

STATE OF WISCONSIN

CIRCUIT COURT
BRANCH _____

SAWYER COUNTY

ROUND LAKE PROPERTY OWNER'S ASS'N,
INC.,
P.O. Box 1070
Hayward, WI 54843,

Case No. 10-CV-_____

Plaintiff,

Case Code: 30704

v.

Other Injunction or Restraining Order

SAWYER COUNTY,
10610 Main Street,
Hayward, WI 54843,
Defendant.

AFFIDAVIT OF ROBERT J. STRACHOTA

STATE OF MINNESOTA)
) ss.
HENNEPIN COUNTY)

Robert J. Strachota, being first duly sworn, on oath deposes and states as follows:

1. I am President of the Round Lake Property Owner's Ass'n, Inc. (the "Association"), the Plaintiff in this action and make this Affidavit in support of the Association's Motion for a Temporary Restraining Order. I have personal knowledge of the facts stated herein.

2. The Association is a Wisconsin nonstock corporation, which was formed in 1963 to generally promote, encourage and foster the quality of Round Lake. Numerous members of the Association own property on Round Lake in Sawyer County, Wisconsin

3. I have served on the Association's Board of Directors for ___ years and have served as the Association's President since ____.

4. I have personally represented the Association on the Round Lake Work Group since its formation in 2004. As part of the Round Lake Work Group I have been involved in

numerous discussions with and read correspondence and reports prepared by Wisconsin Department of Natural Resources (“WDNR”) staff, Sawyer County staff and consultants, engineers, hydrologists, Association members and representatives of the Lac Courte Oreilles Band of Lake Superior Indians (“LCO”).

5. WDNR organized the formation of the Round Lake Work Group in response to a petition Sawyer County filed with WDNR seeking guidance and a WDNR determination regarding various former orders pertaining to the flow of water in and out of Round Lake. One of those existing orders is a September 29, 1941 Order of the Public Service Commission of Wisconsin that requires Sawyer County to operate its water control structures to maintain normal water elevation on Round Lake at 77.0 feet and to prevent the water levels from rising above the elevation of 77.25 feet during freshets and heavy runoffs.

6. The water from Round Lake flows into Little Round Lake and from there into Osprey Lake. The water flows from Osprey Lake down Osprey Creek then continues to Lac Courte Oreilles Lake. County Highway NN crosses Osprey Creek between Osprey Lake and Lac Courte Oreilles Lake.

7. In 2004, the Association was concerned about excessively high water levels on Round Lake during peak rain events caused by the double-end culverts Sawyer County placed under County Highway NN where that highway crosses Osprey Creek. Sawyer County installed these culverts in 1999 without obtaining the necessary WDNR approvals. The culverts under County Highway NN are installed approximately sixteen to eighteen inches above the natural elevation of Osprey Creek, creating a dam during high water flow conditions.

8. In 2002, three years after Sawyer County installed the culverts under County Highway NN, numerous Association members experienced massive erosion on their property due to extremely high water levels on Round Lake.

9. After approximately three years of meetings, including presentations by various experts in hydrology, the Round Lake Work Group issued a recommended action plan that recommended that the culverts under County Highway NN be lowered. The Sawyer County Land and Water Conservation Committee and the Sawyer County Board of Supervisors both adopted the Round Lake Work Group's recommended action plan.

10. In 2008, Sawyer County submitted to WDNR plans and specifications prepared by the engineering consulting firm SEH to lower the culverts to the natural stream level, as provided in the approved Round Lake Work Group action plan.

11. In 2008, WDNR authorized Sawyer County to replace the culverts under County Highway NN according to the plans and specifications prepared by SEH.

12. To date, Sawyer County has not replaced the culverts and they remain elevated, as installed in 1999.

13. On July 15, 2010, the Sawyer County Board of Supervisors met to consider a resolution authorizing the jurisdictional transfer to LCO of a section of County Highway NN that is only 300 feet long. It is apparent that Sawyer County's sole purpose in pursuing a jurisdictional transfer of this isolated segment of County Highway NN is to avoid its responsibility to properly install the culverts that lie beneath that section of County Highway NN.

14. The Association sent a representative to the July 15, 2010 County Board meeting to express the Association's opposition to the proposed resolution authorizing the jurisdictional

transfer and to urge the County Board to order the appropriate Sawyer County staff to implement the Round Lake Work Group recommendations.

15. At the meeting of July 15, 2010, the Sawyer County Board of Supervisors adopted the resolution authorizing the jurisdictional transfer of 300 feet of County Highway NN to LCO.

16. As part of the Round Lake Work Group activities that the Association has participated in, LCO expressed on numerous occasions that LCO opposes any revisions to the existing culverts at County Highway NN.

17. Based on statements made at the July 15, 2010 County Board meeting, the Association understands that Sawyer County will attempt to finalize the jurisdictional transfer as early as Monday, August 2, 2010.

18. Sawyer County's 1999 unauthorized installation of the culverts has resulted in a revision to the floodplain boundary around Round Lake. Numerous Association members have had their property determined to be in the floodplain solely due to the 1999 culvert installation and Sawyer County's refusal to replace the culverts pursuant to WDNR's 2008 culvert replacement project approval.

19. Numerous Association members purchased and developed their properties in reliance on the 1941 Public Service Commission Order that requires Sawyer County to operate control structures to limit the Round Lake water elevations during periods of high water flow.

20. Association members will continue to be subject to harm in the event of peak rain events unless Sawyer County replaces the culverts at County Highway NN pursuant to the 2008 SEH plans and specifications and related WDNR approval.

Executed this _____ day of July, 2010.

Robert J. Strachota

Subscribed and sworn to before me
this ____ day of July, 2010.

Notary Public, State of Minnesota

My commission expires _____.