

Resolution No. 11 - 14
Resolution to Grant Flowage Easement to Town of Bone Lake Across County Property –
Straight River

TO THE HONORABLE MEMBERS OF THE POLK COUNTY BOARD OF SUPERVISORS:

Ladies and Gentlemen:

1 WHEREAS the County of Polk owns certain property located in the Town of Bone Lake on
2 which the Straight River does run; and

3 WHEREAS, on the property adjacent to that of the County, the Town of Bone Lake owns and
4 maintains a dam on the Straight River; and

5 WHEREAS, it is in the interest of the County of Polk to convey to the Town of Bone Lake an
6 easement for the purpose of flowing such county lands with water by means of dams, dikes, and other
7 works for the use and benefit of the general public.

8 NOW THEREFORE BE IT RESOLVED that Polk County Board of Supervisors authorizes and
9 grants a flowage easement to the Town of Bone Lake on and across the county land located in
10 the Town of Bone Lake, Polk County, Wisconsin and described, as follows:

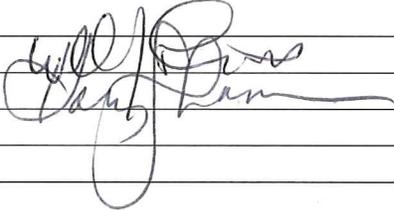
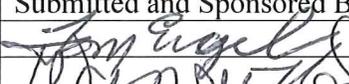
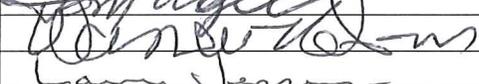
11 “That part of land conveyed for highway purposes for State Trunk Highway. #48, to the State
12 Highway Commission of Wisconsin, Project T0132(1), recorded in volume 181, page 31,
13 Document No. 260713 as parcel No 57, located in the Northwest ¼ of the Northeast ¼ of
14 Section 28, T 36 N, R 16 W, Town of Bone Lake, Polk County, Wisconsin, lying between
15 the centerline of the Straight River and the existing Straight River shore line which is defined
16 by the elevation of the top of the existing (and proposed) dam located on the north side of
17 250th Ave. The elevation of the top of the dam is established as 1161.2 feet above mean sea
18 level and is referenced to NGS benchmark DN5301 which has an established elevation of
19 1166.34 feet above mean sea level. (“Premises”)

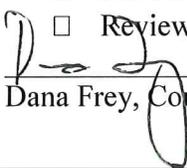
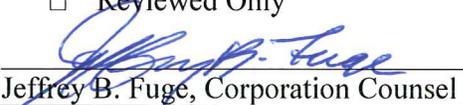
20 BE IT FURTHER RESOLVED that, pursuant to Wisconsin Statute Sections 59.01 and
21 59.52(6)(c), the Polk County Board of Supervisors directs the County Clerk to execute any and
22 all documents necessary to effectuate the conveyance of flowage easement as authorized and
23 approved herein.

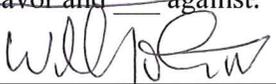
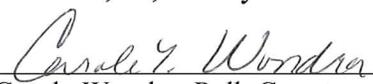
24 BE IT FURTHER RESOLVED that the Polk County Board of Supervisors designates the Parks,
25 Buildings, & Solid Waste Director as administrator of such easement on behalf of the County of
26 Polk and the same shall sign any and all documents and carry out all responsibilities of the
27 County of Polk as necessary in the performance of the easement.

Funding Amount and Source:	Not Applicable
Date Finance Committee Advised:	Not Applicable
Finance Committee Recommendation:	Not Applicable
Effective Date:	Upon Passage

Resolution No. 11 - 14: Resolution to Grant Flowage Easement to Town of Bone Lake Across County Property – Straight River

Submitted and Sponsored By:	
	
	
	

Review by County Administrator: <input checked="" type="checkbox"/> Recommended <input type="checkbox"/> Not Recommended <input type="checkbox"/> Reviewed Only  Dana Frey, County Administrator	Review By Corporation Counsel <input checked="" type="checkbox"/> Approved as to Form <input checked="" type="checkbox"/> Recommended <input type="checkbox"/> Not Recommended <input type="checkbox"/> Reviewed Only  Jeffrey B. Fuge, Corporation Counsel
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April 15 County Board Action	
At its regular business meeting on March 18 , 2014, the Polk County Board of Supervisors adopted the above-entitled resolution, Resolution No. <u>11 - 14</u> : Resolution to Grant Flowage Easement to Town of Bone Lake Across County Property – Straight River, by a simple majority vote of <u>unanimous voice vote</u> in favor and <u>unanimous voice vote</u> against.	
 William Johnson, IV, County Board Chairperson	Dated: _____
Attest:  Carole Wondra, Polk County	Dated: <u>4-28-14</u>

Attachments – Proposed Flowage Easement and Incorporated Exhibit

FLOWAGE EASEMENT

THIS EASEMENT made this _____ day of _____, 2014, by and between Polk County, Grantor; and the Town of Bone Lake, Polk County, WI, Grantee.

