

June 2, 2011

Brian Volkman  
Little Muskego Lake Management District  
S72W17483  
Muskego, WI 53150

Dear Mr. Volkman:

Department staff has reviewed your application for a permit for chemical aquatic plant control on 30 acres on Little Muskego Lake in the City of Muskego, Waukesha County. The permit has been approved with a few conditions.

During the optional written comment period the Department did not receive any letters or phone calls concerning the proposed treatment.

Attached is a copy of your permit and the conditions that must be followed. In addition, I have included a copy of our findings of fact and conclusions of law and your rights to appeal our action. A copy of the permit must be kept and be present on site during the application. Please read your permit conditions carefully so that you are fully aware of what is expected of you.

Your next step will be to notify the Department of the date on which you plan to perform the application. **Please note permit condition number 1 has changed.** NR 107.07(1) states that the permit holder shall notify the Department 4 working days in advance of the anticipated treatment. The Department will conduct onsite supervision for the chemical treatment of Little Muskego Lake. Your contact for this supervision is Garrett Lyon, who can be reached at 262-574-2124 or at [garrett.lyon@wi.gov](mailto:garrett.lyon@wi.gov).

If you have any questions about your permit, please feel to contact me.

Sincerely,

Garrett Lyon  
Water Resources Management Specialist

Cc: Jim D'Antuono – Southeast Fox Basin Supervisor  
Ben Heussner – Waukesha County Fisheries Biologist  
Lake and Pond Solutions CO.

STATE OF WISCONSIN  
DEPARTMENT OF NATURAL RESOURCES

Little Muskego Lake Management District is hereby granted, under Section 281.17(2) Wisconsin Statutes and Administrative Code NR107, a permit to conduct a herbicide application on 30 acres on Little Muskego Lake, in the City of Muskego, Waukesha County subject to the following conditions:

PERMIT CONDITIONS

1. This permit is not valid until a pretreatment plant survey is conducted by the applicator/contractor. The survey results will consist of a map denoting the areas of proposed treatment via field GPS waypoints. The map will also denote the plants to be treated in each area. The map will be submitted to the Department 4 working days before the proposed treatment.
2. You must notify Water Resources Management Specialist Garrett Lyon (262) 574-2124 4 working days prior to the anticipated treatment to schedule supervision.
3. Treatment in the permitted application area shall not be performed in front of riparian property if the owners indicate they do not want treatment in writing to the District.
4. Herbicide application areas may be limited the day of treatment due to the location of several sensitive areas on Little Muskego Lake. Application sites adjacent to/within these sensitive areas shall be specified by the department on the day of the application.
5. Herbicide applications in sensitive areas 3 and 4 will be limited to Eurasian Water Milfoil on developed shorelines only.
6. Under the Aquatic Plant Management Plan for Little Muskego Table 17 and Maps 12, and 13, Zone F will have no treatment during the fish breeding season, which ends June 30, 2011. Chemical treatment in Zone A will be restricted to pier and dock areas and will not extend past 100 feet from shore. Copies of the Maps are attached to this permit.
7. Conditions of this permit are stated in Wisconsin Administrative Code NR 107.08. These conditions must be followed. In addition to the permit is a copy of the aquatic plant management herbicide treatment record (3200-111). The Department requires treatment records to be filled out and sent back within 30 days of the treatment, or if no treatment occurs during the season, by October 1. According to the conditions of the permit listed in NR107.08 (8) and (9),
  - (8) "After conducting a treatment, the permit holder shall complete and submit within 30 days an aquatic nuisance control report on a form supplied by the Department. Required information will include the quantity and type of chemical, and the specific size of each treatment area. If treatment did not occur, the form shall be submitted with appropriate comment by October 1."
  - (9) "Failure to comply with the conditions of the permit may result in cancellation of the permit and loss of permit privileges for the subsequent treatment season."
8. Posting signs shall be provided at the public boat launch, which will include a map of the treatment area. Posting signs shall also be provided on each individual property in and adjacent to treatment area. These posting signs shall clearly indicate which properties have and have not had treatment in front of their riparian property.

