soils are sandy and loamy, with drainage classes ranging from excessively to poorly drained. See LTA attachment for further detail.

**12. Biological Environment (dominant aquatic and terrestrial plant and animal species and habitats including threatened/endangered resources; wetland amounts, types and hydraulic value)**

Cruise data collected on May 11, 2004, shows the ICF Fisher Lake Land as a relatively dense stand of Northern Hardwood sawtimber (NH 15+<sup>4</sup>/NH 5-11<sup>2</sup>). Forest timber species include sugar maple, red maple, yellow birch, white birch, white spruce, hemlock, cedar and balsam fir. Conifer cover dominates the shoreline (extending approximately 100 feet back from the water). The habitat type according to Kotar Habitat Classification System is ATD, meaning it is rich and well suited to growing quality Northern Hardwood species. The average stand diameter for the primary size class, large sawlogs, is 16 inches. The stand basal area of 133 indicates that the stand is overcrowded and is in need of harvesting (an uneven-aged thinning) to promote a healthy and vigorous forest. Estimated volumes per acre are relatively high as would be expected in a dense forest (16 Cords/Acre of pulp and 4500 board-feet/Acre of sawtimber). The soil type is sandy loam, which drains well and is high in nutrients.

The stand that includes the ICF Fisher Lake Land is scheduled for an uneven-aged thinning (harvest) in 2005. If harvested, Wisconsin Best Management Practices for Water Quality would be enforced within the 100-foot Riparian Management Zone for lakes.

Many songbirds are present including the black-throated blue warbler, a species of special concern in WI. Along the southern edge of shoreline, some bog/wetland shrubs are present, such as leather leaf and bog laurel. At the northern end, an upland vernal pool area is present.

The Natural Heritage Inventory (NHI) list was referenced and several plants, birds and plant communities identified as "threatened" or of "special concern" are listed for this area. Plant species include Northern Black Current, Common Bog Arrowgrass, and Giant Rattlesnake Plantain. Animal species are all birds and include Swainson's Thrush, Black-throated Blue Warbler, Black-backed Woodpecker, Bald Eagle and Osprey. Therefore, potential exists for these species to be located on the ICF Lake Land. Comprehensive endangered resource surveys have not been completed for the subject area. As a result, our data files may be incomplete. The lack of additional known occurrences does not preclude the possibility that other endangered resources may be present.

WI DNR Fish Biologist, Jeff Roth, states "the entire length of the littoral area is natural and undisturbed, providing a diversity of fisheries habitat. Substrate consists of sand, gravel and larger boulders overlain with an assortment of cover types including submerged wood, submergent and emergent vegetation and fallen trees. The relatively narrow littoral area results in a fairly steep drop-off to a greater water depth, providing additional fish habitat." He further states that the County owned land "is immediately adjacent to a shallow bay area that provides valuable spawning habitat for predominately muskellunge and black crappie and is considered a major spawning area for these species in Fisher Lake." Jeff also states, "aesthetics of this area are unsurpassed, being undisturbed and natural, comparable to a 'wild lake' setting."

WI DNR Regional Forest Ecologist/Silviculturist Colleen Matula, describes the land as characteristic of the neighboring Lake Catherine Hemlock-Hardwoods biotic inventory site. This plant community is a complex mesic forest type, harboring a variety of rare plant and animal species. She also describes the associated complex of wetland communities including open bog, black spruce swamp, emergent marsh, sedge meadow, and alder thicket. She further states "undeveloped lakes are becoming very rare statewide." As she identified several species and plant communities of concern, including the Black-throated Blue Warbler, Giant Rattlesnake Plantain and Hudson Gooseberry, Colleen states "maintaining this and surrounding areas of Iron County land are important for these species."

WI DNR Wildlife Biologist Bruce Bacon, sites undeveloped shoreline as providing many benefits for various wildlife species. Bruce states, "Undeveloped shorelines provide secure access to and from water for reptiles, amphibians, mammals and many species of birds. This riparian habitat also provides nesting areas for many species like loons, geese, ducks, blackbirds, turtles, frogs, salamanders, and many songbirds. Wildlife can find food in the upland vegetation along lakes as the abrupt 'edge' allows sunlight into the forest, benefiting sun loving, fruit and nut-bearing shrubs and forest floor forbs. Near shore aquatic vegetation is critical habitat for many species of wildlife, both above and below the water surface. Long stretches of undeveloped shoreline provide secure travel corridors for wildlife." He further states "public ownership of lake and river shoreland has proven to be one of the most secure avenues of habitat protection and removal of this protection must be viewed with caution."

WI DNR Water Regulation and Zoning Specialist Dan Houston, describes the enjoyment of scenic beauty as one of the paramount public interests that come with navigable waters. He has included a couple of digital images from the public boat landing prior to leaf-out to show this interest. He states that "undeveloped shoreline is a scarce resource. Shoreline parcels are

valuable to people as places to build houses. They are also valuable to people because they provide natural scenic beauty and protect the diversity of plant and animal life.” He further notes that the parcel is across from a public access point on Fisher Lake and that similar vistas are either on state, federal or county land.

Although not site specific, in the report titled “Shoreland Zoning Regulations Do Not Adequately Protect Wildlife Habitat in Northern Wisconsin” (SZRPWH) (1997), it states that “Shorelines are a biologically important link between the terrestrial and aquatic habitats; shoreland habitat provides critical feeding spawning, and nursery areas for fish, reptiles, amphibians, birds, and mammals. In addition, there is a rich diversity of invertebrates on which many fish and wildlife species depend. Wildlife are attracted to lakes because the essentials of life for many species occur there, including food, water, shelter, and a place to raise their young. The variety of terrestrial and aquatic plants provide a mosaic of wildlife habitat. The tree canopy provides foraging and nest sites for many species of neotropical migratory birds. The understory is used by nesting birds and also provides cover, foraging sites, and travel corridors for mammals such as whitetail deer, fox coyote, mink, fishers, weasels, mice, and shrews. Dead trees or ‘snags’ are often used as dens, nest sites, and perching and foraging sites by species such as wood ducks, hooded mergansers, owls, woodpeckers, belted kingfishers, nuthatches, raccoons, and fishers while fallen trees, and ‘woody debris’ are utilized by species as diverse as amphibians and black bears. Birds such as thrushes and ovenbirds nest amongst the ground cover on the forest floor, while shoreline grasses provide forage and shelter for small mammals such as shrews, weasels, lemmings, boles, and deer mice. Lake shorelines, riverbanks, streambanks, and the emergent and submerged aquatic vegetation near the shore provides food and shelter for a whole host of critters such as frogs, toads, muskrat, mink, otter, beaver, and waterfowl. Therefore, it follows that the more diverse the habitat is along lakeshores, the more abundant and diverse wildlife will be.”

For complete assessments, see attachments of Correspondence/Memorandums from Colleen Matula, Regional Forest Ecologist/Silviculturist, Woodruff; Jeff Roth, WI DNR Fish Biologist, Mercer; Daniel Houston, WI DNR Water Regulation and Zoning Specialist, Park Falls; Bruce Bacon, WI DNR Wildlife Biologist, Mercer; and the report “Shoreland Zoning Regulations Do Not Adequately Protect Wildlife Habitat in Northern Wisconsin” written by WI DNR and Loon Watch.

