



OFFICE OF
City Attorney
May 4, 1987

1407 HAMMOND AVENUE
54880

Mr. David Jacobson, District Director
Wisconsin Department of Natural Resources
Northwest District Headquarters
P.O. Box 309
Spooner, WI 54801

RE: De-designation of Barkers Island Bird Sanctuary

Dear Mr. Jacobson:

Enclosed are the following documents which constitute the City of Superior's completion of the agreement to de-designate the Barkers Island Bird Sanctuary. These documents are:

- 1) A deed conveying part of Wisconsin Point to the DNR for use as a bird sanctuary;
- 2) A survey map showing you the part of Wisconsin Point being conveyed;
- 3) Two copies of a limited development easement over submerged lands lying under the St. Louis River adjacent to what the City refers to as the Case-Western land or Arrowhead Industrial Park. This property lies south of the Grassy Point railroad bridge. Please have both copies signed and return one copy to my office for the City's records.

If you have questions about the land or about the fencing of the Wisconsin Point bird sanctuary, please contact Len Peterson, Director of Public Works. If you have any other questions or comments, please contact either Bill Lehman or me.

Very truly yours,


Steven H. Schweppe
City Attorney

SHS:jmh

cc: Len Peterson
Bill Lehman

\\BI\\Bird-DNR.1tr

THIS INDENTURE, Made by THE CITY OF SUPERIOR, WISCONSIN, a municipal corporation duly organized and existing under and by virtue of the laws of the State of Wisconsin, grantor of Douglas County, Wisconsin, hereby quit-claims to THE STATE OF WISCONSIN DEPARTMENT OF NATURAL RESOURCES, grantee, the following parcels of elevated land and submerged land (all of which are hereinafter referred to as the Premises) in Douglas County, State

Return to:

A parcel of elevated land and submerged land containing approximately 4.53 acres described as follows:

Commencing at U.S. Government Station Monument #21 located on Wisconsin Point in the NW¼ of Section 28, Township 49 North, Range 13 West; thence South 46°37'39" West 300.00 feet to a one-inch iron pipe; thence along a line South 13°43'21" East 265.00 feet to the Point of Beginning which is marked by a one-inch iron pipe located 20 feet more or less from the ordinary high water line of Allouez Bay; thence continuing along said line 220.50 feet to a one-inch iron pipe; thence South 34°01'21" East 396.30 feet to a one-inch iron pipe; thence North 65°58'39" East 300.00 feet; thence North 26°48'08" West 606.37 feet to a one-inch iron pipe; thence South 66°16'39" West to the Point of Beginning. Together with that elevated land lying between the ordinary high water line of Allouez Bay and the south and west lines of the above described tract of land.

and

A parcel of elevated land containing approximately 2.82 acres described as follows:

Commencing at the U.S. Government Station monument #21 located on Wisconsin Point in the NW¼ of Section 28 Township 49 North, Range 13 West; thence South 46°37'39" West 300.00 feet to a one-inch iron pipe which is the Point of Beginning; thence North 13°43'21" West a distance of 432.00 feet to an iron post; thence North 63°53'54" East a distance of 193.00 feet to an iron post; thence South 10°48'06" East a distance of 712.50 feet to a point; thence South 66°16'39" West a distance of 156.00 feet to an iron pipe; thence North 13°43'21" West a distance of 265.00 feet to the Point of Beginning. Together with the elevated land lying between the ordinary high water line of Allouez Bay and the west line of the tract of land described in this paragraph.

The consideration for the conveyance of the Premises is the discontinuance by the Grantee of a bird sanctuary established on a parcel of land known as Barkers Island in the City of Superior, Wisconsin. Said bird sanctuary was created by Division of Natural Resources Hearings Permits 3-NW-78-702, 3-NW-78-501, and 3-NW-78-005 issued on April 17, 1978 by hearing examiner Joseph Schaeve. Title to the Premises shall, without notice to grantee, revert automatically to the Grantor unless all of the following events have occurred by July 1, 1987:

A) The approximately 14½ acre bird sanctuary created on Barkers Island in Superior, Wisconsin, under the terms of paragraph 12, page 13 of Division of Natural Resources Permit 3-NW-702, 3-NW-78-501, and 3-NW-78-005, dated April 17, 1978, by hearing examiner Joseph P. Schaeve is discontinued; and

B) The State of Wisconsin Department of Natural Resources provides the City with a written statement in the form and manner set forth in Section 12, page 13 of that Division of Natural Resources Permit described in the preceding paragraph (A), permitting the City, its successors and assigns, to use the 14½ acres of discontinued bird sanctuary for uses not compatible with the Department's fish and game interests; and

C) The State of Wisconsin Department of Natural Resources terminates any and all agreements for the construction, management, maintenance, or use of any part of said Barkers Island as a bird sanctuary or other wildlife refuge.

