

## Regulating Personal Watercraft on Wisconsin's Waters

Many of our readers have expressed displeasure and frustration about operation of personal watercraft (PWCs) on Wisconsin waters. Their comments run the gamut from concerns over noise and safety of other boaters to worries about effects on water quality and aquatic life. We decided to ask William Burns, Program Coordinator for the Wisconsin Association of Lakes, and William Engfer, Boating Law Administrator for the Wisconsin Department of Natural Resources, to share their views with us.

*LT: As we understand it, this controversy involves two questions. The first is: "Do personal watercraft threaten the safety of the boating public or the environment differently than ordinary motorboats?"*

**A-Burns:** PWC do uniquely threaten both the personal safety of other lake users, as well as lake ecosystems. In terms of the former, while PWCs account for only 1% of all watercraft in Wisconsin, they are involved in about 25% of all state boating accidents in recent years. The accident rate in the case of users of rented PWCs is 100 times higher than the figure for motorboats in general. PWCs also raise environmental concerns. They can be operated in much shallower waters than other watercraft, where their high speeds and high noise levels can damage water bird habitats and aquatic vegetation, or drive reclusive species from their homes. Shallow water operation also can cause shoreline erosion, and resuspension of lake bed nutrients and pollutants, contributing to nuisance algae or aquatic plant growth. Finally,

PWCs conflict with other recreational uses, primarily because of the noise they generate. Noise from PWCs tends to be concentrated in shorter bursts, and is usually closer to other individuals on lakes than larger craft, which usually operate in deeper waters offshore.

**A-Engfer:** Personal watercraft, like any other watercraft, can threaten the safety of the public if operated improperly. The degree to which PWC affect the environment or safety is dependent on the operator. While PWC may have less of an effect on the environment because of the jet drive, they also can go in areas where prop-driven boats cannot.

*LT: The second question is: "Can personal watercraft be regulated differently than motorboats?"*

**A-Engfer:** Any watercraft can be regulated separately (differently) if justified.



**A-Burns:** Yes. As Attorney General Doyle's recent opinion on this subject indicates, Chapter 30 of the Wisconsin statutes authorizes enactment of ordinances which treat certain kinds of watercraft differently if justified "by reasons of public health, safety or welfare." The state itself has singled out PWCs for special treatment, regulating times that these craft may be operated, as well as maximum operation speeds, and prescribing certain safety features not required for other watercraft. Based on the unique environmental and safety considerations I have outlined above, I think local governments have clear statutory and constitutional authority to regulate PWCs differently than other kinds of craft, as long as those regulations are narrowly drafted to meet such objectives. From a standpoint of federalism, local governments are uniquely qualified to do so also, because they more fully understand local conditions than more remote regulators.

*LT: In September, State Attorney General James Doyle provided his opinion that classes of watercraft may be regulated differently, if "the distinction is supported by sufficient facts." Will you describe how this opinion affects personal watercraft operation on Wisconsin waters from the viewpoint of a PWC aficionado and someone concerned about their adverse effects?*

**A-Burns:** The Attorney General's opinion doesn't provide local governments with *carte blanche* to ban the operation of PWCs on their lakes; rather it indicates that each ordinance must be examined on a case-by-case basis to determine if it furthers the interest of public health, safety or welfare. Thus, local governments must marshal facts which demonstrate: 1) PWCs have unique impacts on lakes within their jurisdiction which justify regulating them in a manner(s) different than other watercraft; and 2) the proposed ordinance would contribute to public health, safety or welfare.

**A-Engfer:** The opinion had basically little effect on either the enthusiast or the person concerned about PWC effects. It reaffirmed a

position that watercraft can be regulated differently but left intact the common rules and guidelines that all ordinances must meet prior to being enacted.

*LT: Mr. Engfer - Will you describe the process that a municipality must follow to adopt boating ordinances to regulate PWCs?*

**A-Engfer:** If a municipality feels it has justification, and can show that the unique class of PWC is causing a public health, safety, or welfare problem separate from that of other unique classes of watercraft, it can create a condition report supporting its position. The Municipality can consult with local DNR Law Enforcement Safety Specialists who should help them create the ordinance if the problems are substantiated and supported to be caused by this unique class of watercraft. An ordinance is then drafted for review by the Department of Natural Resources and sent back to the Municipality for final approval. Other unique classes of watercraft should be included as applicable if the problems are related to more than one group.