### 13. Cultural Environment

#### a. Land use (dominant features and uses including zoning if applicable)

As a large block of land ICF provides for management in the context of the ecological landscape. This type of management includes the following goals:

- Maintaining larger blocks of northern hardwood forest, important for forest-interior species such as the black throated-blue warbler, hermit thrush, and many other neotropical migrants.
- Continue management efforts to include uncommon species such as loons, eagles, ospreys and wolves, especially since these species have responded favorably to past management attention.
- Management for additional rare or otherwise sensitive species.

The ICF Fisher Lake Land is approaching scheduled management, a sustainable uneven-aged thinning (harvest) to manage Northern Hardwood timber. If a sale is established, access could be a concern, due to surrounding private ownership. Approximately 12 years ago, the Iron County Forest Administrator gave the Edelstein’s an easement to cross the Iron County Fisher Lake Land with a road in order to access their home on the peninsula. However, the Administrator did not plan for Iron County Forestry access across the private land with that easement agreement. Currently, the Edelsteins are not willing to grant access across their property for forest management purposes. The possibility for future land access does exist with different landowners. Another possibility for accessing this land for harvest is during the winter across the ice.

The ICF Fisher Lake Land does provide opportunity for recreation such as tent camping and provides a visual enhancement of adjacent shoreline from an Iron County public boat landing. In its current state, this land also provides an aesthetically pleasing environment, aquatic and terrestrial habitat for a variety of species, and watershed protection with its undeveloped shoreline.

According to Iron County and Mercer Town Zoning Regulations, this area is zoned F-1 Forestry District (since 1971). F-1 Forestry District states as “Purpose” to provide for the continuation of forest programs and related uses in those areas best suited for such activities. It is intended to encourage forest management programs and also to recognize the value of the forest as a recreational resource by permitting as a conditional use certain recreational activities which, when adequately developed, are not incompatible to the forest.

The Iron County Land Use chapter including Zoning Regulations and Shoreland Protection for Iron County and Town of Mercer is also attached.

b. Social/Economic (including ethnic and cultural groups)

This land can provide timbersale revenue for Iron County when harvesting occurs. As a result, it also provides employment for the logger who does the harvesting.

c. Archaeological/Historical

None identified through check of Historic and Archeological Structures maps as per Victoria Dirst, State Archeologist.

14. Other Special Resources (e.g., State Natural Areas, prime agricultural lands)

The bay/outlet at the south end of Fisher Lake has wild lake characteristics due to ICF ownership of the adjacent/surrounding land. This bay contains both upland shoreline and important adjoining wetland areas. In combination this area provides unique transitional habitat for numerous species, including some which are endangered, threatened, or of special concern.

Undeveloped shoreline is a disappearing resource. In reference to Wisconsin's Shoreland Zoning Program, the report titled SZRPWH, specifically states that "Given current development patterns it is plausible that northern Wisconsin lakes will soon be developed to the maximum level designated by these programs." In that case, publicly held lands would be the sole protectors and therefore stewards of undeveloped shoreland.

In the report, they state the following history of land in northern Wisconsin: "Much of the land repossessed for outstanding taxes became government holdings, forming the foundation of the current extensive county, state, and federal forest lands. Beginning in the early 1900's, the lakes and streams of the area became a draw for sportsmen and tourists from downstate ... A resort-based tourist economy dominated the area until the late 1960's when many resorts were subdivided and the area became a retirement destination. Two significant building 'booms' have occurred since then. Low mortgage rates and a prosperous economy fueled both of these construction 'booms'. By the 1990's, assessments and taxes on shoreland real estate were rapidly escalating, causing many property owners to subdivide their holdings. Recently, vacant lakeshore property has become scarce and expensive, and high property tax rates prohibit many from contemplating conventional ownership. This has spurred a move towards shared ownership through construction of lakeshore condominium developments."

Currently, ICF land holdings includes 33 named lakes and 39 unnamed lakes, with approximately 32.56 miles of frontage (undeveloped shoreline); and frontage on 169.4 miles of trout streams and 67.6 miles on non-trout streams (information provided by WI DNR Fish Biologist Jeff Roth).

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ENVIRONMENTAL CONSEQUENCES (probable adverse and beneficial impacts including indirect and secondary impacts)

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15. Physical (include visual if applicable)

Once withdrawn, the ICF Fisher Lake Land would no longer be in public ownership. Local zoning laws and private landowner decisions would govern development on the land. Several possibilities include:

- The parcel may remain intact, managed and undeveloped, retaining shoreline aesthetics, wildlife habitat and watershed protection values.
- Under private ownership, especially on smaller parcels of land (usually less than 10 acres), sound management of timber is less likely. If forested land is not managed the result is reduced timber quality, wildlife habitat and forest aesthetics and watershed protection values. If the timber resource is harvested, and depending on type and degree of harvest, shoreline aesthetics could be affected.
- The parcel may be re-zoned and developed into one or more home sites, depending on lot size. We could assume that the visual impacts to shoreline would be commensurate with the amount of development. Visually, an undisturbed natural shoreline could change from woods to views of homes, cottages, lawns and docks.

According to the Town of Mercer Shoreland Development and Management Guide, Fisher Lake is listed as a Class 1 lake. As a result, shoreline development would require a 200-foot minimum lot width with a shoreline setback of 75 feet and a lot depth of 200 feet. Vegetation removal may include a 30-foot corridor within 35 feet of shore for each lot. Given the approximately 1200 feet of shoreline, six single-family dwelling units could be developed and six 30-foot corridor clearings could be created along the shoreline. This would change the visual aesthetics of the shoreline and impact habitat.

As stated in the SZRPWH report, "Within the Wisconsin shoreland Management Program (WI DNR Chapter NR 115), shoreland vegetative cutting standards are required in order to protect natural beauty, control erosion and reduce the flow of effluents, sediments, and nutrients from the shoreland area; and to protect fish and aquatic life." Also according to this study, "Much

greater tree canopy cover, subcanopy cover, and shrub cover were measured along transects at undeveloped lakes. The most significant impact was a near elimination of the shrub layer and coarse woody debris at developed shoreland sites. We also found that the proportion of the shallow water area covered by floating, emergent, and submerged vegetation was dramatically reduced along developed shoreland sites and coarse woody debris was virtually absent. Loss of vegetation and woody debris also reduces the amount of habitat available for spawning fish, juvenile fish, and fry." A concern of removing land from public ownership is that studies show in practice, the vegetative cutting standards are frequently exceeded and often ignored by private landowners.

As it is the intent of Iron County to develop a more useable public boat landing on the Haven by the Falls property, this would be a secondary impact. Currently, there is a five bedroom duplex on the property (3 bedroom and 2 bedroom units). Iron County intends to move the building from the site by July 1 of 2005, annex the land into the Lake of the Falls Park, develop a public boat landing, and construct a parking area. Existing lawn may be converted to gravel or blacktop. The removal of the duplex from the site could be considered a visual enhancement to this property.

16. Biological (including impacts to threatened/endangered resources)

If left intact, under private ownership, the biological values would remain relatively unchanged. If withdrawn, future use of the land is unknown. Possible adverse biological consequences associated with changes from public to private ownership are based on development and subdivision of the land in the future.

WI DNR Fish Biologist, Jeff Roth, states "conversion of riparian lands from County (public) ownership to private ownership encourages less protection of the immediate littoral habitat if developed. Negative impacts through the use and disruption of the littoral area caused by development are inevitable. The natural scenic beauty of this shoreline would also suffer."

