

DCEC Newsletter



published by
the door county environmental council, inc.
p.o. box 114 fish creek, wi 54212
phone 920-743-6003
fax 920-743-6727
email dcec@itol.com www.dcec.us

December
2003

**Environmental News
for Door County**

**Inside, page 4:
Green Stuff On The Beach And
Nutrients In The Water**

Legal Action Necessary for protection of the HINES EMERALD DRAGONFLY

Critical Habitat is the Key



Somatochlora hineana photo courtesy of Paul Burton hinesdragonfly.org

DCEC was a leader in the 1995 successful effort to create federal endangered species listing for the rare and beautiful Hines Emerald dragonfly (*Somatochlora hineana*). Endangered species designation is a prelude to the necessary task of establishing "critical habitat" to ensure the survival of the species and possible re-establishment.

The United States Fish and Wildlife Service normally does this within a reasonable amount of time, according to the provisions of the Endangered Species Act (ESA). However by 1996 the USFWS had not designated critical habitat for the dragonfly and *to date* no critical habitat areas have been designated anywhere.

Yet the Service's recovery plan published in 1999 states that "fragmentation and destruction of habitat are believed to be the main reasons for this species' endangered status and continue to be the primary threats to its recovery."

"The U.S. Fish and Wildlife Service has recognized that habitat loss is the primary reason for this species decline, and that a critical habitat designation would help save this unique wetlands dragonfly from extinction - and yet, has not proposed habitat protection," said Attorney Andrew Hanson, board member of Habitat Education Center in Madison, WI.

Thus legal action has become necessary. The Center for Biological Diversity, Northwoods Wilderness Recovery,

the Habitat Education Center, the Door County Environmental Council, the Michigan Nature Association and the Missouri Coalition for the Environment, filed a Notice Of Intent (NOI) with the U.S. Department of the Interior and the USFWS on October 29th. The NOI gives notice of the intent to sue the Agency for violations of the Endangered Species Act as enacted by Congress. The USFWS has 60 days to respond.

The Hines Emerald Dragonfly is a creature almost unique to Door County. There are only a few other sites where the dragonfly has survived. The known locations in Ohio, Indiana and Alabama have been lost. The remaining habitat is in Door County; a small, threatened location near the Des Plaines River in Illinois; two counties in Upper Michigan; and Iron and Reynolds counties in Missouri.

Without proper protective measures in place and the security of established critical habitat, this rare insect that is distinguished by its beautiful brilliant green eyes will succumb to the pressures of human habitation. We are certain that if proper long-range habitat protection is in place, the future of the Hines Emerald Dragonfly is assured and another cog in the progressive wheel of systematic extinction of species will have been avoided.



DCEC Incorporated in 1971 under the laws of Wisconsin as a nonprofit, tax-exempt organization.

IS OUR PRECIOUS WATER FOR SALE?

Water diversion is on its way to becoming a major threat to the Great Lakes. The potential scope of the problem caught everyone's attention in 1998 when a group of businessmen (NOVA Group) hatched a plan to load ocean tankers with fresh water from Lake Superior for export and sale in Asia. The group sought a permit to ship 156,000,000 gallons of Lake Superior water. This rightly caused a public outcry and a demand for more control over our major resource.

Cheryl Mendoza of the Lake Michigan Federation gave a spirited and informed talk on the subject of water diversions from our Lake Michigan and the other Great Lakes, at the DCEC Annual Program last August. Cheryl is project manager for the Federation, based in Grand Haven, Michigan. She detailed the plans and prospects for preserving our present water supplies into the future

For some, water is viewed as a commodity, not at all different from oil and timber resources. Like oil, it is *non-renewable* once it is removed. But the similarity stops there. Oil is classed as a mineral and can be removed under mineral regulations; timber can be harvested and to a degree will reestablish itself under management. *But water belongs to the people of the region and should not be a removable-for-profit asset.*

Regulations implemented in 1909 regarding navigation in the international waters of the Great Lakes only hinted at control over withdrawal. Seeing problems looming, in 1995 the governors and premiers of the surrounding states and provinces, under the provisions of the International Joint Commission, created the **Great Lakes Charter** to establish some basic controls over waters within their jurisdiction.

