THE IMPACT OF WAKE SURFING ON LAKES AND OTHER BOATERS …

AND HOW TO DEAL WITH IT

FOREST COUNTY ASSOCIATION OF LAKES-- OCT 10, 2026

RICHARD PHILLIPS
PRESQUE ISLE, WI

TOPICS

WAKE SURFING CAUSES UNIQUE ENVIRONMENTAL/SAFETY ISSUES

ONLY TOWN BOARDS CAN PROTECT LAKES AND LAKE USERS

- **COUNTIES CANNOT… THE DNR CANNOT … THE STATE LIKELY WON'T**

95 WISCONSIN TOWNS HAVE ENHANCED WAKE ORDINANCES

WAKE SURFING WILL INCREASE ON UNSUITABLE LAKES, IF ALLOWED

MY VIEWS

- I BELIEVE THAT IF WAKE SURFING IS PERMITTED, IT SHOULD BE ONLY ON BIG DEEP LAKES, WITH APPROPRIATE DEPTH/DISTANCE CONTROLS *

- IF TOWNS DO NOT ACT, SOME SURFERS WILL USE LAKES TOO SMALL OR SHALLOW… AND EVEN ON BIG DEEP LAKES WILL OPERATE TOO NEAR SHORE OR IN WATER TOO SHALLOW

- THIS TALK ADDRESSES REASONABLE SET OFFS… AND WHAT TO DO WHEN LAKES ARE NOT BIG AND DEEP ENOUGH FOR RESPONSIBLE WAKE SURFING

