

Wisconsin DNR Malfeasance At Bass Lake

©Ted Schaar 2018 (update August, 2020)

For decades, Bass Lake (sometimes called "East Bass") on Highway C in Florence County, Wisconsin, was a slow-no-wake body of water.

Warning!

By WI State Statute
30.635, The

Speed Limit

on **East Bass Lake**
is

Slow-No-Wake!

(Speed at which a boat moves as slowly
as possible while maintaining steerage)

The civil forfeiture for a violation of SS.
30.635 is \$150.60 - \$163.00

Kelly Crotty
WDNR Conservation Warden
Florence County
(715)-528-4400 Ext. #43

[Date Unknown]



State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Scott McCallum, Governor
Darrell Bazzell, Secretary
William H. Smith, Regional Director

HC 1 Box 81
Florence, Wisconsin 54121
Telephone 715-528-4400
FAX 715-528-5172

August 31, 2001

Town of Homestead
HC1 Box 581B
Attn: Beverly Weinfurter, Clerk
Florence, WI 54121

(Sentences removed to fit space.)

The listing of lakes found in Florence County begins on page 52. The entry for Bass Lake T38N R17E S13 reports the area of the lake to be 50 acres.

As we discussed, 30.635 WI Stat. prohibits operation of a motorboat at speed greater than slow no wake on lakes 50 acres or less in size that have public access. The public landing and the Town Park both provide public access to East Bass Lake. I will attach a copy of this statute, and the statute defining slow no wake.

By statute, then, the maximum speed permitted on East Bass Lake is slow no wake.

Some years ago I noticed motor boats and jet skis on Bass and stupidly assumed the law had changed, and they were now permitted even on small lakes. At the annual Homestead Protective Association meeting in July 2014, however, a resident commented that he couldn't understand why all the fast-moving powered craft were on the lake—he thought it was supposed to be slow-no-wake.

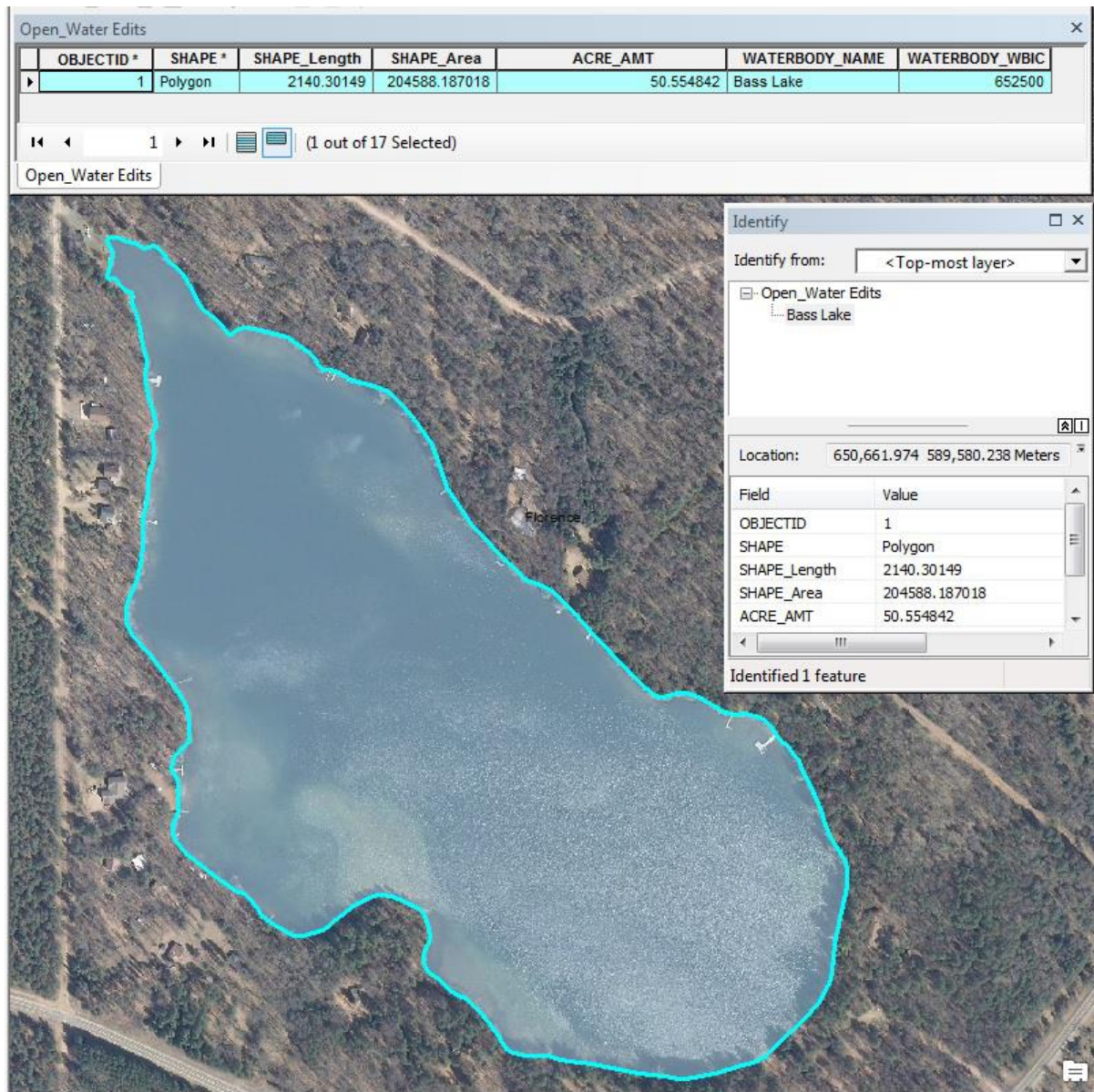
That comment motivated me to identify and send an e-mail to Warden Kelly Crotty; Bass is in his jurisdiction. He replied that the lake was "49.7 acres" (just under slow-no-wake cutoff of 50 acres). "...but..." he continued, "...a DNR employee in Madison advised a lake riparian owner that the state would allow above Slow-No-Wake activity due to the size being very close to 50."