WI DNR Wildlife Biologist Bruce Bacon, sites undeveloped shoreline as providing many benefits for various wildlife species. He states, "public ownership of lake and river shoreland has proven to be one of the most secure avenues of habitat protection and removal of this protection must be viewed with caution."

The opportunity for establishment of invasive species, both terrestrial and aquatic, increases with an increase in shoreline development.

The LoonWatch research project examined the impact of lakeshore development on riparian zone vegetation, green frog distribution and abundance, breeding bird populations, bald eagle distribution and productivity, and common loon productivity. Dramatic changes were documented by the surveys and are as follow:

**Shoreland Vegetation:**

"Within the Wisconsin shoreland Management Program (WI DNR Chapter NR 115), shoreland vegetative cutting standards are required 'in order to protect natural beauty, control erosion and reduce the flow of effluents, sediments, and nutrients from the shoreland area; and to protect fish and aquatic life'. In practice, the vegetative cutting standards are frequently exceeded and often ignored. This is primarily due to limited enforcement by county zoning offices and ambiguity in the wording of the regulation."

In this study, "Much greater tree canopy cover, subcanopy cover, and shrub cover were measured along transects at undeveloped lakes. The most significant impact was a near elimination of the shrub layer and coarse woody debris at developed shoreland sites. We also found that the proportion of the shallow water area covered by floating, emergent, and submerged vegetation was dramatically reduced along developed shoreland sites and coarse woody debris was virtually absent. Loss of vegetation and woody debris also reduces the amount of habitat available for spawning fish, juvenile fish, and fry."

**Green Frog Abundance and Distribution:**

"The widespread alteration of vegetation along the shorelands of northern Wisconsin's lakes brings into question the effectiveness of the Wisconsin Shoreland Zoning Program in achieving one of its stated goals, the protection of aquatic life. Shorelands provide essential habitat for riparian species such as amphibians and reptiles that use both water and land at various stages of their life cycles. Terrestrial and aquatic vegetation, fallen trees, and coarse woody debris are all important habitat features for these species."

The study showed that these features were dramatically reduced at developed shoreland sites. "As lakeshore development increases we found that the abundance of green frogs and their habitat drastically declined. Furthermore, even when habitat was available, the number of green frogs was lower on developed lakes, likely a consequence of shoreland habitat fragmentation. Our models predict that all green frogs and suitable green frog habitat will be eliminated on lakes completely developed under the current Wisconsin Shoreland Management Program."

“Elimination of these species simplifies the food chain dynamics on lakes and reduces the amount of food available for game fish such as bass and pike. Finally, the loss of nighttime choruses of calling frogs and toads from lakes reduces a value that is hard to quantify – namely the wilderness character of northern lakes.”

**Breeding Bird Community Structure:**

“During the breeding season, northern Wisconsin forests are home for a large number of resident and migratory avian species, including many neotropical species whose populations are on the decline.”

The study showed that “housing development dramatically altered the physical structure of native vegetation on northern Wisconsin lakeshores. Studies in Ontario and New England demonstrated that breeding bird population sizes, species and guild composition, and species richness and evenness were affected by removal of lakeshore vegetation and housing development.” In the study, habitat alteration due to housing development was tested to determine impacts on avian species composition and abundance.

Findings showed that “ground nesting birds such as thrushes and many neotropical migrants are less numerous on developed lakes, but birds often associated with suburban residential areas are more common.” Species found primarily on undeveloped lakes include Swainson’s thrush, hermit thrush, northern parula warbler, black and white warbler, black-throated green warbler, blue-winged warbler, pine warbler, and yellow-throated vireo. “These results indicate that the current Wisconsin Shoreland Zoning Program permits a level of habitat alteration that results in a dramatic change of the avian community associated with northern Wisconsin’s lakes. Many of the species that are displaced by housing development are edge-sensitive (Swainson’s thrush, black-throated blue, black-throated green and black and white warblers) or species with special habitat needs (northern parula, black-throated blue, pine warblers and brown creeper). This suggests that habitat alteration is a primary factor influencing the shift in avian community structure on these lakes. Many of the species that are displaced from developed lakes are also thought to be source/core species, species that are highly productive in northern Wisconsin, and provide a surplus of young for maintaining regional populations. Human settlement of northern Wisconsin continues to fragment the landscape, increasing edge, and reducing habitat quality for these sensitive source/core species.

**Bald Eagle Distribution and Productivity:**

Bald eagles prefer relatively undisturbed lakeshore habitats for nesting and foraging. “Shoreland development and heavy recreational use of lakes by humans has been reported to reduce productivity and cause territorial abandonment in other states.”

**Common Loon Productivity:**

Studies conducted in Michigan and central Ontario found that an increase in shoreland development was associated with a decline in common loon reproductive success.

Environmental impacts to the Haven by the Falls property may include disturbance of habitat, both terrestrial and aquatic, during development of the boat landing and parking area. Increased run-off from the parking area may increase erosion and sedimentation in the river. If the public boat landing were developed, traffic would increase on County Road FF, on the Turtle River, and on Lake of the Falls. Increased use is likely to bring increases in noise, litter and the opportunity to introduce invasive species both aquatic and terrestrial.

For complete assessments, see attachments Correspondence/Memorandums from Colleen Matula, Regional Forest Ecologist/Silviculturist, Woodruff; Jeff Roth, WI DNR Fish Biologist, Mercer; Daniel Houston, WI DNR Water Regulation and Zoning Specialist, Park Falls; Bruce Bacon, WI DNR Wildlife Biologist, Mercer; and the report “Shoreland Zoning Regulations Do Not Adequately Protect Wildlife Habitat in Northern Wisconsin” written by WI DNR and Loon Watch.

17. Cultural

a. Land Use (including indirect and secondary impacts)

If withdrawn from ICF this land will not be in public ownership, and therefore unavailable to the public for land recreational opportunities. If the land remains intact, environmental/resource values would remain relatively the same. Private ownership trends have shown many possible impacts such as development along the lakeshore that could have negative impacts on both terrestrial and aquatic habitat, influencing fish production, wildlife populations and water quality. Loss of land for timber production is another possible impact due to change in landowner management objectives.

As a secondary impact, development of a public boat landing on the Haven by the Falls property would make access easier to Lake of the Falls and provide parking area. However, safety concerns for the public may be increased on the water due to the proximity of the boat landing to the Lake of the Falls Dam (100-200 feet) and navigability of boats upstream to Lake of the

Falls during low water.

b. Social/Economic (including ethnic and cultural groups, and zoning if applicable)

Development and/or parcelization would require rezoning from Forestry District (F-1) to Residential-Recreation District (RR1), Single Family Residential District (R-2) or Residential District (R-1). A future zoning change is a realistic possibility as documented by several cases in the Town of Mercer in the last two years. Examples of zoning changes from F-1 to provide for the parcelization of land with lakeshore include the following: 1) most of Richard Mazol's property on First Black Lake, Second Black Lake and Lake of the Falls (recently withdrawn from MFL); 2) Tapawingo Family holdings on Hewitt Lake, Spinnet Lake and Cranberry Lake (withdrawn from MFL); 3) Camp Nokomis property on Trude Lake (Turtle Flambeau Flowage area); and 4) Weber Farms property encompassing Weber Lake.