9. A copy of this decision and the enclosed permit must be provided to riparian property owners in and adjacent to the treatment area before the treatment may occur. The Department also requires the District to have several copies of the decision and enclosed permit available for public inspection.

#### FINDINGS OF FACT

1. Little Muskego Lake Management District has filed an application for a permit to conduct a herbicide application in the City of Muskego, Waukesha County. This permit application addresses specifically the herbicide application to 30 acres on Little Muskego Lake. The specific areas are drawn in the map as a part of the permit.

2. The proposed chemicals to be used, Navigate, AM40, DMA4, Aquastar, Aquaneat, Shore-klear, Touchdown Pro are registered for aquatic use by the United States Environmental Protection Agency and both labeled and registered by a firm licensed as a pesticide manufacturer and labeler with the Wisconsin Department of Agriculture, Trade and Consumer Protection.

3. The chemicals Glyphosate, and 2,4-D do have current Department aquatic chemical fact sheets.

4. The Department has determined the proposed treatment will provide selective relief of Eurasian Water Milfoil, Cattails and Purple Loosestrife, and will not place unreasonable restrictions on existing water uses.

5. The Department relies on the Environmental Protection Agency and the Department of Agriculture Trade and Consumer Protection to register these chemical products for aquatic use. The Environmental Protection Agency has determined that “no unreasonable adverse effects” will occur as a result of using 2,4-D, and Glyphosate according to label instructions. “Unreasonable” in the EPA definition means the risk of using a pesticide does not exceed the benefits. The selectivity of 2,4-D to control Eurasian Water Milfoil and not harm native aquatic pondweeds is considered to be important to the Department. Diverse native aquatic plant habitats are preferred to mono-typical stands of Eurasian Water Milfoil. Native stands of aquatic plants tend not to grow to nuisance levels and provide better, more diverse habitats for a number of aquatic species.

CONCLUSIONS OF LAW

The Department has authority under the above indicated Statutes and Administrative Codes, to issue a permit for the use of aquatic herbicides in this area.

NOTICE OF APPEAL RIGHTS

If you believe that you have a right to challenge this decision, you should know that Wisconsin Statutes and Wisconsin Administrative Code establish time periods within which requests to review Department decisions must be filed.

For judicial review of a decision pursuant to ss. 227.52 and 227.53, Wis Stats., you have 30 days after the decision is mailed or otherwise served by the Department, to serve a petition within the appropriate circuit court and serve the petition on the Department. Such a petition for judicial review shall name the Department of Natural Resources as the respondent.

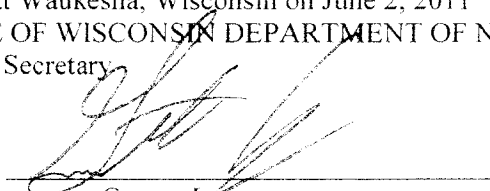
To request a contested case hearing pursuant to Section 227.42, Wisconsin Statutes, you have 30 days after the decision is mailed or otherwise served by the Department, to serve a petition for hearing on the Secretary of the Department of Natural Resources. The filing of a request for a contested case hearing is not a prerequisite for judicial review and does not extend the 30-day period for filing a petition for judicial review. This notice is provided pursuant to Section 227.48(2), Wisconsin Statutes.

Dated at Waukesha, Wisconsin on June 2, 2011

STATE OF WISCONSIN DEPARTMENT OF NATURAL RESOURCES

For the Secretary

By



Garrett Lyon

Water Resources Management Specialist

DNR - PLEASE SEND TREATMENT SIGNS

3700  
S-14-11

State of Wisconsin  
Department of Natural Resources  
Aquatic Plant Manager

**PERMIT APPLICATION FOR CHEMICAL  
AQUATIC PLANT CONTROL**  
Form 3200-4 Rev. 4-91

| DNR USE ONLY     |     |
|------------------|-----|
| ID Number        | 196 |
| County Code      | 68  |
| Waterbody Number |     |

NOTE: Use of this form is required by the Department for any application filed pursuant to s. 144.025(2)(i), Wis. Stats., and Chapter NR 107, Wis. Adm. Code. The Department will not consider your application unless you complete and submit this application form.

