

## Mudhen Lake Rehabilitation Board Meeting October 14, 2023

The Board meeting was called to order at Daniels Town Hall at 8 AM by Mitchell Otterson on Saturday, October 14, 2023. There were twelve members in attendance.

**I. Secretary's Report** Mary Sagstetter read secretary's report. Motion was made to approve secretary's report by Mike Orlikowski. Mike Hoef seconded the motion. Motion carried.

**II. Treasurers Report** - Mike Orlikowski reported the following balances:

Beginning Balance - Checking \$652.92 / Savings \$11,871.23 for a total of \$11,879.31

Deposits: \$8459.34

- 2<sup>nd</sup> half of taxes = \$1,948.08
- \$6,510 for the feasibility study in a restricted fund
- \$ 1.26 in interest

Expenditures: \$5209.63

- \$220 ILIDS internet
- \$2,085 ILIDS lease
- \$149.63 Postcards for annual meeting
- \$300 Tamarac Lake Level Reading
- \$2,305 moved to checking
- \$150 moved to checking

Ending Balance: \$17,575.94

Motion was made to approve treasurer's report by Mike Hoef. Mary Sagstetter seconded the motion. Motion carried.

### III. Old Business

#### **A. Lake Update**

**1. ILIDS Report** – Since last meeting, there have been 669 videos captured, 287 videos reviewed and 35 launches have taken place. As for the video comments - nothing remarkable was noted. Access the report on-line

<https://docs.google.com/document/d/1JktgR4XzBYbZOBPrPQ2Q6Oz8ybik5uLxu34n46bn6O5k/edit?usp=sharing>

or in the minutes. Mitch mentioned that there is a link to view the videos. They can be accessed at <https://environmentalsentry.net/lakemonitor/authmain.php>

user: mudhen

pw: password

As a follow-up to last meeting the audio messages that play at the landing were discussed. There is a standard list of audio messages. The March 2024 meeting will address the messages and determine the messages that will be played for 2024. The goal is to include a message for a reminder to use the wash station. The audio message samples are included in the minutes for consideration at the next Board Meeting.

station. The audio message samples are included in the minutes for consideration at the next Board Meeting.

Mitch shared the new Master Lease Agreement from Environmental Sentry Protection for the ILIDS equipment for the 2024 year. Included in the Lease Agreement it states a lessee responsibility of providing property and damage loss insurance on the equipment and to provide a Certificate of Insurance to Environmental Sentry Protection. It was noted that this appears to be a new item in the contract. Mike Huber will research if the Town of Daniels is able to assist with the COI.

Discussion occurred regarding if we have enough money budgeted for this item next year. Mike Orlikowski responded that we have \$2900 budgeted. Mike Orlikowski suggested that we address the contract dates of use as we use the equipment from May to Oct., not Oct. to Oct.

Additional comments included:

- Video is unclear
- Does the cost equal the service?
- Once the video is reviewed the damage is done – meaning if they brought in invasive species – it is in the lake
- This is a reactive service
- Acts as a sentry – we do not know the deterrent it provides
- The comments provided are not helpful
- Option would be for a summer job to be at the lake landing if we decide not to use the ESP
- Largest budget item for Mudhen Lake
- % of videos viewed is far below videos reviewed and the comments are minimal in comparison to the videos viewed

Suggestion was made for everyone to start to look into what other lakes are doing at their landings (signage/ cameras/ etc.) and continue this discussion at our next meeting. Mike Hoef offered to contact Dave Ferris - Conservationist at Burnett County Government Center.

Motion was made to sign the Master Lease Agreement by Mike Hoef. Mike Orlikowski seconded the motion. Motion carried.

Mitch signed the Master Lease Agreement and Mary will email to Eric Lindberg at Environmental Sentry.

**2. Lake Monitoring** – Steve Hoffman reported that the lake level was at 97.3 on Sunday August 8, 2023. All the rain in the last weeks has increased the lake level roughly 6 – 7 inches.

**3. Purple Loosestrife** – Steve Hoffman and Mary Sagstetter shared information about the Purple Loosestrife eradication.

- 14 people in attendance
- There were new areas with growth
- No county assistance this year
- Dan was able to get the spray from the county
- The areas that were heavy in past years are down to manageable areas
- Many bags collected
- Worthwhile effort
- Lunch afterwards very nice

**4. Update for Ayers Feasibility Study** – Mitch Otterson shared that the 2<sup>nd</sup> part of the Feasibility Study has been challenging. Mitch had approved the project and after several inquiries received the Proposal, not the report as anticipated. In addition, he received an updated cost of \$16,400 for the completion.

There is still time to have the study completed this year by Dec. 2023. The completion of the study is needed to submit a future formal application to the DNR.

Several lake families had previously donated funds towards completion the 2<sup>nd</sup> part of the Feasibility Study. \$6510 are the restricted Mudhen Lake Rehab fund to date. This money can only be spent on the Feasibility Study and if the study does not happen, it can be returned.