If a zoning change is approved in this case, further subdivision of the 6 acres could occur. Because Fisher Lake is listed as a Class 1 lake in the Town of Mercer, a minimum lot width of 200 feet is required. Since there are approximately 1200 feet of frontage, 6 lots could be created and developed. This would further impact/compound degradation of aquatic and terrestrial habitats and water quality.

Fragmentation of the land is a growing concern in the management of natural resources. As land is subdivided and the number of landowners increases, it becomes more difficult to manage the forest for timber products and wildlife habitat. Small forested parcels (usually less than 10 acres) are uneconomical for timber harvesting unless adjacent land is being harvested at the same time. Therefore it is less likely for a private landowner to manage the timber resource which effects the economy as well as wildlife habitat.

c. Archaeological/Historical

None identified.

18. Other Special Resources (e.g., State Natural Areas, prime agricultural lands)

Undeveloped lakeshore is a dwindling resource, and if removed from the ICF, then Iron County and Town of Mercer zoning laws and private landowner objectives would determine future land use and development. Precedent has been set that local governments rezone areas designated as "forestry," allowing parcelization of land and development of lakeshore (See 17.b.). On Fisher Lake alone, dwellings have increased from 45 in 1970, to 71 as of March 26, 1999.

19. Summary of Adverse Impacts That Cannot Be Avoided (more fully discussed in 15 through 18)

Because the land would be privately owned, the adverse impacts are possibilities and assumption based. Private ownership opens the door to potential development. Most of the adverse impacts are related to lakeshore development on the 6 acres of ICF Fisher Lake Land. Possible impacts include:

1. Loss/degradation of wildlife habitat;
2. Loss/degradation of aquatic habitat;
3. Reduced water quality as a result of erosion, sedimentation, and run-off of nutrients;
4. Loss/degradation of scenic beauty;
5. Loss of timber production for Iron County Forest;
6. Loss of recreational opportunities.

All of these adverse impacts to the ICF Fisher Lake Land can be avoided if it is not withdrawn from ICF.

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DNR EVALUATION OF PROJECT SIGNIFICANCE (complete each item)

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20. Environmental Effects and Their Significance

- a. Discuss which of the primary and secondary environmental effects listed in the environmental consequences section are long-term or short-term.

Shoreline development would be a long-term primary environmental effect, as it is even less common for development to be removed from a parcel of land. On the contrary, usually larger buildings are constructed. Development could also include further parcelization, compounding effects on the environment. Long-term effects include habitat loss, scenic losses, and population disruption of wildlife and fish. With lakeshore development landowners often clear trees, shrubs and ground cover and replace it with lawn; piers interrupt upland/shoreline interface; and beach/swimming areas are maintained by removal of aquatic vegetation. All of these development actions would have impacts on the environment.

Secondary environmental impacts at Haven by the Falls and on Lake of the Falls include degradation of habitat, affects on the fish population through increased fishing pressure and the potential to introduce invasive species.

- b. Discuss which of the primary and secondary environmental effects listed in the environmental consequences section are effects on geographically scarce resources (e.g. historic or cultural resources, scenic and recreational resources, prime agricultural lands, threatened or endangered resources or ecologically sensitive areas).

Undeveloped shoreline is rapidly becoming a scarce resource. Privatization of land often leads to parcelization and development for economic reasons. Once development begins, there would be environmental consequences relative to the amount and degree of the development. This is currently happening at a record pace in northern Wisconsin.

Houses and development would be visible from the water, affecting scenic values. Privatization precludes public use, therefore reducing the recreational resource. Development of yards, beaches, swimming areas, piers, etc., would disrupt the ecologically sensitive upland/shoreline interface.

- c. Discuss the extent to which the primary and secondary environmental effects listed in the environmental consequences section are reversible.

It is rare for land to be parceled and then consolidated. It is even less common for development to be removed from a parcel of land. On the contrary, usually larger buildings are constructed. This can be shown by the number of variances granted for improvements on 'grand-fathered' properties as well as new developments.

Once land is cleared as part of a residential development, reversion to its current natural state is highly questionable and would take a very long time. This is similar for the disruption of the aquatic habitat.

Also, once property is sold to a private interest, it is very unlikely that it will ever be public domain again, especially in the case of small (less than 40 acres) parcels with improvements.

In regards to both the ICF Fisher Lake Land and the Haven by the Falls property, once invasive species are introduced into an area, they are difficult to eradicate.

## 21. Significance of Cumulative Effects

Discuss the significance of reasonably anticipated cumulative effects on the environment (and energy usage, if applicable). Consider cumulative effects from repeated projects of the same type. Would the cumulative effects be more severe or substantially change the quality of the environment? Include other activities planned or proposed in the area that would compound effects on the environment.

If after being withdrawn, no development takes place on the land, then there would be no impact on the environment. However, the land could be developed into one or more homes (dependent on lot size), compounding effects to the environment as development increases. Environmental affects include visual aesthetics, fish and wildlife habitat, timber value, watershed protection, and increased recreational use.

First, aesthetic values of a natural, undeveloped shoreline diminish as the number of homes and cottages along a shoreline increases. Homes, lawns and docks replace wooded shoreline as development increases

Secondly, fish and wildlife habitat are degraded as compounded shoreline development increases. Homes, lawns and humans displace forest wildlife. Fish habitat is disturbed by boat traffic, docks, and swimming activities. With the exception of docks which may provide some fish cover, movement of fish and wildlife along a shoreline is interrupted by shoreline development.

Fallen trees along wooded shorelines provide coarse woody debris for fish and wildlife habitat. As development increases, these nuisance, hazard trees are removed, reducing the coarse woody debris habitat.

Forested areas become more difficult to manage for timber as development increases. Parcel size becomes smaller, making management uneconomical. Lands are converted from timber production, to yards, home sites and aesthetic zones.

Watershed protection decreases as development increases. Land is converted to homes, lawns, driveways, and paved roads, reducing filtration of sediments and channeling and increasing water flows across the landscape. Pollutants from lawns, gardens, vehicles, etc then have a more direct route to the waterways. Septic systems may also fail affecting the ecosystem.

As more land is developed, shoreline and recreational lake use is increased. Anticipated, cumulative affects of increased development would significantly alter the quality of the environment of an undeveloped or less developed lake. User conflicts

increase, wildlife habitat is altered or disturbed, rural aesthetic character is lost, trees are removed along the shoreline, and pollutants increase in the lake environment.

Examples of current shoreland development taking place in Iron County include the following: 1) Richard Mazol's property on First Black Lake, Second Black Lake and Lake of the Falls (recently withdrawn from MFL); 2) Tapawingo Family holdings on Hewitt Lake, Spinnet Lake and Cranberry Lake (withdrawn from MFL); 3) Camp Nokomis property on Trude Lake (Turtle Flambeau Flowage area); and 4) Weber Farms property surrounding Weber Lake.

Surveys of lakeshore show dramatic changes in the vegetative structure and wildlife populations along the shoreline of developed lakes in northern Wisconsin

For more details, see the attachment titled "Shoreland Zoning Regulations Do Not Adequately Protect Wildlife Habitat in Northern Wisconsin" (1997) written by WI DNR and LoonWatch.