I decided Crotty wasn't doing his job, so I contacted higher level DNR managers thinking they would reprimand Crotty and make sure he enforced the lake's slow-no-wake status. Instead, the DNR's Bureau of Water Quality, led by Carroll Schaal, quickly re-measured the lake and discovered that its previous finding of 49.7 acres was wrong.

DNR Measurement

Bass Lake was 50.554842 acres Schaal said, slightly more than 1/20 of an acre above the 50.49-acre cutoff below which the acreage would be rounded to 50 and the lake's slow-no-wake status preserved. The new measurement was based on the ArcMap image below produced by DNR GIS Analyst Dennis Weise, who said his measurement was plus or minus one acre in terms of accuracy.



The 50.55-acre measurement of Bass Lake Weise obtained is only the latest DNR effort.

Below are some earlier ones. (About the first on the list, DNR Conservation Warden Supervisor Thomas W. Wrasse [now retired] stated in an e-mail: "The one that does exist showing 55.5 acres was not done by any of the accepted methods of measurement that exist today.")

1. Wisconsin Conservation Department Biology Division July 1941—55.5 acres;
2. DNR Warden letter August 31 2001: "...Wisconsin Lakes...a DNR publication...reports the area of the lake to be 50 acres";
3. Town of Homestead town board meeting minutes July 31, 2003—"...DNR apparently changed the acreage of the lake down to 49.5 acres";
4. DNR employee 1. e-mail 8-20-2014: "Hello—My Wisconsin Lakes book