*LT: Mr. Engfer - What are the most common errors made in the adoption process and what could be done to remedy them?*

**A-Engfer:** The most common errors made in the adoption process are those of failing to create a penalty section, failure to clarify terms so that they are understandable and enforceable, and not putting the ordinance in the proper format. The best way to avoid this is to use the sample ordinances supplied in the DNR handout on ordinance writing and consult your local Law Enforcement Safety Specialist (L.E.S.S.). The L.E.S.S. routinely assist municipalities in drafting ordinances which cuts time and cost to the community. If there is a question on the Department's position, ask the L.E.S.S. to come to your meetings and discuss the issue; usually it's two different interpretations of the same word that causes problems.



*LT: Many communities have adopted horsepower limits for some lakes. Are these issues similar to those involving personal watercraft? How should they be resolved?*

**A-Burns:** The issues are similar from a philosophical standpoint in that the issue in both cases is reconciling potentially conflicting uses of lakes. The objection that I have with some owners of powerboats and personal watercraft is that they feel they have an absolute right to pursue recreational opportunities, with minimal regard for the interests of others. We must work together in a spirit of cooperation and compromise to optimize the enjoyment of all lake users, while preserving the integrity of lake ecosystems.

**A-Engfer:** The Department has only two communities who have adopted horsepower limitations in ordinances per 30.77 Wis. Stats. There currently is conflicting lower court cases on whether this is legal. The best way to resolve this issue is to evaluate what the problem regarding public health, safety, or welfare is, and then meet with your local community members and invite the LESS to attend! There are some similarities between regulation of watercraft differently and horsepower regulation.

*LT: Can you suggest ways the Department of Natural Resources, the Wisconsin Association of Lakes and individual property owners and water recreationists can work together on these issues to provide a healthy and safe water environment for all of us to enjoy?*

**A-Engfer:** The public has to be involved from the beginning of the process. The biggest prob-

lem I see is that people come to the Department after an ordinance or law is passed and want the Department to intervene because they feel the ordinance isn't justified or that it discriminates. People have to make an effort to be involved. Local units of government, concerned organizations, the public, and the DNR have to work as a team to address the issues facing us today and in the future. We all have to make an effort to work together and not put things off until we have lost an opportunity to promote safety around our waterways.

**A-Burns:** Every effort should be made to establish dialogue between environmental organizations, government entities and manufacturers of personal watercraft to minimize the impact of PWCs on the environment. DNR has opened up a discussion with PWC manufacturers, but my big fear is that they will be co-opted because of strong pressure to maximize the inflow of tourist dollars. As a consequence, I want to make sure environmental groups are part of the discussion also. At the community level, we need more meetings between all lake users to express their concerns and find common ground. Many times conflicts also arise from misunderstanding, and a misconception that this is a zero-sum game. In close-knit communities, where citizens must work with each other on a regular basis, this is extremely short-sighted.

*Thank you, gentlemen. Lake Tides' New Year's wish for all of us is an agreeable solution to this and other disagreements over use of Wisconsin's water wonderlands.*







## Stewardship Nominations Due!

Has your lake group done an extraordinary job? Is there someone who deserves special recognition for distinguished service on your lake?

Now is the time to consider nominating a commendable individual or group from your lake organization for the **Wisconsin Lake Stewardship Award**. These awards will be presented at the 1995 Wisconsin Lakes Convention Awards Breakfast on Saturday, April 8. Individuals and groups are evaluated separately. Groups can include lake associations, lake districts, property owners groups, fishing clubs, or any other service group.

The deadline for submitting nominations is March 1. **Send your nomination letter and supporting materials to Dorothy Snyder, UWEX-CNR, University of Wisconsin, Stevens Point WI 54481 [715/346-2116].**

## Dam Safety News

The Department of Natural Resources will be conducting dam safety seminars throughout the state this spring. The focus of these seminars will be "Information for Owners/Operators." For more information and registration forms, contact Eleanor Lawry, DNR WZ/6, Box 7921, Madison WI 54707 (608/266-1925).