exp. 12-31-11

**SECTION 1, APPLICANT DATA**

Name of Permit Applicant (Also indicate names and addresses of all individuals, associations, communities or town sanitary districts sponsoring treatment. Attach additional sheets if necessary.)

| HOME ADDRESS                         | NAME                        | APPLICATOR FOR | LAKE ADDRESS                                 | NAME                                 |
|--------------------------------------|-----------------------------|----------------|--|--------------------------------------|
| Lake and Pond Solutions Co.          | Lake and Pond Solutions Co. | Fire Number    | Little Muskego Lake District - Brian Volkman | Street or Route                      |
| W4950 Hwy A                          |                             |                | S72 W17483 Schubring Dr.                     | City, State, Zip Code                |
| City, State, Zip Code                |                             |                | Muskego, WI 53150                            | Telephone Number (include area code) |
| Elkhorn, WI 53121                    |                             |                | Home: 262-391-7236                           | Business:                            |
| Telephone Number (include area code) |                             |                |  |                                      |
| Home: Business: 262-742-2600         |                             |                |  |                                      |

**SECTION II, LOCATION OF AQUATIC PLANT CONTROL**

|   |   |   |
|---|---|---|
| Waterbody To Be Treated (waterbody where treatment area is located) | Lake Surface Area   | Estimated Surface Area That Is 10 Feet or Less In Depth |
| Little Muskego Lake   | acres   | acres   |
| County  | Names of Adjacent Riparian Property Owners (use additional sheet if necessary)                                      |   |
| Waukesha  | 1   |   |
| Town T5N Range R20E Section 4,5,8,9                                 | 2   |   |
| Name of Applicator or Firm  | 3   |   |
| Lake and Pond Solutions Co.   | Name of Lake Property Owners' Association Representative or Lake District Representative (if none, please indicate) |   |
| Street or Route   |   |   |
| W4950 Hwy A   |   |   |
| City, State, Zip Code   |   |   |
| Elkhorn, WI 53121   |   |   |
| Telephone Number (include area code)                                |   |   |
| Home: Business: (262) 742-2600                                      |   |   |
| Applicator Certification Number for Category 5, Aquatic Pesticide   | DNR USE ONLY  | Date Verified w/DATCP                                   |
| Applicators: 46648, 65667, 64129, 75983, 47905, 71304               |   | Certification Expiration                                |
| Business Location License Number (if applicable)                    |   | Date Verified w/DATCP                                   |
| 93-011101-014739  |   | Expiration Date   |
| Restricted Use Pesticide License Number (if applicable)             | Date Verified w/DATCP   | Expiration Date   |

Area(s) Proposed for Control (Note details in permit cover letter for final permitted sizes of treatment areas.)

- A. Shoreline Length \_\_\_\_\_ ft. X Distance From Shore \_\_\_\_\_ ft. + 43,560 ft. = \_\_\_\_\_ Estimated Acreage. Average Depth \_\_\_\_\_ ft.
- B. Shoreline Length \_\_\_\_\_ ft. X Distance From Shore \_\_\_\_\_ ft. + 43,560 ft. = \_\_\_\_\_ Estimated Acreage. Average Depth \_\_\_\_\_ ft.
- C. Shoreline Length \_\_\_\_\_ ft. X Distance From Shore \_\_\_\_\_ ft. + 43,560 ft. = \_\_\_\_\_ Estimated Acreage. Average Depth \_\_\_\_\_ ft.
- D. Shoreline Length \_\_\_\_\_ ft. X Distance From Shore \_\_\_\_\_ ft. + 43,560 ft. = \_\_\_\_\_ Estimated Acreage. Average Depth \_\_\_\_\_ ft.
- E. Shoreline Length \_\_\_\_\_ ft. X Distance From Shore \_\_\_\_\_ ft. + 43,560 ft. = \_\_\_\_\_ Estimated Acreage. Average Depth \_\_\_\_\_ ft.

Total Estimated Acreage

If the estimated acreage is greater than 10 acres, or is greater than 10 percent of the estimated area 10 feet or less in depth in section II, please complete and attach Form 3200-4A, Large Scale Treatment Worksheet. Private pond treatments are exempted from this requirement.