The second phase of the total scope of the study will cost \$16,400, not the \$8000 as initially reported. Additional donations from the Mudhen Lake families are being accepted towards this effort. The project has funding available, for the total amount, as two families are willing to offset what is still needed. Any other donations submitted will assist in a lesser amount for these families. Any amount is appreciated. Checks can be sent to Mary Sagstetter – please contact by email or phone to discuss. (651-785-3344)

#### Scope of Service for Phase 2:

1. Complete a topographic survey of the existing site conditions including the low rim area to the south of the outlet channel.
2. Based on the new field data, confirm and update, if necessary, the existing conditions hydrology and hydraulic model of Mud Hen Lake.
3. Teleconference with the WDNR to review and confirm the project design requirements.
4. Depending on the outcome of the WDN consultation, develop two structure alternatives to satisfy the WDNR spillway requirements and control the water levels to historic levels.
5. Develop conceptual level drawings of the alternatives.
6. Calculate estimate of costs for each alternative.
7. Review possible sources of funding.

#### Discussion/Questions:

- **Important to note** – only those impacted in the 100- year flood plain would need to vote – yet the goal is to find a lake level that would not impact any of the residents
- Need to record the official lake level – may need a lawyer to draw up a letter
- 60 days for completion – need to sign contract by Nov. 1 2023
- How do we pay for the project after the study is complete?
- Need to figure out funding for the project – cannot get to that point without this study- yet the final total is uncertain
- We have been trying to get this done for years, let's get this study completed especially if the funds are available
- Concern for Ayers per confusion and lack of communication
- What is the process for impacted homeowners for the approval?

It was suggested that a meeting be set up with Ayers prior to the signing of the contract. Mitch Otterson and Mike Hoef will move forward with that task.



A motion was made by Mitch Otterson to be able to sign the Ayers contract after a meeting was held with Ayers to confirm project manager and clear up any questions, and pending the total amount of \$16,400 be available in the Mudhen Lake Restricted Fund. The motion was seconded by Mike Hoef. Motion passed.

**IV. New Business**

- A. Community Building - Mitch suggested having more kids on the lake be involved in the bed races, the lake members getting together for a picnic, etc. – really looking at how we can interact as a lake community. This discussion will be added to the New Business at the March meeting for further discussion.

Motion was made to adjourn the meeting by Mike Hoef. Mitch Otterson seconded the motion. Motion carried. Meeting adjourned.

Respectfully Submitted by Mary Sagstetter, Mudhen Lake Secretary

XX

**Reports On-line:**

2023 MUDHEN LAKE ILIDS (lake camera) report located at:

<https://docs.google.com/document/d/1JktgR4XzBYbZOBpQ2Q6Oz8ybik5uLXu34n46bn6O5k/edit?usp=sharing>

MUDHEN Aquatic Plant Management Plan: 2018 – 2023:

<https://www.burnettcounty.com/DocumentCenter/View/7374>

Mud Hen Lake Rehab District Meeting Minutes:

<https://townofdaniels.com/mudhen-lake-rehab-district>

Upcoming Mudhen Lake Rehab District Board Meetings:

October 14, 2023/March 9, 2024/June 8, 2024

All meetings are held at 8 AM at Daniels Town Hall



**Mudhen Lake Rehab District Report**

		Date Range: 8/1/23 - 9/30/23									
Date	Description of Deposit or Expense	Check #	Total Beginning Balance \$ 11,871.23	Received	Expense	Checking Balance \$ 652.92	Received	Expense	Savings Balance \$ 11,218.31	Received	Expense
8/3/2023	Tamarac Land Surveying	1109	\$ 6,510.00		\$ 300.00	\$ 300.00			\$ 6,510.00		
8/7/2023	Deposit - Land Survey Donations		\$ 2,305.00		\$ 2,305.00	\$ 2,305.00			\$ 2,305.00		
8/10/2023	Transfer from savings to Checking		\$ 150.00		\$ 150.00	\$ 150.00			\$ 150.00		
8/14/2023	Transfer from savings to Checking		\$ 150.00		\$ 150.00	\$ 150.00			\$ 150.00		
8/17/2023	Environmental Sentry Protection	1111	\$ 220.00		\$ 220.00	\$ 220.00			\$ 2,085.00		
8/17/2023	Environmental Sentry Protection	1112	\$ 2,085.00		\$ 149.63	\$ 149.63			\$ 1,948.08		
8/22/2023	Mary Sagstatter - Annual Meeting Mailings	1110	\$ 0.61						\$ 0.65		
8/31/2023	Interest paid		\$ 1,948.08						\$ 0.65		
9/21/2023	Deposit - 2nd half taxes		\$ 0.65								
9/30/2023	Interest										
<b>Total</b>			<b>\$ 10,914.34</b>	<b>\$ 5,209.63</b>	<b>\$ 2,455.00</b>	<b>\$ 2,754.63</b>	<b>\$ 8,459.34</b>	<b>\$ 2,455.00</b>	<b>\$ 11,871.23</b>	<b>\$ 11,218.31</b>	<b>\$ 2,455.00</b>
	Beginning Balance		\$ 11,871.23			\$ 652.92			\$ 11,218.31		
	+Total Receipts		\$ 10,914.34			\$ 2,455.00			\$ 8,459.34		
	Subtotal		\$ 22,785.57			\$ 3,107.92			\$ 19,677.65		
	- Total Expenses		\$ 5,209.63			\$ 2,754.63			\$ 2,455.00		
	Ending Balance		\$ 17,575.94			\$ 353.29			\$ 17,222.65		

