

## **Jim Buchholz's Testimony for June 8, 2018 Public Comment at FBRF's Wetlands Court Case**

State of Wisconsin Division of Hearing and Appeals 06/08/2018

Case No. DNR-18-002

- Kohler Company preliminary wetland fill approval by the DNR for Golf Course development
- Kohler Company/ DNR wetland loss mitigation and state park land exchange compensation

Thank you for the opportunity to speak at this Division of Hearing and Appeals session this morning.

My name is Jim Buchholz. I am a Sheboygan County resident and am a retired DNR employee with over 36 years of service to the State of Wisconsin. My state employment was with the Bureau of State Parks and Forests and I served as the Kohler-Andrae State Park superintendent from 1986 until my retirement in 2014. During that period, I also lived in the state park residence adjacent to the Kohler property for 14 years so I know the property well.

I am here today because I have several concerns regarding some of the wetland permit issues the state has approved for public input for this hearing.

The first issue (#2) questions whether the DNR had sufficient information to approve Kohler Company's plan to fill 3.69 acres of wetland. The second issue (#3) asks if the public has been given enough information and was made aware of the ramifications of this information to provide input regarding the wetland permit. I believe the answer to both of these questions is "no" for the following reasons:

- A total 67 individual wetlands were found to exist on the Kohler property. Of these 47 were approved by the DNR to be filled or altered to build the Kohler Golf course. To my knowledge the actual location of these wetlands and the "type" of wetland approved to be altered or filled were never identified to the public by map or any other means that I am aware of. Of course, even if the state or Kohler company were to identify their locations, the public would not have the ability to view them anyway since the Kohler lands have now been posted with "no trespassing" signs with threat of prosecution to violators. In addition, the Kohler Company has installed remote cameras to insure the public does not enter the property. With no means to actually view these wetlands to be destroyed the public is unable to make a judgement or comment on this issue.
- According to Kohler's existing golf course development plans I've seen, many of the wetlands will definitely be affected or destroyed in or near the proposed construction of fairways, putting greens, the restaurant/bar structures, maintenance facilities, parking lots and roads. Many of the wetlands on Kohler lands have previously been described as

globally rare and irreplaceable, even by DNR staff themselves. These include both interdunal wetlands and the ecologically significant ridge and swale wetlands. I feel the public has not been adequately informed as to what these wetlands are and how extremely rare they are.

Interdunal wetlands are formed by the erosion/drift action of the wind over time which blows sand out between dune formations to create both seasonal and permanent wetlands between them.

Ridge and swale wetlands are even more rare. They were formed geologically over the past 5,000 to 8,000 years by the rise and fall of several ancient glacial lakes which today has been replaced with Lake Michigan. These rare wetlands run parallel to the lake's shoreline and are separated by ancient, forested sand ridges that were once the shoreline of these extinct glacial lakes. Ridge and swale wetlands usually hold water all year and have up to 5 feet of peat deposits. These wetlands are home to many rare and specialized plants and animals. There are only three other known areas in Wisconsin (Manitowoc and Door Counties) that have this type of rare ridge and swale wetlands.

**There are no others like it in Sheboygan County or anywhere else in the state.**

- The State of Wisconsin and the DNR's own standards regarding both private and public construction and development in or near wetlands calls for:
  - No adverse impact to wetlands.
  - No adverse impact to water quality.
  - No significant environmental consequences.

I feel one does not need to be a wetland specialist nor a water quality scientist to conclude that the filling and destruction of 47 previously unspoiled and rare wetlands on the Kohler property would most certainly have immense adverse impact to the Kohler property not to mention the adjacent private and state park's wetlands, water quality and would indeed have significant environmental consequences.

- The Kohler lands include both mature forest and open sand dune formations and many interdunal and ridge and swale wetlands. The entire property was once considered to be so rare and valuable by the State DNR that nearly the entire property (135 acres) was designated as a state scientific area in 1969. The DNR Bureau of Endangered Resources assigned this rare Lake Michigan Sand Dune Ecosystem State Natural Area # 72 and named the property:

*M. Kohler Park Pines State Scientific/ Natural Area. The Kohler lands were also designed as a State Wildlife Refuge as per NR 15.01 of the Wisconsin Administrative Code Rules.*

It is with sadness and disbelief to me, and thousands of other Wisconsin citizens, that the State of Wisconsin and current management of the Department of Natural Resources now considers

the Kohler property with its globally rare and irreplaceable wetlands and unique sand dune formations “expendable”. Like so many others, we feel the DNR’s approval to allow irreversible destruction of these wetlands and near pristine forest for the development for yet another golf course is a mistake.