As mentioned in #2, with the current ICF public access to Lake of the Falls, Beaver's Resort and an approved development project where a public access will be required, these public access points could have a cumulative impact. The addition of another public access could increase use and change the quality of the environment, specifically fish populations. Development of a landing at Haven by the Falls is likely to have greater impacts because of its location, more convenient access for the public. As a result, cumulative effects could be more severe.

## 22. Significance of Risk

- a. Explain the significance of any unknowns that create substantial uncertainty in predicting effects on the quality of the environment. What additional studies or analysis would eliminate or reduce these unknowns?

Private ownership of what is now public land presents the greatest uncertainty in predicting environmental effects. A private owner may not alter the environment in anyway. However, a private owner could seek a change in current zoning, further subdivide and develop the parcel for home sites resulting in significant changes to the natural environment. Further analysis will not reduce the unknowns.

Economic pressures on valuable lakeshore property encourage development of these parcels. A deed restriction limiting development of the parcel could significantly reduce future environmental threats.

Several species of wildlife require lake or river shoreline habitat to prosper. These species are most at risk to the negative effects of lakeshore development in northern Wisconsin. As shorelines are cleared for houses, these species will inevitably lose habitat.

- b. Explain the environmental significance of reasonably anticipated operating problems such as malfunctions, spills, fires or other hazards (particularly those relating to health or safety). Consider reasonable detection and emergency response, and discuss the potential for these hazards.

With limited or no development of this parcel, environmental concerns could be minimal. However, if this parcel is heavily developed, environmental problems may result from erosion/sedimentation during and after development. Runoff of chemicals, pesticides, etc. around home sites may affect water quality. Septic system failures and illegal discharges are other sources of water quality degradation. Site clearing for development on a steep slope presents significant challenges in preventing erosion. Road construction, ditching and landscaping operations also contribute to erosion and sedimentation.

Any fuel, chemical or septic spill from homes located along the shores of Fisher Lake will most likely result in contamination to Fisher Lake. Detection and response to any problems, malfunctions or spills could be dependent on individual reporting.

## 23. Significance of Precedent

Would a decision on this proposal influence future decisions or foreclose options that may additionally affect the quality of the environment? Describe any conflicts the proposal has with plans or policy of local, state or federal agencies. Explain the significance of each.

The proposed 6-acre parcel is enrolled under the County Forest Law State governed by s. 28.11 Stats.

28.11(1) Purpose ... "to enable and encourage the planned development and management of the county forests for optimum production of forest products together with recreational opportunities, wildlife, watershed protection and ... to assure maximum public benefits; to protect the public rights and interests and investments in such lands;" 28.11 (11)(a) "The county board may by resolution ...make application to the department to withdraw lands entered ... Upon the filing of such application the department shall investigate ..."

ICF feels that since the 6 acre ICF Fisher Lake Land is land-locked by the Edelsteins, it is not practical for timber management purposes. If the 6 acres were withdrawn and sold, the money could be used to acquire the public access site on Lake of the Falls, providing a higher and better use to the public. However, this is not required as a funding source, rather a choice made by ICF and the Iron County Board.

The withdrawal and sale/trade of this parcel is contractually linked to the purchase of a parcel of property (Haven by the Falls) on the Turtle River below Lake of the Falls for the purpose of providing a public boat access. Other public access to Lake of the Falls is small, poorly developed, and not suited to larger boats. Parking is also limited; however, it is uncertain how much parking area will be available once Haven by the Falls is developed into a boat landing.

Approval of withdrawal and sale/trade of ICF lands could set precedence, not just in Iron County, but other counties with County Forest Land. If Iron County or any other county decides to divest themselves of water frontage property, wildlife habitat, aesthetics, recreational opportunity and watershed protection may be degraded. The degree of degradation would be dependent on landowner objectives and management including development.

Sale of this 6-acre ICF Fisher Lake Land may be in the best interest of Iron County due to budget issues. Withdrawal and sale of the land to acquire other land to develop a boat landing, may or may not be in the best interest of the citizens of Wisconsin as a whole. Sale of ICF land to private landowners regardless of current value (for shoreline, non-productive swamp, or productive timberland) could set precedent.

In the ICF Ten-Year Comprehensive Land Use Plan (1996-2005), Chapter 400, Section 420 defines the Withdrawal Process. On page 400-4, it states "Lands within the county forest boundary will not normally be considered for withdrawal from the County Forest Law and applications for the purchase of these lands by the private sector will be discouraged by the committee. If, in the opinion of the committee and county board, the land will be put to better and higher use and will benefit all people of the county to a greater extent, the withdrawal procedure outlined in paragraph 420.2 will be employed." Per the ICF Ten-Year Plan, it must be determined if this withdrawal and sale/trade of land to acquire a parcel to construct a boat landing is a "better and higher use" for the 6 acre ICF Fisher Lake land, for the citizens of Iron County. The ICF Ten-Year Plan references the DNR Public Lands Handbook that contains details concerning procedures for making application to withdrawal County Forest land. Because of the compressed time frame for approving an application, the citizens of Iron County did not have the prescribed opportunity for input as defined in their Ten-Year Plan. This could set precedent for future withdrawal applications from any County Forest.

It is stated in a NR Chapter 48 Analysis prepared by the Department of Natural Resources that "In making its investigation the department must give full weight and consideration to the purposes and principles in s. 28.11(1), Stats., and weigh and consider the benefits to the public of the state as a whole, as well as to the county, from the proposed use after withdrawal, against the benefits accruing to the people of the state as a whole and to the county under the continued entry of the lands."

The proposed withdrawal and sale of lakeshore to finance a public boat landing is contrary to the WI DNR's policy to protect undeveloped lakeshore. The state Stewardship Fund currently targets undeveloped lakes and rivers for acquisition, to protect natural characteristics of lakes and rivers. Iron County's proposal to sell undeveloped lakeshore, land that has been held in public ownership since 1933, is in direct conflict with current WI DNR policy of protecting lakeshore from development.

Per NR Chapter 48, it must be determined from proposed use after withdrawal, against the benefits accruing to the people of the state as a whole and to the county, if the proposal constitutes a better and higher use of the ICF Fisher Lake Land. There may be citizen concern to the proposed withdrawal for better and higher use, as evidenced by phone calls and letters from the public to the DNR Liaison Forester in Iron County. Some citizens are waiting for a public comment period to voice concerns.

#### 24. Significance of Controversy Over Environmental Effects

Discuss the effects on the quality of the environment, including socio-economic effects, that are (or are likely to be) highly controversial, and summarize the controversy.

Withdrawal of the ICF Fisher Lake land may lead to further development on Fisher Lake. In the 1970 WI DNR publication titled Surface Water Resources of Iron County, the Fisher Lake description states there are 45 dwellings and three resorts located on the shoreline. According to the Iron County Emergency Management maps dated March 26, 1999, created for the new 911 system, there are 71 dwellings including resorts located on the shoreline of Fisher Lake. Further development will negatively impact natural scenic beauty, fish and wildlife habitat, forest resources, watershed protection and recreational opportunity on Fisher Lake.

The public may question that withdrawal and potential future development of the ICF Fisher Lake Land in return for a public boat

access on Lake of the Falls, would be in the public's best interest.

In the WI DNR publication, "Northern Initiatives Lakes and Shorelands", the public recognizes our Norhtwoods are a unique and very special place. The public is also very concerned about protecting the north for future generations. Lakes, shorelands and rivers were of particular concern.