After the challenge of the Asian export crisis, the governors and premiers drafted a preliminary revision of the Charter creating the **Great Lakes Charter Annex**. The draft annex has provisions to evaluate withdrawal proposals; require users to restore the Great Lakes basin with projects; involve the public in development of the Charter; promote basin-wide water conservation and management; and establish standards to evaluate decisions made on water issues.

There are four basic standards proposed in the Great Lakes Charter Annex:

** Prevent water loss by return to source and water conservation practices.*

** No significant adverse impact on the entire system.*

** Improvements must be made to the water resource - an investment by the user to repair the system.*

** Users must comply with all applicable laws presently in force internationally.*

Why does all this matter?

Great Lakes water is a non-renewable resource except for 1% that is renewed by natural means. Thus any removal of more than 1% will cause a net loss of lake water. Of that minimal return, less than 35% of the recharge into Lake Michigan comes from groundwater return (pumped from wells, etc). The remainder must be made up from natural sources - rain, snowmelt, rivers, surface water runoff, etc.

Presently there are shortages appearing all around the Great Lakes basin. Further shortages will eventually affect lifestyle and the quality of life for users of groundwater resources. Reports in Door County by well drillers of the increasing depths needed to secure acceptable water supplies are indications of over-use of the

resource. Green Bay, Sturgeon Bay and most other cities are facing the same issues of difficulty in securing adequate water for the residents. It affects all the people, with financial implications for everyone.

What can we do as individuals?

* Use water wisely, eliminate wasteful practices. U.S. per capita water consumption is double that of Japan and more than any other nation in the world.

* Educate your family, children and others about water conservation.

* Participate by commenting when the final draft of *Great Lakes Charter Annex* is made public. (DCEC will inform you when that happens.)

What can happen at the Federal level?

The provisions of the NAFTA International Trade Agreement require that all nations that participate in trade must be treated equally. There is the danger that if one country is allowed to invade the Great Lakes for fresh water sources, all nations must be allowed to do the same. Individual State regulations could be usurped by Federal action. This would become a contentious political issue.

The Annex to the Great Lakes Charter is our best opportunity to prevent damaging trade in Great Lakes water, by providing a strong legal framework for its protection.

DCEC will be having Cheryl Mendoza return for a public presentation on the draft *Great Lakes Charter Annex* as soon as it becomes available for public comment. We urge you to become involved in this important issue for your family and future generations.

As stated above – you will hear from DCEC when we get word of this important opportunity to speak out for protection of the Great Lakes. * * * *

DCEC annual award: “Environmental Citizens of the Year”

The 2003 recipients of DCEC’s *Environmental Citizens of the Year* award were John and Janice Stiefel of Bailey’s Harbor. The Stiefels have a new home that utilizes the latest technology in resource and energy conservation. The home runs on a solar electric system with a propane generator for backup. Composting toilets treat waste and a natural greenhouse botanical filter cleans their gray water and returns it to a pure and drinkable state.

John Stiefel is a registered professional engineer having worked for Sargento Foods and Gilson Bros. Company and currently works part time as a consultant engineer in residential and commercial design and construction.

Janice Stiefel has a distinguished career as a naturalist, researcher, writer, speaker and nature photographer. She is currently researching and recording the plant, animal and insect population at *Hidden Corners Sanctuary* in Door County.

John and Janice were presented their award at the DCEC Annual Summer Program, August 19, 2003. This is a most deserving couple, with an excellent track record of environmental action and concern.

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Janice and John Stiefel, DCEC
Environmental Citizens of the Year
Photo by Steve Kastner,
DoorCountyCompass.com

The Hardy Center for the Arts **COMMON GROUND Environmental Project**

Beginning January 2004, The Hardy Center for the Arts *Common Ground* Environmental Project will culminate next summer in a Juried Show of fine art at the Hardy Gallery, July 16-August 29.