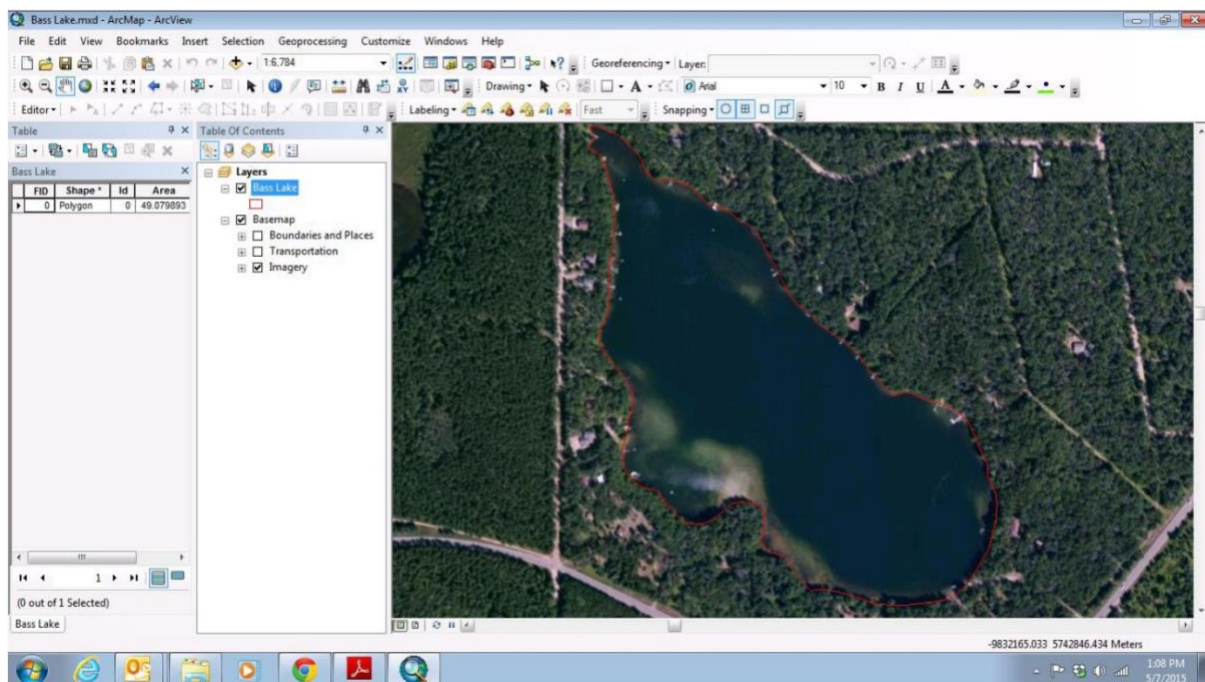
lists it at 50 acres. A 1971 DNR publication lists it as 49.7 acres”;

5. DNR employee 2. e-mail 8-20-2014: “East Bass