

BEFORE THE
PUBLIC SERVICE COMMISSION OF WISCONSIN

In the Matter of the Petition of the
Horicon Chapter of the Izaak Walton
League for an Order Raising the Mini-
mum Level of the Hustisford Pond as
Heretofore Fixed by the Commission; and
Petition of the Village of Hustisford
Requesting an Order Requiring the
Conservation Commission to Operate the
Horicon Dam in the Rock River so as to
Allow the Natural Flow of Water Over
the Dam

2-WP-620

DECISION AND ORDER

On August 23, 1944 the Horicon Chapter of the Izaak Walton League filed with the Public Service Commission of Wisconsin a petition requesting an order raising the minimum pond level of the Hustisford pond from the established level of 97.00 feet, Public Service Commission datum, to a point not lower than 2 inches below the crest of the spillway in the Hustisford dam. The average crest of the spillway is at 98.78 feet.

The Village of Hustisford, on October 10, 1944, filed a petition with the Public Service Commission of Wisconsin which alleges that it is the owner of the Hustisford dam and water power; that it is entitled to the natural flow of the Rock River for use in its power plant, and that it is being deprived of such natural flow of the stream by the unlawful operation of the Horicon dam by the Conservation Commission of Wisconsin. The prayer of this petitioner is that the Commission issue an order requiring the Conservation Commission to operate the Horicon dam in accordance with law and so as to permit at all times the natural flow of the Rock River to go through or over its dam.

A joint hearing on said petitions was held at Hustisford on November 14, 1944 and on an adjournment thereof on November 18, 1944 before Examiner Adolph Kanneberg.

Appearances:

Izaak Walton League by

Louis Radke
Horicon
(also appearing on his own behalf
as a landowner)

Village of Hustisford
Hustisford Utility by

Husting & Pike, attorneys
Mayville by
B. J. Husting

Farmers Below the Dam in the Towns
of Hustisford, Ixonia, and Lebanon by

T. L. Allen
John Thiel, attorneys
Mayville

Nicholas Gunderson
Ixonia

Lake Sinnissippi Association and
Cottage Owners on the Lake by

Howard J. Petran
Milwaukee

Mrs. Ray Clark
Mayville

Louis C. Pautsch
Juneau

Henry Arndt
Horicon

Wisconsin Conservation Department by

William J. P. Aberg
Col. A. H. Smith
Madison

Of the Commission Staff:

W. A. Muegge
Engineering department

Opinion

By the tacit consent of the parties who appeared at the hearing, it was agreed that anyone adversely affected by the operation of the Horicon or Hustisford dams could present any pertinent evidence and obtain such relief as he may be entitled to and which the Public Service Commission of Wisconsin has power to grant.

The Conservation Commission requests permission to maintain a temporary headwater elevation above the Horicon dam at 74.00 feet until the time when it has acquired all of the lands in the southerly or State area of the marsh which would be flooded by a higher headwater elevation. The complainants who appeared and desire relief fall into several groups as follows:

1. The Village of Hustisford and the Hustisford Electric Utility maintain that the utility is not receiving the natural flow of the Rock River through or over the Horicon dam;
2. Farmers along the Rock River below the Hustisford dam complain that the flow which comes into the Horicon Marsh, particularly in the spring, is held up and later discharged in greater volume than would have been the case had it been allowed to flow from the marsh without interruption by the operation of the dam. They further assert that if the floods were not interrupted they would come earlier and recede sooner before the planting season and thereby cause less damage.
3. Farmers on the Horicon Marsh complain that the water was raised on their lands in the marsh before the lands are acquired by purchase or before flowage rights have been secured.
4. Farmers and landowners on the Hustisford pond are not in agreement as to water levels to be maintained in the Hustisford pond. Some of them desire a higher level to create more muskrat areas while others object to a higher level than that fixed by the Commission and would prefer a lower level to improve their agricultural lands.

5. Cottage owners on the Hustisford pond represented by Howard J. Petran, secretary of the Lake Sinnissippi Association, generally desire a higher maximum level than has been maintained for the pond because the pond or Lake Sinnissippi is a shallow body of water.
6. The Horicon Chapter of the Izaak Walton League requests a higher minimum level for Lake Sinnissippi than has been established by the Commission.