Is this area within or adjacent to a sensitive area designated by the Department of Natural Resources?

Yes  No

DNR - PLEASE SEND TREATMENT SIGNS

**SECTION III, FEES**

1. s. NR 107.11(1), Wis. Adm. Code, lists the conditions under which the permit fee is limited to the \$20 minimum charge.
2. s. NR 107.11(4), Wis. Adm. Code, lists the uses that are exempt from permit requirements.
3. s. NR 107.04(2), Wis. Adm. Code, provides for a refund of acreage fees if the permit is denied or if no treatment occurs.

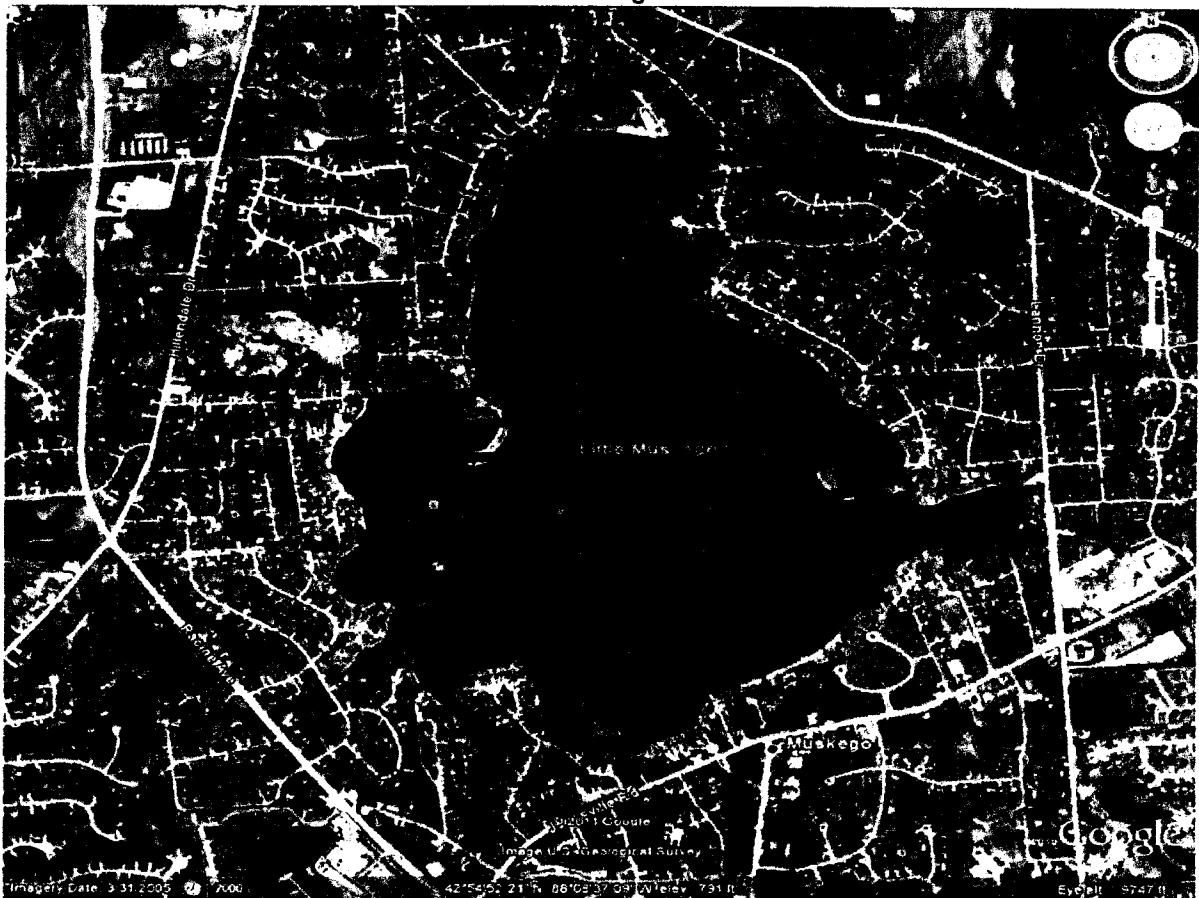
|                   |  |                 |
|-------------------|--|-----------------|
| Fee calculations: | Basic permit fee (non-refundable).....   | \$ 20.00        |
|                   | If proposed treatment is over 0.25 acre, calculate acreage fee:<br>(round up to nearest whole acre, to maximum of 50 acres.) |                 |
|                   | 30 acres X \$25 per acre = \$750   |                 |
|                   | If proposed treatment is ≤ 0.25 acre, acreage fee is \$0.  |                 |
|                   | Enter acreage fee (from above).....  | \$750.00        |
|                   | Total Fee Enclosed.....  | <u>\$770.00</u> |