<b>Total Funds</b>	<b>\$ 17,575.94</b>
--------------------	---------------------

## Mudhen Lake Rehab District - Account Summaries

	General Fund	Lake Management Plan	Emergency Fund	Restricted Funds	Total
9/30/2019	\$ (28.21)	\$ 762.24	\$ 10,000.00		\$ 10,734.03
10/31/2019	\$ (186.82)		\$ 10,000.00		
5/31/2020	\$ 1,906.79	\$ 762.24	\$ 10,000.00		\$ 12,669.03
7/31/2020	\$ 500.00	\$ 284.44	\$ 10,000.00		\$ 10,784.44
9/4/2020	\$ 780.94	\$ 1,000.00	\$ 10,000.00		\$ 11,780.94
2/28/2020	\$ 1,565.91	\$ 1,000.00	\$ 10,000.00		\$ 12,565.91
5/31/2021	\$ 442.10	\$ 2,500.00	\$ 10,000.00		\$ 12,942.10
7/31/2021	\$ 325.76	\$ 2,500.00	\$ 10,000.00		\$ 12,825.76
9/30/2021	\$ 1,080.72	\$ 3,500.00	\$ 10,000.00		\$ 14,580.72
5/31/2022	\$ 297.93	\$ 2,500.00	\$ 5,000.00		\$ 7,797.93
7/31/2022	\$ 498.04	\$ 2,000.00	\$ 5,000.00		\$ 7,498.04
9/31/2022	\$ 364.65	\$ 2,000.00	\$ 5,000.00		\$ 7,364.65
2/28/2023	\$ 3,905.96	\$ 2,000.00	\$ 6,000.00		\$ 11,905.96
5/31/2023	\$ 3,879.31	\$ 2,000.00	\$ 6,000.00		\$ 11,879.31
7/31/2023	\$ 3,521.23	\$ 2,000.00	\$ 6,350.00		\$ 11,871.23
9/30/2023	\$ 2,715.94	\$ 2,000.00	\$ 6,350.00	\$ 6,510.00	\$ 17,575.94

**Video Review Worksheet**

**Lake:** Mud Hen Lake, WI (600/month)

**Launch:**

**September 2023**

Date Range for Videos	Date(s) of Review	Reviewer	Videos Captured	Videos Reviewed	Launches Counted	Notes (outages, excessive videos)
9/4 - 9/10	9/4 - 9/10	Stacey	333	333	47	
9/11 - 9/17	9/16 - 9/17	Stacey	250	116	16	
9/18 - 9/24	9/22 - 9/24	Stacey	212	107	11	
9/25 - 10/1	10/1	Stacey	207	64	8	
<b>TOTAL</b>			<b>1002</b>	<b>620</b>	<b>82</b>	

**Potential Violations**

Date	Time	Boat Desc.	Reg/Lic.	What was seen	2nd review

**Notable Videos (Date/Time/What was seen)**

Date	Time	What was seen? Why do we care?
9/4	7:12	Good view of boat, trailer and registration while launching
9/4	10:48	Man launching boat on ramp looks at camera while doing so
9/4	11:56	Man's attention is turned to the camera as he walks up ramp behind boat after retrieval
9/4	15:54	FL jet ski retrieval from lake
9/4	16:37	Boys walk over to camera and cover camera with hands
9/5	10:23	Man turns attention to the camera as the pontoon is waiting on the ramp after retrieval. Checks under boat.
9/8	10:25	Lady walks three dogs down the boat ramp, hears audio and turns to look at the camera.
9/9	12:58	Man turns to look at the camera while helping to launch boat.
9/9	14:38	Weeds hanging under the front bar of trailer upon retrieval of boat.
9/10	10:14	Man walks over to the camera to look and listen to it or read sign.
9/10	10:24	IN boat launches.
9/16	14:14	Good view of boat, registration, and trailer at launch
9/16	16:22	IA boat launches
9/16	18:44	Weeds on back of boat on retrieval
9/17	13:15	Good view of boat, registration, and trailer at launch
9/22	9:44	Man in scuba gear looks over at camera as he walks up the boat ramp
9/24	11:00	Man looks over at camera as boat is launched
9/24	11:55	Teen boy comes over to camera to lean down and make a face
10/1	15:56	Little kid walks down ramp and turns to listen to camera and look at it





Viewing

<https://environmentalsentry.net/lakemonitor/authmain.php>  
user: mudhen  
pw: password

## Standard Audio Messages

These messages can be recorded onto the I-LIDS system at the controller by holding down the REC button while speaking slowly and clearly into the Mic. Be sure to test it recorded ok by pressing PLAY. To rerecord over the last message, simply press ERASE once. Holding ERASE down for 10 seconds will clear all messages.