Concerning the Horicon and Hustisford Ponds and the
Dams at Their Outlets

All elevations mentioned herein refer to Public Service Commission datum.

It appears from the records of the Public Service Commission that commencing about 1910 a system of ditches was constructed in the Horicon Marsh, Dodge County, for the purpose of lowering the waters in the Horicon Marsh and thereby creating more agricultural lands; that the backwater from the Hustisford dam in the Rock River, located about 10 miles below the Horicon Marsh, extended into the lower reaches of the Horicon Marsh and prevented the successful draining of the marsh; that the Hustisford Dam was authorized by the Territorial Legislature, Session Laws of 1845, page 99.

The Horicon Marsh from north to south is approximately 14 miles long. It is from 2 to 4 miles wide. The marsh surface at its northerly end is about 4 feet higher than the marsh surface at the southerly end. The west branch of the Rock River enters the marsh at its northwesterly end some 12 miles north of the south end of the marsh. The east branch of the Rock River enters the marsh from the east about 4 miles north of the south boundary of the marsh. Originally the two branches of the river carried their waters in narrow meandering courses through the marsh in such manner that the water surface of the Rock River and in the marsh was held and maintained at different elevations in the various areas of the marsh. After

the drainage ditches were constructed and operated, the flow of the river came more rapidly through the marsh and materially lowered the normal water levels in it. The result of the ditching was that the former water levels in the marsh could not be restored by the operation of a single dam in the Rock River at the lower end of the marsh. To reasonably restore the former conditions would require the filling up of the drainage ditches or the construction of numerous dams in various parts of the marsh.

In 1927 there was appropriated to the Conservation Commission under section 20.20, subsection (24)(a), Statutes of 1927, a sum of money for the purpose of constructing a dam or dams in the Rock River in Dodge County to restore the waters of the Rock River in the Horicon Marsh to the natural levels which existed prior to the private drainage of the same and for the purpose of maintaining such normal levels. Thereafter, as a step in the accomplishment of the foregoing purpose, the Conservation Commission acquired a site in the Rock River in the city of Horicon for the purpose of constructing a dam to restore the water levels in the lower end of the Horicon Marsh. It was the opinion of the Conservation Commission that it might raise the water levels in the Horicon Marsh to the elevations which obtained before the ditches were constructed without acquiring title to or flowage rights in the lands to be flowed.

On December 20, 1928, on application of the Conservation Commission under section 31.05, Statutes, in WP-317 (32 W.R.C.R.1), the Public Service Commission found what the normal water levels were in various areas of the Rock River and in the marsh and granted to the Conservation Commission a permit to construct, operate, and maintain, across the waters of the Rock River at any locations it might select, all dams and other

works necessary or convenient for the purpose of restoring and maintaining the normal elevations of the Horicon Marsh as found by the Public Service Commission. The Commission also authorized the Conservation Commission to construct in the Rock River in the city of Horicon a suitable barrier or dam at elevation 70.5 feet which the Commission found would maintain the Rock River and the lower portion of the Horicon Marsh at the elevation which normally obtained in that area before the construction of the drainage ditches.

The dam in the Rock River in the city of Horicon was constructed in 1930. On March 25, 1931 the Conservation Commission (WP-430, 1 P.S.C.W. 599) applied to the Public Service Commission for a permit to raise the headwater elevation above the Horicon dam from the authorized elevation of 70.5 feet to elevation 75.3 feet, the Conservation Commission alleging that it did not intend to raise the water above the dam above normal until the right to do so had been acquired from the owners of the land to be flooded. A permit on the application was granted September 1, 1931. On rehearing, the Public Service Commission by order dated March 8, 1932 set aside the permit on the ground that the Conservation Commission had flowed lands above normal without first having obtained the consent of the owners of the land.

On October 10, 1934 the Public Service Commission authorized the Conservation Commission in WP-430, 3 P.S.C.W. 377, to maintain a maximum headwater elevation of 75.3 feet at a point where the Rock River crosses the south line of section 25, town of Burnett, it appearing from the evidence that the Conservation Commission had acquired all of the lands in the marsh lying between said line and the Horicon dam which would be flooded at that elevation.