- March 1: Madison (Rockys, Mineral Point Rd. at the Beltline)
- March 7: Wausau (Best Western Midway, 2801 Martin Ave.)
- March 9: Spooner (American Budget Inn, STH 70)

Municipal dams planning to apply for state grant money through the Dam Maintenance, Repair, Modification, Abandonment and Removal Aid Program (NR335), are reminded that Dam Grant applications are due to Dick Knitter by April 1. Contact your District Engineer with any questions or comments. [North Central and Lake Michigan: Meg Galloway, 608-266-7014; Northwest: Linda Hyatt, 608-266-7019; Southern: Susan Josheff & Rich Vogt, 608-275-3305; Western & Southeast: Bill Sturtevant, 608-266-8033]

## Lakes and Development: Pro-active Stormwater Management A Pre-Convention Technical Session

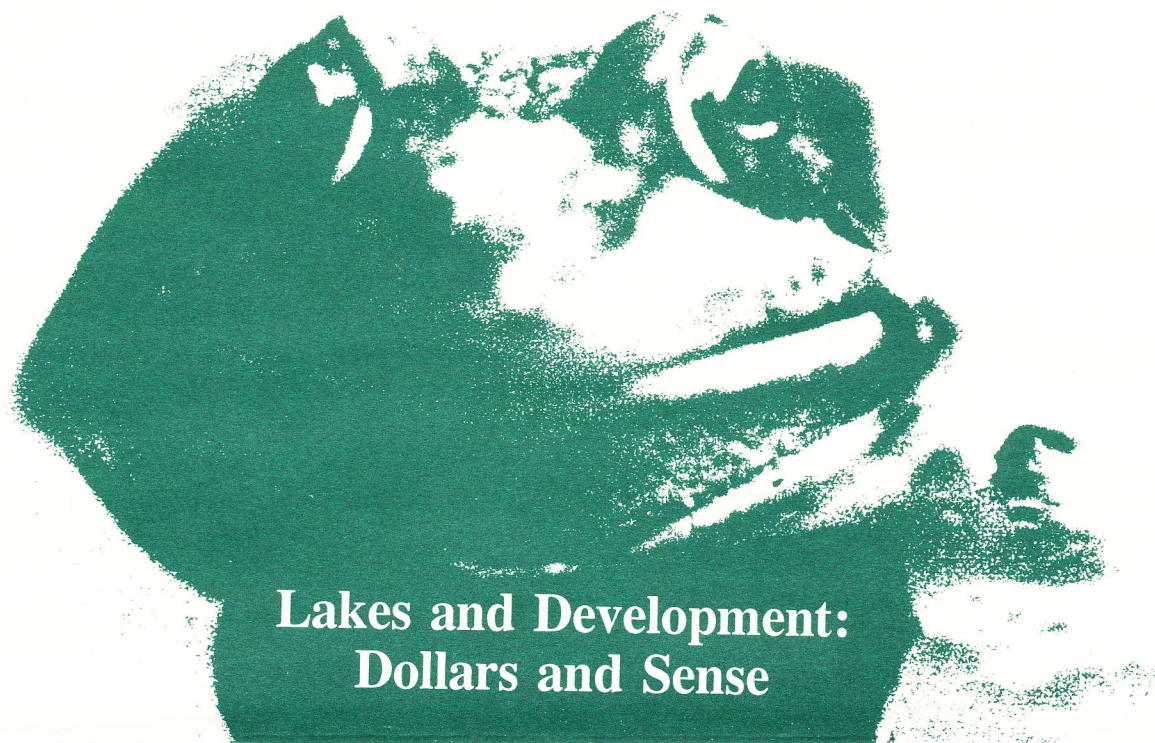
- *Is your community looking for practical ways to manage stormwater in developing areas?*
- *Is your consulting firm expanding into stormwater management planning?*
- *Would you like to hear about other communities' experiences with proactive stormwater management planning?*

The 1995 Wisconsin Lakes Convention will feature a pre-conference technical session on Thursday, April 6. This special technical session is geared toward professionals who deal with stormwater management issues but is open to all Lakes Convention participants. The separate registration fee of \$35.00 includes workshop materials and lunch. [See the Lakes Convention registration form on page 5 or call Dorothy Snyder at 715-346-2116 for a complete agenda.]

This workshop is sponsored by the Wisconsin Association of Lakes, a chapter of the North American Lake Management Society, and the U.S. EPA Region V Clean Lakes Program, and is one in a series of five regional workshops being funded by the NALMS Midwest Clean Lakes Citizen Education program. For information on the other regional workshops, call Karen Vigmostad at 517-336-1628.