**Welcome to the lake. Please take the time to inspect your boat and trailer, before launching and after pulling out and remove any aquatic plants or animals. Thank you for helping us to stop the spread of Aquatic Invasive Species.**

**Hey, did you remember to put your drain plug in before launching? <pause> And don't forget to remove it after you retrieve your boat from the lake, so you drain all water before leaving the launch area. Thank you.**

**Please drain all water from your bilge, live well, and motor before you leave the launch area to help stop the spread of aquatic invasive species.**

**Please take advantage of the nearby decontamination station to clean any aquatic plants or animals from your boat and trailer.**

**We use automated video inspection technology to ensure boaters do not launch aquatic plants into the lake so that we can prevent Aquatic Invasive Species.**

**Be safe and courteous on the water.**

**Have a good one.**

*Suggested:*

"Burnett county ordinance requires boaters to use the no-charge boat spray off station before launching and after pulling out to stop the spread of AIS. Thank you."



# Master Lease Agreement-AIS Education, Prevention, and Planning Project

MASTER LEASE AGREEMENT (the "Master Lease") dated \_\_\_\_\_ by and between Environmental Sentry Protection, LLC. ("ESP"), Mud Hen Lake Rehabilitation District ("Lessee"). This Master Lease details the responsibilities of all parties.

## TERM AND TERMINATION

- a. Term. The initial term of this Agreement shall commence upon October 30, 2023, and continue through October 30, 2024 (the "Initial Term") and may be renewed for one (1) year "Terms" thereafter as agreed to between ESP and Lessee.
- b. Termination. Prior to the end of a Term, ESP may after 45-day notice of deficiency to Lessee terminate this Agreement due to failure of Lessee to provide agreed upon compensation or support as documented in this agreement under this grant program. Prior to the end of a Term, Customer may after 30-day notice of deficiency to ESP terminate this Agreement due to regular failure of Internet Landing Installed Device Sensor ("I-LIDS") to capture and transmit video if there has been no damage to I-LIDS housing, sleeve, or networking equipment; acceptable communication services exist; and Customer has configured and maintained I-LIDS system as instructed by ESP, or failure of ESP to provide the services below.
- c. Return of Leased Equipment. At the end of each season and at the termination of the agreement, Lessee shall make ILIDS equipment available to ESP for de-installation in working condition and without damage. Lessee agrees to compensate ESP for any damage or loss to ILIDS equipment.

## ESP SERVICES PROVIDED

ESP shall provide Lessee with the following during the term of this agreement:

1. Seasonal operation (6 months of operation within the months of April to October) of an I-LIDS system at the designated locations in Appendix A within Burnett County, Wisconsin. Such installation shall be in accordance with all regulations, local and state statutes, laws, and guidelines relative to zoning, setbacks, and public safety.
2. Utilize existing footing at boat launch suitable for securing ILIDS to base.
3. ESP shall reinstall the standard sign to be posted at the designated boat landing. This sign shall be approximately 24" x 32" and installed by ESP.
4. Provide monthly services as outlined in annual estimate. This shall include seasonal install/deinstall, configuration of camera and modem, remote video storage, review of videos, reporting, and monitoring of proper operation of equipment.
5. Work with Lessee to diagnose issues and ship or deliver field replaceable parts for the ILIDS system at its earliest opportunity. Repair costs due to equipment configuration issues are responsibility of ESP.
6. ESP will review videos per annual agreement and report any "Suspect AIS Violations" to either the DNR or local law enforcement.
7. ESP will provide website access for Lessee Association residents to have access to videos.

8. ESP will remove the ILIDS system before October 31 of each year and reinstall in April or May of each year.
9. ESP will provide launch statistics to Lessee to include, but not be limited to, number of video transactions, by date, and number of infractions reported to authorities. ESP will also make available any of the video content for prosecution of violators.
10. ESP will provide liability insurance in the amount of \$1,500,000 and issue a COI to the Lessee.

### **LESSEE RESPONSIBILITIES**

1. Identify Association I-LIDS Contact that will provide basic onsite diagnosis of issues.
2. Obtain necessary permissions from township or county for installation.
3. Review I-LIDS system for interference or physical damage to the unit and notify ESP if any maintenance issue needs to take place. Trim all plants on a regular basis that would cause false positive video captures. Lessee agrees to promptly remove the electronics sleeve for safe storage until repairs can be made.
4. Replacement costs of parts due to failure, vandalism, design change, or lightning. These parts may include speaker, battery, modem, controller, camera, wiring, solar panel, sign.
5. Not to remove equipment from boat launch unless authorized by ESP. Not to remove components of the equipment except for return or repair. Not to change configuration settings unless authorized by ESP.
11. Follow ESP instructions for maintaining equipment in efficient working order, condition, and repair including replacing lenses if damage occurs.
12. Provide property and damage loss insurance on the listed equipment and provide a Certificate Of Insurance to ESP each year. Lessee and its carrier will be responsible for providing complete compensation for any damage claim on I-LIDS equipment.