The project mission is to foster collaboration within the community of artists, poets, musicians, environmentalists and scientists, and to help educate the public. Across these disciplines, all are challenged to participate in a group focus that will allow art and science to speak with a strong voice, to inspire awareness, action and change in the community. The project intends to stimulate the creation of work that expresses human environmental impact on the natural world in Door County with wit and intelligence and research; the finished pieces shall inform as well as delight.

DCEC supports and will participate in fostering this education-oriented project. Focus meetings between interested artists and environmental groups such as DCEC are scheduled to begin in January. For more information, contact Kathy Stanaszek, Exhibit Curator; Julia Bresnahan, Exhibits Committee Chair or Jan Comstock, Executive Director, galleryinfo@thehardy.org (854-2210).

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DCEC initiates the “Door County Renewable Energy Task Force”

A number of people who believe there should be an important role for renewable energy in Door County’s continued development, held meetings in October and November to form an action-oriented Renewable Energy Task Force.

Under the leadership of Don Pardonner, the group discussed initial plans to compile a resource directory of commercial and residential alternative energy resources. They also are working to develop an educational program to make all citizens aware of the potential of renewable energy to save money and the environment.

In their homes and in their public buildings (such as the new government complex planned for the outskirts of Sturgeon Bay) citizens could reap great savings over time. DCEC members and other interested persons can volunteer to be on the Task Force or to be kept informed about its activities. Contact Don Pardonner by email at donpardonner@dcwis.com, phone 920-839-1182 or write him at PO Box 260, Sister Bay, WI 54234.

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Green Stuff on the Beach and Nutrients in the Water

We've all heard the comment, "That green stuff was always there". Yes, to a degree, but not in the increasing amounts and obvious degradation of our beaches and shoreline we see today. People are rightfully upset and complaining about the presence of rows of decaying organic material that is becoming so obvious on the sandy and rocky beaches all around Door County and elsewhere in Wisconsin.

There are those who will argue that the problem is due to climate change, low water levels, fewer major storm events, and a host of natural causes. But for organic material to grow and become a nuisance it needs nutrients in abundance. Even the lowly algae have requirements for nutrition to create a "bloom" and raise havoc with fishery spawning areas. This brings us to ask the question, "Is the decaying organic matter problem a combination of all of these things or is it brought about by excess factors, such as rising nutrient levels?"

It is always convenient to focus the first blame on a visible cause. We hear a lot about the problems with agricultural run-off and the nutrients associated with that source. While this may be labeled as one of the major *contributors*, others too are among the causes. For instance, not much attention is being given to the waterfowl that are now in year-round residence on the beaches; this is a gradual change that has occurred in the last several years. Global warming with the associated rise in Lake temperature along with the low water levels can be major *contributors* to the problem.

Someone may be able to find that all of these causes can be linked together to make the problem manifest itself as it has, but ***we are overlooking a major source of nutrients that is not as visible as a potential contributor.***

Municipal sewage treatment facilities on the Wisconsin side of Lake Michigan and entire area of the Bay of Green Bay and inland rivers are allowed under Wisconsin law to discharge nutrients into the waters of the Bay and Lake. Looking at phosphorus as an example in the rules governing discharge, NR 217.04(1)(a) 1, we find that limitation is imposed equal to *1mg/L total phosphorus as a monthly average for those outfalls that contain more than 150 pounds of phosphorus per month, unless an alternative limitation is provided.*

If you are concerned with municipal systems that discharge millions of gallons of waste effluent daily, you can envision large amounts of phosphorus being pumped directly into the Bay and Lake.



***Decaying organic material on beach at Jacksonport, 2003
Photo by Phyllis Zatlin***

If you multiply those amounts by the number of communities that are discharging legally under the permitting process, you can arrive at some staggering figures for allowed phosphorus discharge as a percent of total effluent. *A fair estimate of total effluent would be 170 million gallons into the Fox/Wolf Rivers and the Bay.* This does NOT include the *direct* discharges during emergency situations; and phosphorus is only *one* of the family of nutrients entering our waters.

