In the Matter of the Invasive Species/Infested Waters Civil Citation
Issued to Craig Michael Centofanti,
Citation No. 172542

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE DEPARTMENT OF NATURAL RESOURCES

FINDINGS OF FACT,
CONCLUSIONS OF LAW
AND RECOMMENDATION

This matter came on for a Telephone Prehearing Conference before Administrative Law Judge Barbara L. Neilson on October 24, 2014.

Conservation Officer Jackie Glaser participated in the Conference on behalf of the Department of Natural Resources (DNR). Craig M. Centofanti participated on his own behalf without counsel.

Both Officer Glaser and Mr. Centofanti provided sworn testimony during the Prehearing Conference. The parties agreed that no formal hearing would be needed and that the Administrative Law Judge could make a recommendation based on the record created during the Prehearing Conference. The Office of Administrative Hearings' record closed at the conclusion of the conference call on October 24, 2014.

STATEMENT OF ISSUE

Was Mr. Centofanti properly issued a civil citation under Minn. Stat. § 84D.13, subd. 4(4) (2014), on July 26, 2014, for transporting his watercraft on a public road with the drain plug in place?

SUMMARY OF CONCLUSIONS

The Administrative Law Judge concludes that Mr. Centofanti committed the violation as alleged, and recommends that the Commissioner affirm the Citation.
Based on the proceedings herein, the Administrative Law Judge makes the following:

**FINDINGS OF FACT**

1. On July 26, 2014, six Conservation Officers performed an aquatic invasive species inspection near Lake Independence in Hennepin County. Two of the officers were stationed near the entrance to the park leading to the boat launch located off County Road 19. Jackie Glaser and other officers were stationed at a check point on the way to the boat launch.¹

2. One of the officers stationed near the entrance to the park radioed Officer Glaser that he had observed that the drain plug was still installed in a Four Winns boat being transported by a vehicle that had pulled off County Road 19 and was entering the park.²

3. The boat at issue was being transported by Craig Centofanti. Mr. Centofanti moved to Minnesota from Michigan in August 2013. He is a full-time student and is not currently employed. He was transporting his parents’ boat, which had been registered in Minnesota two months earlier and had only been in the water on one occasion three weeks before the inspection. It was Mr. Centofanti’s first time taking out the boat in Minnesota and he was not familiar with the Minnesota requirements relating to removal of drain plugs.³

4. When Mr. Centofanti arrived at the road check station, Officer Glaser confirmed that the drain plug was still in place. When the plug was removed, no water came out of the boat. Officer Glaser noticed some Eurasian water milfoil on the boat as well.⁴

5. Officer Glaser merely gave Mr. Centofanti a warning regarding the Eurasian water milfoil found on the boat. She did, however, issue a Civil Citation to Mr. Centofanti for failing to remove the drain plug from the watercraft prior to transporting it. The Citation imposed a fine in the amount of $100.00.⁵

6. Mr. Centofanti timely appealed the Citation.⁶

---

¹ Testimony of Jackie Glaser; Test. of Craig Centofanti.
² Test. of J. Glaser.
³ Test. of J. C. Centofanti.
⁴ Test. of J. Glaser.
⁵ Civil Citation No. 172542.
⁶ See letter from C. Centofanti to the Commissioner of Natural Resources dated July 28, 2014 (attached to the DNR’s letter dated Sept. 5, 2014, referring this matter to the Office of Administrative Hearings).
Based on the Findings of Fact, the Administrative Law Judge makes the following:

CONCLUSIONS OF LAW

1. The Administrative Law Judge and the Commissioner of Natural Resources have jurisdiction over this matter pursuant to Minn. Stat. §§ 14.50; 116.072, subd. 6 (2014).

2. Minnesota law requires that "[d]rain plugs, bailers, valves, or other devices used to control the draining of water from ballast tanks, bilges, and live wells must be removed or opened while transporting water-related equipment." \(^7\)

3. DNR Conservation Officers are authorized to issue warnings or citations to a person who "fails to remove plugs, open valves, and drain water from water-related equipment before leaving waters of the state or when transporting water-related equipment . . ." \(^8\)

4. The Department has substantiated the violation as set forth in the Citation. Mr. Centofanti admitted his boat was transported with its drain plug in place, as charged in the Citation.

5. The applicable statute specifies that a $100 civil penalty may be imposed for failing to have drain plugs or similar devices removed or opened while transporting water-related equipment. \(^9\)

6. It is appropriate that the Commissioner affirm Invasive Species Civil Citation No. 172542 and require Mr. Centofanti to pay a $100 fine for violating Minn. Stat. § 84D.10, subd. 4(b).

Based on the Conclusions of Law, and for the reasons set forth in the Memorandum below, the Administrative Law Judge makes the following:

RECOMMENDATION

IT IS RECOMMENDED that the Commissioner of Natural Resources AFFIRM Invasive Species Civil Citation No. 172542 issued to Craig M. Centofanti on July 26, 2013.

Dated: November 24, 2014

s/Barbara L. Neilson
BARBARA L. NEILSON
Administrative Law Judge

Reported: Digitally Recorded; No Transcript Prepared.

\(^7\) Minn. Stat. § 84D.10, subd. 4(b) (2014).
\(^8\) See Minn. Stat. § 84D.13, subd. 4(4).
NOTICE

Pursuant to Minn. Stat. § 116.072, subd. 6 (e) (2014), the Commissioner may not issue a final order until at least five days after receipt of the report of the Administrative Law Judge. The person to whom the order is issued may, within those five days, comment to the Commissioner and the Commissioner will consider the comments. The Commissioner must send a copy of the final decision to Mr. Centofanti. The final order of the Commissioner may be appealed pursuant to Minn. Stat. §§ 14.63-.69 (2014). If the Commissioner fails to act within 90 days after the record closes, this recommendation will become the final decision in this matter.

MEMORANDUM

During the Prehearing Telephone Conference, Mr. Centofanti admitted that he had transported the watercraft with the drain plug in place. He urged that the citation be withdrawn because he was not aware of the statutory provision requiring drain plugs to be removed from water-related equipment during transit and he is a full-time student. He also pointed out that the boat had not been in the water for three weeks and that no water came out of the boat when the plug was removed.

Officer Glaser declined to withdraw the citation during the Prehearing Conference. She agreed that the boat transported by Mr. Centofanti appeared to be dry at the time the plug was removed, but pointed out that the statute does not allow boats to be transported with the drain plug in place under any circumstances. She indicated that the Department has strictly enforced the requirement that all boats be drained in order to limit the spread of invasive species, and emphasized that Lake Independence was not yet infested with zebra mussels at the time of the inspection.

Minnesota law requires the removal or opening of drain plugs during transportation of a boat on roadways. Mr. Centofanti does not dispute that he transported his parents’ boat with its drain plug in place on County Road 19. The statute does not draw any distinction based on how long the boat has been out of the water or require that citations only be issued to individuals who knowingly commit a violation of law. Conservation Officers are given the discretion to issue citations for violations. Under all of the circumstances, it is appropriate to recommend that Citation No. 172542 be affirmed.

B. L. N.