### **PAYMENTS And FEES:**

In consideration of the services provided by ESP, Lessee shall pay ESP per approved operating cost estimate to be provided by ESP by February 28 each season. —

1. Outages longer than 2 weeks will result in reduced prorated monthly service costs.
2. While ESP strives to keep prices consistent year over year, outside suppliers may impact our costs. Irrespective, ESP commits to not increase annual expenses by more than 10% each year.

### **ENTIRE AGREEMENT**

This Letter of Agreement along with all attachments and exhibits constitutes the understanding of the parties and supersedes all prior oral or written agreements or understandings between the parties on the subject matter hereto.

### **NOTICES**

All notices sent pursuant to the terms of this Master Lease Agreement shall be sent via mail addressed to ESP as shown in Appendix B.



**GOVERNING LAW**

The parties agree that the terms of this Letter of Agreement shall be governed by the State of Minnesota. The parties agree, as expeditiously as possible, to take all actions and seek all approvals, authorizations and consents as may be necessary in order to implement this Letter of Agreement.

**REPRESENTATION AND WARRANTIES**

ESP and Lessee each represents and warrants to the other that (i) such party has the full corporate right, power and authority to enter into this Agreement and perform the acts required of it hereunder; (ii) the execution and performance of this Agreement, does not and will not violate any agreement which the parties are otherwise bound (iii) when executed and delivered, this Agreement will constitute the legal, valid, binding and enforceable obligation of the parties and (iv) the parties make no representations, warranties or agreements related to the subject matter hereof that are not expressly provided for in this Agreement.

**DATA PRACTICES.**

ESP shall comply with the Minnesota Data Practices Act and all other State and Federal laws relating to data privacy or confidentiality.

**RECORD RETENTION.**

All data created and maintained by ESP pursuant to this Agreement is considered public information and shall be retained for 5 years. Videos will be available on the website for 90 days after capture and then archived.

**ILIDS OPERATION**

Customer agrees that I-LIDS equipment, when installed, will only operate in a networked state where videos are captured and transmitted to a server and reviewed for violations. Utilization of audio messaging recorded by ESP is permitted only under agreement.

**INDEMNIFICATION**

Regarding bodily injury and property damage liability only, Lessee will indemnify and hold ESP harmless from and against any and all claims, costs, expenses, damages and liabilities, including attorneys' fees, arising out of the use, possession, operation, control, maintenance, return, or other disposition of the Equipment under the terms of this Agreement.

**ACCEPTED AND APPROVED**

**LESSEE**

BY *Mitchell Otterson* TITLE: *Chairman*  
DATE *10/14/2023*

**Environmental Sentry Protection, LLC**

BY \_\_\_\_\_ TITLE: \_\_\_\_\_  
DATE \_\_\_\_\_



## **APPENDIX A. Equipment and Installation Description**

DESIGNATED BOAT LANDING: Lindberg Park

### LEASED EQUIPMENT

Equipment leased shall include:

(1) An Internet Landing Installed Device Sensor (I-LIDS) consisting of

- Stainless Steel Housing, mast, solar panel, antenna, and lens
- Sleeve containing battery, modem, sensor, antenna, camera, controller.
- Sign

(Replacement cost for all equipment leased for insurance purposes will be \$10,000.)

### PERMANENT EQUIPMENT

Equipment owned by association shall include:

- 1) Helical Pier and footing plate

### INSTALLATION/DEINSTALLATION SERVICE RESPONSIBILITIES

ESP shall

- 1) Install and remove ILIDS housing, sign, and sleeve with monitoring equipment seasonally.

**APPENDIX B. Contact Information**

ESP-Environmental Sentry Protection, LLC

Name: Eric Lindberg

Phone: 612-275-1440

PO Box 1301, Maple Grove, MN 55311

Email: eric@lakesentry.net

**Association President**

Name Mitchell Otterson

Phone

Address

Email mitchell@altempmech.com

**Association I-LIDS Contact** (Provides onsite contact for any issues relevant to the maintenance of the ILIDS system onsite / Has been trained in maintenance and replacement of parts / Holds keys to ILIDS / Is comfortable with some electrical and mechanical troubleshooting involving battery strength testers – recharging batteries / May have laptop computer with wireless connection available)

Name Mary Sagstetter  
Phone 651-785-3344  
Address 9601 N. Mudhen Lake Dr  
Email mrs1300@aol.com

**Purple Loosestrife Eradaction for Mudhen Lake**

**Date: Aug 19, 2023**

**Attendees: (14)**

Karen Hamer

Jim Hamer

Mary Sagstetter

Deb Luzinski

Leah Luzinski

Mark Luzinski

Dan Heintz

Diane Heintz

Steve Hoffman

Steve Hampton

Ryan Tjader

Katie Tjader

Fred Falk

Mike Fredericks



August 30, 2023

Mr. Mitchell Otterson  
Mud Hen Lake Rehabilitation District  
Daniels, WI 54872

Re: Mud Hen Lake  
Dam Feasibility Design Proposal

Dear Mr. Otterson:

Thank you for the opportunity to submit this proposal for professional services for engineering and design analysis for the feasibility study for reconstruction of the Mud Hen Lake dam. This letter presents our proposed scope of services, time schedule, fee, and contract terms and conditions.