is 49.7 acres...”; and

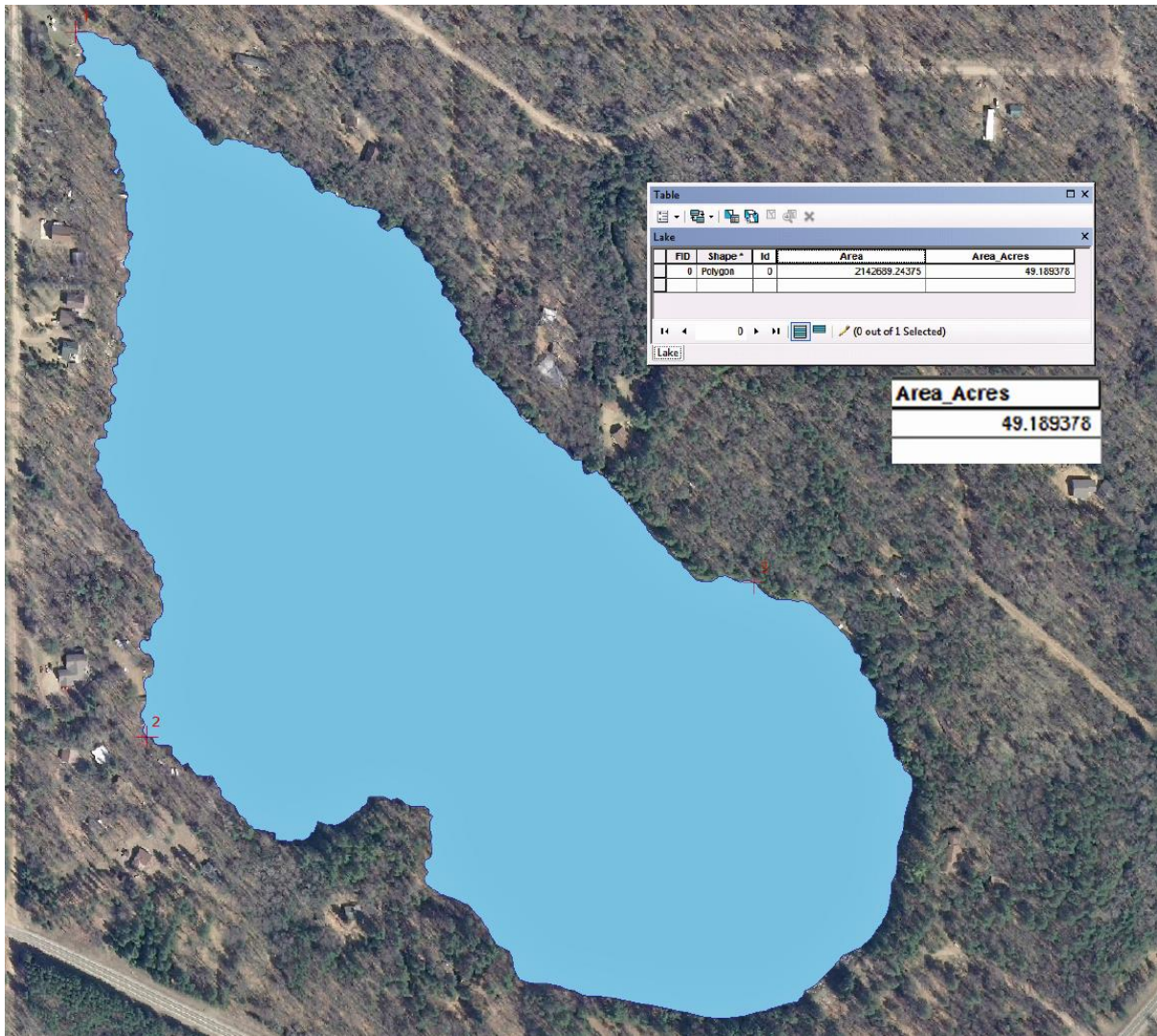
6. September 30, 2014 listing at <http://dnr.wi.gov/lakes/lakepages/Results.aspx>—48 acres.