* BUT PLEASE ALWAYS KEEP IN MIND INVASIVES CONTROL FROM BALLAST WATER

WAKE SURFING OPERATION IS UNIQUE

BALLASTED STERN DOWN

CONTINUOUS PLOWING SPEED

POWERFUL DOWNWARD PROP WASH

ENORMOUS WAKE

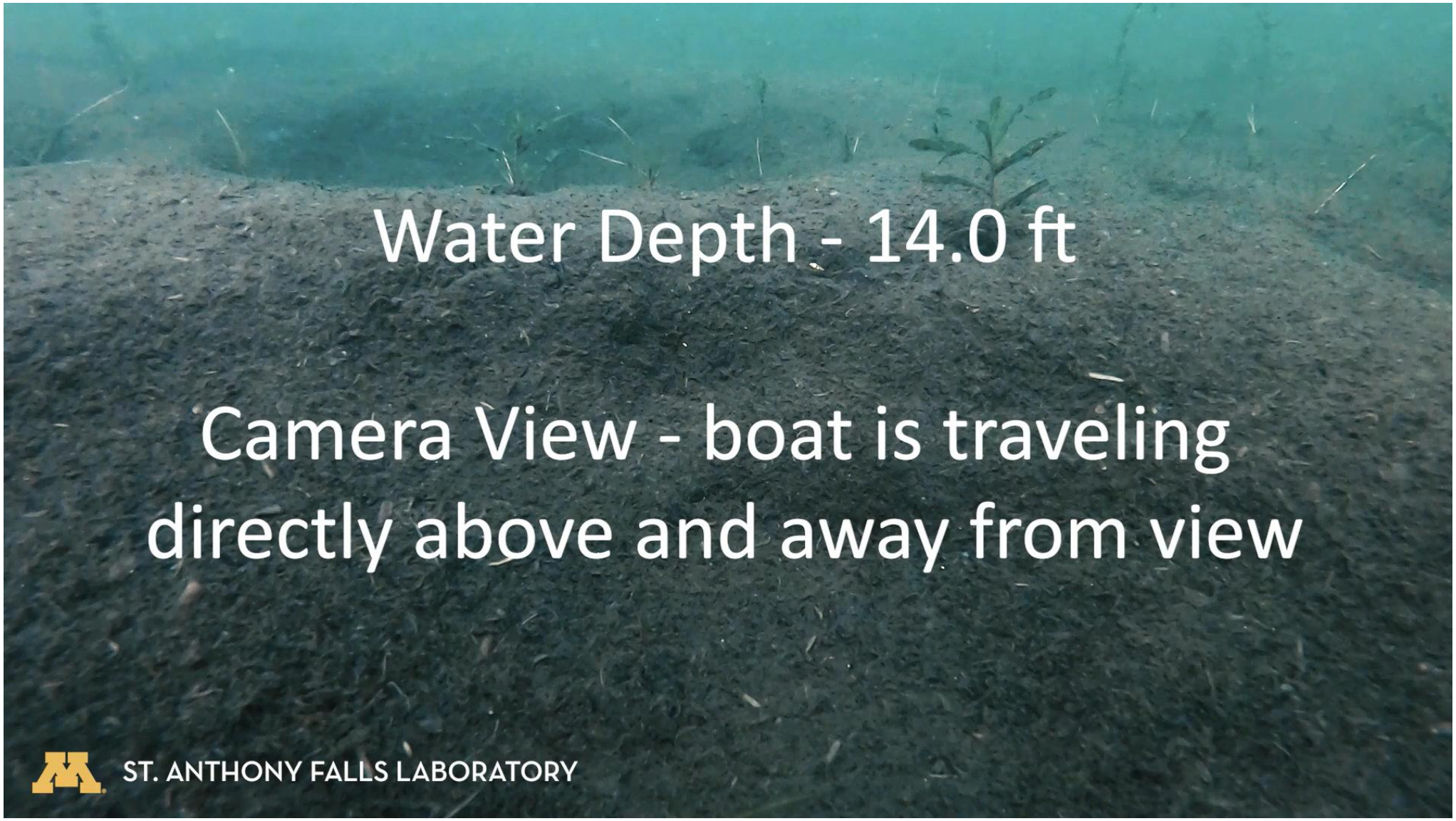
BALLAST WATER TRANSFER






MasterCraft
RULE THE WATER
TOUR
MasterCraft X

WAKE SURFING BLASTS LAKE BOTTOMS



WAKE BOAT PASS AT 200 FT–

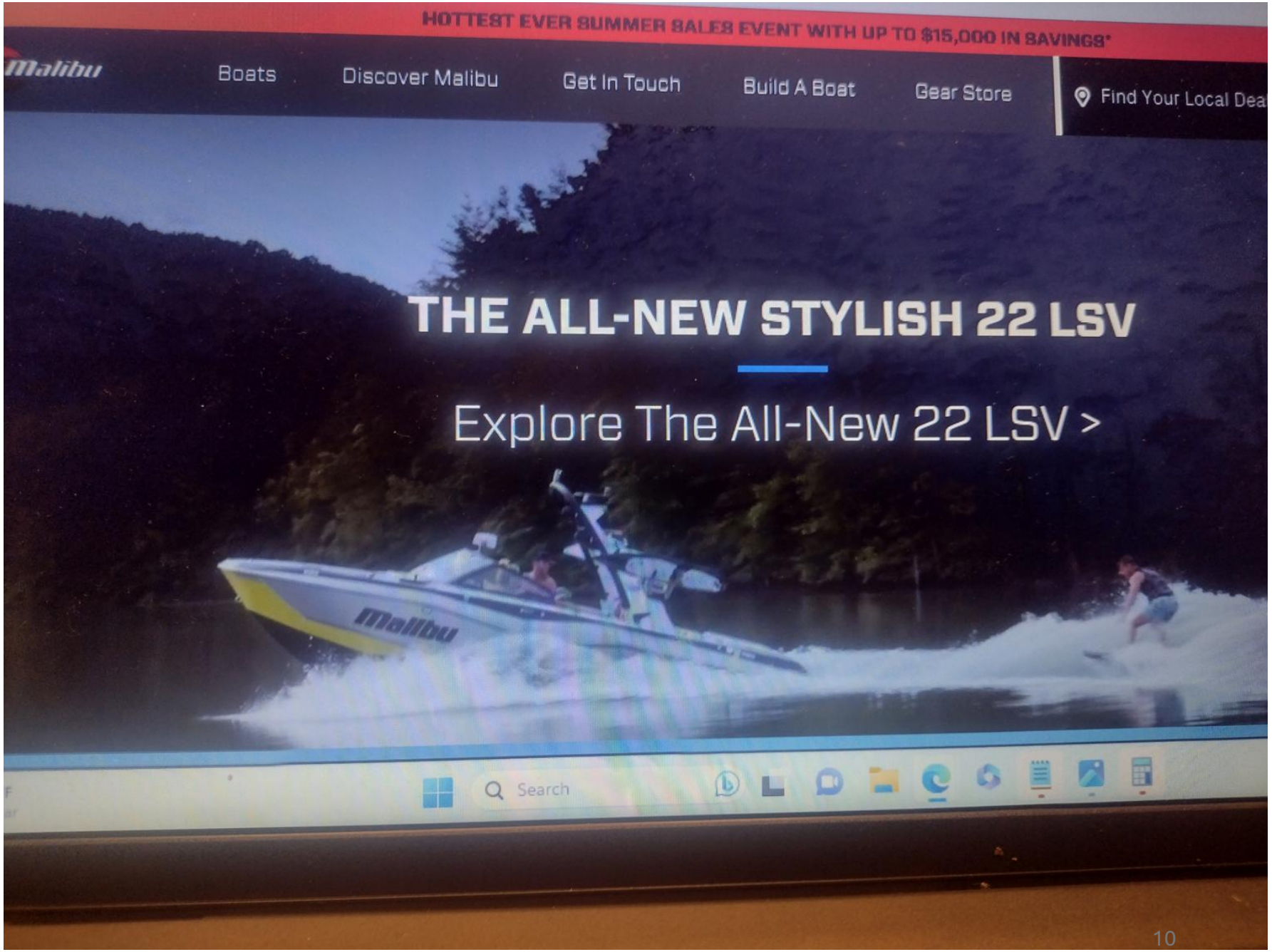


PROBLEMS OF WAKE SURFING

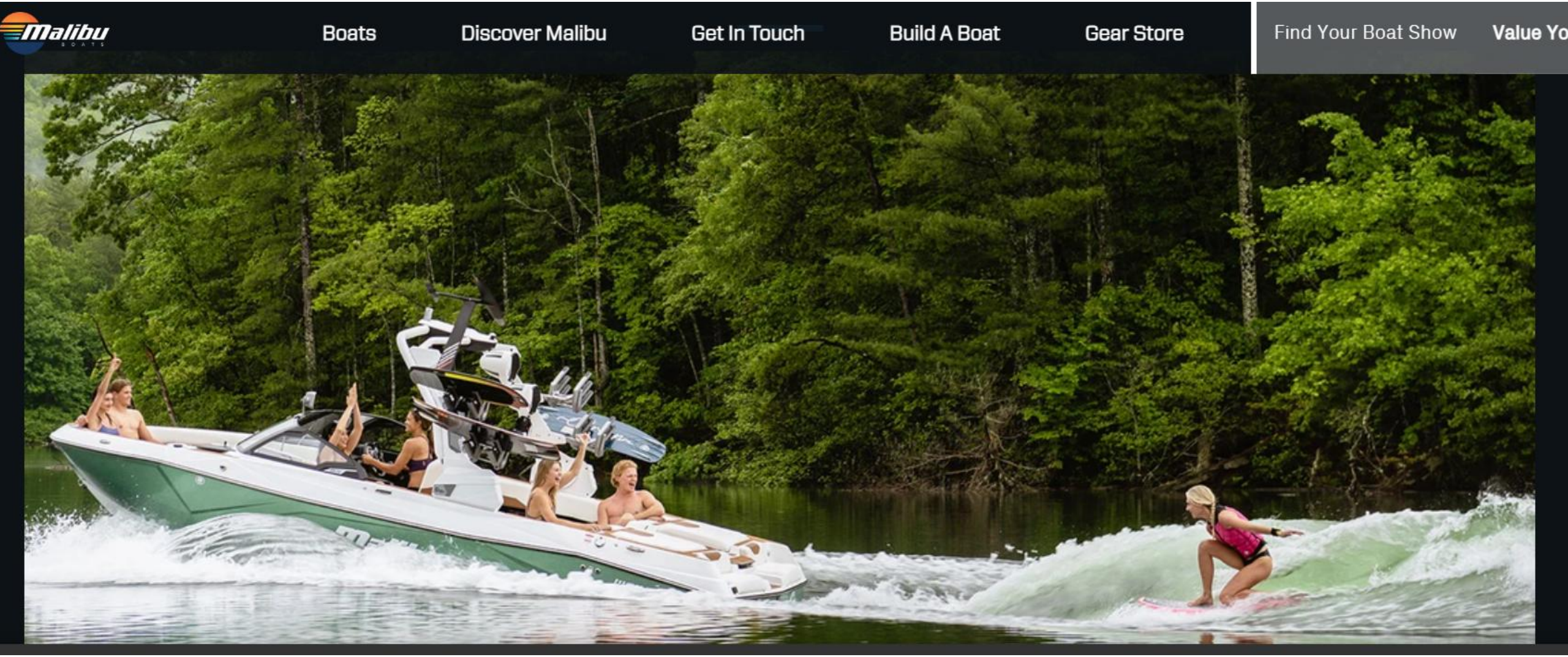
- LAKE BOTTOMS SCOURED TO 20+ FEET
- BIG WAVES SCRUB/ERODE SHORE AND NEAR-SHORE AREAS
- INVASIVES TRANSFER BY BALLAST TANKS
- BIG WAVES DRIVE OTHER BOATERS OFF THE LAKE
- WAKE BOATS OPERATE ‘BOW HIGH’, RESTRICTING FORWARD VISION

Even industry Websites Show Poor Forward Visibility

(from a video at malibuboats.com)



CAN THIS DRIVER SEE DIRECTLY AHEAD?



WHAT WOULD THE NORTHWOODS BE WITHOUT LOONS?

Loon eggs are just inches above water, so loons build nests in areas sheltered from wind driven waves.

