

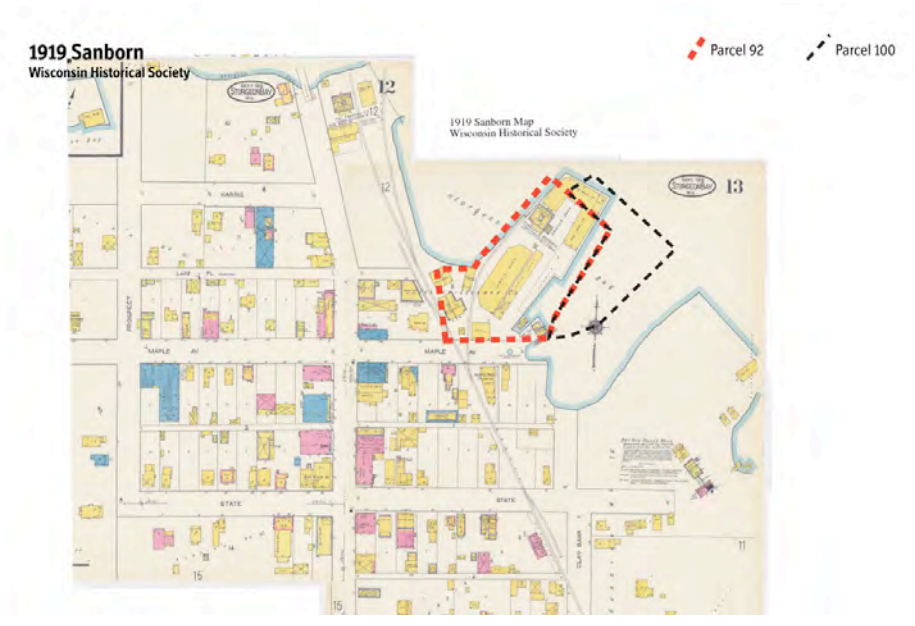
Thank you for the opportunity to speak today. My name is Shawn Fairchild.

I will provide testimony about the systematic nature of artificial filling of both Parcels 92 and 100, knowing that our interest today is Parcel 92. There are other presentations regarding the extensive filling that occurred under the dock and to extend the dock. I will cover the filling that happened not on, but around the dock on both parcels 92 and 100.

We know that all or most of the Dock of Parcel 92 and the waters around the Dock are made of artificial fill based on;

first, a century of non-stop historical evidence, second, Wisconsin DNR records and third, physical evidence.

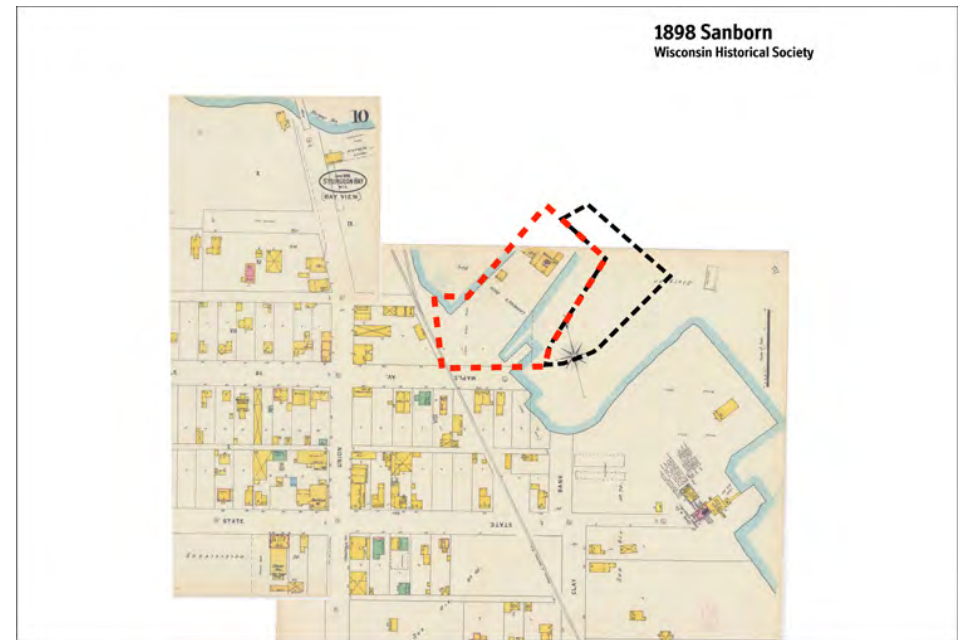
There is a mountain (or should I say a landfill) of evidence of filling at this parcel by the riparian owners. I will submit a small subset of eleven newspaper articles which describe the filling around the Dock, dating from 1892 to 1944, out of the more than 50 found to cover this topic.