IN WITNESS WHEREOF, the said grantor has caused these presents to be signed by Herbert W. Bergson, its Mayor, and countersigned by Florence Steffan, its Clerk, at Superior, Wisconsin, and its corporate seal to be hereunto affixed this 6th day of May, A.D., 1987.

SIGNED AND SEALED IN PRESENCE OF

Janet M. Heckman

...Janet M. Heckman.....

Carol J. Porter

...Carol J. Porter.....

CITY OF SUPERIOR, WISCONSIN

Corporate Name

Herb W. Bergson

Mayor

...Herb W. Bergson.....

Countersigned

Florence Steffan

Clerk

...Florence Steffan.....

STATE OF WISCONSIN)

(ss.

DOUGLAS COUNTY)

Personally came before me, this 6th day of May, 1987, Herbert W. Bergson and Florence Steffan, Mayor and City Clerk of the

City of Superior respectively, and to me known to be Mayor and City Clerk of said City of Superior, and acknowledged that they executed the foregoing instrument as such officers as the deed of said City by its authority.

Carrie J. Ahlberg-Richter
Notary Public, Douglas County, Wis
My commission expires July 19, 1987

.....
This instrument drafted by
Steven H. Schweppe

\BI\BirdSanc.QCD
jmh
5-1-87

LIMITED DEVELOPMENT EASEMENT

THIS EASEMENT, made this 6th day of May, 1987, by and between THE CITY OF SUPERIOR, WISCONSIN, (hereinafter also referred to as the City, and the STATE OF WISCONSIN (Department of Natural Resources), Grantee.

WHEREAS, the City is the owner in fee simple of certain submerged lands which lie beneath the St. Louis River in Douglas County, Wisconsin, and

WHEREAS, the Grantee wishes to protect these lands as fish and game habitat; and

WHEREAS, the Grantee wishes to use these lands to enhance fish and game habitat;

NOW, THEREFORE, in consideration of the conditions and covenants set forth below and upon the occurrence of the events set forth in Section (2) below, the City conveys to the Grantee, an easement for the purpose of maintaining and enhancing fish and game habitat on and over the following described real estate:

A parcel of land being part of the SW $\frac{1}{4}$ of Section 16-49-14 described as follows:

Commencing at the SW corner of said Section 16, thence East along the South line of said Section 216 on a bearing of South 89°29'09" East 1822.6 feet to the West R/W line of the Mpls. St. Paul & S. Ste. Marie Ry., thence Northerly along said West R/W line 1200 feet, thence West on a bearing of North 89°29'09" West to the ordinary high water mark of the St. Louis River, which is the point of beginning, thence continuing North 89°19'09" West to a point in the St. Louis River where the last described line intersects the Government Harbor Line, thence North on a bearing of South 0°10'15" West to the West $\frac{1}{4}$ corner of said Section 16 thence East along the center line of Section 16 to the ordinary high water mark of the St. Louis River, thence southerly along the meandering ordinary high water mark of the St. Louis River to the point of beginning.

1) It is understood that:

A) This Easement grants no rights to the general public for access to or entry upon the easement area or access to or entry upon those adjacent lands owned by Grantor lying above the ordinary high water mark of the St. Louis River;

B) Grantee, its agents, officers, and employees, shall have the right to enter the easement area by water for the purpose of inspection or maintenance of the easement area or for the purpose of placing or removing any material, fill, structures, or objects on or from the easement area;

C) The City, its successors and assigns, shall not perform any alteration of the easement area; shall not place any structure or material on, over, or under the easement area; shall not remove or destroy any plants within the easement area; and shall not convey any other easement for any purpose, including but not limited to, road or utility easements upon the easement area without the prior written authorization of the Grantee;

D) Grantee indemnifies and holds harmless the City from any claim, damage, injury, liability, or loss incurred by Grantee, its agents, officers, and employees, or to any person, firm or association, arising from the use, maintenance, or condition of the easement area.