Consultant Measurements

To check Weise's measurement, I hired two ArcMap consultants, not telling either about the other or why I wanted the lake measured. The first was Cason & Associates (<http://casonassociates.com>), Berlin, Wis-consin. It produced the ArcMap image below and found Bass Lake to be 49.07 acres, more than 1 acre below the DNR measurement; the consultant also stated the measurement was accurate and did not need a plus-minus error range.

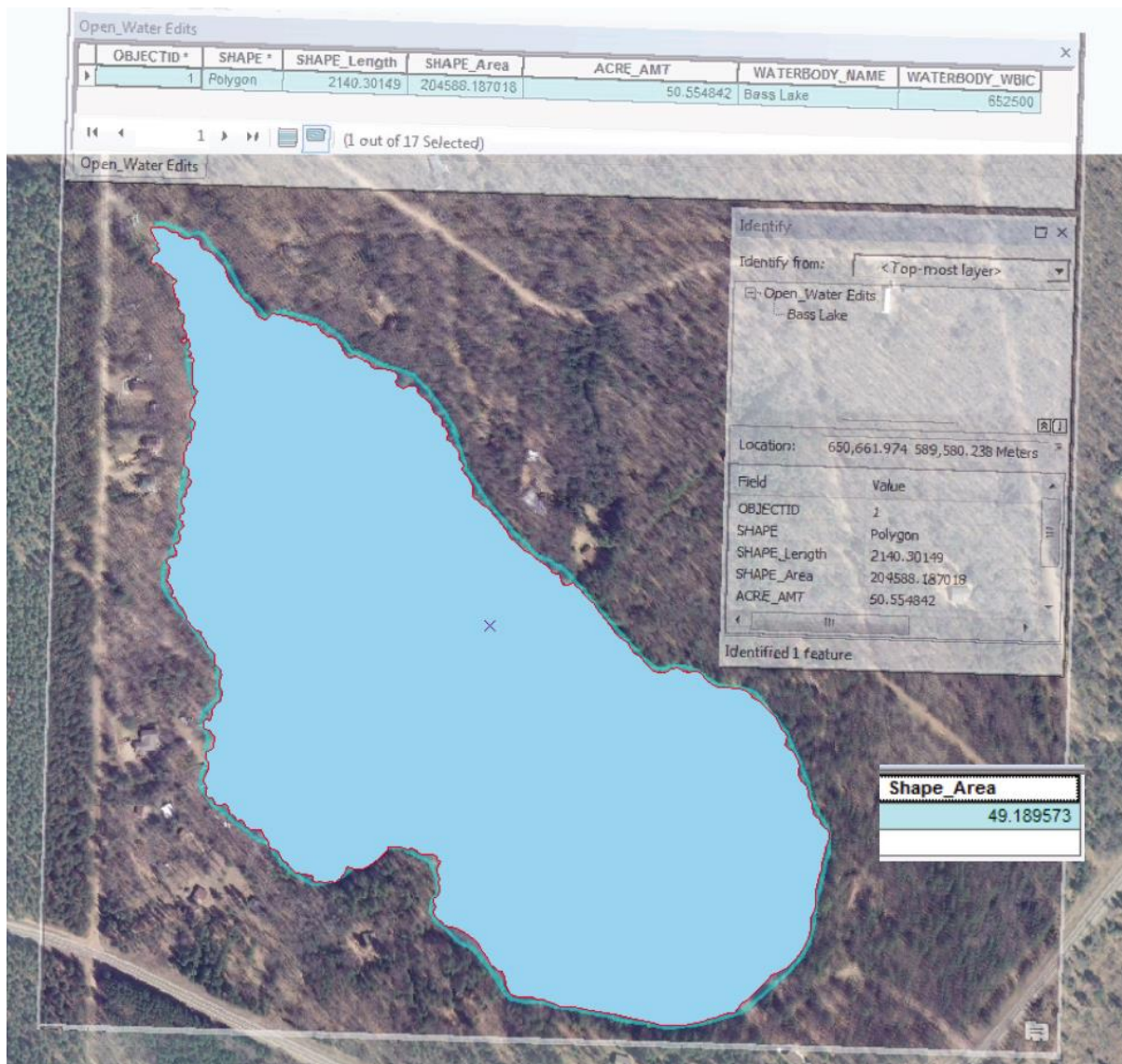


Next, I hired Mapping Specialists, Limited (<http://www.mapping specialists.com>), Fitchburg, Wisconsin. Its ArcMap analysis of Bass (below) found the lake to be 49.18 acres. Mapping Specialists, too, stated the measurement was accurate and did not need a plus-minus error range. The two consultant measurements (49.07 and 49.18) are about 1/10 acre apart from each other but more than 1.3 acres below the DNR's 50.55 measurement.



Using Photoshop Elements to superimpose the Mapping Specialists, Limited effort over the DNR's (below), it's easy to see how much land the teal outline includes. I paid the MS consultant to analyze the DNR measurement without telling him who did it and he stated in an e-mail:

"I took a look at the image you sent, and I have compared it to the one I sent to you. It looks to me like whoever did this measurement was very generalized in their approach. You can see the change in detail between what I did (red) and the other measurement (teal). There is a lot of land along the shore that would have added to that 50.6 acre measurement."