Some articles discuss the City’s extending of Maple Street into the Bay (*point*). There are articles that discuss organized efforts by the City to open a gravel pit for the purpose of filling in at the foot of Maple Street. The City also extended a sewer pipe into the Bay at this location with added fill.

On May 12<sup>th</sup>, 1892, The Republican newspaper says

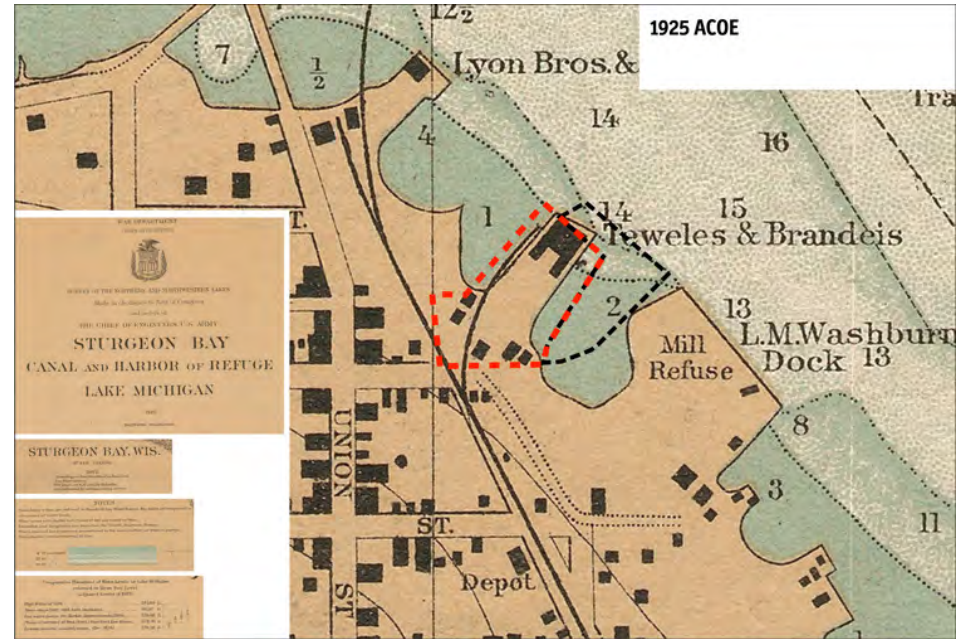
*“Henry Starr came near losing a horse one day this week. He is employed in hauling refuse from the shingle mill (point) to Charles I. Martin dock (point), a single horse and dump cart being needed. In some way the horse struck a soft place in the dump and went through into the water, considerable trouble being experienced before the animal was released.”*



The City was actively engaged in filling at the foot of Maple Street. The October 23<sup>rd</sup>, 1925 Door County Advocate says

*“The City has opened up a gravel or dirt pit at the foot of the hill on Prospect street near the residence of Dr. Kreitser and the earth is being used to fill in at the foot of Maple avenue and Bay street (point) where the sewers have been extend out in to the bay.”*

Prospect street is two blocks all downhill to the foot of Maple street at the water.



I would like to share physical evidence.

I would like to provide a personal account related to filling. In 2015 on April 13, Linda Cockburn took a set of photographs (shown here and provided) showing holes dug by a backhoe at the property in question that were approximately 10' wide by 10' long. It is hard to know how deep these holes were, because they quickly filled with water. The resulting piles were comprised of cinder block, wood and other fill materials.







Christie Weber and I visited those holes and piles and recovered some artifacts, bottles and scraps of rubber from a car tire.

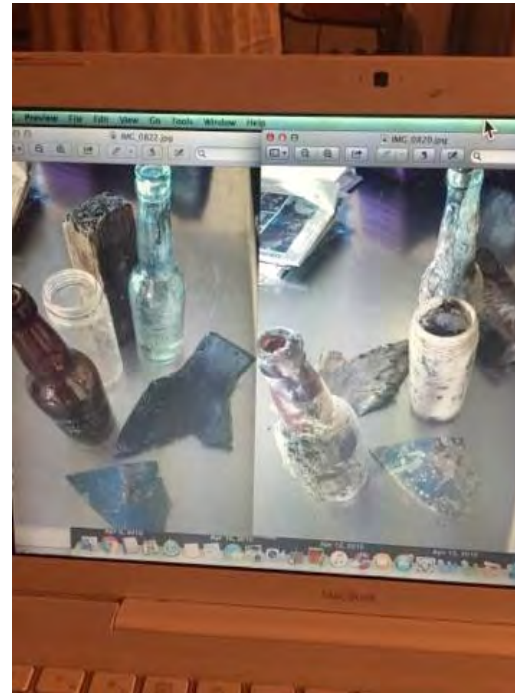
These are the bottles and tire scrap (*show*).