**Wisconsin Lakes Convention**  
**April 6-8, 1995**  
**Stevens Point Holidome/Convention Center**



**PLEASE PRE-REGISTER BY MARCH 25**

Name(s) \_\_\_\_\_

Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Lake \_\_\_\_\_ County \_\_\_\_\_

- ☐ My group would like a display table. ☐ I have attended the convention \_\_\_\_\_ times before.
- ☐ Reserve my copy of the Lake Leader's Handbook, \$10.00/copy. \_\_\_\_\_ # of copies
- ☐ Pre-Conference Technical Session, Thursday, April 6, \$35.00 fee includes materials and lunch.
- ☐ 1995 Lakes Convention, \$40 per person covers materials, workshops, Friday lunch and Saturday breakfast.

\_\_\_\_\_ Total amount enclosed. Send check payable to UW-Extension to:

**Dorothy Snyder, UWEX-Lakes  
CNR, UWSP  
2100 Main St.  
Stevens Point, WI 54481**

**Phone: 715/346-2116**



**1995 Wisconsin Lakes Convention**  
***Lakes and Development: Dollars and Sense***

"Lakes and Development: Dollars and Sense" will be the theme of the **17th Annual Wisconsin Lakes Convention** to be held on Friday and Saturday, April 7-8, at the Stevens Point Holidome and Convention Center. This year's convention will be bigger and better than ever and has expanded to include a pre-conference topical specialty workshop on Thursday, April 6. Funding has been provided by the U.S. Environmental Protection Agency Region V and the North American Lake Management Society as part of the Midwest Clean Lakes Citizen Education Program.

Thursday's specialty workshop will explore stormwater management and lakeshore development. The agenda for Friday continues to investigate the issue of lakeshore development and will include presentations on Land Use and Lakes, Learning the Hard Way: Experiences from Other States, Citizen Instigated Planning and Implementation, Low-Tech Solutions, Innovative Planning, and The Vision of Lakes. Saturday's workshops are organized into streams with subjects ranging from Aquatic plants to Zebra mussels.

It's time to get in gear and start another lake year. Meet old friends and make new ones while exploring topics that are important to you! Please join us for another exciting conference.

Lisa Conley, WAL and Lowell Klessig, UW-EX, UWSP, Conference Chairs

*Sponsors: Wisconsin Association of Lakes, Environmental Protection Agency, Wisconsin Department of Natural Resources, University of Wisconsin Extension and University of Wisconsin-Stevens Point.*

**Lodging:** Blocks of rooms are being held at the Stevens Point Holidome and Convention Center (1-800-922-7880 or 715-341-1340) until **March 16, 1995**. Rates are \$49.00/single; \$66.00/double; \$70.00/triple or \$74.00/quad. Ask for the Wisconsin Lakes Convention block. Other hotels in the area include: Super 8 (1-800-800-8000); Road Star (1-800-445-4667); Comfort Suites (715-341-6000), Budgetel (1-800-428-3438).

**Special Pre-Conference Technical Session:**  
**Stormwater Management in Lakeshore Development**

**Thursday, April 6, 1995 — 9:00 am - 5:00 pm**

**Registration Fee: \$35.00**

- Development and Water Quality: The New Land Boom
- Bio-filtration: Using Natural Systems to Manage Stormwater
- New Approaches to Regulating Development
- Lessons From Lake County, Illinois
- Financing Stormwater Utilities
- What Drives Land Use Planning in Wisconsin
- Wisconsin Case Studies
- Protecting Lakeside Communities: Ethics and Aesthetics

[For complete brochure, contact Dorothy Snyder at 715-346-2116 or Wil Burns at 1-800-542-5253]