Eggs hatch in June - early July.

Big surf wakes wash over the nests, chilling or toppling the eggs.

Young chicks are vulnerable to large wakes.



WHAT ARE MINIMUM RESTRICTIONS?

IF THE LAKE LACKS SIZE/DEPTH TO SUPPORT AT LEAST 50 ACRES AT 700/25, PLEASE CONSIDER A PROHIBITION

- BE CERTAIN TO CAREFULLY CONSIDER INVASIVES ISSUES IF YOU DO DECIDE TO CONTINUE TO ALLOW WAKE SURFING
- MANY MANUFACTURERS INSTRUCT BOAT OWNERS NOT TO RUN BALLAST TANK PUMPS DRY, FOR FEAR OF DAMAGING THE PUMPS
- WHILE NO ONE REMOVES A BOAT WITH FULL BALLAST TANKS… MANY OWNERS LEAVE SEVERAL GALLONS OF WATER IN EACH OF THE BALLAST TANKS

WHAT ABOUT THE THERMOCLINE AND TWO-STORY LAKES

- NO BOAT EXCEPT SURF BOATS DISTURBS WATER NEARLY SO DEEP
- MANY LAKE SCIENTISTS HAVE EXPRESSED CONCERN ABOUT IMPACTS ON THE THERMOCLINE AND TWO-STORY LAKES
- THE SCIENCE IS UNCERTAIN. NO ONE KNOWS HOW GREAT AN IMPACT THERE IS