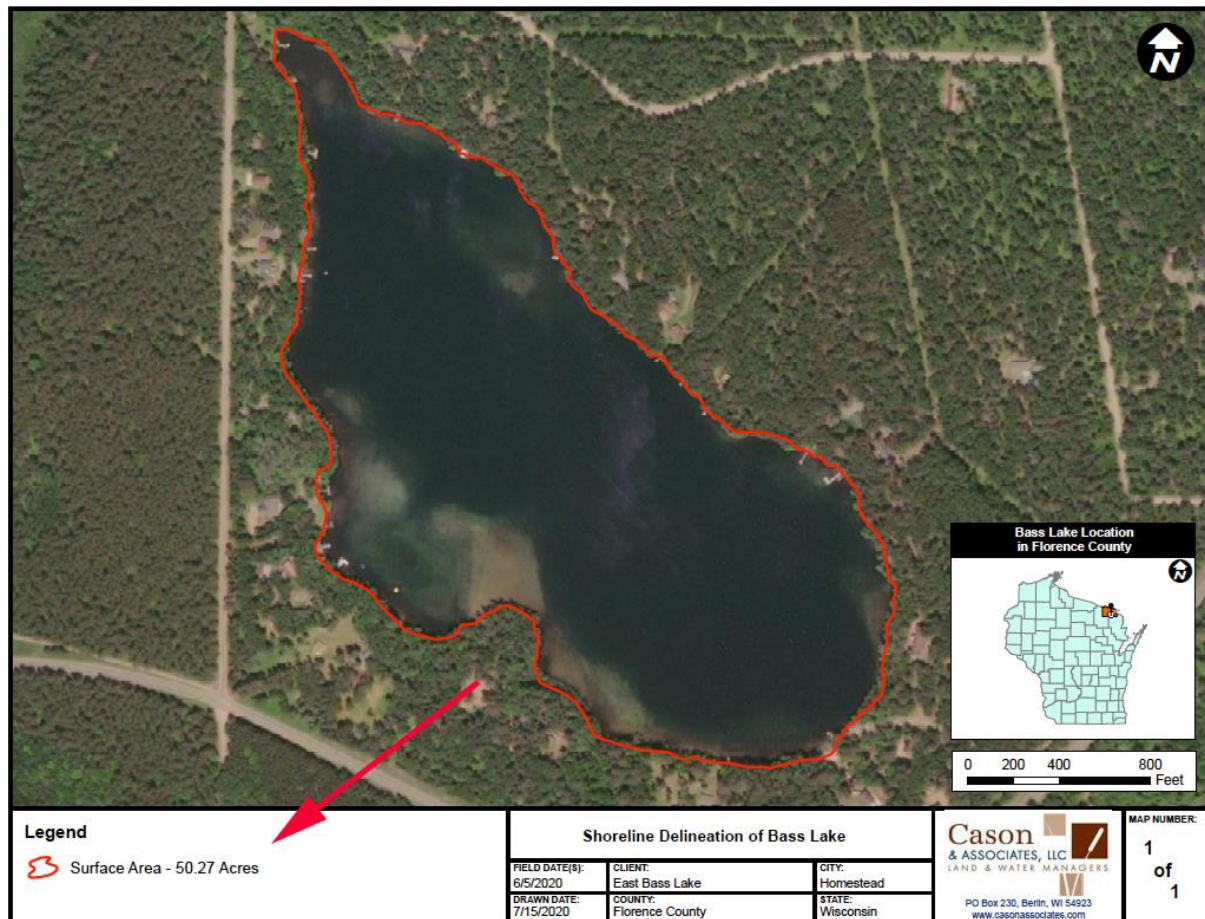


"Boots on the Ground"

In the spring of 2020, another family member and I paid Cason & Associates to perform a more accurate measure of Bass Lake.

Cason Business manager, Lake Division Manager, and Aquatic Ecologist Michelle LaForge describes the method as follows: "The most accurate way to map the shoreline would be on foot, not using satellite imagery. Satellite imagery is great for approximations, but if you are having issues getting the measurements accepted, boots on the ground is pretty difficult to argue against. Arguments can be made that satellite imagery is not geo-referenced correctly (which is true, there are often projection errors) or that the current water level is not reflected on the most recent imagery (age of the imagery, season the imagery was collected, etc.). Your lake is small enough that it could easily be completed in a day. That is what I did for hundreds of state and federal projects."

Below is an image of Cason's finding (dated July 15, 2020) which puts the lake's size at 50.27 acres; this rounds to 50 and re-affirms Bass Lake qualifies for Slow-No-Wake status as it has traditionally.



Opinion

My belief is the DNR made an indefensible mistake in 2004 when William G. Engfer, Director, Recreation, Enforcement, and Education Section, Bureau of Law Enforcement sent the letter stating Bass Lake was bigger than 50 acres. That not one DNR employee other than Thomas W. Wrasse (see below) spoke up is disappointing.

When I contacted higher DNR levels, rather than do the right thing, Schaal's Bureau of Water Quality circled the wagons, quickly re-measured, and proclaimed Bass Lake was actually 51 acres so it *officially* did not qualify as slow-no-wake.

The DNR measurement was not only wrong but purposefully inflated. Proof is the fact that two consultants working independently came up with findings just 1/10-acre apart but more than 1.3 acres below the DNR measurement coupled with DNR Conservation Warden Supervisor

Thomas W. Wrasse's (now retired) statement from 2004: "We had water regulations and fisheries staff take the stance that this body of water was at best 50 acres, and that was rounded up."