Please include a sketch and/or a printed map of lake indicating area and dimensions of each individual area where plant control is desired. Also show location of property owners riparian to and adjacent to the treatment area. You may use the space below to sketch a map. Attach a separate list of owners and corresponding treatment dimensions coded to the lake map, if necessary.

⊗ = sensitive Areas



Little Muskego Lake



Generally permitting up to 30 acres strictly for EWM control. Treatment areas will be determined by a pre-treatment survey and ultimately approved by DNR staff.

**SECTION IV, REASONS FOR AQUATIC PLANT CONTROL**

| Purpose of Aquatic Plant Control  | Nuisance Caused By   |
|---|--|
| <input type="checkbox"/> 1 Reduce nuisance algae accumulation           | <input type="checkbox"/> 1 Algae   |
| <input type="checkbox"/> 2 Maintain navigational channel for common use | <input checked="" type="checkbox"/> 2 Emergent water plants (majority of leaves and stems growing above water surface, e.g. cattails, bulrushes)             |
| <input type="checkbox"/> 3 Maintain navigational channel for boating    | <input type="checkbox"/> 3 Floating water plants (majority of leaves floating on water surface, e.g., waterlilies, duckweed)                                 |
| <input type="checkbox"/> 4 Maintain navigational channel for fishing    | <input checked="" type="checkbox"/> 4 Submerged water plants (leaves and stems below water surface, flowering parts may be exposed. e.g., milfoil, coontail) |
| <input type="checkbox"/> 5 Improve swimming                             | <input type="checkbox"/> 5 Other:  |
| <input type="checkbox"/> 6 Control of purple loosestrife                |  |
| <input checked="" type="checkbox"/> 7 Other: <u>EWM control</u>         |  |

Name of plants, if known

Note: Different plants require different chemicals for effective treatment. Do not purchase chemical before identifying plants.

EWM, cattails, purple loosestrife G.L

**SECTION V, CHEMICAL CONTROL**

| Alternatives to Chemical Control  | Feasible?   | If No, Why Not?  |
|-----------------------------------|---|--|
| 1. Mechanical harvesting          | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | Harvesting plan in place                                   |
| 2. Hand pulling                   | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | EWM  |
| 3. Hand raking                    | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | Labor intensive  |
| 4. Hand cutting                   | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | Labor intensive  |
| 5. Sediment screens/covers        | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | Too costly and would not promote beneficial growth         |
| 6. Dredging                       | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | Too costly/public lake                                     |
| 7. Lake drawdown                  | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | Studies have shown detrimental effects to nutrient loading |
| 8. Nutrient controls in watershed | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | Unknown  |
| 9. Other:                         | <input type="checkbox"/> Yes <input type="checkbox"/> No            |  |

Note: If proposed treatment involves multiple properties, please consider feasibility of EACH alternative for EACH property owner. If you checked yes to any of the alternatives listed above, please explain your decision to use chemical controls:

| Trade name of proposed Chemical(s)   | Method of application                     |
|--|---|
| AM-40<br>Navigate<br>DMA-4<br>Aquastar/Aquaneat<br>Shore-Klear/Touchdown Pro | backpack sprayer<br>2" commercial sprayer |

Which Chemicals or Other Control Options Have Been Tried Before On The Proposed Site, and What Were the Results?

LPS has not treated this site before

Note: Chemical fact sheets for aquatic pesticides used in Wisconsin are available from the Department of Natural Resources upon request.