FOREST CO. HAS FEW LAKES BIG AND DEEP ENOUGH FOR WAKE SURFING

FOREST CO. HAS MANY LAKES--- BUT FEW ARE LARGE/DEEP ENOUGH FOR WAKE SURFING

SURFERS WILL COME TO YOUR LAKES IN INCREASING NUMBERS EACH YEAR … UNLESS YOU ESTABLISH ORDINANCES

SURFERS LEASE RENTAL HOMES FOR SURFING ON LAKES THEY DO NOT KNOW

WISCONSIN HAS NO STATE LAWS SPECIFIC TO WAKE SURFING

THERE ARE NO STATE LAWS SPECIFIC TO WAKE SURFING

UNDER WISCONSIN LAW, IT IS PERFECTLY LAWFUL TO WAKE SURF 100’ FROM SHORE IN 5’ OF WATER

STATE LAWS PROHIBIT TRANSFERRING BALLAST WATER AND DUMPING ANTIFREEZE… BUT THE DNR WON’T ENFORCE THEM

STATE ACTION

VERMONT--- PROHIBITS WAKE SURFING UNLESS A LAKE HAS 100 ACRES THAT ARE OVER 500 FT FROM SHORE AND 20 FT DEEP

INDIANA– PROHIBITS WAKE SURFING ON LAKES SMALLER THAN 300 ACRES

MAINE-- PROHIBITS WAKE SURFING UNLESS 15 FT DEEP AND 300 FT FROM SHORE

SOME SOUTHERN STATES -- WITH NO NATURAL LAKES HAVE ENACTED LAWS BASED ON THE "MODEL INDUSTRY BILL" WHICH PROVIDES ONLY 200' PROTECTION AND NO DEPTH PROTECTION

NO WI WAKE SURFING LAW ON HORIZON

- **2023/24 LEGISLATURE --** THREE BILLS INTRODUCED
- **2025/26 LEGISLATURE–** THREE BILLS INTRODUCED
- **IMPASSE BETWEEN INDUSTRY AND LAKE ADVOCATES**– PROGRESS UNLIKELY AT STATE LEVEL IN NEAR FUTURE
  - **THE INDUSTRY IS RICH… AND MAKES HUGE POLITICAL "DONATIONS"**

CERTAINTY IN PROTECTING LAKES CAN ONLY COME FROM TOWN BOARDS

WISCONSIN UNLIKELY TO REGULATE WAKE SURFING ANYTIME SOON

THE DNR HAS DONE NOTHING AND WILL DO NOTHING

COUNTIES CANNOT REGULATE LAKES

- **COUNTIES CAN PROTECT ONLY RIVERS AND STREAMS**

MANY TOWNS HAVE PROTECTED THEIR LAKES AND LAKE USERS

95 TOWN ORDINANCES NOW IN PLACE IN WISCONSIN

- 87 OF THESE ARE PROHIBITIONS

- THE REMAINING 8 RESTRICT DISTANCE FROM SHORE OR DEPTH
- TYPICAL DEPTH RESTRICTION IS 700’ FROM SHORE

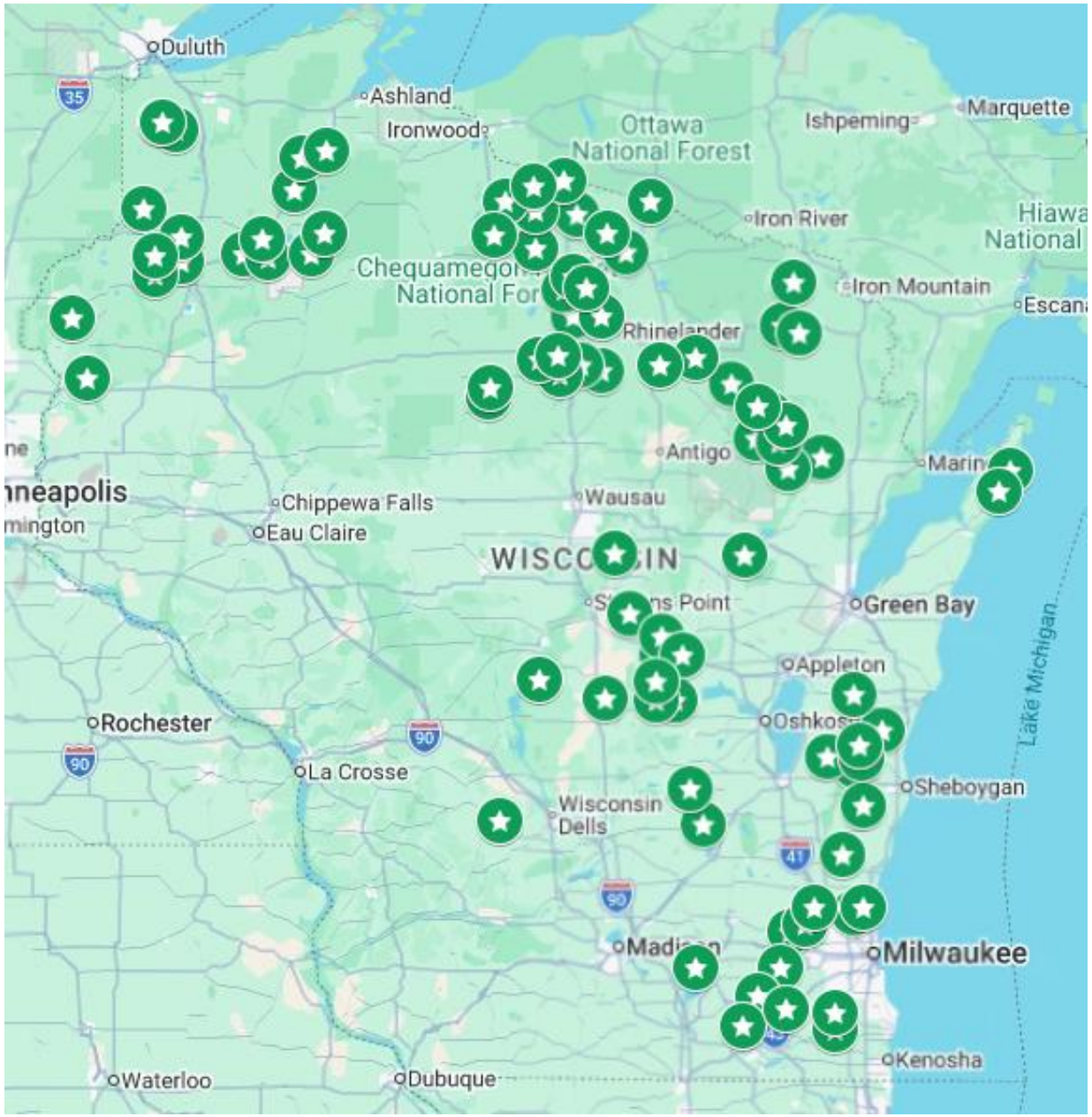
EXISTING TOWN ORDINANCES COVER 425 LAKES