The State has been addressing this issue by funding the most "cost-effective" ways of limiting the amount of nutrients entering our waters. The argument is made that it is much more cost effective to cost-share farming storage facilities and handling methods, than it would be to update municipal systems to lessen the nutrient outflow. However, the majority of farm operations still functional already have utilized cost sharing for storage facilities and *Best Management Practices*, which are a requirement. Except for a few renegade operations the farming community is doing what is required of their operations to help with the problem. (See page 5)

Dangerously, the phosphorus levels continue to rise in the Bay and western Lake Michigan in spite of this effort. The scientific monitoring in the Bay and Lake shows that the phosphorus levels are increasing dramatically, with the nutrient level increasing steadily each year. The rows of decaying organic matter are a warning of things to come if this issue is not addressed immediately. **This trend should not continue to be ignored.**

You can research the NR regulations and WPDES permits by going to www.dnr.state.wi.us. Wisconsin Administrative Code is available online at the [Revision of Statutes Bureau](#) site.

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Animal (liquid) Waste Management

It's a growing problem in Door County and all other regions of the State and nation. The proper use and management of animal waste has become an important issue, with the advent of many larger, concentrated dairy herds and livestock feeding operations. While some may view this trend as a sign of progress, others see it as leading to the end of traditional family farms as we know them.

Many of these mega-operations are owned by corporations and foreign investors, and serve conveniently as a tax write-off for these owners. That is not the case in Door County at this time, but it may be in the future. This prospect amplifies the need for proper management ordinances to be in place *sooner* rather than later.

The trend toward liquid handling of animal waste has been sparked, in part, by the desire to utilize all of the nutrients contained in the waste material. *It also has helped address the problem of disposal of milk house waste, mostly liquids with chemical cleaning agents included.*

Traditionally, the milk house waste was disposed of in a conventional septic system or held in a holding tank and pumped when needed. The new liquid manure systems allowed that waste instead to become a part of the total animal waste. The nutrients contained in the animal waste are combined with the wastewater from the milking operation, which are mostly phosphorus based. Phosphoric acid, hydrochloric acid, chlorine, etc. make up the cadre of cleaning agents needed to maintain a quality dairy product. These chemicals become dispersed in the total waste mixture and eventually are part of the disposal product.

Currently there are *best management practices* in place that encourage farm operators to engage in proper disposal on fields that need the nutrients and can create a benefit for the farmer. These *best management practices* are developed for each farm that has been a participant in a subsidy or cost sharing practice to install a waste facility or related structure. The recommendations under the adoption of these practices will also dictate *where* and *what rate* can be used for spreading the liquid material. It will also dictate *when* the spreading should occur and give a time limitation for incorporating into the soil. This can vary from 48 to 72 hours depending on the soil type and depth.

There are no State or County ordinances presently in place to control animal waste spreading. The only control is linked directly to the cost-sharing benefit for the facility on that farm, and is administered solely by the Door County Soil and Water Conservation Department.

It is to the farmer's advantage to incorporate the waste into the soil as quickly as possible to limit the amount of nutrient lost to the air. A major portion of the odor associated with liquid handling of animal waste is due to the escape of nitrogen in the form of ammonium nitrate, ammonia, and other potent gases. This escape means that some of the nutrients in gas form are being lost and will be a financial loss to the farm operator; they will need to be replaced by other means, probably commercial fertilizer.

Another factor that is evident in the liquid handling of animal waste is the proliferation of weed seeds. During the storage process the seeds contained in the waste do not endure any heating or composting de-germination effect and are in an ideal growing situation when spread on

fields. Farmers using the liquid waste systems have learned to consider carefully which fields can receive herbicide applications sufficient to counteract the aggressive growth of the fertilized weed seeds.

Most farm operators are diligent with these newer methods of dealing with the waste problem and the benefits of proper management. However, there always are less dedicated people willing to overlook the *best management practices* and create undesirable situations.