In State v. Adelmeyer, et al, 221 Wis. 246 (April 28, 1936), it was held, in effect, that the elevations in the marsh which existed before the drainage operations and found to be normal by the Public Service Commission, ceased to be the normal elevations, but that on the contrary the lower elevations, namely, those which existed in the Horicon Marsh after the drainage, became the normal water elevations in the Rock River and in the marsh, and that the Conservation Commission may not lawfully raise the waters in the marsh to their former elevations until it had acquired title to the lands, or the right to flow the same, from their owners.

Concerning the Jurisdiction of the Public Service Commission to Restrain a Permittee from Raising the Headwater Elevation to the Head Authorized by the Permit

In New Lisbon v. Harebo, 224 Wis. 66, the court held that the Public Service Commission may not refuse to grant a permit merely because the necessary flowage rights had not been acquired by the applicant. The court said, "The statute itself grants a permit upon a finding by the commission that the construction, operation, or maintenance of the proposed dam will not materially obstruct existing navigation or violate other public rights and will not endanger life, health, or property."

The Commission, in granting a permit to the Conservation Commission on December 20, 1928 in WP-317, made a finding of what the normal water elevations in the Rock River and in the marsh were prior to the drainage at about 18 locations in the marsh and authorized the Conservation Commission to construct a dam or dams for the purpose of restoring the waters in the Rock River and in the marsh to those elevations and made the following

finding, "That the construction, operation and maintenance of such proposed dams and other works (to maintain the elevations of the Rock River and the marsh at the elevations found to be normal) will not materially obstruct existing navigation or violate other public rights and will not endanger life, health, or property."

There are two groups of persons who are affected by the construction and operation of a dam in navigable water, namely, the general public who have the right of navigation, fishing, and other rights in navigable waters; and the private persons whose lands will be affected by the construction and operation of the dam.

Under the New Lisbon case, the Public Service Commission is required to protect the rights of the public in navigable water and deny a permit if it cannot make the finding required by the statute before a permit issues under the statute. It may not, however, refuse a permit because private rights will be affected, for example, because flowage rights have not been acquired on lands that will be flowed, since a private person has his remedy by bringing an action in the courts if he is unable to agree upon the compensation to be paid to him by the permittee. It follows that the Public Service Commission may not now enjoin the Conservation Commission from raising the water level to the authorized head and thereby flooding lands which it has not yet acquired. However, it should be pointed out that under the decision of the supreme court in the Adelmeyer case cited, the Conservation Commission may not flood the lands of others until the right to flood the same has been acquired.

Findings

From the evidence received at the hearing, the Public

Service Commission finds:

1. That no map was offered in evidence showing any contour lines in the Horicon Marsh below elevation 75.00 feet.
2. That the Conservation Commission has not acquired all tracts of land in the State area in the Horicon Marsh which lie below the 75-foot contour.
3. That there are certain tracts of land in the Federal area in the Horicon Marsh below contour 75.00 feet which have not yet been acquired by the federal government.
4. That it is not possible to determine definitely from the evidence, particularly because there is no 74-foot contour, whether and how much land which has not yet been acquired will be flooded by holding the headwater elevation at the dam at 74.00 feet.
5. That the Conservation Commission, on several occasions, so operated the Horicon dam that less than the natural flow of water was released through the dam at times when the hydroelectric plant of the Village of Hustisford could have used such natural flow for the production of power.
6. That the Conservation Commission stored water in the Horicon Marsh and released the same at a later date and in volumes greater than would have flowed down the river if the waters had not been impounded behind the dam, and that such detention and release caused damage to farm lands below the Hustisford dam.
7. That the Village of Hustisford, on a yearly average basis, could probably obtain more hydroelectric power if it limited the drawdown in the pond to a point 6 inches below the average crest of the spillway, and that the Village of Hustisford has agreed that the minimum pond level be raised to 6 inches below the average crest of the spillway, or to elevation 98.28 feet.