- 20% OF ALL WISCONSIN LAKES OVER 50 ACRES

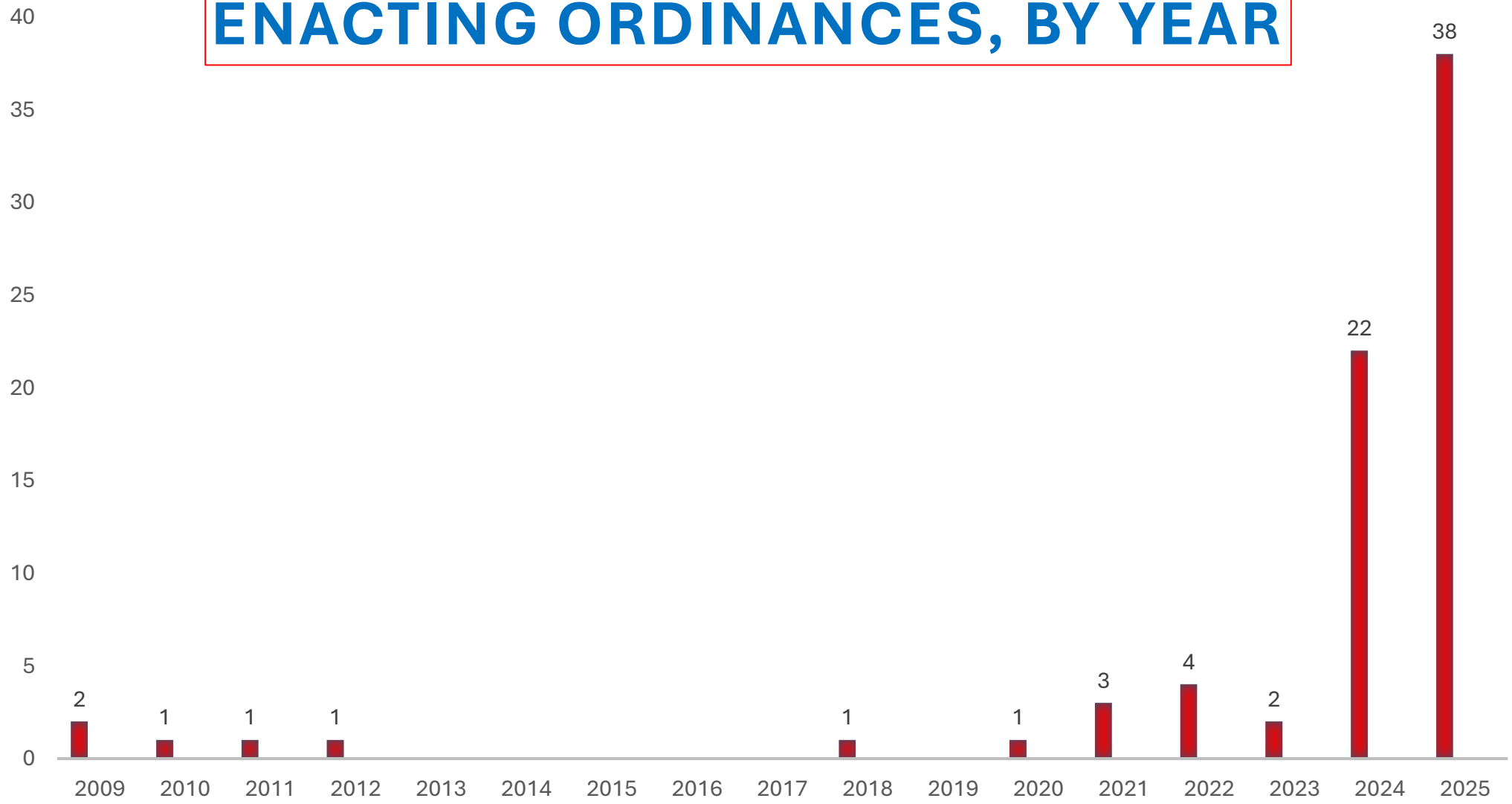
MANY MORE TOWNS ARE WORKING ORDINANCES

95 TOWNS HAVE ORDINANCES

- **MANY OTHER TOWNS IN PROCESS**
- **426 LAKES COVERED**



NUMBER OF WISCONSIN TOWNS ENACTING ORDINANCES, BY YEAR



LOCAL ORDINANCES TO PROTECT LAKES

- EACH TOWN MUST DECIDE FOR ITSELF IF IT WANTS TO ESTABLISH A TOWN ORDINANCE TO PROTECT ITS LAKES AND LAKE USERS
- MOST ORDINANCES FOLLOW A COMMON TEMPLATE
- THE LAST WILDERNESS ALLIANCE PROVIDES FREE ASSISTANCE
- THE LWA WAS INVOLVED IN 67 OF THE LAST 80 ORDINANCES ENACTED