These artifacts are not manufactured today, and have not been manufactured for a very long time.

All three bottles were manufactured in the late 1800s to 1920. The hole they were found in was the furthest inland of the excavation holes, landward of the Granary.

Information about the bottles and tire scrap is included in my written submittal.

Other physical evidence in the form of soil cores information will be presented by Lori Huntoon.



It is no secret that this parcel and this waterfront is made of fill. It is common knowledge in this community. Many public employees and elected officials have made note of the filled nature of this site in various public meetings, reports, applications, interpretive signs, written, oral and electronic communications.

To name just a few:

City Planner Marty Olenjzak notes in many official filings and applications at the State, and Federal level (EPA, HUD, DNR, WCMP, NOAA) that this area is comprised of fill.

Heidi Kennedy, former DNR Waterway and Wetland Policy Coordinator, noted in testimony that the areas at the Teweles and Brandeis dock were artificially filled.

Ms. Kennedy also testified that she was not aware, at the time of drafting the Parcel 100 Concurrence, that there were soil borings available for this site, and that if she had known, she would have looked at them.





As further evidence there are several active or historic DNR filings relating to filling at this site.

Three Voluntary Party Liability Exemption files exist for this West Waterfront site, some with a current “open” status. The need for the VPLE, is because this area is made of fill and the City wanted to build on the fill.

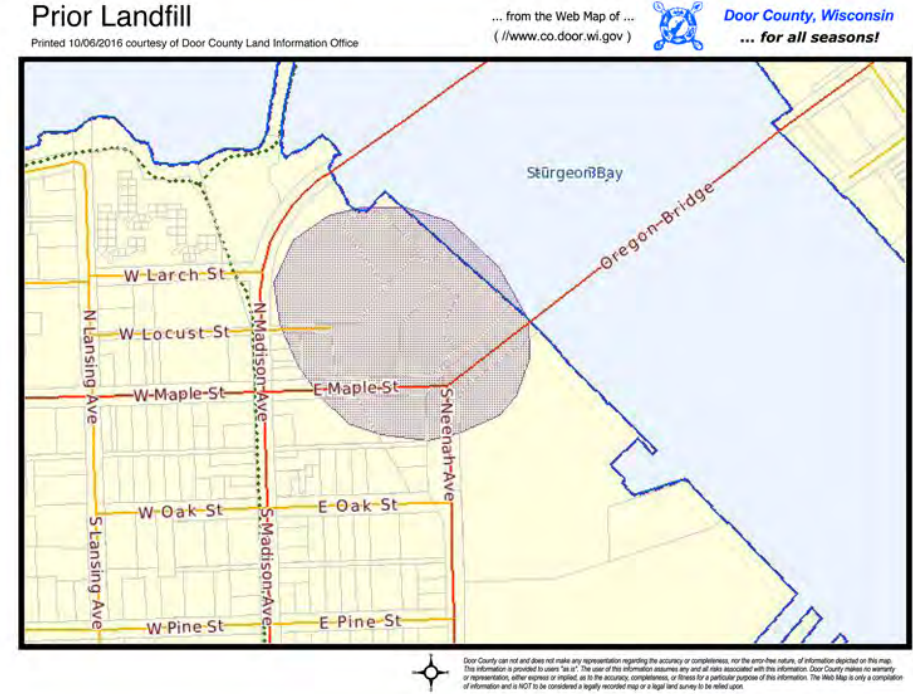
This site is also listed in the DNR’s BRRTS database and the DNR’s SHWIMs data base because of fill.



The Door County Land Information Office (LIO) publishes online information about historically filled locations. The map shown here is from Door County LIO showing the location of known historic fill as the purple circle. Using their viewer this map shows the location of historic fill in the entire west shore of Sturgeon Bay. Parcel 92 is a part of that zone of systematic filling.

Tom Haight, Door County GIS/LIO Coordinator explained that this shapefile is generated using the information from the WI-DNR 2012 Landfill Waste Registry.

It is unambiguous that the waters around the Dock of Parcel 92 were “made land” by systematic artificial filling by the riparian owner as evidenced by dozens of newspaper accounts, many Wisconsin DNR records and various types of physical evidence.



When filling is done in this way, through the Dock of Parcel 92 and systematic artificial filling around the Dock, Wisconsin’s lakebed title rights remain with the State under the Public Trust Doctrine and you can’t transfer ownership.

Thank you for the opportunity to testify.

Appendix: Wisconsin DNR VPLE, BRRTS and SHWIMS references

Attached is a map from the DNR BRRTS web site showing the three WPLE file locations as this site.