Conclusions of Law

The Commission finds as conclusions of law:

1. That the Public Service Commission is without jurisdiction to entertain the application of the owners of land in the Horicon Marsh for an order requiring the Conservation Commission to keep the gates open in the Horicon dam until all lands have been acquired which will be flooded by the proposed headwater elevation of 74.00 feet at the dam.
2. That the Village of Hustisford is entitled to receive the natural flow of the Rock River at the Horicon dam for use in its hydroelectric plant at all times when it is not wasting water through the dam.
3. That the owners of land below the Hustisford dam adversely affected by floodwaters in the Rock River are entitled during the planting, growing, and harvesting seasons to have the flow over the Horicon dam limited in volume to the natural runoff from the Horicon pond at the dam so far as this may be accomplished by the careful operation of the gates in the dam. The volume of water which may be discharged may be properly measured by releasing through the dam only such quantities of water as will not cause any lowering of the pond elevation at the dam until the pond has passed its maximum elevation. Subsequently, the accumulated water should be gradually released until the pond has again reached its normal stage.
4. That the Conservation Commission, whenever it has acquired the right to store water in the Horicon Marsh, may as between it and the Village of Hustisford use surplus water for such purpose, that is, water which would otherwise be wasted over the Hustisford dam.

Order

IT IS THEREFORE ORDERED:

1. That the application of the owners of land in the Horicon Marsh for an order requiring the Conservation Commission to keep the gates open in the Horicon dam until all lands which will be flooded by a headwater elevation, at the dam, of 74.00 feet have been acquired be and the same is hereby dismissed.

2. That the Conservation Commission operate the Horicon dam in such manner as will protect the rights of the Village of Hustisford and the rights of landowners below the Hustisford dam, referred to in the conclusions of law numbered 2 and 3.


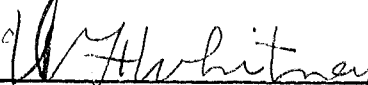
3. That the minimum level heretofore established by the Public Service Commission for the Hustisford pond is hereby rescinded and a new minimum pond level is established for said pond at 6 inches below the average crest of the spillway, or at elevation 98.28 feet.

4. That the Commission retain jurisdiction of these proceedings for a period of 2 years from the date hereof for the purpose of making such further or other orders as may be necessary or pertinent.

Dated at Madison, Wisconsin this 2nd day of

June 1945.

PUBLIC SERVICE COMMISSION OF WISCONSIN


Commissioner

Commissioner

Commissioner

BEFORE THE
PUBLIC SERVICE COMMISSION OF WISCONSIN

Investigation on Commission's Motion
of the Operation of the Horicon and
Hustisford Dams and of the Need for
Establishment of a Maximum Level for
Lake Sinissippi }
2-WP-888 }

FINDINGS AND ORDER

The Commission has had complaints during the last several years of damage to croplands located in the Lower Rock River Valley below the Hustisford dam, allegedly caused by the operation of the Hustisford dam.

Hearing: February 19, 1952 at Hustisford before Examiner Helmar A. Lewis.

Appearances:

Lake Sinissippi Advancement Association, Inc., by

L. A. Buckley, attorney
Hartford

Hustisford Utility by

Frank Rohrschneider, superintendent
Hustisford

Town of Lebanon by

Elmer Moldenhauer, chairman
Watertown

Dodge County Alliance consisting of 23 clubs
in Dodge County by

John E. J. Mueller, president
Watertown

Conservation Commission of Wisconsin by

Manuel L. Armijo, Attorney General's Office
Madison

Wayne Truax
J. R. Smith

Of the Commission Staff:

W. H. Cartwright, engineering department

Adjourned hearing: February 26, 1952 at Madison
before Examiner Helmar A. Lewis.

Appearances:

Complainant:

Nicholas Gunderson
Madison

Lake Sinissippi Advancement Association, Inc., by

L. A. Buckley, attorney
Hartford

Howard Petran, secretary
William Henning, member of board of directors

O. W. Voss
Village president
Hustisford

Conservation Department by

J. R. Smith

Of the Commission Staff:

W. H. Cartwright
W. A. Muegge
Engineering department

Findings of Evidentiary Fact

THE COMMISSION FINDS the essential evidentiary facts
herein to be the following:

1. Nicholas Gunderson owns land along the Rock
River in sections 11 and 14, town of Ixonia, Jefferson County,
and has complained for several years that the operation of
the dams in the Rock River above his property has caused
injury to his farm and to the farms of others.