CREATING A TOWN ORDINANCE REGULATING WAKE SURFING IS NOT DIFFICULT

- **WISCONSIN LAW AUTHORIZES TOWNS TO REGULATE BOATING ON THEIR OWN LAKES AND RIVERS -- *WIS STAT 30.77(3)***

- **TO PROTECT YOUR LAKES, IT WILL TAKE ACTION EITHER BY MADISON OR YOUR TOWNS**
  - **DON'T COUNT ON MADISON**
  - **NO ONE WILL EVER CARE AS MUCH ABOUT YOUR LAKES AS YOU**

THE PROCESS FOR SECURING AN ORDINANCE

- TOWN SETTLES ON WHAT TYPE OF ORDINANCE IT WANTS
- TOWN BOARD APPROVES DRAFT ORDINANCE AND ‘CONDITION REPORT’ AND SENDS TO DNR FOR ‘ADVISORY REVIEW’
- DNR PROVIDES ADVISORY REVIEW LETTER
- REQUIRED 60 DAY WAIT BEFORE A TOWN CAN ENACT ORDINANCE. MEASURED FROM SUBMISSION TO DNR

STANDARD TEMPLATE ORDINANCE IS SIMPLE

ORDINANCE NO. 2024- ___

Town of ***(Town name here)*** ,_____ County, Wisconsin

AN ORDINANCE RESTRICTING CERTAIN ARTIFICIAL WAKE ENHANCEMENT

WHEREAS, in the interest of public health, safety, and/or welfare, including the public's interest in preserving natural resources, the Town of _____("Town") has the authority to enact ordinances covering waters within its jurisdiction if the ordinances are not contrary to or inconsistent with Chapter 30, Wis. Stats., and they relate to the equipment, use, or operation of boats or to any activity regulated by Sections. 30.60 to 30.71, Wis. Stats.; and

WHEREAS, there exists within the Town multiple lakes; and

WHEREAS, artificially enhanced wakes can cause environmental damage to lakes and lakeshore, including resuspension of sediment adding nutrients to the water and increased risk of algal blooms, turbidity, shoreline erosion, and threats to aquatic life and waterfowl; and

WHEREAS, boats with ballast systems increase the likelihood of aquatic invasive species being introduced and spread on lakes; and

WHEREAS, artificially enhanced wakes can damage shoreline, lake bottom, moored boats, and shoreline structures including docks; and

WHEREAS, operating boats in a stern down manner creates downward prop wash, disturbing the lake bottom far below the wave zone, 25 feet and more below the surface; and

WHEREAS, artificially enhanced wakes can endanger swimmers, anglers, and other watercraft; and

WHEREAS, the use of ballast and wake enhancing fins can cause unsafe operation by causing the bow to rise obscuring vision forward; and

WHEREAS, the Town submitted a draft of this ordinance to the Wisconsin DNR for advisory review at least 60 days prior to passage, pursuant to 30.77(3)(d), Wis. Stats.; and

WHEREAS, the Town Board, after considering public comments and any DNR suggestions, determines that adopting this Ordinance is consistent with all other ordinances of the Town and would promote the public health, safety and welfare, including the public's interest in preserving natural resources;

NOW, THEREFORE, the Board of Supervisors of the Town of *(Town name here),* _____ County, Wisconsin, does hereby ordain as follows:

Section 1. Applicability and Enforcement: The provisions of this ordinance shall apply to all lakes wholly within the Town of (Town name here) _____ County, Wisconsin. This ordinance shall be enforced by all officers of (Town name here) _____ County, Wisconsin and all other individuals empowered to enforce ordinances in this Town.

Section 2. Certain Artificial Wake Enhancement Prohibited

(1) Prohibited Equipment. No person may use or employ ballast tanks, ballast bags or fins to cause a boat to operate in a bow-high manner, or which increases or enhances a boat's wake.

(2) Prohibited Operation. No person may operate a boat in an artificially bow-high manner having the effect of increasing the boat's wake. Such prohibited operation shall include wake enhancement by use of ballast tanks, or ballast bags, or mechanical fins, or continuous operation at transition speed (the speed below planing speed in which a boat is operating in plowing mode).

(3) Certain Operations Excluded. In no event shall any of the following operations be deemed a violation of this Ordinance, provided such operations do not use or employ ballast tanks, water sacks or wake enhancing fins: i) water skiing, ii) tubing, iii) wake boarding employing a tow rope; iv) brief transition operation to empty a boat of bilge water, or v) brief transition operation of a boat accelerating into a planing condition.

Section 3. Penalty.

(1) Wisconsin state boating penalties as found in s. 30.80, Wis. Stats., and deposits established in the Uniform Deposit and Bail Schedule established by the Wisconsin Judicial Conferences, are hereby adopted by reference, except all references to fines are amended to forfeitures and all references to imprisonment are deleted.

(2) To the extent that the penalty for any violation of this Ordinance is not provided under Wisconsin state boating penalties as found in s. 30.80, Wis. Stats., any person violating this Ordinance shall forfeit $500 for the first offense and shall forfeit $1000 for the second offense within one year. Deposits established in the WISCONSIN CIRCUIT COURT FEE, FORFEITURE, FINE AND SURCHARGE TABLES shall also apply to any violation.

Section 4. Severability. Should any portion of this Ordinance or the affected Code Section(s) be held invalid by a court of competent jurisdiction, the remainder shall not be affected.