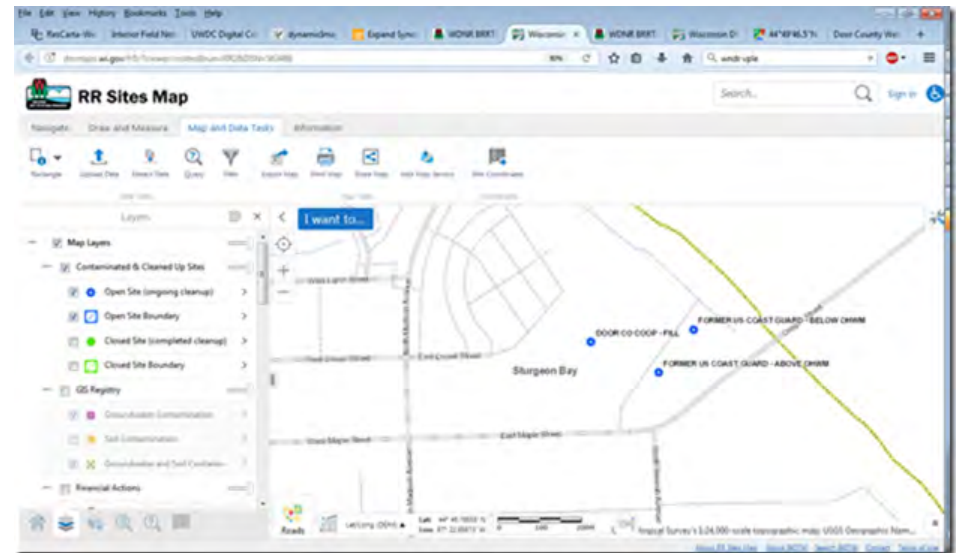
The DNR BRRTS numbers:

02-15-544253 DOOR CO COOP - FILL

02-15-563484 FORMER US COAST GUARD

02-15-563485 FORMER US COAST GUARD - BELOW OHWM

As a part of the VPLE there are many documents describing this site, all are consistent that this part of the West Waterfront is comprised of fill on lakebed. There are maps of the lakebed profile made using data from the soil cores and that document this site is really just a giant landfill. This site is now also producing methane as a result of organic material being partially submerged.



Page 6 of the NR716 report, document 2014-11-03\_37\_West.pdf from Ayers and Associates filed in conjunction with this site say:

“The lacustrine, or lake deposits, consist of discontinuous layers of poorly graded sand and gravel, silty sand and gravel, silt, and high plasticity clay of variable thickness. The lacustrine deposits are covered by up to 13 feet of fill material which is generally differentiated from the underlying till by the presence of bricks, cinders, concrete, and wood debris. However, it should be noted that in some instances natural soil materials may have been used as fill. The cross sections indicate that the fill thickness generally increases to the north and west across the site. Historical documents indicate that portions of the site area were formerly part of Sturgeon Bay and covered by water prior to filling.”

The WDNR Solid and Hazardous Waste Information System (SHWIMS) provides information about the fill at 92 E. Maple seen in this table. It shows two waste management activities and five other activities occurring at this site.

Facility Name	County	WORK Region		
DOOR CNTY COOP	DOOR	NORTHEAST REGION		
Facility Status	FID	EPA ID	SIC Code	NAICS Code
UNKNOWN	415177510	NONE	NONE	NONE
Physical Address	Trid or Geopk Block	Municipality	State	Zip
92 E MAPLE ST		STURGEON BAY	WI	54235
Mailing Address	City	State	Zip	
NONE	NONE	NONE	NONE	NONE
Facility Owner Type	Public Land Survey System Desc.	Latitude	Longitude	
UNKNOWN	SE 1/4 of the NE 1/4 of Sec 7, T27N, R26E		NOT AVAILABLE	

Facility Owner(s)		
DOOR COUNTY COOP - 92 E MAPLE ST - STURGEON BAY WI		

Waste Management Activities at this Location		
Activity Type	Activity Status	License No.
LANDFILL UNCLASSIFIED	INACTIVE	N/A
WASTE REGISTRY SITE	INACTIVE	

Other Activities at this Location		
02-15-54423 DOOR CO COOP - FILL		EMP - OPEN
03-15-60058 DOOR CNTY COOP		LOST - CLOSED
04-15-60348 DOOR CNTY COOP - 92 E MAPLE (HISTORIC)		EMPLY - HISTORIC
04-15-54858 DOOR CNTY COOP		EMPLY - CLOSED
06-15-56078 FORMER DOOR CNTY COOP (VPLE)		EMP - OPEN