The riparian zone of lakes is critical habitat for many species of wildlife in northern Wisconsin. The SZRPWH report states, "... continued development poses an ecological risk to the vital natural resource fueling the economic expansion, the lakes themselves. Shoreline vegetation on many lakes is becoming fragmented as lots are cleared for housing construction and aquatic plants are removed for beaches and by boating activity"; and "Altered species composition can change the physical characteristics of lakes and the biological processes that occur within them."

Withdrawal and sale of the ICF Fisher Lake Land maybe be viewed by the public as a short sighted solution to Iron County's budget concerns, rather than long term protection of a dwindling lakeshore resource for future generations.

The appraisal values by the DNR have already generated controversy as noted by letters received by the Liaison Forester. The greatest controversy is over the ICF Fisher Lake Land. The land was appraised based on not having land access; however, because of the contractual agreement with Dr. and Mrs. Edelstein, who will have land access, citizens are dissatisfied with the appraisal value.

Iron County citizens may also feel they have not had input to the decision process that has lead to the ICF Fisher Lake Land withdrawal application. The withdrawal proposal was presented at a "Special" Iron County Forest and Parks Committee meeting on Thursday, April 22, 2004, at 3:00 p.m.; and approved by the full county board five days later at a "Special" Iron County Board meeting. The meetings were not published in the local papers due to time constraints in calling "Special" meetings. Therefore, Iron County citizens had very limited opportunity to voice their concerns/opinions prior to a county board vote to withdrawal. This environmental assessment may generate significant comment from the public during the public comment period.

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## ALTERNATIVES

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25. Briefly describe the impacts of no action and of alternatives that would decrease or eliminate adverse environmental effects. (Refer to any appropriate alternatives from the applicant or anyone else.)

**No Action Alternative:** ICF would maintain the 6 acres as part of county forest, and the land would not be parceled or developed.

**Alternative 1:** Alternative financing for the purchase of Haven by the Falls for development of a public boat landing for access to Lake of the Falls. Iron County could use some of the money received from the State of Wisconsin in a recent land trade as compensation for equal value (\$170,390.00). According to State statutes, this money goes into a land acquisition account for the specific purpose of buying land to add to the County Forest.

**Alternative 2:** Another financing alternative for the purchase of Haven by the Falls for development of a public boat landing for access to Lake of the Falls exists. Iron County could establish and sell an additional 150-acre Northern Hardwood timbersale on Iron County Forest to generate the necessary income to purchase the Haven by the Falls property. The timber sale will provide the necessary income while creating/sustaining jobs in the forest product industry in Iron County. Currently Iron County has a backlog of Northern Hardwood timber in need of harvest. Properly managed NH provides a sustainable forest resource while maintaining environmental integrity. The net result is an improved timber resource, jobs, income and continued public protection of an undeveloped shoreline on Fisher Lake.

**Alternative 3:** Include deed restrictions such as the following:

- 1) No parcelization of the acreage
- 2) No development within 200 feet and no removal of vegetation within 100 feet of the ordinary high water mark to protect wildlife and aquatic resources and visual impacts
- 3) Management of property must comply with Wisconsin's Forestry Best Management Practices for Water Quality for riparian zones.

**SUMMARY OF ISSUE IDENTIFICATION ACTIVITIES**

26. List agencies, citizen groups and individuals contacted regarding the project (include DNR personnel and title) and summarize public contacts, completed or proposed).

<u>Date</u>	<u>Contact</u>	<u>Comment Summary</u>
4/23/04	Jeff Barkley, County Forest Specialist	Contacted to find out information regarding his communications with Iron County Forest Administrator, Charlie Zinsmaster, and Corporation Counsel, Jodie Bednar-Clemens. Follow up communications regarding County Forest Land Withdrawal process.
4/23/04	Bob Mather, Public Lands Section Chief	Contacted to find out information regarding his communications with Iron County Forest Administrator, Charlie Zinsmaster, and Corporation Counsel, Jodie Bednar-Clemens.
4/22/04	Darryl Fenner, Ashland/Iron Team Leader	Contacted to inform about Iron County Forestry Committee Special Committee Meeting action.
4/28/04	Al Tatzal, Lake Superior Area Specialist	Contacted to inform of Iron County's application for county forest withdrawal as per Public Lands Handbook.
5/4/04	Jeff Roth, WI DNR Fish Biologist	Input regarding EA. Correspondence/Memorandum attachment.
4/30/04	Roger Jasiniski, WI DNR Turtle Flambeau Flowage Property Manager	History of boat landing issue at Haven by the Falls.
5/7/04	Bruce Bacon, WI DNR Wildlife Biologist	Input regarding EA. Correspondence/Memorandum attachment.
5/6/04	Dan Houston, WI DNR Water Regs. Specialist	Input regarding EA. Correspondence/Memorandum attachment.
4/30/04	Bill Gantz, WI DNR EA Specialist	EA Type determination; Form 1600-1 template;
4/30/04	Patricia Matula, WI DNR Real Estate Specialist	Contacted for appraisal of land to be withdrawn.
5/7/04	Victoria Dirst, State Archeologist	Verify archeological/historical significance.
5/7/04	Tim Davis, Liaison Forester – Bayfield County	Provided sample EA; discussed writing EA.
5/4/04	Jim Baughman, Liaison Forester – Vilas County	Provided sample EA;
5/4/04	Brooke Ludwig, Liaison Forester – Eau Claire County	Provided sample EA;
5/7/04	Jim Pearson, Liaison Forester – Washburn County	Provided sample EA's
5/7/04	Jenny Bardeen, Endangered Resource Specialist	Contact Endangered Resources regarding NHI hits.
7/19/04	Jamie Schlangen, Endangered Resource	Review written information regarding NHI information.

	Specialist, Forestry	
5/10/04	Opal Roberts, Town of Mercer Clerk	Town of Mercer zoning.
5/10/04	Joe Bisenis, Iron County Zoning Administrator	Iron County zoning.
5/10/04	Colleen Matula, Silviculture Specialist	Contacted to assist with biological site evaluation, including NHI. Correspondence/Memorandum attachment.
5/10/04	Tom Duke, Antigo Team Leader	Contacted as reference for County Forest Land Withdrawal process.
4/26/04	Marko Hansen, retired WI DNR Liaison Forester – Iron County	Consulted with the retired, former WI DNR Liaison Forester – Iron County regarding history of ICF Fisher Lake Land and dealings with the Edelsteins.
5/06/04	Charlie Zinsmaster, Iron County Forest Administrator	Application for withdrawal. Review of EA.

**DECISION (This decision is not final until certified by the appropriate authority)**

In accordance with s. 1.11, Stats., and Ch. NR 150, Adm. Code, the Department is authorized and required to determine whether it has complied with s.1.11, Stats., and Ch. NR 150, Wis. Adm. Code.

Complete either A or B below:

A. EIS Process Not Required

The attached analysis of the expected impacts of this proposal is of sufficient scope and detail to conclude that this is not a major action which would significantly affect the quality of the human environment. In my opinion, therefore, an environmental impact statement is not required prior to final action by the Department.

B. Major Action Requiring the Full EIS Process

The proposal is of such magnitude and complexity with such considerable and important impacts on the quality of the human environment that it constitutes a major action significantly affecting the quality of the human environment.