If you as a homeowner and neighbor observe obvious excesses in spreading animal waste near you, the best

It is to the farmer's advantage to incorporate the waste into the soil as quickly as possible to limit the amount of nutrient lost to the air.

method of addressing your concerns is to document the dates, the number of loads spread, the approximate size of the tanker, and the follow-up on the field after the spreading is completed. You can best do this with a documented record and photos to illustrate your concerns. Then you will be able to file an effective complaint with the DNR or the Door County Soil and Water Department.

When *not* done according to regulation, the excess nutrients, improper incorporation and untimely application all contribute to run-off into our streams and possible contamination of groundwater supplies. Under Wisconsin law, a polluter is not culpable for contaminating a private well unless it can be proven with documented facts and then it would be an extremely expensive court battle.

* * * *

DO YOU LOVE DOOR COUNTY???

Then help us protect it... please.

I support the Door County Environmental Council, working to preserve our heritage of natural resources .
Please enlist me as one of the following: (check enclosed)

<i>Individual Member</i>	\$15	<i>Family Membership</i>	\$25
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<i>Guarantor</i>	\$50	<i>Donor</i>	from \$100

Renewal? _____ New Member? _____ Door County Voter? YES _____ NO _____

Name _____

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E-mail Address and/or Fax number _____

Please name your Door County municipality (town, village or city) _____

All donations are tax deductible to the extent the law provides.

DCEC is a nonprofit, tax exempt organization.

We supply receipts that meet IRS requirements for your gift of \$250 or more.

Thank you for being part of DCEC!

mail to: Door County Environmental Council, Inc. P.O. Box 114 Fish Creek WI 54212

for more information, call DCEC at 743-6003 email dcec@itol.com

Please contact DCEC if you are interested in volunteering for the Board or special projects.

Visit DCEC on the Internet!
www.dcec.us or
doorcountycompass.com/dcec/

Read the DCEC Column in the Door Peninsula Voice (pick it up free at many locations).

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Lake Michigan Summit

Whitehall, Michigan was the location for the 2003 Lake Michigan Federation *Lakewide Summit* involving many of the environmental and ecological groups from the entire Lake Michigan basin. I had the privilege as Executive Director of DCEC to attend the two-day conference, which primarily focused on Lake watershed revitalization progress. Area representatives were able to report on their particular watershed project and share ideas and experiences in dealing with the problems of protection and curtailing abuses. Our own newly-formed *Ahnapsee River Watershed Alliance* in Door and Kewaunee counties was the newest watershed activity to be recognized for the progress made thus far. We can gain much from the experiences of other groups in our new effort.

The Environmental Protection Agency (EPA) Lake Michigan Team Manager, Judy Beck elaborated on the provisions of the new *Great Lakes Initiative*. This is a federal funding program to restore and elevate the Lakes to their former status ecologically and to furnish funds for local watershed groups to continue restoration efforts in their particular watershed and river basins. We in Door County are lagging behind the rest of the Lake basin in determining which rivers and streams need protection and probably could secure funds to make efforts at restoration and long-term protection feasible. To date, the Ahnapsee is the only watershed protection effort that can be identified as a formal action group with status for funding.

Cheryl Mendoza, who spoke about the Great Lakes Charter Annex at the DCEC Annual Summer Program, gave an update on the progress of the plan for controlling water diversions from the Great Lakes. (See page two for more on this story.) The final draft of this international plan will be public at year's end and everyone needs to comment on the proposal when this is available. This will determine the future controls that U. S. and Canada will have over the use of water from the Great Lakes.

Muskegon has an enviable municipal wastewater system in that NOTHING is discharged to the Lake.