#### ISSUE 4

Issue 4 questions whether the wetland loss mitigation proposed ( ie. the land swap between the DNR and Kohler) would compensate for the adverse impact of filling 3.69 acres of wetlands and the loss of 4.9 acres of state park property for the construction of the Kohler Golf Course.

- The DNR attempted in 2017 to alter the previously approved Kohler-Andrae State Park Master Plan. The sole purpose for this effort was to reduce the park ownership boundaries to allow the state to give the Kohler Company 4.59 acres of publicly-owned state park land and to approve a 1.88 easement on park land for Kohler to build their golf course entrance roadway and round-about structure around the park visitor station. Kohler officials said it needed the state park land to build their maintenance facility for their proposed golf course even though the company already owns 247 acres of its own land. This development would entail building 3 large commercial shop structures totaling 30,000 square feet on state park property. In addition to shop repair facilities, these building would be used to store golf course pesticides, herbicides, fertilizer, gasoline, diesel and other chemicals. In addition, the facility would require the construction of a large asphalt parking lot to serve their fleet of cars, vans, tractors, trucks, golf carts and other equipment. The entire maintenance facility would be surrounded with chain link fences and “no trespassing” signage to keep park visitors away. This proposed master plan change for the park went to a public hearing and came under overwhelming public opposition. In addition, tens of thousands of people from around the state and elsewhere signed online petitions actively opposed to the state giving away state park lands to a private company.
- In February of this year the DNR officials abandoned this effort and instead requested approval from the Natural Resources Board to give away the same 4.59 acres of state park property to the Kohler Company. In return, Kohler would transfer their ownership to the state of a 9.5 acre former horse boarding stable which the company had recently purchased, presumably for the very purpose of this land trade. This action was widely seen as an obvious intent to purposely sidestep the legal property master plan rule change procedure and avoid public input and discussion. This action taken by the state (on behalf of the Kohler Company) is not what Wisconsin citizens expect the DNR to do in preserving our public lands. In addition, this action sets a new and unwelcome precedent in allowing private industry and investors with enough money and political connections to acquire publicly-owned state park property and take public lands away from Wisconsin citizens for their personal use.

- I am very familiar with the former horse boarding stable property which the DNR intends to accept in exchange for the loss of the park property to be given to the Kohler property as part of the wetland and park land loss mitigation. The property has none of the resources and uses Wisconsin state parks needs and fails to provide anything even close to the wetland loss on the Kohler property. The property has several large farm buildings which were used to house boarded horses, an indoor horse riding arena, a house or residence facility and a couple open riding rings which were created by bulldozing the existing landscape flat. Park officials claim they intend to use the buildings for storage and the residence for housing employees. If this occurs, then this property will certainly have be closed to park visitors resulting in a total loss of park land open to the public. If the property is not used for park administrative needs, then it would still cost the state several hundred thousand dollars to remove all the farm and residence structures, abandon wells, septic systems, underground fuel tanks, fences and other development. The state would then have to invest even more public dollars to re-landscape the area to some form appropriate to state park use, none of which would come close to the rare sand dunes and mature forest property given to the Kohler Company.
- The horse boarding property recently purchased by the Kohler Company is closed to the public via physical chain across the driveway and is posted with no trespassing signage. As a result the public is again banned from even seeing the property they are to accept as part of land swap exchange. This makes it impossible for people to make a decision or comment on the land exchange one way or the other.
- The description of state park property the DNR wants to be give to the Kohler Company to build their maintenance facility and entrance road to their golf course has been, in my opinion, falsely described to both the Natural Resources Board and to the public. DNR officials described the 4.59 parcel of state park lands to be removed from the property boundary as quote:
 

“Not being used for any park functions or services and is no longer needed for the state’s use for conservation purposes.”

In reality, this beautiful area park is located adjacent to the Kohler Dunes State Natural Area and is used extensively by the public for hiking, bird and wildlife watching, photography and many other non-invasive recreational pursuits. The parcel includes both rare mature forested and open sand dune formations including seasonal interdunal wetlands. Several threatened species of dune plants such as Marrum or dune grass, thick-spiked wheat grass, sand reed grass and many others grow in this dune habitat. The area is also adjacent to the Black River marsh ecosystem and has several interdunal wetlands itself. This section of the park was intentionally preserved as a non-development wildlife area and dunes

preservation area in accordance with the property's master plan developed and approved by the DNR and the Natural Resource Board in 1988.