2. Hustisford dam owned by the village of Hustisford
(as an electric utility) was reconstructed in 1939 so as to
have an 85-foot spillway section with crest at elevation 98.8
feet and two 30-foot radial gates with sill elevation at 91.5
feet. The Commission established the minimum level to be
maintained by the Hustisford dam at elevation 98.28 feet in

docket 2-WP-620 dated June 2, 1945. The replaced dam had a spillway section $152\frac{1}{2}$ feet long with the average crest elevation at 97.37 feet and carried flashboards to an average elevation of 98.81 feet.

3. The dam in place before 1939 was operated for flood flows by the removal of the flashboards and floodwaters were passed as they occurred. The Commission records indicate that high water levels in Lake Sinissippi caused by this operation reached elevation 99.3 feet.

4. Elevations in the foregoing are referred to Public Service Commission datum for the Hustisford dam as recorded by Public Service Commission bench mark No. 457-D described as a square cut in top of right abutment wall of spillway. It is located 6.0 feet from upstream end. Elevation 102.89 feet.

5. The Horicon dam above Hustisford is owned and operated by the Wisconsin Conservation Department with authority to raise the water behind the dam to a maximum elevation of 75.3 feet in docket WP-430 dated October 10, 1934. Elevations are referred to Public Service Commission datum for the Horicon dam as recorded by Public Service Commission bench mark No. 719-C described as a square cut in east end of concrete walk over gates of dam. Elevation 84.07 feet.

6. The Horicon dam has been operated in recent years with gates opened in February, before the spring breakup, to lower the water on the marsh and to permit the Hustisford dam to assume control of the levels maintained in both Lake Sinissippi and the Horicon Marsh.

7. The United States Wildlife Service constructed a dam in 1951 in the Rock River across the Upper Horicon Marsh to hold a pool at elevation 77.0 feet. The proposed

operation is to lower the pool to 76.0 feet before winter freezeup and to hold that level through the winter. Elevations are referred to Horicon datum.

8. In March and April of 1951 the Horicon dam was open and the Hustisford dam was in control. In this period the water levels in Horicon were raised more than 1 foot so that the Horicon level on April 15 was at elevation 76.52 feet, which is 1.22 feet above its prescribed maximum level. This was caused because the gates of the Hustisford dam were not opened to pass flood flow as it occurred.

9. The Rock River below Hustisford to Watertown has but little slope, and has a wide valley, being three-quarters of a mile in width in places. Several large streams enter the Rock River including Wildcat Creek, the Rubicon and Ashippun Rivers, all above the Gunderson property. The river valley is crossed by highways at several places where the roadways are on fills and act as check dams.

10. Gunderson has 117 acres of land in sections 11 and 14 in the town of Ixonia, being east of and adjacent to the river. The United States Geological Survey quadrangle shows that the east one-third of his property is high and that the remaining two-thirds is in marshlands. Aerial photographs taken in 1937 show the cultivated high ground to be about 41 acres. There is also shown 15 acres of cultivated low ground located in the flood plain. Gunderson states that 82 acres are now being cultivated, of which 40 acres are in the flood plain.

11. The Wisconsin Conservation Department, the village of Hustisford, and the Lake Sinnissippi Advancement Association indicate that they desire to cooperate to assure passage of flood flows in a manner designed to protect croplands downstream, provided their primary interests are not injured.

Opinion

Since its reconstruction in 1939 the Hustisford dam has not been operated to secure the same conditions of flow of floodwaters as had been effected by the replaced spillway-type dam; that in not passing floodwaters as they occurred, ponding was caused in the pools above the dam which prolonged the period of runoff; that the improvement of highways across the river valley below the Hustisford dam has created retardation dams which hold excess waters in the valley for a longer period of time than was formerly the case; that farmers in the river valley below Hustisford have extended their operations into the river valley on lands which have generally been flowed in the past. It appears that the following procedure would minimize the damage to said farm lands:

1. Amend the minimum level now established at Hustisford to permit Lake Sinissippi to be lowered an additional 6 inches to elevation 97.78 feet (Hustisford datum), the lowering to be accomplished gradually beginning February 15 and continuing until the end of the spring flood period of each year, which operation with the cooperation of the Wisconsin Conservation Department will result in the lowering of the Horicon pool as far as possible without substantial injury to conservation interests and will further result in the passing of considerable water before the spring breakup occurs;

2. Establish a maximum level at Hustisford which will require the operation of the radial gates to dispose of floodwaters as they occur to accomplish conditions similar to those existing before 1939 and

thus speed the flow through the valley;

3. Investigate the obstruction caused by highways below the Hustisford dam and require sufficient openings in said roadways to pass flood flows substantially as they occur; and

4. Retain jurisdiction in the matter to permit amendment of the order if future operation shows that changes are necessary and desirable.

Findings of Ultimate Fact

THE COMMISSION THEREFORE FINDS:

1. That the minimum level of Lake Sinissippi should be amended to allow lowering to elevation 97.78 feet beginning February 15 and continuing until the end of the spring flood period of each year, such lowering to be accomplished gradually.

2. That the maximum level of Lake Sinissippi should be established at elevation 99.5 feet, said elevation not to be exceeded except when the discharge capacity of the two radial gates and the spillway of the Hustisford dam is inadequate to pass the flood flow.

Proper operation is to open the floodgates of the Hustisford dam in the early spring to gradually lower the water level of Lake Sinissippi to or near its minimum level as authorized and then to operate the gates of said dam to pass the spring runoff as it occurs without raising the water level substantially until near the end of the runoff period when it is necessary to raise the lake to or above the level of the spillway crest. After that time the spillway can control ordinary flow. At all other times the spillway should control the levels of the lake, except

when it appears that the maximum level will be exceeded because of excess flow. At such times the gates should be opened sufficiently to pass the excess flow until it subsides and the spillway is again adequate to control the flow without exceeding said maximum level.

3. That the interest of public rights in the Rock River, the promotion of safety, and the protection of life, health and property require that the minimum and maximum levels as stated in the foregoing findings be established; that both said minimum and maximum levels are reasonable.

Conclusion of Law

THE COMMISSION CONCLUDES:

That it has authority under section 31.02(1), Statutes, to establish minimum and maximum levels for Lake Sinissippi, held by the Hustisford dam.

Order

THE COMMISSION THEREFORE ORDERS:

1. That the minimum level for Lake Sinissippi be and it is hereby established at elevation 97.78 feet, Public Service Commission datum for Hustisford, for the period beginning February 15 and continuing to the end of the spring flood period of each year.

2. That the maximum level for Lake Sinissippi be and it is hereby established at elevation 99.5 feet, Public Service Commission datum for Hustisford, insofar as it can be attained by the proper operation of the floodgates in the Hustisford dam.

3. That jurisdiction be retained to make further

order with or without public hearing.

Dated at Madison, Wisconsin, this 14th day of
March 1952.

By the Commission.

Edward P. Kaveny
Secretary

Dam Sequence No 251



Formal Action



Year: 1975



BEFORE THE
DEPARTMENT OF NATURAL RESOURCES

Application of Village of Hustisford)
(on Behalf of the Wisconsin Department) 2-WP-888
of Natural Resources) for Authority to)
Lower the Level of Lake Sinissippi)
Two Feet for the Winter (1975-76))

FINDINGS OF FACT, CONCLUSION OF LAW AND ORDER

The Village of Hustisford, Wisconsin (on behalf of the Wisconsin Department of Natural Resources) filed a petition under Section 31.02, Wisconsin Statutes, for authority to lower the level of Lake Sinissippi, Dodge County two feet for the winter period (1975-76).

Hearing was held December 4, 1975 at Horicon, Edmund M. Brick, Chief, Water Regulation Section, Presiding.