**SECTION VI, APPLICANT'S RESPONSIBILITIES**

1. The applicant has prepared a detailed map which shows the length, width and average depth of each area proposed for the control of rooted vegetation and the surface area in acres or square feet for each proposed algae treatment.
2. The applicant understands that the department of Natural Resources may require supervision of any aquatic plant management project involving chemicals. Under s.NR 107.07, Wis. Adm. Code, supervision may include inspection of the proposed treatment area, chemicals and application equipment before, during or after treatment. The applicant is required to notify the district office 4 working days in advance of each anticipated treatment with the date, time, location and size of treatment unless the Department waives this requirement. Do you request the Department to waive the advance notification requirement?  Yes  No
3. The applicant agrees to comply with all terms or conditions of this permit, if issued, as well as all provisions of chapter NR107, Wis. Adm. Code. The required application fee is attached.
4. The applicant has provided a copy of the current application to any affected property owners' association, inland lake district and, in the case of chemical applications for rooted aquatic plants, to all owners of property riparian or adjacent to the treatment area. The applicant has also provided a copy of the current chemical fact sheet for the chemicals proposed for use to any affected property owner's association or inland lake district.

I hereby certify that the above information is true and correct and that copies of this application have been provided to the appropriate parties named in section II and that the conditions of the permit and pesticide use will be adhered to.

Bruce T. Vetter, Treasurer 5/18/2011  
 Applicants Signature Date Signed

All portions of this permit, map and accompanying cover letter must be in possession of the chemical applicator at time of treatment. During treatment all provisions of Chapter NR 107, specifically ss. NR 107.07 and NR 107.08, Wis. Adm. Code, must be complied with, as well as the specific conditions contained in the permit cover letter.

**SECTION VII, PERMIT TO CARRY OUT CHEMICAL TREATMENT (LEAVE BLANK-DNR USE ONLY)**

The foregoing application is approved. Permission is hereby granted to the applicant to chemically treat the waters described in the application during the season of 20

|  |   |
|--|---|
| Application fee received?<br><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No                   | State of Wisconsin<br>Department of Natural Resources<br>For the Secretary<br>By <u>[Signature]</u><br>District Director or Designee<br>Date Signed <u>6-2-11</u> Date Mailed <u>6-2-11</u> |
| Advance notification of treatment required?<br><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |   |

**Please Note:**

If you believe that you have a right to challenge this decision, you should know that Wisconsin statutes and administrative rules establish time periods within which requests to review Department decisions must be filed.

For judicial review of a decision pursuant to ss. 227.52 and 227.53, Wis. Stats., you have 30 days after the decision is mailed or otherwise served by the Department, to file your petition within the appropriate circuit court and serve the petition on the Department. Such a petition for judicial review shall name the Department of Natural Resources as the respondent.

To request a contested case hearing pursuant to s. 227.42, Wis. Stats., you have 30 days after the decision is mailed, or otherwise served by the Department, to serve a petition for hearing on the Secretary of the Department of Natural Resources. The filing of a request for a contested case hearing is not a prerequisite for judicial review and does not extend the 30-day period for filing a petition for judicial review. This notice is provided pursuant to s. 227.48(2), Wis. Stats.

**MAILING INSTRUCTIONS**

For all ponds in Kenosha, Milwaukee, Ozaukee, Racine, Sheboygan, Waukesha, Walworth and Washington Counties AND lakes in Walworth, Waukesha, and Washington Counties, send to:  
 WIDNR Attn: Heidi Bunk, 141 NW Barstow St. Rm 180, Waukesha, WI 53188

For all lakes in Kenosha, Milwaukee, Ozaukee, Racine, and Sheboygan Counties, send to:  
 WIDNR Attn: Craig Helker, 9531 Rayne Rd., Sturtevant, WI 53177