### Project Description

The Mud Hen Lake levels have historically been controlled by a small water control structure that consisted of a trail bridge structure with stoplogs between the bridge abutments. The WDNR has determined that this structure was not authorized or properly permitted and ordered the removal of the structure.

The District wishes to reconstruct the water control structure to restore Mud Hen Lake to historic levels. A new water control structure will need to be designed and permitted to comply with Chapter 31 of the State Statutes and pertinent chapters of the Administrative Code. The proposed scope of work is intended to provide the District with conceptual alternatives and planning-level cost estimates for a water control structure that (a) provides the desired lake level under normal flow conditions; (b) meets Wisconsin requirements for a small dam; and (c) meets Wisconsin floodplain requirements.

The proposed work will build upon a preliminary evaluation conducted by Ayres in 2021. Based on the 2021 work, a closer evaluation of the potential for flood flow to bypass the outlet works via a wetland to the south is needed to understand the hydraulic requirements of the new structure. Therefore, a site visit and additional survey are included in our 2023 scope of work.

We also suggest an early teleconference with WDNR staff to review the requirements of the project. For example, this dam is not in the size range (6 feet high and a storage volume of 50 acre-feet) to which NR333 applies, but we understand that the WDNR has specified that the replacement structure must meet NR333 requirements.

### Basic Scope of Services

1. Complete a topographic survey of the existing site conditions including the low rim area to the south of the outlet channel.
2. Based on the new field data, confirm and update, if necessary, the existing conditions hydrology and hydraulic model of Mud Hen Lake.
3. Teleconference with the WDNR to review and confirm the project design requirements.
4. Depending on the outcome of the WDN consultation, develop two structure alternatives to satisfy the WDNR spillway requirements and control the water levels to historic levels.
5. Develop conceptual level drawings of the alternatives.
6. Calculate estimate of costs for each alternative.
7. Review possible sources of funding.

8. Summarize work completed, alternatives, planning-level costs, and expected permit requirements in a report provided to the Mud Hen Lake Rehabilitation District.
9. Present the report to the Mud Hen Lake Rehabilitation District.

### **Responsibilities of Owner and Others**

The Owner shall designate in writing a single representative authorized to act on the Owner's behalf, and shall furnish required information, approvals, and decisions as expeditiously as necessary for the orderly progress of Ayres' services. If no communication is received, Ayres assumes the person that signs this contract is the responsible representative.

Ayres shall be entitled to rely on the accuracy and completeness of necessary project information supplied by the Owner.

### **Additional Services**

If additional services become needed to complete the scope above, we can negotiate those with the Lake Rehabilitation District at that time. Examples of additional services include, but are not limited to, bathymetric survey, sediment sampling and testing, significant report/alternative modifications, final design, and attendance at additional meetings.

### **Time Schedule**

We will provide the Lake Rehabilitation District with a report within 60 calendar days of authorization to proceed. We will review the report with the District's representative and make updates as needed for clarity and accuracy. These updates will be provided within 15 calendar days. A final presentation will be scheduled to occur thereafter. Survey conditions or availability of WDNR personnel for a teleconference may affect the completion time.

### **Fee**

We will perform the above services for a lump sum fee of \$16,400.

### **Contract Terms and Conditions**

Attached are "Contract Terms and Conditions," which will apply to the services, and which are incorporated into this proposal by reference.

### **Acceptance**

If this proposal and terms and conditions are acceptable to you, a signature on the enclosed copy of this letter will serve as our authorization to proceed.

This proposal is valid until September 15, 2023, unless extended by us in writing.

Proposed by Consultant:

Ayres Associates Inc



Austin Rieder, PE  
Project Manager, Water Resources  
Direct: 715.831.7516  
RiederA@AyresAssociates.com



Ellen Faulkner, PE  
Senior Project Manager, Water Resources  
Direct: 715.831.7631  
FaulknerE@AyresAssociates.com

Accepted by Owner:

\_\_\_\_\_  
Owner's Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

Attachments: Contract Terms and Conditions





**AYRES ASSOCIATES  
CONTRACT TERMS AND CONDITIONS**

**1. Performance of Services:** Consultant shall perform the services outlined in its proposal to Owner in consideration of the stated fee and payment terms.

**2. Billing and Payment:** Invoices for Consultant's services shall be submitted to Owner on a monthly basis. Invoices shall be due and payable within 30 days from date of invoice. If any invoice is not paid within 30 days, Consultant may, after giving 7 days' notice, without waiving any claim or right against Owner, and without liability whatsoever to Owner, suspend or terminate the performance of services. Accounts unpaid 30 days after the invoice date will be subject to a monthly service charge of 1.5% on the unpaid balance, or the maximum rate of interest permitted by law, if less. Payment will be credited first to any interest owed to Consultant, then to principal. The amount of any excise, value-added, gross receipts, or sales taxes that may be imposed on payments shall be added to the Consultant's compensation. Owner shall pay all costs of collection, including reasonable attorney's fees and costs incurred by consultant, in collecting any amounts due from Owner. No deductions or offsets shall be made from Consultant's compensation or expenses on account of any setoffs or back charges. If Owner disputes an invoice, either as to amount or entitlement, then Owner shall promptly advise Consultant in writing of the specific basis for doing so, may withhold only the portion so disputed, and must pay the undisputed portion.