Signature of Evaluator <i>Kelly Zolmit</i>	Date Signed 11/17/04
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Number of responses to news release or other notice: 7

Certified to be in compliance with WEPA	
Environmental Analysis and Liaison Program Staff <i>William J. Gault</i>	Date Signed 12/22/2004

**NOTICE OF APPEAL RIGHTS**

If you believe that you have a right to challenge this decision, you should know that Wisconsin statutes and administrative rules establish time periods within which requests to review Department decisions must be filed.

For judicial review of a decision pursuant to sections 227.52 and 227.53, Stats., you have 30 days after the decision is mailed, or otherwise served by the Department, to file your petition with the appropriate circuit court and serve the petition on the Department. Such a petition for judicial review shall name the Department of Natural Resources as the respondent.

To request a contested case hearing pursuant to section 227.42, Stats., you have 30 days after the decision is mailed, or otherwise served by the Department, to serve a petition for hearing on the Secretary of the Department of Natural Resources. The filing of a request for a contested case hearing is not a prerequisite for judicial review and does not extend the 30-day period for filing a petition for judicial review.

Note: Not all Department decisions respecting environmental impact, such as those involving solid waste or hazardous waste facilities under sections 144.43 to 144.47 and 144.60 to 144.74, Stats., are subject to the contested case hearing provisions of section 227.42, Stats.

This notice is provided pursuant to section 227.48(2), Stats.



## State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Jim Doyle, Governor  
Scott Hassett, Secretary

101 S. Webster St.  
Box 7921  
Madison, Wisconsin 53707-7921  
Telephone 608-266-2621  
FAX 608-267-3579  
TTY Access via relay - 711

March 10, 2006

Mr. Gustaf Krone  
Chairman, Iron County Board  
3 Oak St.  
Hurley, WI. 54434

Subject: Iron County Forest withdrawal application - Fisher Lake

Dear Mr. Krone:

I'm sure you're well aware of the on-going discussions regarding the application for withdrawal of Iron County Forest land on Fisher Lake. A considerable amount of County and State staff time has been devoted to this proposal since the County originally filed the application (5/6/2004).

In the first week of December 2005, in the interest of bringing closure to this proposal, the Department of Natural Resources (DNR) proposed that submission of any modifications to the application, including any clarifying deed language, would be due by the end of January 2006. This was communicated to Iron County Forestry and Corp Counsel, Dr. and Mrs. Barry Edelstein, and their attorney Alan Billings.

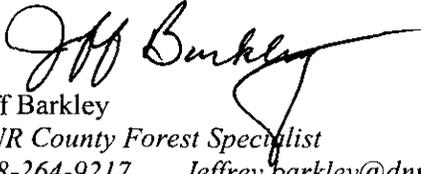
On 1/24/06 an unsigned version of the deed language, intended to clarify the withdrawal application, was faxed to DNR. DNR could not act upon it or consider it in the application to withdraw since it was unsigned. The County told the DNR that they had received the recommended language for the deed clarification from the Edelsteins so late in January that they were unable to include it in the January board meeting.

On Feb. 8, 2006 DNR verbally agreed to an extension so that the clarifying deed language and application could be discussed during the February board meeting. I have received no further correspondence from Iron County since this time, although I am aware (via the Iron County Globe) that there was a proposal to postpone any decision or action on the withdrawal application until after the new County Board convenes in April. The article also mentioned that the Forestry committee would contact DNR and request a longer extension.

This letter requests Iron County to either formally seek an extension for submission of clarifying deed language, direct the DNR to act on the original application, or withdraw the original application. We certainly want to give the County every opportunity to discuss, but also need to follow through and bring closure to the application.

Please submit to me the County's intentions, in writing, prior to May 1. I am happy to discuss this with you if you have specific questions.

Regards,



Jeff Barkley  
DNR County Forest Specialist  
608-264-9217    [Jeffrey.barkley@dnr.state.wi.us](mailto:Jeffrey.barkley@dnr.state.wi.us)

Cc: Charles Zinsmaster - Iron County Forest Administrator  
Tom Tucker - Chair, Iron County Forestry Comm.-P.O. Box 242, Montreal, WI. 54550  
Jodie Bednar-Clemens - Iron County Corporation Counsel - 300 Taconite St., Hurley, WI. 54534  
Dr. & Mrs. Barry Edelstein - 10184 Robin Road, Marshfield, WI. 54449  
Alan Billings, Attorney - 248 South Central Ave., P.O. Box 458, Marshfield, WI. 54449  
Cyndi Blalack - LS/5  
Kelly O'Neil - Mercer  
Darryl Fenner - Ashland  
Mike Luedeke - Spooner

IRON COUNTY – FISHER LAKE WITHDRAWAL  
Timeline

REV. 3/13/06

- 4/27/04 Withdrawal application approved by Iron County Board
- 11/16/04 EA Public noticed - 2 week comment period
- 12/22/04 EA approved and certified to be in compliance with WEPA
- 4/05 Draft Findings of Fact (FOF) received in Madison
- 5/05 Forestry & Legal Services review FOF and question is asked whether County would consider amending their application to include deed restrictions that would prohibit development of the parcel. Barkley conveys that to Zinsmaster via phone conversation.
- 7/22/05 County requests a sample of deed language for preventing development
- 7/25/05 DNR provides sample deed language as requested
- 9/12/05 Conference call between DNR Legal Services, Iron County, Edelstein's attorney Alan Billings. Discussed deed language submitted to Edelstein's from County. Edelstein's / Billings did not accept deed restrictions. A suggestion / insinuation was made that Edelstein's / Billings submit alternative language that might be agreeable to them.
- 9/26/05 Barkley receives letters from Barry Edelstein asking the DNR to reconsider 10 restrictions they are proposing. (This is incorrect in that DNR has only asked Iron County if they would consider amending their application to include restrictions. It is the County's decision whether to follow through with and require the restrictions or have the DNR process the application for withdrawal as originally filed).
- 9/27/05 Messages left with Atty. Alan Billings office requesting authorization to contact Edelstein and address his questions.
- 10/13/05 Second letter from Edelstein.
- 10/19/05 Barkley calls Barry Edelstein and informs him that since he has hired counsel we are not at liberty to discuss the withdrawal with him unless his Atty. gives us permission. He is encouraged to contact his Atty. and have him get back to Blalack.
- ~10/25/05 Barkley receives call from John Wiita. He is a local, Iron County resident that is apparently doing his own investigation. He asks information clarifying Iron Counties State aide debt which Barkley provides. He also discusses information pertaining to the easement that Edelstein's have across the 6 acre parcel on Fisher Lake.
- 10/31/05 Luedeke, Salzmann, Gozdziwski, and Fenner meet with Iron County Admin, Corp Counsel, Finance and Forestry committees. There was discussion as to the possibility of an additional hearing to gather additional input on the proposal.
- 11/04/05 Barkley and Blalack talk with Charlie Zinsmaster on progress of withdrawal on local level.

