

Opponents of Kohler golf course claim Wisconsin DNR caved to political pressure

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(Photo: Journal Sentinel)

Opponents of a championship-caliber golf course planned by the Kohler Co. along the shoreline of Lake Michigan say political interference played a role when a state agency approved a key permit to fill wetlands for the controversial project.

RELATED: [Wisconsin DNR approves wetlands permit for Kohler golf course on Lake Michigan shore](#)

The Department of Natural Resources decided in January that Kohler could destroy ecologically significant wetlands on the Sheboygan County property, paving the way for what the company describes as a “minimalist” course design on the forested 247-acre property.

But a legal challenge now awaits a ruling by a state administrative law judge, Mark F. Kaiser, after a local group raised objections, including claims of “significant political pressure on the DNR” from a company whose executive chairman is a long-time political supporter of Gov. Scott Walker.

The group also pointed to the testimony from a wetlands expert, now retired from the DNR, who believes the state’s approval was improper.

A DNR spokesman said his agency followed the law and used science to allow the company to remove up 3.69 acres of wetlands to build the shoreline course.

Attorneys for Kohler dismissed allegations of political pressure as “baseless accusations,” according to documents in the case, adding that opponents’ chief objection is that they don’t like current state laws protecting wetlands.

The Kohler project is the second major legal dispute in Wisconsin this year involving wetlands, and whether DNR officials properly handled regulatory permits that would allow the work to go forward.

RELATED: [Judge invalidates DNR permit for controversial Wisconsin sand processing plant](#)

In May, a different state administrative law judge, Eric D. Défort, invalidated a wetlands permit for Meteor Timber, which is seeking to build a large sand processing plant in western Wisconsin. The judge said the DNR had insufficient information to make a decision. Meteor appealed the ruling, and DNR Secretary Daniel Meyer has ordered a review of the decision.

Environmentally sensitive lands

Kohler's plans call for an initial investment of \$25 million for the project that would be located just north of Kohler-Andrae State Park, between Lake Michigan and the Black River. (The Kohler family in 1966 donated some of its holdings to become part of 988-acre Kohler-Andrae.)

The project would make Kohler's yet-unnamed course the third luxurious golfing destination in the Sheboygan area. Blackwolf Run and Whistling Straits have hosted major golf tournaments over the years, including the [2015 PGA championship at Whistling Straits](#).

The state's review has been closely watched because privately held Kohler is one of the largest companies in Wisconsin, and Kohler Executive Chairman Herbert V. Kohler Jr. has been a political donor to Walker, the GOP governor, and is one of the richest people in Wisconsin.

Kohler has given \$45,000 to Walker and Lt. Gov. Rebecca Kleefisch since 2010, according to records kept by the Wisconsin Democracy Campaign.

Generally, state law requires developers to avoid or minimize impacts to wetlands because of their critical role in supporting wildlife and filtering and storing water. Wisconsin has lost about half of an estimated 10 million acres of wetlands that existed in the 1800s, according to estimates.

While Walker and the Republican-controlled Legislature have eased some constraints on wetlands development, projects such as Kohler's and Meteor's must be scrutinized to ensure they won't pose significant adverse environmental impacts.

Attorneys for Kohler said the DNR met that test, and say opponents are marginalizing a litany of conditions officials are putting on the project to limit the effect of lost wetlands, according to documents in the case. Kohler also said opponents are ignoring the company's stewardship of its other courses, which it describes as "golf in nature," a philosophy of building a course while preserving its natural resources.

But opponents led by Friends of the Black River Forest say Kohler's project would create environmental problems:

Ridge and swale wetlands, which are rare and imperiled, and other wetlands, would be lost. Groundwater would be impacted by chemicals and fertilizer. And a plan to replace the wetlands — no suitable alternative site has been found — wouldn't make up for the loss.

According to documents, the DNR agreed that these and other problems would result. But officials concluded that construction of the course wouldn't create a serious impact overall to wetlands and water quality — a requirement of state law.

Opponents said the DNR was essentially contradicting itself.

Concerns raised

A retired DNR employee, a specialist in wetlands who worked on the Kohler project before leaving the agency, testified that the company's project would have the most significant negative wetland impact of any project she reviewed in 37 years at the agency.

Pat Trochlell described the quality of the wetlands as exceptional and should be protected, according to court records. She said that in her tenure the only other case of potential significant wetlands loss that came as close is when the department approved a permit for the \$75 million Meteor Timber plant in Monroe County to process sand used by oil drillers to extract oil and natural gas.

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Meteor's wetland permit attracted the attention of legislators in February and March when the Republican-controlled Assembly voted to exempt the company from needing a state permit for destroying wetlands, if certain conservation practices are followed.

Environmentalists and Democrats raised objections and the Senate never took up the measure.

Trochlell declined comment for this story, but told the Wisconsin Center for Investigative Journalism in a story published on Nov. 11 that her superiors at the DNR said that the Kohler permit must be approved.

"I was in a meeting with managers ... and I asked the question of what would happen if we wouldn't sign off on these permits, and I was told that if we didn't sign off on these permits, we would be ... moved to another job or fired, I think that's how I interpreted it," Trochlell recalled.

Agency defends decision, process

DNR spokesman Jim Dick said in an email that "the DNR makes permit application decisions based on law and sound science. We are not going to comment further on the Kohler case since it is still the subject of ongoing litigation."

Christa Westerberg, attorney for the Friends of the Black River Forest, wrote in a brief that "the unfortunate elephant in the room is the evidence showing significant political pressure on DNR to grant Kohler the permit for its high-profile project and the jobs Kohler said it would bring"

She cited as examples: Requirements that DNR staff had to keep the secretary's office apprised of the Kohler case; and that the agency's assistant deputy secretary reported to the governor's office in 2017 that said the golf course was one of the DNR's "three very important projects" to boost employment.

Westerberg said job creation is not part of a DNR's duties as a wetlands regulator.

But Kohler's attorney, Jessica Hutson Polakowski, responded in her brief that there was no evidence the DNR secretary or the governor's office had a role in approving the wetlands permit, and the report touting the golf course as a plus for employment was sent to Walker before Kohler had filed its permit. She dismissed the claim of political interference, saying it is "not only sparse, but also simply does not support the tale of intrigue they wish to tell."