APPEARANCES:

IN SUPPORT:

Rock River Land Owners Assoc., by

Jack D. Laird
Ixonía

Denis Rupnow, President
Ixonía

Watertown Conservation Club
Jefferson Co. Conservation Alliance, by

Terry Doerr
Watertown

R. C. Hendrix
Horicon

Richard C. Christian
Horicon

Sandord Turner
Juneau

Wm. Germer
Juneau

Dorothy Spredemann
Juneau

Germaine Knitter
Juneau

Lester Miescke
Horicon

Richard T. Sell
Juneau

Eugene Craft
Juneau

Albert Junger
Juneau

IN OPPOSITION:

Lake Sinissippi Association, by

Leonard Schnabl
Mayville

Howard Petran
Iron Ridge

Robert Scola
Iron Ridge

Larry Scola
Iron Ridge

Harvey Maas
Iron Ridge

Clifford Maas
Iron Ridge

Robert Storck, Attorney
Mayville

Hubert Semerau
Iron Ridge

Gil Seitz
Iron Ridge

Marine Biochemists, Inc., by

Donald Bezella
Saukville

Snowmobile Club, by

Randy Reifsnider
Burnett

John Frederick
Iron Ridge

George Becker
Stevens Point

Michael P. Halfman
Horicon

Claude L. Colby
Iron Ridge

Linda L. Radloff
Juneau

Donald O. Radloff
Juneau

William Spang
Iron Ridge

Roland Ritter
Hustisford

Franklin O. Freinwald
Iron Ridge

James Schinderle
Mayville

Ken Kanzenbach
Horicon

Roy Mellenthien
Horicon

Harold A. Mathiak
Horicon

Victor Radloff, Jr.
Juneau

Herbert E. Neuenschwander
Hustisford

Raymond E. Wamser
Iron Ridge

George J. DoBraff
Hustisford

Woody Stellmacher
Iron Ridge

Ronald L. Wheeler
Horicon

George Utzerath
Horicon

Adolph Kruel
Horicon

Ray Held
Iron Ridge

Keith Bunkoske
Horicon

Dennis Heller
Horicon

George Spang
Hustisford

E. B. Bernard
Iron Ridge

Earl Becker
Horicon

Harold Behling
Iron Ridge

Thomas Altsens
Hustisford

AS INTEREST MAY APPEAR

Dodge County Independent - News, by

H. Atterbury
Juneau

Annabel L. Atterbury
Juneau

Gene Thorn
Horicon

Ernest Frank
Juneau

Merton Giffey
Hustisford

Lyle Kohn
Horicon

James Scharpf
Hartford

Erwin Gietzel
Horicon

FINDINGS OF FACT

1. Lake Sinissippi is located in the Towns of Hustisford, Hubbard and Oak Grove, Dodge County. It is 2,855 acres in surface area and has a maximum depth of 8 feet at the dam and 5 feet in the lake. The Rock River flows through Lake Sinissippi.

2. The levels of Lake Sinissippi are maintained by the Hustisford Dam on the Rock River located in and owned by the Village of Hustiford, Dodge County. The dam has a head of approximately 8 feet.

3. The following operating levels have been established for the Hustisford Dam by the Public Service Commission of Wisconsin (predecessor to the Wis. Dept. of Natural Resources (DNR) in the administration of Chapters 30 and 31, Statutes):

ORDER	LEVEL	ELEVATION
2-WP-888	Maximum	99.5 (DNR Datum)
2-WP-620	Minimum	98.28 (DNR Datum)
2-WP-888	Winter Drawdown (2/15 to end of Spring flooding)	97.78 (DNR Datum)

4. The Rock River flows through the Horicon Marsh before entering Lake Sinissippi. The West Branch of the Rock River enters the federal portion of the Horicon Marsh above the dam operated and maintained by the federal Bureau of Sport Fisheries and Wildlife. The East Fork of the Rock River enters the Horicon Marsh in the state portion of the marsh upstream from the junction of the East and West Forks and upstream from the Horicon Dam which is operated and maintained by the Wisconsin Department of Natural Resources.

5. Water quality monitoring of the Rock River shows that pollution from point sources above the Horicon Marsh have not materially changed during the period from 1957 to the present. Substantial organic loading to the Rock River is produced by lush vegetation growth in the Horicon Marsh and Lake Sinissippi.

6. Vegetation growths impose a substantial oxygen demand on the dissolved oxygen in Rock River flows during winter periods when ice cover prevents light penetration required to sustain vegetation in a condition to produce oxygen.