**Wisconsin Lakes Convention**  
**April 7-8, 1995**  
*Tentative Agenda*

Friday, April 7

- 8:00 am            **Registration/Check-in Begins**
- 8:00 am-  
8:00 pm           **Vendor Exhibits Open** - Mary Platner, WAL, Coordinator
- 10:00 -  
12:00 am        **State of the Lakes: The New Land Boom**  
Introduction by George Meyer, Secretary Wisconsin DNR  
Michael Dresen and Robert Korth, UWEX Lake Specialists
- Learning the Hard Way: Experiences from Other States - Panel**  
a) Lake County, Illinois: Mark Pfister  
b) Florida: Eric Livingston
- 12:00 -  
1:30 pm        **Luncheon** (included in Registration Fee)  
Mollie Beattie, Director-U.S. Fish and Wildlife Service (invited)
- 1:30 -  
4:30 pm        **Citizen Instigated Planning and Implementation: the View from Novi, MI**  
Joe Toth
- Low Tech Solutions: Buffer Strips, Environmental Corridors**  
Steve Apfelbaum, Alan Haney
- Break** Visit with exhibitors in the Expo Center
- Innovative Planning: Wisconsin Examples**  
Jim Seipmann, Lane Kendig
- The Vision of Lakes: Aesthetics and Ethics**  
Lowell Klessig
- 4:30 -  
7:00 pm        **Evening Social**  
☺ WAL Silent Auction  
☺ Raffles  
☺ Visit with Exhibitors  
☺ Hot Hors d'oeuvres (included in Registration Fee)
- 7:00 pm        **Wisconsin Association of Lakes Annual Meeting**  
Coffee and Dessert
- 8:00 pm        **Shorelandscaping**  
Dan Wilson, UWEX-Washington County  
Tom Wilson, UWEX-Waupaca County



## *Tentative Agenda*

Saturday, April 8

7:00-8:30 am     **Awards Breakfast** (included in Registration fee)  
Stewardship Awards will be presented

9:00-12:30     **Concurrent Workshops** Workshops will run concurrently throughout the morning with 15 minute breaks between workshops. Feel free to leap from stream to stream to get the information you need.

**Leadership Training:** This 3-hour workshop features Ben Senturia of the Institute for Conservation Leadership. Plan to attend the entire session to learn communication skills, team building, and interpersonal styles. [*This workshop is limited to 30 participants.*]

**Technical Tactics:** Designed for consultants and other professionals (however lake organizations are welcome), this stream will include technical aspects of:

- Aquatic Plant Management Plan Preparation
- Monitoring Inflows and Nutrient Loads to Lakes
- Lake Modelling and Data Acquisition

**Lessons for Lake Leaders:** An introduction to the Lake Leader's Handbook, this stream will touch on working with people, insurance questions for lake groups, and new rules and regulations in lake management law.

- Working with People
- Insurance—What Lake Groups Need to Know
- Guide to Wisconsin's Lake Management Law

**Volunteer Vitality:** Discover more about Adopt-A-Lake and other lake activities students and youth groups are conducting, plus new facets of the Self-Help Monitoring program.

- Adopt-A-Lake Program and Youth Lake Activities Highlights
- Volunteer Lake Monitoring Updates (2 hour workshop)

**Lakes and the Land:** Learn about a wide variety of topics ranging from aquatic plants to citizen action in zoning issues to the new DILHR rules for private septic systems.

- Getting Your Feet Wet—An Introduction to Lakes
- Law of the Land—Citizen Input in Land Use Planning
- New DILHR Rules for Private Septic Systems

**Healthy Waters:** Hear a real-life story of shoreline restoration, get the inside scoop on the experiences of a fish manager, and hear the latest on the status of zebra mussels in inland lakes.

- Restoring a Shoreline—The Lake Noquebay Story
- Fish Manager's Role in Lake Management
- Zebra Mussel Update

**Professional Partners:** Gain new perspectives on boating ordinances, learn how to obtain grant money for lake projects and how to select the right consultant for your lake project.

- Boating Ordinances
- Lake Grantsmanship
- Working with Consultants



## ON THE WATERS



### Lake Planning and Protection Grants Rules to Change

Public hearings were held in December on the Department of Natural Resources' proposal to revise the administrative rules governing the lake management planning and protection grant programs. The amendments are intended to make the programs more accessible to a wider range of sponsors, enable larger lake planning projects and allow funding of many new types of lake and watershed improvement projects. The revised rules will be presented to the Natural Resources Board for adoption at their February board meeting. If approved as anticipated, the new rules would become effective this summer.

Look for more details in the next issue of *Lake Tides*, or contact your DNR District Lake Coordinator.

### Important Notice to Lake Organizations The Handbook is Here!!!

More help has arrived! The Lake Leaders Handbook will be available at the 1995 Wisconsin Lakes Convention. The intent of the Handbook is to provide support in carrying out your responsibilities as a lake leader.