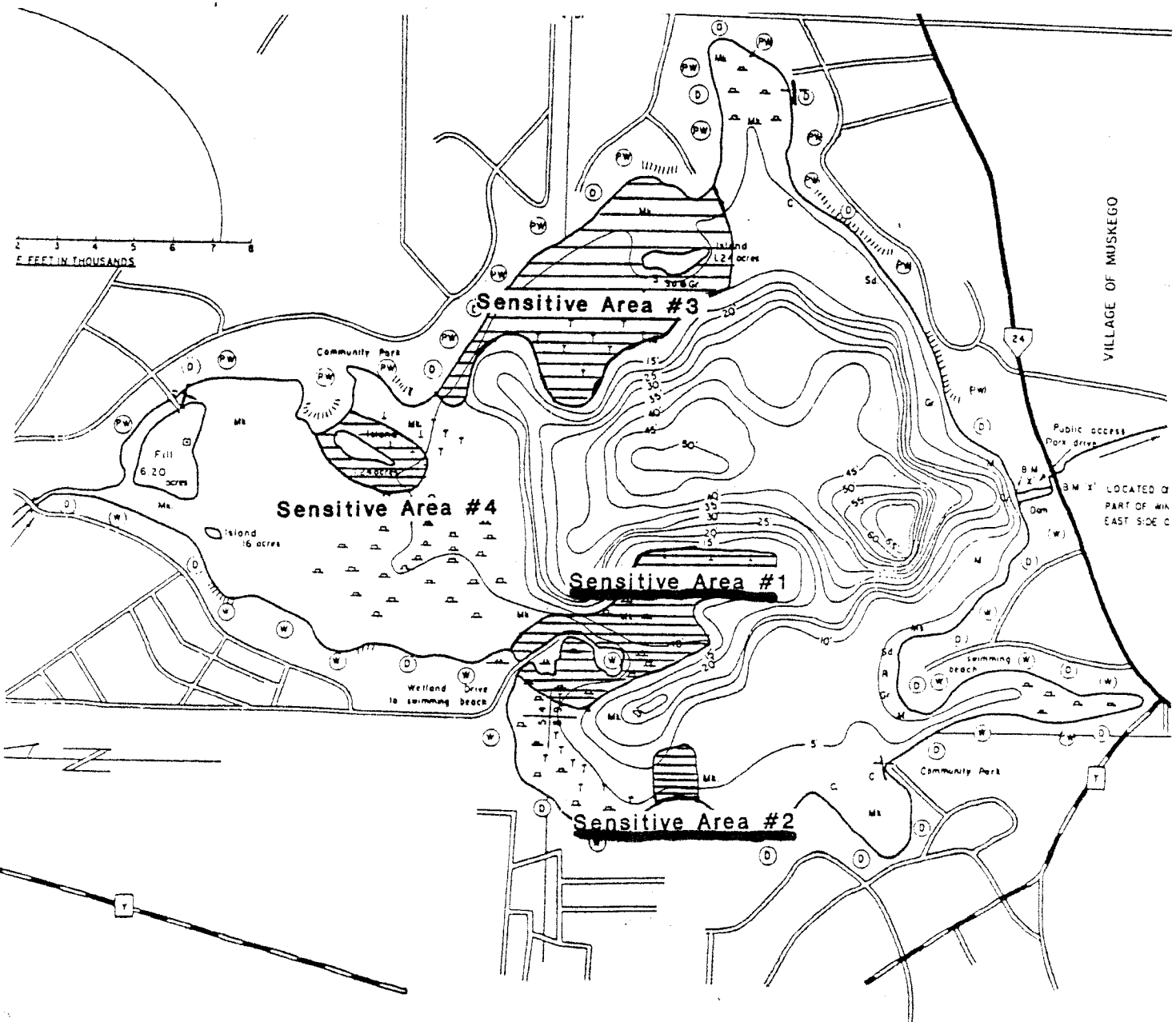
Fond Du Lac, Winnebago, Calumet Counties: WIDNR Attn: Chuck Fitzgibbon, 625 E. Cty Rd Y, Suite 700, Oshkosh, WI 54901

Dane, Jefferson and Rock Counties: WIDNR Attn: Susan Graham, 3911 Fish Hatchery Rd., Madison, WI 53711

= EWM only  
Along developed

■ = treatment ok for muskies  
if no damage to natives

# Little Muskego Lake Sensitive Areas





Data use subject to license.

© 2006 DeLorme. Topo USA® 6.0. MN (3.4° W)

[www.delorme.com](http://www.delorme.com)



Data Zoom 14-2