In summary, I feel the DNR's preliminary wetland approval allowing the destruction of rare, globally significant wetland areas does not follow the agency's own wetland preservation standards. I also feel that the public has not been given adequate information of the significance and scope of the wetlands to be altered or filled by Kohler's golf course development. In regard to the proposed land swap, I maintain that any honest comparison of the valuable sand dune state park land to be given to the Kohler company and horse stable property to be swapped in return to the state is not a good deal for Wisconsin citizens and certainly not for the nearly 200,000 visitors that recreate at Kohler-Andrae State Park each year.

The horse boarding property certainly could not be considered a wetland mitigation of any sort in my opinion. The land swap between the DNR and Kohler Company certainly appears to many as being an under-the-table effort to avoid public involvement in changing the boundaries of Kohler-Andrae State Park without having to include the public as is required through master planning rules and regulations.

Either way, allowing the State of Wisconsin to give away valuable and ecologically rare state park public property to a private company for their personal business/profit use is "wrong" and is the worst kind of precedence to set. The public expects their DNR to preserve and enhance our state parks, forests, and other public lands and to protect our water quality and rare wetland habitat for the benefit of all Wisconsin citizens.

Thank you for your consideration.

Good Morning.

My name is Jayne Zabrowski.

I am a Wisconsin resident. I am a person who loves nature and loves our state parks.

I care about the wetlands. But I am not a wetlands expert. I depend on the Wisconsin DNR to fully understand wetlands and to abide by their mission statement...To protect and enhance our natural resources....

I depend on FOIA requests to obtain information.

It had been very frustrating working with the DNR and not receiving documents in response to FOIA requests. The agency withheld documents from a FOIA request for over one year. When the documents were finally received, there was a letter from the EPA dated 4-27-17 stating the wetland permit was incomplete. When the document was brought forth at this hearing, it was not allowed because it was not authenticated. The letter was received through a FOIA request just like the other documents received. This withholding of information deprives the public of sufficient information to comment.

“Seems like an ill-advised place to build a golf course. “

These are not my words.

These are the words of DNR employee, Jennifer Gihring, in an email to DNR employee, Mark Dudzik, on April 12, 2017. Mark's comment was “want to impact it, you gonna pay, count on it.” After more than 5 years of reviewing the Kohler project, DNR employees were well aware that this was an ILL ADVISED PLACE TO BUILD A GOLF COURSE. Yet the DNR issued a wetland fill permit.

The proposed project will result in significant adverse impacts to wetland functional values. There will be secondary and cumulative impacts that may occur over a period of time. Kohler stated, “cumulative impacts are not expected as a result of the project because any future golf course expansion is restricted by residential areas and the state park.” The EPA states this is not how cumulative impacts are determined. The DNR did not look at cumulative impacts on an entire rare Wisconsin Coastal gem that people come to enjoy. The DNR did not state the impacts of fragmenting an entire environmental corridor and the impact on

the quality of our State Park. This withholding of information deprives the public of sufficient information.

It has been stated that the DNR may issue a wetland fill permit only if the proposed project represents the least environmentally damaging alternative taking into consideration alternatives that avoid wetland impacts. The only alternatives reviewed were those presented by Kohler. What did the DNR analyze for the NO BUILD alternative? Who is representing the owners of the State Park, the Wisconsin residents. This lack of analysis again deprives the public of sufficient information.

This project would result in the destruction of globally rare ridge and swale wetlands. There are 67 of these globally rare wetlands on the property and 47 would be filled. The public has not been adequately advised of the impacts of filling 47 globally rare ridge and swale wetlands. These wetlands are strongly protected in other areas of the state.

An ill-advised place to build a golf course.

The DNR improperly granted the permit application because the DNR nor the public had sufficient information to determine the net positive or negative environmental impact. The project Impact assessment lists the direct impacts, the secondary impacts, the cumulative impacts and the impacts to the habitat integrity all as HIGH significance. Not one was listed as low significance. The DNR finds the impacts to be permanent and irreversible. All of these impacts and the DNR still issues a wetland fill permit?

How much more damage must need to be done before the DNR says NO?

An ill-advised place to build a golf course.

The alternative did not include an adequate mitigation plan for rare wetlands, nor has it been established to the public why a private company should be allowed to use any of our State Park Land and fill high quality wetlands.

The public has a right to know why the DNR would allow the permanent loss of wetlands on State land for this private project.