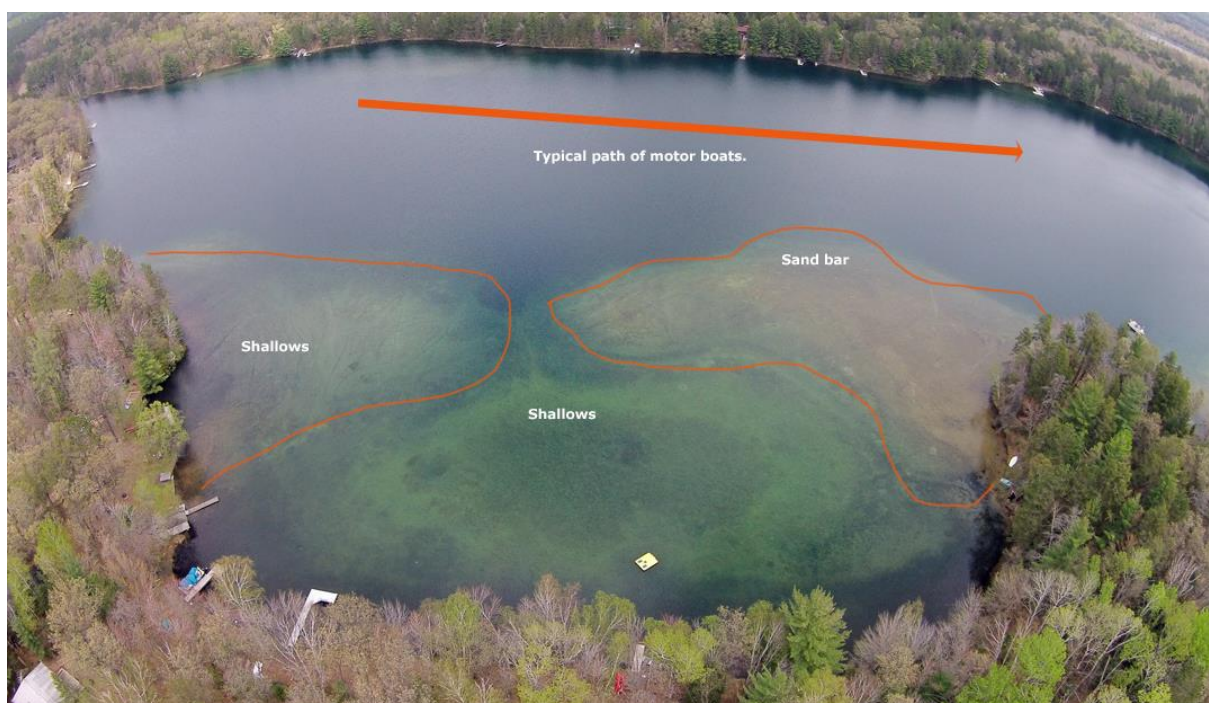
Additional evidence are the DNR's result, which is barely (suspiciously) enough to round up to 51, and Weise's plus or minus one-acre inaccuracy. Given the admitted imprecision, shouldn't an agency once called the "Wisconsin Conservation Department" err on the side of caution and conclude the lake was no bigger than 49.55 acres—which is much closer to its actual size?

You might think I'm splitting hairs and 49 acres is barely different from 51 so let the motor boats and jet skis go. Evidently this is what many at the DNR think, but there are reasons for statutes and the time-honored "letter of the law." The cutoff for slow-no-wake status is 50 acres, Bass Lake is barely bigger than 49 acres, therefore it qualifies as a slow-no-wake lake.

One of the DNR wardens I spoke with actually said, "Well, it's like giving drivers leeway on the road; you don't write a ticket for going 50 in a 45 zone." Sounded good—to him at least—until I asked if he thinks the DNR should practice the same leniency, for example, with trout bag limits? "Well, that's different." Indeed, and so is slow-no-wake.

* * *

Though Bass Lake is 50 acres in overall size, as confirmed by Cason's June of 2020 "boots on the ground" measure, the aerial below makes it clear the expanse of water in the basin deep enough for motor boating is much smaller.



Consequences

Over time, jet skis and motor boats coupled with continually expanding population will change the character of this Land of Sky Blue Waters lake; that's a shame, and I blame it on the DNR. Its actions, powered by incompetence, malfeasance, some of both, or something I haven't thought of, are encouraging the ruin of a fragile ecosystem.

The lake just isn't large enough to absorb the mechanical-combustion-engine pressure—this is particularly evident on holiday weekends throughout the summer.

The excerpts below were taken from an article that cites a Wisconsin DNR study. I found it (ironically) on a Minnesota website (<https://www.rmbel.info/boat-motors-and-water-quality/>):

"The Wisconsin DNR did a study on the effects of motorized watercraft on aquatic ecosystems. Boats can affect water quality in a few different aspects. First, they can add metals and chemicals to the water column. A certain amount of the fuel that enters into a motor is discharged unburned and ends up in the water. Two stroke motors can emit 25-30% of their unburned gas and oil mixture into the water. In contrast, four-stroke motors emit 97% less air and water pollution than old two-stroke motors. This pollution can affect the pH and dissolved oxygen in the lake, which can influence the type and abundance of fish and wildlife."

Effective Mixing Depth	
Effective mixing depth is the maximum depth at which the engine stirs up the water and, in turn, the lake bottom sediment. The importance of these findings is that power boating in shallow areas on lakes is likely to stir up bottom sediments, decreasing water clarity and releasing nutrients from the lake bottom, which can feed algae blooms.	
Effective Mixing Depth by Engine Size	
Horsepower	Mixing Depth
10	6 feet
28	10 feet
50	15 feet
100	18 feet
Source: <i>Lakeline</i> , December 1991	

"Another main impact by motors is churning up the lake bottom in shallow areas. This action stirs up the lake sediment, re-suspending nutrients (phosphorus) that are at the lake's bottom. When these nutrients reach the surface of the water where the algae are, they can feed algae and cause an algal bloom. This stirring can also decrease the water clarity because of additional particles suspended in the water column.