The Mayors of Whitehall and Muskegon spoke at length about their

commitments to ensuring that their cities remain examples of leadership in resource restoration and protection. It is great to hear from dedicated politicians that are sincere and honest in their convictions and do indeed "walk the walk". Whitehall has the problem of cleaning White Lake of the residue from long-past tanning operations on the lakeshore, where the excess and waste was dumped into the Lake. Muskegon has an enviable municipal

wastewater system in that NOTHING is discharged to Lake Michigan. All of the liquid effluent after the de-watering process is used inland for irrigation purposes, which represents a considerable saving for the city and the impact on the Lake is none. The remaining solids are also used in agriculture for the fertility benefit. Nothing like this is happening in the major cities in Wisconsin. It takes foresight and a mutual agreement by municipal leaders, and realization that the discharges into water bodies are causing big problems. Problems that are going to cost mega dollars to resolve in the not-to-distant future.

Jerry Viste

Riparian Rights conflicts increase

Our last newsletter reported the controversy over the riparian rights issue with the proposal of a large marina complex at the public-owned Murphy Park facility near Egg Harbor. This project was intended to utilize the County property to gain public status for the marina and the subsequent public funding sources would be tapped for the development of the "public" marina. Funding which would not be available for private enterprise would be used under the guise of a public marina with the break wall partially located on public lands.

The Murphy Park issue still is being debated at various governmental levels, with modifications reportedly being submitted in an attempt to gain public support. But the public has rallied to oppose any loss of *the now unspoiled area which should be retained as the park donors intended it to remain.*

At their October 20, 2003 meeting, the Egg Harbor Town Board passed a town ordinance that would require all persons seeking to place a pier or wharf in the waters of the town to have a permit from the town. This would be in addition to any permits necessary from the DNR and other governmental units. While this ordinance will help in this situation, you should continue to talk to your County Supervisor and express your strong feelings on this precedent-setting issue.

Another controversy has arisen. This involves property in the city of Sturgeon Bay where the development interests on the Peterson Builders east side property have submitted plans to the DNR for a permit to build a marina. The current site plans indicate that this project would have a significant impact on the riparian rights of the adjacent property owners. The affected property owners have joined forces and are attempting to ensure that their rights are not being transgressed.

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Riparian rights; nutrients in surface waters; animal waste management; potential for Lake Michigan water sales; new Renewable Energy Task Force: **INSIDE!**

(Continued from page 7)

Site plans for the marina are vivid in showing the encroachment into the private riparian rights. This is a huge marina project with large slips intended for larger vessels with 137 slips in the original plan. The floating docks and slips would extend nearly to the designated shipping channel in the Bay, further limiting the public trust access to the public in Sturgeon Bay. Each of these planned marinas has the same effect, that of causing the public to lose access to public waters, a right guaranteed by Wisconsin State Statutes and handed down from earlier doctrines concerned with public water ownership and rights.

Site plans for the marina are vivid in showing the encroachment into the private riparian rights.

We offer the reasonable argument that marina developers should build their marinas *within the boundaries of their property* and avoid the obvious conflict that arises from demanding permanent access to public trust waters.

The ultimate effect and the long range danger is that if these proposals are allowed to infringe on other's riparian rights, especially those involved in publicly owned property, a very bad precedent will be established. Once the public or private riparian rights are compromised in satisfying the demands of a marina development, the same process or argument will occur again and again, as others envision their project being in the "public interest". This would greatly diminish any legal recourse to prevent others from accessing public riparian rights at any of the

Town or County Parks that have shore lands on the Lake or Bay of Green Bay.

Think about it! The precedent will have been established and the basis for court action would favor the private riparian right seeker because of the previous permission given. People must always be aware that once these rights are given away they are given away in perpetuity. This would not be a good legacy to leave our future generations. A wise man once said, "Others will only take what we are willing to give away". We must never give away our heritage of clean, clear public waters in Wisconsin, never!

* * * * *

It's DCEC Membership Renewal Time!

Current members recently received our annual membership renewal mailing. ***Please do not put it aside!*** Receiving your renewal now will help us know how much we can do in 2004. And as you can see from the contents of this newsletter, there is MUCH to do.

Dear members, we keep membership dues low so that no one is excluded. But please, if you can give above the minimum level, we hope you will do so.

If you are receiving a complimentary copy of this newsletter, please consider joining us as a member. Your support translates directly to our strength in preserving the Door County environment we all love. ***