An ill-advised place to build a golf course.

This project is not in the public interest as secondary PERMANENT impacts would occur from tree clearing, road construction, grading, irrigation, and fertilizer

application. While Kohler might have an economic incentive to want to build a golf course, their potential profits do not warrant the permanent destruction and fragmentation of high quality wetlands.

An ill-advised place to build a golf course.

The proposed project would have severe and irreversible environmental impacts and it warranted a high level of scrutiny by the DNR. Kohler's proposal does not hold up to careful scrutiny because it lacks a sufficient analysis of alternatives that would avoid or minimize wetland impacts and does not include an adequate analysis of off-site alternatives.

In an attempt to balance the negative environmental impacts, Kohler is proposing to provide mitigation consisting of purchase credits. The Ridge and swale wetlands are imperiled and globally rare. These wetlands are very vulnerable to extinction. The proposed Wetland mitigation plan will not replace the damage this project will do to a globally rare wetland community. These rare wetlands cannot be re-created by man.

An ill-advised place to build a golf course.

This site provides critical habitat for rare, threatened and endangered wildlife and plant species. The proposed project will result in permanent fragmentation of habitat blocks and of plant communities and rare plant and animal habitats. This environmental corridor is connected to the State Park. The impacts upon the State Park have not been sufficiently presented to the public.

An ill-advised place to build a golf course.

Kohler did not establish that its proposed project represented the least environmentally damaging alternative. Yet the DNR accepted Kohler's information without providing additional studies to determine the impacts.

The potential environmental harms associated with this project are far too great and warrant denial of the wetland fill permit.

As the DNR themselves stated: This is an ILL-ADVISED PLACE TO BUILD A GOLF COURSE.

June 8, 2018

My name is Claudia Bricks. I currently reside at 314 Pioneer Rd. in Town of Wilson. I have lived in the Town of Wilson since graduating from college in 1970. I have enjoyed both the Kohler Black River Forest and the State Park for all those years with hiking, cross country skiing, birding, watching for butterflies and other insects, and immensely enjoying all the plant and animal life I found. My experiences have been many and varied over all those years.

As an educator for the Sheboygan Public Schools, I led summer playground bike hikes to Terry Andrae State Park, then returned on my own time to explore the Park's many treasures. These excursions often went through the five acres of land Kohler desires for its entrance road and maintenance building. Kohler has labeled it "unimportant," but I would label it one of the most important parts of the park because it has not been disturbed by development.

When the State Park's Nature Center first opened many years ago, I loaded my adult handicapped club members on a bus for a visit and a nature movie. The Center was so new, there weren't even any sidewalks at the time, so pushing adults in wheel chairs through sand to get inside was loads of fun!

One year a group of us dragged our sleeping bags and blankets to the northern Park beach for Easter Sunrise service on a COLD April morning. That's on my life's resume so I don't have to do that one again!

In the early 1980's when I taught severely emotionally disturbed middle school students, we made insect nets out of old broom sticks, and green petticoat material sewn on rounded coat hangers. We then headed off to the State Park—the part Kohler now wants to develop—to collect insects or butterflies to take back to school for classification and mounting in our collections. To see the excitement in the eyes of my troubled young charges as they watched the hatching of a monarch chrysalis was both incredible and unforgettable. I've continued to use this area of the park ever since.

More recently, my 13 year old car has 11 yearly State Park stickers on the windshield. I also obtained the pass for access to the Kohler land that used to be offered to members of the public. I can't begin to count the number of hours I have spent hiking, cross-country skiing, snowshoeing, biking, bushwhacking the woods, and getting soakers on the supposedly frozen Black River.

As an amateur naturalist, I'd take my collection of Little Golden Books and head off to identify insects, birds and flora and fauna in the Kohler Woods and the State Park.

Now, in the last 4 ½ years I have spent a goodly amount of my time, NOT enjoying the beauty of the Lake shore and its forest, but trying to save it from destruction and **take over by**, in my opinion, an unnecessary and unneeded golf course that will cut down at least 50% of the Kohler Black River Forest and take 5+ precious acres of our State Park.

As a point of history, when my neighbors and I first heard about developing the land for a tented forest and later as a golf course, I and others, asked the Town Board elected officials at the time what was going on. There was very little information coming from them in any form

about this huge project. So, we formed the Friends of the Black River Forest to find out for ourselves.

