

DNR Dragging Feet on High Water Mark Declaration

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By [Myles Dannhausen Jr.](#), [Peninsula Pulse](#) – January 26th, 2018

The City of Sturgeon Bay is still waiting for a ruling from the Wisconsin Department of Natural Resources on the location of the Ordinary High Water Mark on its west waterfront, nearly five months after the [DNR held a hearing](#) on the matter.

“This could have been taken care of a long time ago,” Alderman Richard Wiesner said after the Jan. 16 Common Council meeting. “It’s their responsibility to make this determination.”

Concerns about the location of the mark were raised at least as early as 2013, when city officials informed the Waterfront Redevelopment Authority that it could be difficult to develop the waterfront parcels because they sat on filled lakebed.

Russ Rasmussen, northeast region manager at the DNR, would not give a deadline for a decision when reached Jan. 18.

“We hope to have something in the next couple of weeks,” he said.

But that has been the DNR’s response for several months. The Friends of Sturgeon Bay Public Waterfront sought the declaratory ruling after the Waterfront Redevelopment Authority chose not to accept a settlement reached between the city and the Friends group. The decision will have major implications for what can be developed on the properties between the Maple-Oregon Street Bridge and the Door County Maritime Museum, which includes the Granary building that has been the subject of great debate.

Rasmussen said the department doesn’t grapple with decisions like this one very often.

“We have several options to choose from for setting the line but there’s no clear option on this property,” he said.

Rasmussen said DNR staff is looking at the historical record, a wide variety of maps, and other records to determine a line. He did not say if the department has turned up any new evidence other than the trove of historical documents, maps, and images presented at the September hearing.

He said this decision would not set a precedent for other areas of the state.

“We look at each property on a case-by-case basis,” he said. “This is a highly disturbed site, so much so that it wouldn’t set precedent for many other sites. We don’t see cases like this very often. It’s usually much

clearer.”

Developer Robert Papke has [sued the City of Sturgeon Bay](#) to recoup \$500,000 he said he spent on developing a hotel for the property at the request of the city. Papke alleges the city never informed him that there were questions about whether it could obtain clear title to privately develop the waterfront parcels it offered to Papke for the hotel.

In emails between city staff and attorneys in 2013 and 2014, officials expressed doubt that clear title to the waterfront parcels could be obtained. Officials suggested scaling back the project and being cautious in promises to developers.

Papke said he was approached by the city in 2014, and later that year the city unveiled plans that scrapped an earlier plan for a small hotel mixed with retail on the waterfront, instead opting for a 90-unit hotel on the west waterfront.