This handbook contains the largest collection of lake management information, customized for citizen leaders, ever brought together in one document. The Handbook concentrates on the who, what, why, where, and how of running a lake organization (both districts and associations) from start-up through day-to-day business. The Handbook comes in a ring-binder format and contains 12 sections with 22 chapters, covering an extensive range of subjects including Insurance, Motivating People, Grants, Land Use, Open Meetings Laws, Working with Government, and the latest in Lake Law.

The cost of The Lake Leaders Handbook is \$10.00. To reserve your copy for pick-up at the Lakes Convention check the box and include \$10 with your Lakes Convention registration form (see page 5).

### Calendar

- 2/11 **Natural Landscaping Conference**, Milwaukee Audubon Society, UW-Milwaukee Union. Call 414-238-9930 for more information.
  - 4/6 **Lakes and Development: Proactive Stormwater Management**, Pre-Conference Technical Session, Wisconsin Lakes Convention, Wis. Assoc. of Lakes and US EPA Clean Lakes Program, Stevens Point, WI (call WAL at 1-800-542-5253 or UWEX at 715-346-2116 for information).
  - 4/7-8 **Lakes and Development: Dollars and Sense—Wisconsin Lakes Convention**, Holiday Inn and Convention Center, Stevens Point. See brochure, p. 5-8 or call 715-346-2116.
  - 6/21-24 **Who Owns America? Land and Resource Tenure Issues in a Changing Environment**, Land Tenure Center, Madison, WI. Call Gene Summers (608-262-3658) for information.
- Workshops on Forestry Best Management Practices for Water Quality**, March 24-Richland Center; March 30-Cable; April 6-Wausau; April 22-Florence. For more information, call Steve Holaday, Wisconsin DNR (608-264-9247).



**Lake Tides #8526**  
College of Natural Resources  
University of Wisconsin  
Stevens Point WI 54481  
715/346-2116

Non-Profit Organization  
U.S. Postage  
PAID  
Permit No. 19  
Stevens Point, WI



*Published Quarterly*

Editor: Robert Korth  
Associate Editor: Dorothy Snyder  
Contributing Editor: Mike Dresen  
DNR Coordinator: Celeste Moen  
Photography: Robert Korth

The contents of *Lake Tides* do not necessarily reflect the views and policies of UW-Extension, UWSP-CNR, or the Wisconsin DNR. Mention of trade names, commercial products, private businesses or publicly financed programs does not constitute endorsement. *Lake Tides* welcomes articles, letters or other news items for publication. Articles in *Lake Tides* may be reprinted or reproduced for further distribution with acknowledgment to the Wisconsin Lakes Partnership. If you need this material in an alternative format, please contact our office.

ID: BE000BIOGR  
BETSIE GRAHAM  
BIOLOGY  
UWSP 00000

*Printed on Recycled Paper with Soy Ink*

*The following excerpt was taken from Superior Heartland, A Backwoods History, Vol. I, by C. Fred Rydholm of Marquette, MI (1989). The account pertains to Cyrus McCormick (inventor of the reaping machine and president of International Harvester Co. 1902) and his partner Cyrus Bentley. The two men owned large tracts of land and whole lakes in the Upper Peninsula of Michigan. They used the area as a summer getaway for vacationing and entertaining their friends. Maybe recreational use conflict isn't so new... the date was 1905.*

Cameron D. Waterman of Detroit, a member of Huron Mountain from 1899 to 1910, had a son, Cameron B. Waterman, a law student, who had been tinkering with an outboard motor on Pine Lake. Bentley and McCormick inquired about it and found that he was building and selling 25 a year. Mr. Bentley bought two of them, one for Mountain Lake and one for Fortress Lake. As it turned out, no one at Huron Mountain appreciated the racket and smoke and smell, which detracted from the clean tranquility they had learned to love. Efforts were made to stop Mr. Bentley from using his motor, but since he already had it and was only using it to cross the trail, a rule was made that no outboards could be used on any Huron Mountain lakes except Mr. Bentley's motor, and this only on trail crossings — probably not more than a dozen times a year.

The Club blacksmith fitted the longboat with a couple of iron brackets that supported a two-by-four upon which the motor could be mounted. Mr. Bentley was very careful that none of his people broke the rules.

*PS: The first outboard motor was developed in Marquette, MI in 1897 by a Swede named Nels Flodin.*

***1995 Wisconsin Lakes Convention Information Enclosed***