2) This easement shall become effective only upon the happening of all of the following events:

A) The approximately 14½ acre bird sanctuary created on Barkers Island in Superior, Wisconsin, under the terms of paragraph 12, page 13 of Division of Natural Resources Permit 3-NW-702, 3-NW-78-501, and 3-NW-78-005, dated April 17, 1978, by hearing examiner Joseph P. Schaeve is discontinued; and

B) The State of Wisconsin Department of Natural Resources provides the City with a written statement in the form and manner set forth in Section 12, page 13 of that Division of Natural Resources Permit described in the preceding paragraph (A), permitting the City, its successors and assigns, to use the 14½ acres of discontinued bird sanctuary for uses not compatible with the Department's fish and game interests; and

C) The State of Wisconsin Department of Natural Resources terminates any and all agreements for the

construction, management, maintenance, or use of any part of said Barkers Island as a bird sanctuary or other wildlife refuge.

Dated this 6th day of May, 1987.

FOR THE CITY OF SUPERIOR, WISCONSIN

Herb W. Bergson
Herb W. Bergson, Mayor

Florence Steffan
Florence Steffan, City Clerk

STATE OF WISCONSIN)

(ss.

DOUGLAS COUNTY)

Personally came before me, this 6th day of May, 1987 Herb W. Bergson and Florence Steffan, Mayor and City Clerk of the City of Superior respectively, to me known to be the persons who executed the foregoing instrument, and to me known to be Mayor and City Clerk of said City of Superior, and acknowledged that they executed the foregoing instrument as such officers as the deed of said City by its authority.

Carol J. Ahlberg - Porter
Notary Public, Douglas County, Wis.
My commission expires July 19, 1987

Accepted this _____ day of _____, 1987.

STATE OF WISCONSIN DEPARTMENT OF
NATURAL RESOURCES
For the Secretary

By _____

This instrument drafted
by Steven H. Schweppe

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jmh
5-1-87

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C) The City, its successors and assigns, shall not perform any alteration of the easement area; shall not place any structure or material on, over, or under the easement area; shall not remove or destroy any plants within the easement area; and shall not convey any other easement for any purpose, including but not limited to, road or utility easements upon the easement area without the prior written authorization of the Grantee;

D) Grantee indemnifies and holds harmless the City from any claim, damage, injury, liability, or loss incurred by Grantee, its agents, officers, and employees, or to any person, firm or association, arising from the use, maintenance, or condition of the easement area.

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construction, management, maintenance, or use of any part
said Barkers Island as a bird sanctuary or other wildlife
refuge.

Dated this 6th day of May, 1987.

FOR THE CITY OF SUPERIOR, WISCONSIN

Herb W. Bergson
Herb W. Bergson, Mayor

Florence Steffan
Florence Steffan, City Clerk

STATE OF WISCONSIN)

(ss.
DOUGLAS COUNTY)

Personally came before me, this 6th day of May, 1987,
Herb W. Bergson and Florence Steffan, Mayor and City Clerk
City of Superior respectively, to me known to be
executed the foregoing instrument, and to me known
City Clerk of said City of Superior, and acknowledged
executed the foregoing instrument as such officers
said City by its authority.

Carol J. Ahlberg
Notary Public, Douglas County
My commission expires July

Accepted this _____ day of _____, 1987.

STATE OF WISCONSIN DEPARTMENT OF
NATURAL RESOURCES
For the Secretary

By _____

This instrument drafted
by Steven H. Schweppe

\BI\BirdSanc.Eas
jmh
5-1-87

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Dated this 6th day of May, 1987.

FOR THE CITY OF SUPERIOR, WISCONSIN

Herb W. Bergson

Herb W. Bergson, Mayor

Florence Steffan

Florence Steffan, City Clerk

STATE OF WISCONSIN)
(ss.
DOUGLAS COUNTY)

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Carol J. Ahlberg-Porter

Notary Public, Douglas County, Wis.

My commission expires July 19, 1987

Accepted this _____ day of _____, 1987.

STATE OF WISCONSIN DEPARTMENT OF
NATURAL RESOURCES
For the Secretary

By _____

This instrument drafted
by Steven H. Schweppe

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