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ATTORNEYS

July 24, 2015

Via Email

Jay Schiefelbein
Wisconsin Department of Natural Resources
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Green Bay, WI 54313-6726
DNRKohlerProposal@wisconsin.gov
Jeremiah.Schiefelbein@wisconsin.gov

*Re: Scoping Comments for the Kohler Golf Course Project Environmental
Impact Statement*

Dear Mr. Schiefelbein:

On behalf of members and supporters of Friends of the Black River Forest ("FBRF"), this firm submits the following comments and attachments regarding the scope of the Department's environmental impact statement ("EIS") for Kohler's proposed golf course project in the Town of Wilson, Sheboygan County. These comments are supplementary to comments delivered at the informational meeting on July 14, 2015.

As an initial matter, FBRF supports the EIS process for this project. The proposed site includes innumerable sensitive environmental resources, such as high-quality and rare wetlands, coastal forests, dunes, and beach, which provide habitat for migratory birds and rare species. The site also contains numerous cultural resources and burial mounds for Wisconsin's first inhabitants. As such, this site presents numerous challenges for large developments, including the golf course and associated facilities that Kohler has proposed. The EIS process in an appropriate way to for the public and policymakers to investigate and understand the impacts of this project, and to assess whether the necessary approvals can be granted.

The environmental impact report ("EIR") that Kohler has prepared does not fully explore or acknowledge this project's significant environmental and other impacts. It provides some useful data but, overall, is better characterized as advocacy than informational. For example, the EIR portrays the project as much less impactful than Kohler's original site plan, but this is not the proper point of reference: rather, the EIR should examine the impacts of *this current proposal* on the environment. The EIR overemphasizes the project's economic benefits, and supporting documentation for the EIR

is simply referred to and not provided.¹ Necessary details like specific site layouts and conclusive wetland fill numbers are lacking. The EIR does not supply the level of detail commensurate with the complexity and scale of the project required for an EIS under NR 150.30(2), and it is at most only a starting point for the DNR's own review.

To that end, we agree with the DNR's additional requests for information in its May 22, 2015, letter, as appropriate and necessary to evaluate this project. We encourage the DNR to promptly post information it receives on the Department's Kohler golf course website, which will reduce administrative burdens on DNR associated with responding to Open Records requests, and ensure the public has current information.

Beyond the information contained in the EIR and requested in the Department's May 22, 2015 letter, we believe other information is necessary to assess this project. It includes information in the attached comments of Dr. Quentin Carpenter, as well as:

- A complete analysis of surface and groundwater flows at and around the site, to understand above- and below-ground impacts to wetlands, neighboring wells, stormwater runoff, vegetation, and other issues.
- An investigation into the number and nature of area residential wells. One speaker last week stated that many residents have shallow, sand-point wells, that could be negatively affected by groundwater quality and quantity alterations.
- A detailed description of the best management practices and integrated pest management Kohler proposes to use for fertilizers, pesticides, and herbicides, and an analysis of whether they will actually work to protect groundwater quality, surface water quality, native vegetation, and wetlands.
- Details on the proposed "Lake Michigan Observation Tower" and its impacts on the viewshed from Lake Michigan and elsewhere. These impacts have implications under Wis. Stat. Ch. 30 and required considerations for natural scenic beauty.
- An evaluation of Kohler's plans to use septic systems to treat wastewater. The EIR states at page 7 that groundwater is sometimes only three feet from the ground surface, but yet that adequate separation will be maintained from the shallow groundwater aquifer. The DNR should verify this assessment, including whether

¹ These include Kohler's feasibility studies for water supply (EIR Section 2.2.1), groundwater modeling data (Section 2.2.2), traffic study (Sections 2.3.4 and 3.3.2), testing that purports to support use of conventional septic field systems to treat domestic wastewater (Section 2.3.5), on-site investigation and test borings (Section 2.3.7), stormwater management plan (Section 2.3.8), field study, well logs, well monitoring data, and well pump test reports (Sections 3.1.3, 4.1.3), documentation of vegetation sampling efforts (Section 3.2), wildlife observation surveys, including for endangered and threatened species (Sections 3.2.5 and 4.2.1), and an archeological study (Section 3.3.4). Kohler should provide copies of all of these reports to the DNR to allow for independent assessment and verification.

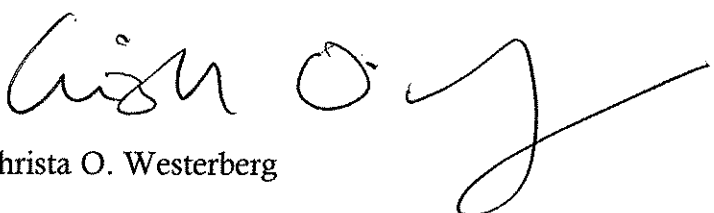
septic will be sufficient to protect groundwater at the outset and over time. Septic systems are known to fail, and especially to impair shallow groundwater aquifers. *See* attached Bradbury/Wilcox Study. Wastewater management is just one of many infrastructure challenges this project presents.

- The effectiveness of proposed measures to protect sensitive dune and other communities from foot and cart traffic and misplaced equipment. For example, will roped-off areas be enough to keep a golfer who has had a few cocktails from tromping into protected areas to retrieve a wayward ball?
- A study of the current use of the area proposed for Kohler's entrance road and buildings on DNR property. The EIR minimizes the recreational value of this property, but individuals stated last week that they use the property for recreation, such as observing wildlife.
- Kohler emphasizes the value of increasing access for residents of Timberlake subdivision, but this property is already designated as a forest preserve in NR 15.01(16)(b). We understand Kohler has removed signs designating the area as a game refuge under NR 15.01, and the EIS should accordingly evaluate the impact of the loss of this designation.
- The DNR's alternatives analysis should of course examine the "no build" and smaller course options. However, the DNR should evaluate alternatives that do not require an easement across state park property, which is also necessary for the DNR's Section 6f LAWCON conversion application, should it submit one. The EIR only contains one such scenario (Alternative D-7), and while Kohler admits all alternatives are "constructible and viable" (EIR Page 9), its preference is to use state park land. This is in contrast to Kohler's position when it had proposed a "tented forest" for this property. At that time, Kohler asked for and received a letter from DNR stating that use of the state park entrance (which neighbors in the Timberlake subdivision had urged) would not be allowed. (See attached correspondence.) Presumably, nothing has changed, and access through the state park will again be rejected. The EIS should reflect this scenario.

Thank you for the opportunity to provide these comments. Please let me know if you have any questions or need any further information.

Sincerely,

McGILLIVRAY WESTERBERG & BENDER


Christa O. Westerberg

Attachments:

- 1) Comments and C.V. of Dr. Quentin Carpenter
- 2) Bradbury, Kenneth, and Jeffrey D. Wilcox, Impacts of Privately Sewered Subdivisions on Groundwater Quality in Dane County, Wisconsin
- 3) Documents regarding proposed "tented forest" entrance to Kohler Property

cc: FBRF