Section 5. Effective Date. Upon adoption, this Ordinance shall take effect the day after publication or posting.

Enacted: _____, 2024 **TOWN OF *(Town Name Here)***

By _____

_____, Town Chair

CLERK'S CERTIFICATE OF ENACTMENT

I hereby certify that the foregoing Ordinance was duly enacted by the Town of *(Town Name)* Board of Supervisors on the date indicated above.

Dated: _____, 2024 *(signature here)*_____

_____, Town Clerk

ORDINANCE PROCESS HAS ADDITIONAL REQUIREMENT FOR 'BORDER LAKES'

- WHERE A LAKE SPANS A TOWN BORDER, ALL TOWNS WITH SHORELINE MUST ENACT AN IDENTICAL ORDINANCE

OR

- FOR A "TWO TOWN LAKE" ONE OF THE TOWNS MAY ACT ALONE, IF IT HAS AT LEAST 60% OF THE SHORELINE
    - BUT IN THIS INSTANCE, THERE MUST BE A PUBLIC HEARING

ENFORCEMENT --- RARELY NEEDED

- WAKE SURFING PROHIBITIONS ARE RARELY VIOLATED
- THE ORDINANCE IS SIMPLE. VIOLATIONS ARE OBVIOUS. ALMOST ALL WAKE SURFERS RESPECT THE LAW
- ACROSS ALL WISCONSIN, ONLY A FEW INSTANCES OF ENFORCEMENT

BUT WHAT IF MY SMALL TOWN CANNOT ENFORCE?

- SHOULD NOT DETER A TOWN FROM ENACTING AN ORDINANCE
- IMPORTANT FOR TOWNS TO ENACT IMPORTANT ORDINANCES, TO EXPRESS THE SENSE OF THE COMMUNITY REGARDING CONDUCT
- THIS IS THE “SOCIAL CONTRACT”--- PEOPLE CHOOSING TO LIVE AND PLAY IN AN AREA ARE EXPECTED TO FOLLOW THE RULES… EVEN IF LAW ENFORCEMENT IS NOT AVAILABLE

THREATS OF LITIGATION

TOWNS CONSIDERING AN ORDINANCE ARE OFTEN THREATENED

ACROSS THE ENTIRE U.S. NO SUIT CHALLENGING A WAKE SURFING ORDINANCE HAS SUCCEEDED

FOUR DECIDED LAWSUITS ACROSS THE U.S.– IN EACH OF THEM, THE WAKE SURFERS LOST

- **TWO OF THE FOUR DECIDED CASES HAVE BEEN IN WISCONSIN.**
- **THREE OF THE FOUR CASES WERE IN FEDERAL COURTS**
- **THE ONLY TWO REMAINING SUITS ARE BOTH IN WISCONSIN AND ARE BOTH UNDER PENDING MOTIONS TO DISMISS**

LITIGATION IN WISCONSIN

WAKE SURFERS TRIED TO GET AN INJUNCTION IN MANITOWISH WATERS. IN AN AUG 2025 RULING, THE WAKE SURFERS LOST. THE COURT STATED:

- "*... this is not a ban on a boat ... this is a ban on activity that there is a rational basis for restricting*." (p. 22)

- "*... this ordinance is tailored to the health, safety, and protection of the public and the environment*." (p. 23)

- "***But these are ordinances that an average person can read and understand. So they*** [the Town] ***gave notice, and they*** [the ordinances] ***are rationally related to the objectives—the legitimate objectives. So the request for an injunction is denied, and the matter is closed***." (pp. 23-24)

THERE ARE TWO REMAINING SUITS IN WISCONSIN, OUT OF 95 ORDINANCES

- FOUR SUITS HAVE BEEN FILED IN WISCONSIN… SURFERS HAVE ALREADY LOST THE FIRST TWO
- EACH LIVE SUIT INVOLVE TOWNS WITH A LAKE OR CHAIN WITH AT LEAST +15 RESIDENT WAKE SURF BOATS
- BOTH SUITS ARE NOW SUBJECT TO "MOTIONS TO DISMISS' AND SHOULD BE RULED ON BY JANUARY 2027, PERHAPS SOONER
- FOR TOWNS WORRIED ABOUT LITIGATION, LITIGATION IS VERY UNLIKELY
- EVERY TOWN SUED HAS HAD 100% OF THE COSTS COVERED BY ITS INSURANCE

SUMMARY

ONLY TOWN BOARDS CAN PROTECT YOUR LAKES

THE DNR WILL DO NOTHING… THE COUNTY CANNOT REGULATE LAKES… WISCONSIN MAY NEVER ESTABLISH A LAW

TOWN BOARDS EXIST TO PROTECT THE ‘HEALTH, SAFETY AND WELFARE’ … AND TO PROTECT THE NATURAL RESOURCES OF THE TOWN

IF TOWNS DO NOT ACT, WAKE SURFERS WILL COME TO UNSUITABLE LAKES IN INCREASING NUMBERS

RECOMMENDATION

- THE VAST MAJORITY OF LAKES ARE TOO SMALL OR SHALLOW FOR WAKE SURFING… ON THESE, IT SHOULD NOT BE ALLOWED
- IF A TOWN DECIDES THAT WAKE SURFING ON A LAKE IS OK, IT SHOULD ENACT AN ORDINANCE CONTROLLING WHERE IT OCCURS
- IF A LAKE LACKS A LARGE AREA SATISFYING 25’ DEEP AND 700’ FROM SHORE, IT IS NOT BIG/DEEP ENOUGH FOR WAKE SURFING
- PLEASE PROTECT YOUR LAKES FROM INVASIVES

PLEASE PROTECT FOREST CO. LAKES… THEY CAN'T PROTECT THEMSELVES

THANK YOU!

