

From: Olejniczak, Marty [mailto:MOlejniczak@sturgeonbaywi.org]
Sent: Friday, October 31, 2014 3:15 PM
To: Smith, Jim R
Cc: McNeil, Stephen

Subject: Lake bed lease
Importance: High

Jim:

I talked to Tom German about the process and timing for getting the lake bed lease from Board of Commissioners of Public Lands now that the title issue is about resolved. He stated he did not see a problem with the lease for the area between the dock wall and parcel for which we just got/getting title (coast guard parcel). But he is concerned about the area between the dock wall and the "co-op parcel" because that also is filled area. If I could have reached through and strangled him, I might have. This stupid public trust doctrine continues to haunt us and I am getting fed up. For Christ sake, let's just rip out the sheet pile and turn the whole area into a swamp. Think they'll give us permits for that????

Anyway, German said he would call you on Monday to discuss. He mentioned that even though there is a chain of title on the co-op parcel, it still doesn't mean much if it is filled lake bed. Does the title policy exclude lands below OHWM? That could be a problem.

But didn't the DNR concurrence include the OHWM line all the way to the northerly corner of the co-op parcel. If that is true, isn't the co-op parcel above the agreed upon line and, therefore, no need for lease? We should talk either before or after German calls you.

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From Olejniczak deposition 2016

19 development based on that. And now he's 1
20 throwing a concern at us regarding the co-op 2
21 parcel which we thought was a nonissue at that 2
22 point. 2
23 Q Okay. So as of October, end of October of 2014, 2
24 the issue of title to 92 East Maple is still a 2
25 live issue according to Mr. German, correct? 2

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1 A In the eyes of -- 1
2 MR. BITAR: Object to form. Go ahead 1
3 and answer. 1
4 THE WITNESS: Okay. 1
5 A It appears that in the eyes of Tom German, yes, 1
6 there's an issue there. 1
7 Q Okay. Did you ever get any assurances after 1
8 October of 2014 that that was not an issue from 1
9 DNR's perspective? 1
10 A I am not aware of any. 1
11 Q Okay. Now, you testified earlier to your 1
12 understanding that there are a certain limited 1
13 set of uses that can be made of property below 1
14 the ordinary high water mark, correct? Public 1
15 access-type uses, recreation? 1