"So what can you do to protect your lake? 1) Establish no-wake zones in shallow areas with waterfowl nesting and bulrush stands. 'Slow no wake' means operation of a watercraft at the slowest possible speed necessary to maintain steerage, but in no case greater than 5 miles per hour. 2) Educate lake users to avoid sensitive areas and drive slowly through shallow areas. 3) Upgrade your boat motor from an old two-stroke engine to a four-stroke engine. Four-stroke engines use fuel more efficiently, produce cleaner exhaust, and run more quietly than traditional two-stroke engines." [Click for the entire Wisconsin DNR study.](#)

In addition, fast-moving craft on Bass Lake are a grave danger to loons and other water fowl in my opinion.

Returning Slow-No-Wake to Bass Lake

After scheduling and attending two meetings in Madison with DNR personnel, including April Dombrowski and Carroll Schaal, in 2015 and 2016, and presenting PowerPoints and details of the consultants' measurements, and not making any progress, I gave up, began searching for legal help, and became a client of the Madison law firm Pines Bach in 2017. The attorney I worked with reviewed the Bass Lake situation carefully and filed a freedom of information request with the DNR.

Unfortunately, but not surprisingly, I learned that the cards are stacked in favor of the DNR. Accusing it of incompetence, malfeasance, negligence, etc. and taking it to court likely would cost a minimum of \$50,000 with no guarantee of success. *Just having an expert research options was expensive.*

It's a frustrating situation made worse because not all agree slow-no-wake *should* be returned to Bass Lake, including members of my own family. If you like motor boating, it's convenient to walk down to the dock, get aboard, and go. However, it doesn't seem all that burdensome to travel 10 miles to Hilbert Lake just off Highway 101—its 278 acres make it more able to absorb high speed traffic than Bass Lake.

Whenever the challenge of righting this wrong gets me down, I think about the defenseless ecosystem and its future. Who will speak for and defend Bass Lake when its statutory, government protector doesn't? Then, I think, *I will...or, at least, I'll try.* It's been good to me, and I'd like to return the favor. If you would like to see slow-no-wake restored to Bass Lake, please let me know.

If enough of us band together and put pressure on the DNR, perhaps we can persuade it to re-measure the lake—this time with the goal of achieving an accurate, no thumb-on-the-scale result.

Write to me at ted@tswrites.com or call 414 795-6117 (I only answer calls from people on my contact list, so please leave a message).

June 11, 2003

The Florence Mining News

Lakes 50 acres or less with public access are Slow-No-Wake

Spooner – As the fishing and boating season begins watercraft users must be aware of the state's Slow-No-Wake law. This regulation prohibits operation of a motorboat *above the speed at which a boat moves as slowly as possible while still maintaining steerage control on lakes with public access that are 50 acres in size or less.*

An exception to this rule, says Conservation Warden Kelly Crotty, are lakes that serve as thoroughfares between two or more navigable lakes.

"While different boats have different Slow-No-Wake speeds depending on size and design," Crotty says, "all recreational boats operating at this speed would be moving very slowly." The slow speed prohibits water skiing and inhibits personal watercraft use.

Crotty explained that there are several reasons for the speed restriction. One goal is to prevent erosion damage to shorelines caused by extensive wave action. The lake shoreline is home to different types of vegetation and varying phases of animal life like fish and frog eggs.

"Many small fish such as young gamefish and minnows also spend time near the shoreline," Crotty says.

Another goal of the law is to maintain aesthetics provided by wildlife like loons, waterfowl, turtles and the serenity and relative quiet that smaller lakes offer. Many homeowners and seasonal residents purchase property on small lakes to enjoy the tranquil lakefront. Crotty reminds boaters that the Slow-No-Wake restriction is posted at some, but not all, lake access points.

"It is the responsibility of the boater to be familiar with the state laws and local ordinances," he said. A citation issued by a Conservation Warden or the Florence County Sheriff's Office for a violation of the Slow-No-Wake law will cost the boater a minimum of \$150.60.

Popular Florence County lakes 50 acres in size or less with public access include but are not limited to: Anna Lake, East Bass Lake (Homestead), Bush Lake, Edith Lake, Fischer Lake (Aurora), Halls Flowage, Lund Lake, Montgomery Lake, and Morgan Lake.

For questions regarding boating laws or to report violations, contact Conservation Warden Kelly Crotty at (715)-528-4400 Ext. #43. All calls remain anonymous.