- 11/7 – 11/11 Several discussions between local DNR staff and Legal Services as to the value and options available to solicit additional public input. Options conveyed to Luedeke and Salzmann (11/18).
- 11/11/05 Barkley receives another call from John Wiita. Barkley clarifies that DNR is awaiting County decision as whether to proceed with original withdrawal application OR to proceed on an application that clarifies the counties intent, and imposes deed restrictions on the 6 acre parcel.
- 11/15/05 Barkley receives another call from John Wiita. Mr. Wiita conveys information on the Edelstein access easement; that it is only in Edelstein's name and does not run with the land. He asked if our Legal staff reached the same conclusion. I told him I wasn't going to share those details at this point and again, reminded him that the easement is only a piece of the withdrawal puzzle and that the DNR is still waiting on the County to make a decision on whether to require deed language. No decision has been rendered by DNR at this point.
- 11/17/05 AM - Barkley receives another call from Wiita. Mr. Wiita informs Barkley of the hazardous conditions at Haven by the Falls and that it would not make a good boat landing.
- PM - Another call from Wiita to Barkley. Mr. Wiita had attended a County Finance committee meeting and again mentioned the hazardous conditions for boating at Haven by the Falls. He mentioned that at the meeting DNR was shouldering much of the blame for this. He sensed that the County was going to require a decision from Edelstein within a two week time frame so the County could get back to DNR with a decision of their own, on which withdrawal proposal to act on.
- 11/18/05 AM - Barkley receives a call from Lois at Alan Billings office requesting a conference call with them. Date set for 11/23 @ 9:30 AM.
- PM – Lois at Billings office requests a copy of the environmental assessment (EA) be faxed to their office.
- 11/21/05 Barkley faxes Environmental Assessment to Alan Billings office.
- 11/22/05 Barkley receives a phone call from Zinsmaster and Jodie Bednar requesting hearing. If Edelstein's agree to deed restriction language they feel it is necessary to get that approval through County Board. Not a 2/3 majority like a new WD application, but just the Board's approval of the clarification on the intent of their initial application. They feel it is justified to amend the EA and open it up for additional comments if they do so. They would like a hearing.
- 11/23/05 Conference call between Edelstein, Alan Billings, Barkley, Christenson, and Blalack. Reaffirmed that the State is awaiting the proposal package from the County. If Edelstein and Billings want input on any potential deed restrictions they need to work with the County. That will give Mr. Edelstein direct and formal input into the process, something he desires.

- 11/28/05 Barkley talks with Bill Clark, NOR Env. Analysis & Review, about need to amend EA should the withdrawal application be clarified to include deed restrictions for development on the 6 acres. The EA listed such restrictions as one of the alternatives, and for that reason it is unlikely that an EA amendment, outside of a memo to the file or something fairly simple, would be necessary. No need to hold an additional public hearing from a WEPA perspective.
- 11/29/05 Conference call between Blalack, Barkley, Gozdziwski, Luedeke, Salzmann, Fenner. Gozdziwski will close loop with Jodie Bednar and ask County to establish a point of contact for this withdrawal. Barkley will be contact person for DNR and keep NOR staff in loop on progress. County needs to act first and work with Edelstein on deed language.
- 11/30/05 Barkley calls Zinsmaster. Discusses the conference call with Edelstein's attorney and DNR conference call from 11/29/05. Agreed that County will work with Edelstein's / Atty. To come up with suggested deed language. Language for any deed restrictions will be finalized by Jan. 31, 06 or DNR will follow through with decision on original application. Barkley will contact Atty. Alan Billings and convey the 1/31/06 date also.
- 12/6/05 Barkley talked with Alan Billings regarding 1/31/06 timeline. It was agreed they would meet with Iron County and have something finalized by that time.
- 12/18/05 Barkley receives an e-mail from Thomas Creeon from the Dept. of Justice office regarding a contact John Wiita made on the Fisher Lake withdrawal.
- 12/21/05 Barkley receives a call from John Wiita asking the status of the withdrawal. Status has not changed since 11/20/05. County is working with Edelstein & his attorney on any possible deed language additions.
- 1/24/06 Barkley receives a FAX from Iron County Corp. Counsel Bednar-Clemens with deed restrictions agreed to by Dr. Edelstein regarding the Fisher Lake parcel. The request is for these deed restrictions to clarify and amend Iron County's intentions for withdrawal of this parcel.
- 2/3/06 Barkley e-mails and talks to Zinsmaster on phone for need to forward signed version of deed language that was faxed on 1/24/06. DNR cannot make decision until signed version received.
- 2/3/06 Barkley receives calls from Margaret Levra (Daily Globe), Jack Kunath, Dennis DeRosso, and John Wiita regarding deed language faxed to DNR. All questioned the process the County used in approving the deed language.
- 2/3/06 Barkley, Blalack, and DeLong meet and discuss withdrawal decision. Need to receive signed version of deed restriction language before we can make the decision.

- 2/8/06 Barkley talks with Zinsmaster and Corp. Counsel Bednar-Clemens at the Iron County Forest certification audit. County did not get deed language from Edelstein's attorney in time to share it with County Board prior to the Jan. 31 deadline. That is why there were no signatures on the deed language. The county's original intention was to do that (even though they do not need 2/3 approval) so we agreed to allow them the opportunity to bring it before County Board at their meeting late in Feb. This was communicated to Luedeke, Fenner, O'Neil, Blalack.
- 2/10/06 Deed language sent to Joe Renville in Legal Services for review at the request of Blalack.
- 3/2/06 Barkley receives call from David Morzenti. He is the retired Corp. Counsel for Iron County. He questioned the validity of the County's original application and also the ability of the County to grant easements. He requested the Atty. General's opinion regarding cabin permits on county forests. Sent by Barkley 3/7/06.
- 3/8/06 Barkley receives calls from Margaret Levra (Ironwood Daily Globe) asking for update.
- 3/9/06 Barkley, Blalack, and DeLong meet to discuss next steps since Iron County has not responded back with signed deed language by end of Feb. Newspaper article mentioned that the county would be requesting an extension until after the April elections but no request has been received to date. Barkley to draft letter to County Board chair asking County to either request an extension to submit deed language, request DNR act on original application, or to withdraw application.
- 3/10/06 Letter sent to County Board chair Gus Krone
- 3/10/06 Barkley receives another call from John Wiita asking for update.
- 3/13/06 Barkley calls Zinsmaster (tried to make contact all last week but he was out) to bring him up to date on the status of the WD from DNR's standpoint. Also received another voice mail from Margaret Levra at Daily Globe but we have not connected yet.
- 3/15-16/06 Barkley contacted by Magaret Levra at Ironwood Daily Globe with questions on procedure and letter sent to Iron County Board Chair on 3/10/06.
- 3/15/06 Barkley receives call from John Wiita with questions on the status of the withdrawal and county forestry in general.
- 3/16/06 Barkley receives call (and subsequent e-mail) from David Morzenti requesting a faxed copy of the withdrawal application and a request for all records pertaining to this withdrawal.
- 3/17/06 Barkley faxes Morzenti the withdrawal application.

- 3/20/06 Barkley receives e-mail from Dennis DeRosso requesting a copy of the letter sent to Chairman Gus Krone on 3/16/06. Barkley faxes copy.
- 3/23/06 Barkley receives call from Margaret Levra, Ironwood Daily Globe. Mentions that the Forestry committee acted on some language for the Fisher Lake withdrawal at their meeting on Weds. (3/21) and intended to take it to County Board on 3/28/06. She asked what it was they agreed upon and if they had sent it to me. I have received nothing from the County since the FAX on 1/24/06 and have no knowledge of what they did in committee this week. She was referred to Charlie Zinsmaster.