



**Before The
State of Wisconsin
DIVISION OF HEARINGS AND APPEALS**

In the Matter of the Denial of Wetland Exemption
for Wagner Property in Marinette County, WI

DHA Case No. DNR-21-0001
DNR Case No. 20-034

NOTICE OF PREHEARING CONFERENCE
AND
ORDER FOR PUBLICATION

On December 3, 2020, the Department of Natural Resources (DNR) denied David and Judy Wagner's ("Petitioners") request for an exemption to wetland permitting requirements for property located at Section 36, Township 32 North, Range 18 East in the Town of Stephenson, Marinette County, WI. Petitioners requested a silviculture exemption pursuant to Wis. Stat. §§ 281.36(4)(a) and (e) to maintain a log trail on the property. DNR determined that Petitioners did not meet the statutory requirements for the exemption, and the exemption was denied.

On December 30, 2020, Petitioners filed a Petition for a Contested Case Hearing with the DNR to review the decision to deny the exemption, pursuant to Wis. Stat. §§ 227.42 and 281.36.

By letter dated January 19, 2021, the DNR granted the request for a contested case hearing and limited the hearing to the following issue: whether DNR properly denied Petitioners' exemption request pursuant to Wis. Stat. §§ 281.36(4)(a) and (e).

On March 19, 2021, the Division of Hearings and Appeals received, for filing, an original request for hearing from the DNR. The parties have conferred and agreed to a date for a prehearing conference.

NOTICE IS HEREBY GIVEN that the State of Wisconsin Division of Hearings and Appeals will hold a prehearing conference on the above-captioned matter pursuant to Wis. Stat. § 227.46(1) and Wis. Admin. Code §§ NR 2.08(5) and 2.12, at **3:00 PM on May 12, 2021**, via Skype. Interested persons may request an email invitation to the Skype meeting by contacting the Division of Hearings and Appeals at (608) 266-7667. In the alternative, those interested in participating who do not have access to Skype may participate by telephone by calling (608) 316-9000 and entering conference ID 9164949#.

Any person, organization, or governmental unit wishing to become a party to this proceeding must attend the conference personally or by an authorized representative. The purpose of the prehearing conference will be to identify parties to the proceeding, to simplify or clarify the issues which may be contested at the hearing, identify witnesses, discuss the exchange of exhibits, establish a discovery schedule, address any other matters as may aid in the disposition of the action, and schedule a date for

the contested case hearing. No testimony will be heard at the prehearing conference. However, a date may be selected for a contested case hearing.

If a contested case hearing is scheduled, it will be a Class 1 contested case pursuant to Wis. Stat. § 227.01(3)(a). The procedures set forth in Wis. Stat. §§ 227.46 and the procedures relating to contested cases set forth in Wis. Admin. Code Ch. NR 2 will be followed. Said procedures will closely resemble those that are normally followed at a trial in State circuit court. All parties are advised that they have the right to seek the aid and assistance of legal counsel and to be represented by legal counsel at the contested case hearing.

The exemption request and other information relating to the petitioner are on file and may be inspected and copied at the offices of the Department of Natural Resources, 101 South Webster Street, Madison, Wisconsin, between the hours of 9:00 a.m. and 3:30 p.m., Monday through Friday, holidays excepted. The current pandemic may impact the availability of in-person inspection of records. Copies of documents on file for the petitioners may be obtained by writing to the Department of Natural Resources, P.O. Box 7921, Madison, Wisconsin, 53707-7921. Reasonable costs will be charged for copies of all information excluding public notices and fact sheets.

Pursuant to the Americans With Disabilities Act, reasonable accommodations will be made to any qualified individual upon request. Please call the Division of Hearings and Appeals at (608) 266-7709 with specific information on your request prior to the date of the scheduled prehearing or hearing.

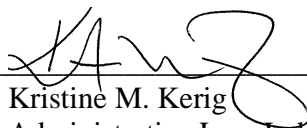
ORDER FOR PUBLICATION

THE DIVISION, THEREFORE, ORDERS:

Pursuant to Wis. Admin. Code § NR 2.08(5), the DNR shall cause a copy of the foregoing Notice to be published once 30 days before the date of hearing as a class 1 notice under Ch. 985, Stats., in a newspaper of general circulation in the impacted area. Finally, the DNR shall furnish proof of publication to the Division of Hearings and Appeals by **May 12, 2021**.

Dated at Milwaukee, Wisconsin on March 31, 2021.

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By 
Kristine M. Kerig
Administrative Law Judge