LAST WILDERNESS ALLIANCE

LAKES IN FOREST COUNTY (PARTIAL LIST)

LAKE	ACREAGE	Max Depth	Ave Depth	
Metonga Lake	2038	79		
Pine Lake	1643	15	about 10	Far too shallow
Butternut Lake	1292	42		
Pickeral Lake	1272	19	5	Far too shallow
Little Rice Lake	1201	10		Far too shallow
Lake Lucerne	1039	73	31	
Franklin Lake	892	46	19	
Wabicon Lake	513	15		Far too shallow
Birch lake	466	75		
Scattered Rice Lake	428	10		Far too shallow
Lake Julia	404			
Crane Lake	336	25	12	Insufficient deep water
Silver Lake	317	20		Far too shallow
Little Sand Lake	237	20		Far too shallow
Peshtigo Lake	147	4		Far too shallow

THE PUBLIC TRUST DOCTRINE

- **PTD ALLOWS REGULATION TO PROTECT THE ENVIRONMENT AND OTHER BOATERS**

- **THIS MEMO EXAMINES A POTENTIAL SUIT AGAINST A WAKE SURFING ORDINANCE. IT CONCLUDES:**

  "A challenge under the Public Trust Doctrine would be relatively unlikely to succeed."

Wisconsin Legislative Council



Anne Sappenfield
Director

TO: SENATOR MARY FELZKOWSKI

FROM: Anna Henning, Principal Attorney

RE: The Public Trust Doctrine and Wake Boat Regulations

DATE: December 6, 2023

You asked whether legislation to restrict wake boats[1] would be upheld if challenged under the Public Trust Doctrine. For reasons discussed below, the short answer is that such legislation would likely be upheld.

THE PUBLIC TRUST DOCTRINE

The Public Trust Doctrine is rooted in the Wisconsin Constitution. As developed and interpreted by the courts, the doctrine provides that navigable waters are held in trust by the state for the benefit of the public. The doctrine has been interpreted to require the Wisconsin Legislature to serve as trustee for the public's rights to navigate and enjoy recreational activities in the waters of the state.[2]

The Legislature has generally delegated its trustee obligations to the Department of Natural Resources (DNR), except where statutes state otherwise. Evidence of that delegation is found, in pait, in ss. 281.11 and 281.12, Stats., which specify that the DNR "shall serve as the central unit of state government to protect, maintain and improve the quality and management of the waters of the state, ground and surface, public and private," and "shall have general supervision and control over the waters of the state."3 In addition, the DNR is specifically authorized to pursue relief regarding possible infringements of public rights relating to navigable waters. [s. 30.03 (4)(a), Stats.]

The Public Trust Doctrine protects a broad range of public rights, including the right of navigation and the recreational use of waters, including the enjoyment of scenery. The doctrine protects such rights in all navigable bodies of water.4

[1] Wake boats, which are sometimes called "surf boats" or "wakeboard boats," are boats designed to create larger wakes for use by a wakeboarder, wakesurfer, or water skier.

[2] For additional background regarding the Public Trust Doctrine, see Legislative Reference Bureau, *The Public Trust Doctrine*, Reading the Constitution vol. 5, no. 4 (2020); and Legislative Council, *The Public Trnst Doctrine*, Issue Brief (Oct. 2019).

INDUSTRY RESPONSE IN WISCONSIN

- **INDUSTRY ATTEMPTS TO ELIMINATE KILL 'LOCAL CONTROL' IN 23/24 LEGISLATURE – DEFEATED**
- **INDUSTRY RECENTLY MADE HUGE "DONATIONS" TO WISCONSIN LEGISLATURE**
- **THE INDUSTRY BILL INTRODUCED IN JANUARY 2026 PROVIDED FOR STATE STANDARD OF 300' FROM SHORE AND 300' FROM ALL OTHER BOATS… AND AGAIN TRIED TO KILL LOCAL CONTROL**

WHAT IS THE BASIS FOR INDUSTRY POSITION ON 200’ FROM SHORE AND 10’ DEEP?

THE INDUSTRY CLAIMS ITS 200’ RECOMMENDATION IS SUPPORTED BY THE GOUDEY AND FAY STUDIES… BUT THESE WERE COMMISSIONED AND PAID FOR BY THE INDUSTRY

THE INDUSTRY HAS ONE AND ONLY ONE MOTIVATION– TO SELL AS MANY SURF BOATS AS IT CAN

SHOULD TOWNS ACCEPT THE INDUSTRY POSITION ?

DO VOLUNTARY WAKE SURFING ZONES WORK?

OPTION FOR BIG LAKES WITH CENTRAL DEEP AREAS FAR FROM SHORE

BUT UNLESS THE ZONE IS AT LEAST 50 ACRES, SURFERS WILL STRAY. ZONE SHOULD EXCEED 100 ACRES FOR BEST HOPE OF COMPLIANCE

DOWNSIDES

- **ZONES DON'T WORK UNLESS LAKE IS BIG/DEEP ENOUGH FOR A BIG ZONE**
- **INVASIVES RISK FROM VISITING BALLASTED BOATS**
- **DEPENDS ON VOLUNTARY COMPLIANCE – MOST COMPLY… BUT SOME WON'T**