WHEREAS, the Grantor is the owner in fee simple of certain real estate which is in, near, or adjacent to the Grantee's project known as the Straight River Dam and located in Polk County, Wisconsin, and

WHEREAS, the Grantee desires to flow said lands with water by means of dams, dikes, and other works for the use and benefit of the general public.

NOW, THEREFORE, the Grantor, for and in consideration of One Dollar (\$1.00) and the mutual terms and covenants hereinafter contained, hereby conveys to the Grantee, upon written acceptance by the Grantee, an easement and right in perpetuity on the following described real estate, hereinafter referred to as Premises, in Polk County, State of Wisconsin.

That part of land conveyed for highway purposes for State Trunk Highway. #48, to the State Highway Commission of Wisconsin, Project T0132(1), recorded in volume 181, page 31, Document No. 260713 as parcel No 57, located in the Northwest ¼ of the Northeast ¼ of Section 28, T 36 N, R 16 W, Town of Bone Lake, Polk County, Wisconsin, lying between the centerline of the Straight River and the existing Straight River shore line which is defined by the elevation of the top of the existing (and proposed) dam located on the north side of 250th Ave. The elevation of the top of the dam is established as 1161.2 feet above mean sea level and is referenced to NGS benchmark DN5301 which has an established elevation of 1166.34 feet above mean sea level. ("Premises")

The location of said easement being shown on Exhibit "A" attached hereto, and made a part hereof.

RIGHTS OF THE GRANTEE (Town of Bone Lake)

1. The Grantee shall have the perpetual right to flow, transport, store and hold water back on, over, under, through and within the Premises regardless of the source of the water, or have water withdrawn from the Premises, together with all the rights, easements, privileges, and appurtenances which will be required or needed to exercise the foresaid rights.
2. The Grantee shall have the right of ingress and egress to, through and on the Premises for the purpose of exercising the rights granted herein.

RIGHTS OF THE GRANTOR (owner)

1. The Grantor states that it owns the subject property and has authority to convey legal interests in the same consistent with relevant Wisconsin Statutes.
2. Pursuant to Wisconsin Statute Sections 59.01 and 59.52(6)(c), the Polk County Board of Supervisors has adopted Polk County Resolution No. ____-14, authorizing this easement and directing the Polk County Clerk to convey to Grantee the easement authorized on the subject property described herein.

Return to: Town of Bone Lake
Darrell Frandsen, Clerk
954 280th Ave
Frederic, WI 54837

PID# 012-99999-0000

3. Grantor shall have the right to use the Premises for purposes consistent with Grantee's full enjoyment of the rights granted by this easement and provided such Grantor use does not interfere with or obstruct Grantee's use.

GENERAL PROVISIONS

1. Grantor and Grantee agree and recognize that the current shore line (which defines the upper elevation limit of the easement) is defined as the elevation of the top of the existing dam located on the North side of 250th Ave, which elevation is more expressly defined in the legal description of this easement agreement.
2. Grantor and Grantee further agree and recognize that due to the normal fluctuation, ebb and flow of the water in, on and adjacent to the river, the shore line may at certain times and at certain locations reasonably exceed the Dam Elevation ("Excess Elevation Area"). Accordingly, the Grantor and Grantee agree that the Premises and easement area, as defined in this easement agreement shall expressly include the Excess Elevation Area.
3. If any provision of this easement is found to be invalid, the remainder of the provisions shall not be affected thereby.
4. The terms Grantor and Grantee when used herein shall mean either masculine or feminine, singular or plural, as the case may be.
5. The provisions of this easement shall bind the parties mutually, their heirs, successors, assigns, and personal representatives, it being the express intent that this easement be perpetual and run with the land.
6. By executing this easement Grantor and Grantee acknowledge, warrant and represent that each is entering it freely and voluntarily. This easement contains the entire understanding between the parties on the subject matter hereof and no representations, inducements, promises or agreements oral or otherwise not included herein shall be of any force or effect. To be effective any and all modifications must be in writing and recorded.
7. Grantee shall bear any and all costs to implement and/or to exercise the rights of easement conveyed by Grantor herein. Grantor shall execute any and all documents, including, but not limited to, application for permits, that are reasonably necessary for grantee to exercise the rights of easement conveyed herein.