Early on, Friends held our own public information meeting to help Town of Wilson residents understand the potential impacts of this project on our resources, our wells, our homes and our way of life. We have attended and made comments at every Town and DNR public hearing, including the first scoping meeting on the Draft EIS, modified Draft EIS, Final EIS, and Open House at U-W Sheboygan. We started an online petition against the proposal that now has over 22,000 signatures. We gave these with all comments to the DNR while it was considering this permit.

With our quest to find the truth, FBRF learned how, in 1965, Walter J. and Herbert V. Kohler Sr. gifted a 500-acre parcel to the People of the State of Wisconsin in honor of their father, John Michael Kohler. Approximately 1/2 the acreage was to be added to the existing Terry Andrae State Park to the South and the other 1/2 (247 acres to the North) was to be leased to the State on a low-rental lease. This Northern portion is the land we're talking about this week.

We learned that federal LAWCON funds were used to acquire other sections of private land in that area for increasing the size of the 2 Parks, which were later re-named- Kohler-Andrae State Park.

We learned that the proposed golf course land has high quality wetlands known as interdunal and ridge and swale wetlands, which are imperiled in Wisconsin and globally vulnerable. These wetlands host numerous rare plant and animal species, some of which are on State or Federal threatened and endangered species lists.

We learned that wetlands are of many types, are fragile and have very important functional values for the ecosystem where they occur and that the proposed golf course project would fill in at least 3.69 acres of wetlands.

We've also learned that the wetlands that remain will be affected in other ways through hydrology changes, tree clearing, chemicals—all things that this week's hearing has called secondary and cumulative impacts.

We saw maps that showed plans for the deforestation of at least 50% of the forest, which we also learned were extremely important as a migratory bird stop over for feeding, resting and/or nesting.

We obtained archeological reports showing the thousands of pre-historic and historical artifacts found over 165 acres of the property dating back hundreds if not thousands of years from many diverse cultures.

We also learned how hard it is to have our FOIA requests filled in a timely manner.

Most recently, we learned that Kohler wanted 5 acres of Kohler-Andrae State Park land for their project. We attended and voiced our opposition at the February 2018 Natural Resources Board public meeting, but they approved this anyway.

We have studied ground water, aquifers, EIS statements, golf course fertilizers, herbicides and pesticides. All in attempt to understand what might happen to our environment, our groundwater, Lake Michigan and the Black River.

**You have all seen me sitting here** all week-long listening to experts testify. I did this, so I could do whatever I could to save this beloved, unique and beautiful area from destruction, and learn more about what Kohler plans to do. I wish the DNR had gotten more information out about the things that have concerned the public before they approved this permit and final EIS, like the pesticides we can expect will be sprayed and threats to our groundwater.

Virtually everyone in this room was paid to be here this week. **I wasn't.** I'm here for all the people who had to work and couldn't be here. I'm here for the land. I'm here for the wildlife and plants. I'm here for the visitors to the State Park who haven't been told anything about this project and what it may do to their camping experience. I'm here to voice my opposition to the DNR's granting of this wetland permit and approving the Final EIS. In my opinion, there WILL be significant adverse impacts from this project. The DNR even says so in their documents, **but they approved this anyway.** To repeat, the DNR acknowledged that this project will cause irreversible and significant impact, but it still approved the permit. It boggles my mind.

We, Town of Wilson residents, campers, and Park visitors will also have to put up with increased traffic and noise if this project is approved.

As part of this wetland permit, I disagree with the giving of 5 acres of our State Park land to a private company for their profit while directly removing this land from public and recreational use. I and fellow hikers won't ever be able to enjoy that area again, if this proposal goes through. I fear that granting this will also set a precedent for future State Park land give-a-ways, destruction of high quality wetlands and reduced plant and animal habitats. This loss of recreational and natural land is an environmental consequence of this permit that should not be ignored.

Finally, most of you here have not been to the land. You only know it through 2 dimensional drawings and maps, which you will use to make your decisions. **This land is a living, breathing complex ecosystem.** You have to see it, smell it, feel it and **breathe-in** its life-giving nature in order to understand why we, who love it, are so passionate about protecting it.

In my opinion, this is the wrong place for a golf course. It is too unique, fragile, and important for wildlife and plant communities to bulldoze the forest—then plant grass for fairways and greens—just for a golf course, the vast majority of Wisconsin residents will never be able to afford to play on. And to lose five acres of which they used to own as part of their State Park.

I strongly oppose the granting of this wetland permit and approval of the final EIS.

Thank you.

Claudia J. Bricks