7. Excessive oxygen demand in the Rock River flows in Lake Sinissippi has caused winterkill of fishes in Lake Sinissippi during most years and has caused extensive winterkill during winters having extended periods of heavy snow and ice cover on the Horicon Marsh and Lake Sinissippi.

8. Timely manipulation of Rock River flows and Horicon Marsh and Lake Sinissippi levels by drawdown or storage would reduce water contact with oxygen-demanding organic sediment resulting in an improvement of Rock River water quality and consequent reduction in the potential for winterkill of fishes in Lake Sinissippi.

9. Partial drawdown of Lake Sinissippi would reduce damage associated with ice-push caused by expansion of the lake ice during extreme cold weather and would not damage shore protection works along the shoreline of Lake Sinissippi.

10. Partial drawdown of Lake Sinissippi would not materially damage the muskrat population in and around Lake Sinissippi.

11. Partial drawdown of Lake Sinissippi would reduce the relative abundance of submergent aquatic vegetation and (would not increase cattail growth in Lake Sinissippi provided the levels of Lake Sinissippi were restored before June.)

12. Partial drawdown of Lake Sinissippi would partially concentrate the flow of Rock River through Lake Sinissippi.

13. Partial drawdown of Lake Sinissippi would provide some flood storage capacity in Lake Sinissippi which would result in a small reduction in downstream flooding.

14. Partial drawdown of Lake Sinissippi for the purposes of:

- a. Reduction in winterkill potential;
- b. Reduction of abundance of submergent aquatic vegetation;
- c. Reduction of ice-push damage to shorelines;
- d. Partial concentration of Rock River flows through Lake Sinissippi; and
- e. Reduction in downstream flooding

is in the public interest, will promote safety, will protect life, health and property and will not cause environmental pollution nor water quality degradation.

CONCLUSION OF LAW

The Department has authority under Section 31.02, Wisconsin Statutes, and in accordance with the foregoing findings of fact to issue the following order establishing a winter drawdown on Lake Sinissippi held by the Hustisford Dam.

ORDER

IT IS THEREFORE ORDERED:

1. That condition #1 of order 2-WP-888 be amended for the Winter 1975-76 period as follows:

"1. That the minimum level for Lake Sinissippi be and is hereby established at elevation 97.78 feet, Department of Natural Resources datum for Hustisford, for the period beginning December 15, 1975 and continuing to the end of the spring flood period, 1976."

2. All other provisions of 2-WP-888 and 2-WP-620 remain unchanged and in effect.

3. That jurisdiction be retained to make further order with or without hearing.

Dated at Madison, Wisconsin December 19, 1975

STATE OF WISCONSIN DEPARTMENT OF NATURAL RESOURCES
For the Secretary

By Andrew C. Damon
Andrew C. Damon, Acting Administrator
Division of Enforcement

Dam Sequence No 251



Formal Action



Year: 1976



BEFORE THE
DEPARTMENT OF NATURAL RESOURCES

Investigation on Motion of the Division)
of Resource Management of the Department)
of Natural Resources for the Modification) 2-WP-888A
of the Winter Drawdown Dates for Lake)
Sinissippi for the Winter of 1976-1977)

ORDER OF DISMISSAL

On July 26, 1976 the Division of Resource Management of the Department of Natural Resources petitioned to amend Order 2-WP-888 to require the drawdown of Lake Sinissippi in Juneau County to the established minimum lake level on December 15, 1976 rather than February 5, 1977. Pursuant to said petition the Department set the matter for a public informational hearing at Juneau, Wisconsin on November 4, 1976, before Examiner David H. Schwarz.

On November 9, 1976 the Division of Resource Management officially moved that its earlier petition for early drawdown of Lake Sinissippi be withdrawn. Said decision was based on a review of the proposed project and the response of the public to said proposal.

ORDER

IT IS, THEREFORE ORDERED that the petition of the Division of Resource Management to amend Order 2-WP-888 is hereby dismissed. All provisions of Order 2-WP-888 issued by the Wisconsin Public Service Commission on March 14, 1952 shall remain in full force and effect.

Dated at Madison, Wisconsin NOV 17 1976

STATE OF WISCONSIN DEPARTMENT OF NATURAL RESOURCES

By David H. Schwarz
David H. Schwarz
Hearing Examiner