**3. Access to Site:** Owner shall furnish right-of-entry on the project site for Consultant and, if the site is not owned by Owner, warrants that permission has been granted to make planned explorations pursuant to the scope of services. Consultant will take reasonable precautions to minimize damage to the site from use of equipment, but has not included costs for restoration of damage that may result and shall not be responsible for such costs.

**4. Location of Utilities:** Consultant shall use reasonable means to identify the location of buried utilities in the areas of subsurface exploration and shall take reasonable precautions to avoid any damage to the utilities noted. However, Owner agrees to indemnify and defend Consultant in the event of damage or injury arising from damage to or interference with subsurface structures or utilities which result from inaccuracies in information or instructions which have been furnished to Consultant by others.

**5. Hazardous Materials:** In the event that unanticipated potentially hazardous materials are encountered during the course of the project, Owner agrees to negotiate a revision to the scope of services, time schedule, fee, and contract terms and conditions. If a mutually satisfactory agreement cannot be reached between both parties, the contract shall be terminated and Owner agrees to pay Consultant for all services rendered, including reasonable termination expenses. Owner acknowledges that Consultant is performing professional services for Owner and that Consultant is not and will not be required to become an "owner", "arranger", "operator", "generator" or "transporter" of hazardous substances, as defined in the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended, which are or may be encountered at or near the site in connection with Consultant's activities under this agreement.

**6. Insurance:** Consultant shall maintain Workers' Compensation, General Liability, and Automobile Liability Insurance during its services for Owner. Consultant shall furnish a Certificate of Insurance to Owner upon written request. Owner agrees that Consultant shall not be liable or responsible to Owner for any loss, damage, or liability beyond the amounts, limits, exclusions, and conditions of such insurance.

**7. Limitation of Professional Liability:** Owner agrees to limit Consultant's professional liability for any and all claims for loss, damage or injury, including but not limited to, claims for negligence, professional errors or omissions, strict liability, and breach of contract or warranty, to an amount of \$50,000.00 or Consultant's fee, whichever is greater. In the event that Owner does not wish to limit Consultant's professional liability to this sum, Consultant agrees to raise the limitation of liability to a sum not to exceed \$1,000,000.00 for increased consideration of ten percent (10%) of the total fee or \$500.00, whichever is greater, upon receiving Owner's written request prior to the start of Consultant's services.

**8. Opinions of Probable Costs:** Consultant's opinions of probable project costs are made on the basis of Consultant's experience, qualifications and judgment; but Consultant cannot and does not guarantee that actual project costs will not vary from opinions of probable cost.

**9. Construction Review:** Consultant does not accept responsibility for the design of a construction project unless the Consultant's contract includes review of the contractor's shop drawings, product data, and other documents, and includes site visits during construction in order to ascertain that, in general, the work is being performed in accordance with the construction contract documents.

**10. Construction Observation:** On request, Consultant shall provide personnel to observe construction in order to ascertain that, in general, the work is being performed in accordance with the construction contract documents. This construction observation shall not make Consultant a guarantor of the contractor's work. The contractor shall continue to be responsible for the accuracy and adequacy of all construction performed. In accordance with generally accepted practice, the contractor will be solely responsible for the methods of construction, direction of personnel, control of machinery, and falsework, scaffolding, and other temporary construction aids. In addition, all matters related to safety in, on, or about the construction site shall be under the direction and control of the contractor and Consultant shall have no responsibility in that regard. Consultant shall not be required to verify any part of the work performed unless measurements, readings, and observations of that part of the construction are made by Consultant's personnel.



**11. Standard of Performance:** The standard of care for all professional services performed or furnished by Consultant under this contract will be the care and skill ordinarily used by members of the subject profession practicing under similar circumstances at the same time and in the same locality. Consultant does not make any warranty or guarantee, expressed or implied, nor is this contract subject to the provisions of any uniform commercial code. Similarly, Consultant will not accept those terms and conditions offered by Owner in its purchase order, requisition, or notice of authorization to proceed, except as set forth herein or expressly agreed to in writing. Written acknowledgement of receipt or the actual performance of services subsequent to receipt of such purchase order, requisition, or notice of authorization to proceed is specifically deemed not to constitute acceptance of any terms or conditions contrary to those set forth herein.

**12. Ownership and Use of Documents:** All documents produced by Consultant under this contract are instruments of Consultant's professional service and Consultant owns the documents including all associated copyrights and the right of reuse at the discretion of the Consultant. Engineer grants Owner a limited license to use the documents on the project, project extension and for related uses of the Owner subject to receipt of full payment due, and such license to Owner shall not create any rights in third parties. Owner shall indemnify and hold harmless Consultant and its officers, directors, employees and Subconsultants from all claims, damages, losses, and expenses, including reasonable attorney fees, arising out of or resulting from any use, reuse, or modification of documents without written verification, completion or adaptation by Consultant.

**13. Electronic Files:** Owner and Consultant agree that any electronic files furnished by either party shall conform to the specifications agreed to at the time this contract is executed. Electronic files furnished by either party shall be subject to an acceptance period of 60 days during which the receiving party agrees to perform appropriate acceptance tests. The party furnishing the electronic file shall correct any discrepancies or errors detected and reported within the acceptance period. After the acceptance period, the electronic files shall be deemed to be accepted and neither party shall have any obligation to correct errors or maintain electronic files. Owner is aware that differences may exist between the electronic files delivered and the printed hard-copy documents. In the event of a conflict between the hard-copy documents prepared by Consultant and electronic files, the hard-copy documents shall govern.

**14. Financial and Legal Services:** Consultant's services and expertise do not include the following services, which shall be provided by Owner if required: (1) Accounting, bond and financial advisory (including, if applicable, "municipal advisor" services as described in Section 975 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (2010) and the municipal advisor registration rules issued by the Securities and Exchange Commission), independent cost estimating, and insurance counseling services; (2) Legal services with regard to issues pertaining to the Project as Owner requires, Contractor(s) raises, or Consultant reasonably requests; and (3) Such auditing services as Owner requires to ascertain how or for what purpose any Contractor has used the money paid.

**15. Termination of Services:** This contract may be terminated at any time by either party should the other party fail to perform its obligations hereunder. In the event of termination for any reason whatsoever, Owner shall pay Consultant for all services rendered to the date of termination, all reimbursable expenses incurred prior to termination, and reasonable termination expenses incurred as the result of termination. Consultant shall have no liability to Owner on account of termination for cause by Consultant.

**16. Controlling Law:** This contract is to be governed by the law of the place of business of Consultant at the address in its proposal to Owner.

**17. Assignment of Rights:** Neither Owner nor Consultant shall assign, sublet or transfer any rights under or interest in this contract (including, but without limitation, moneys that may become due or moneys that are due) without the written consent of the other, except to the extent mandated or restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this contract. Nothing contained in this paragraph shall prevent Consultant from employing such independent subconsultants as Consultant may deem appropriate to assist in the performance of services hereunder.

**18. Third Party Benefits:** This contract does not create any benefits for any third party.

**19. Dispute Resolution:** Owner and Consultant agree to negotiate all disputes between them in good faith for a period of 30 days from the date of notice prior to exercising their rights under the following dispute resolution provision. If direct negotiations fail, Owner and Consultant agree that they shall submit any and all unsettled claims, counterclaims, disputes, and other matters in question between them arising out of or relating to this contract or the breach thereof to mediation in accordance with the Construction Industry Mediation Rules of the American Arbitration Association effective on the date of this contract prior to exercising other rights under law.

**20. Exclusion of Special, Indirect, Consequential, and Liquidated Damages:** Consultant shall not be liable, in contract or tort or otherwise, for any special, indirect, consequential, or liquidated damages including specifically, but without limitation, loss of profit or revenue, loss of capital, delay damages, loss of goodwill, claim of third parties, or similar damages arising out of or connected in any way to the project or this contract.

**21. Betterment:** If, due to Consultant's negligence, a required item or component of the project is omitted from the construction documents, Consultant's liability shall be limited to the reasonable cost of correction of the construction, less what Owner's cost of including the omitted item or component in the original construction would have been had the item or component not been omitted. It is intended by this provision that Consultant will not be responsible for any cost or expense that provides betterment, upgrade, or enhancement of the project.

**22. Severability:** To the extent that any provision of this contract is finally adjudged invalid by a court of competent jurisdiction, that provisions shall be deleted or modified, as necessary, to make it enforceable, and the remaining provisions of this contract shall remain in full force and effect and be binding upon the parties hereto.

**23. California Privacy Rights Act Employer**

**24. Entire Agreement:** This agreement contains the parties entire understanding and supersedes all prior negotiations or agreements over the services described herein. This contract may only be amended, supplemented, modified, or canceled by a duly executed written instrument.

**25. Notice of Lien Rights:** Ayres Associates Inc hereby notifies owner that persons or companies furnishing labor or materials, including engineering, architectural, and surveying services, for the improvement of or construction on owner's land may have lien rights on owner's land and buildings if not paid. Owner should give a copy of this notice to their mortgage lender, if any. Ayres Associates Inc agrees to cooperate with the owner and owner's lender, if any, for resolution of POTENTIAL LIEN claims made as part of this contract.



Name	Property Owner	Already on email list	EMAIL - add or change my email
Steve Hoffmann	Yes	✓	
RYAN TRADER	Yes	✓	
<del>Tom S. [unclear]</del>	Yes	✓	
Tim Becky Jessiman	yes	✓	
Dennis Preece	Yes	✓	
Mike Huber			
Mike Have			
Mary Sulettu			
Mike Orlikowski			