

📄 **09hr\_ab0942\_AC-NR\_pt01**



Details:

(FORM UPDATED: 08/11/2010)

## WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

### 2009-10

(session year)

### Assembly

(Assembly, Senate or Joint)

### Committee on ... Natural Resources (AC-NR)

#### COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

#### INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)  
(**ab** = Assembly Bill)                      (**ar** = Assembly Resolution)                      (**ajr** = Assembly Joint Resolution)  
(**sb** = Senate Bill)                              (**sr** = Senate Resolution)                              (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

## Assembly

### Record of Committee Proceedings

#### Committee on Natural Resources

##### Assembly Bill 942

Relating to: the operation of motor vehicles on the exposed beds of outlying waters to control *Phragmites australis*.

By Representatives Soletski, Nygren, Van Roy, Bies, A. Ott and Townsend; cosponsored by Senators Hansen and Holperin.

April 07, 2010            Referred to Committee on Natural Resources.

April 13, 2010            **PUBLIC HEARING HELD**

Present:    (13)    Representatives Black, Danou, Steinbrink, Hraychuck, Hebl, Mason, Milroy, Clark, J. Ott, Huebsch, LeMahieu, Mursau and Nerison.

Absent:     (2)     Representatives Molepske Jr. and Gunderson.

##### Appearances For

- Rep. Jim Soletski, Green Bay — 88th Assembly District
- Sen. Dave Hansen, Gren Bay — 30th Senate District
- Gary Guenette, Marinette — Marinette City Fire Department
- Bob Frank, Marinette — District 19 Marinette
- Chuck Boyle, Marinette
- Martin Egner, Marinette
- Kenneth Exworthy, Marinette
- Ted Sauve, Marinette — Marinette County

##### Appearances Against

- None.

##### Appearances for Information Only

- None.

##### Registrations For

- None.

##### Registrations Against

- None.

Registrations for Information Only

- None.

April 13, 2010

**EXECUTIVE SESSION HELD**

Present: (15) Representatives Black, Danou, Molepske Jr., Steinbrink, Hraychuck, Hebl, Mason, Milroy, Clark, J. Ott, Gunderson, Huebsch, LeMahieu, Mursau and Nerison.

Absent: (0) None.

Moved by Representative Black, seconded by Representative Hebl that **Assembly Amendment 1** be recommended for adoption.

Ayes: (15) Representatives Black, Danou, Molepske Jr., Steinbrink, Hraychuck, Hebl, Mason, Milroy, Clark, J. Ott, Gunderson, Huebsch, LeMahieu, Mursau and Nerison.

Noes: (0) None.

ASSEMBLY AMENDMENT 1 ADOPTION RECOMMENDED, Ayes 15, Noes 0

Moved by Representative Danou, seconded by Representative Hebl that **Assembly Bill 942** be recommended for passage as amended.

Ayes: (15) Representatives Black, Danou, Molepske Jr., Steinbrink, Hraychuck, Hebl, Mason, Milroy, Clark, J. Ott, Gunderson, Huebsch, LeMahieu, Mursau and Nerison.

Noes: (0) None.

PASSAGE AS AMENDED RECOMMENDED, Ayes 15, Noes 0

John Maycroft  
Committee Clerk



## Vote Record Committee on Natural Resources

Date: 4/13/10

Moved by: Danou

Seconded by: Hebl

AB 942

SB \_\_\_\_\_

Clearinghouse Rule \_\_\_\_\_

AJR \_\_\_\_\_

SJR \_\_\_\_\_

Appointment \_\_\_\_\_

AR \_\_\_\_\_

SR \_\_\_\_\_

Other \_\_\_\_\_

A/S Amdt \_\_\_\_\_

A/S Amdt \_\_\_\_\_ to A/S Amdt \_\_\_\_\_

A/S Sub Amdt \_\_\_\_\_

A/S Amdt \_\_\_\_\_ to A/S Sub Amdt \_\_\_\_\_

A/S Amdt \_\_\_\_\_ to A/S Amdt \_\_\_\_\_ to A/S Sub Amdt \_\_\_\_\_

Be recommended for:

- Passage       Adoption       Confirmation       Concurrence       Indefinite Postponement
- Introduction       Rejection       Tabling       Nonconcurrency

<u>Committee Member</u>	<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
<b>Representative Spencer Black, Chair</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Representative Chris Danou</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Representative Louis Molepske</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Representative John Steinbrink</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Representative Ann Hraychuck</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Representative Gary Hebl</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Representative Cory Mason</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Representative Nick Milroy</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Representative Fred Clark</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Representative Jim Ott</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Representative Scott Gunderson</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Representative Michael Huebsch</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Representative Daniel LeMahieu</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Representative Jeffrey Mursau</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Representative Lee Nerison</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Totals:</b>	<u>15</u>	<u>0</u>	_____	_____

Motion Carried

Motion Failed

## Vote Record Committee on Natural Resources

Date: 4/13/10

Moved by: Black

Seconded by: Hebl

AB 942 SB \_\_\_\_\_ Clearinghouse Rule \_\_\_\_\_  
 AJR \_\_\_\_\_ SJR \_\_\_\_\_ Appointment \_\_\_\_\_  
 AR \_\_\_\_\_ SR \_\_\_\_\_ Other \_\_\_\_\_

A/S Amdt 1  
 A/S Amdt \_\_\_\_\_ to A/S Amdt \_\_\_\_\_  
 A/S Sub Amdt \_\_\_\_\_  
 A/S Amdt \_\_\_\_\_ to A/S Sub Amdt \_\_\_\_\_  
 A/S Amdt \_\_\_\_\_ to A/S Amdt \_\_\_\_\_ to A/S Sub Amdt \_\_\_\_\_

- Be recommended for:
- Passage       Adoption       Confirmation       Concurrence       Indefinite Postponement
  - Introduction       Rejection       Tabling       Nonconcurrency

<u>Committee Member</u>	<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
Representative Spencer Black, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Chris Danou	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Louis Molepske	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative John Steinbrink	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Ann Hraychuck	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Gary Hebl	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Cory Mason	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Nick Milroy	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Fred Clark	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Jim Ott	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Scott Gunderson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Michael Huebsch	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Daniel LeMahieu	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Jeffrey Mursau	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Lee Nerison	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Totals:</b>	<u>15</u>	<u>0</u>	_____	_____

Motion Carried       Motion Failed



FOR IMMEDIATE RELEASE: April 1, 2010

## Conservation Groups Reach Agreement on Stewardship Access Rule

From:

**Wisconsin Wildlife Federation**  
**Gathering Waters Conservancy**  
**Hunters Rights Coalition**  
**Nature Conservancy of Wisconsin**  
**Wisconsin Waterfowl Association**  
**Citizen Member – Sandy Heidel**



MADISON -- A group of conservation organizations and citizens announced today that, after a lengthy rule-making process, they have agreed on several clarifications to the administrative rules governing public access to lands purchased with Knowles-Nelson Stewardship dollars.

Reauthorization of the Stewardship Fund required that these lands be open for hunting, trapping, fishing, hiking, and cross country skiing while considering public safety and protecting sensitive natural systems. These rules improve the transparency of the Stewardship program and help to ensure that Wisconsin's citizens have a voice in deciding what recreational opportunities are provided on Stewardship purchases.

The modifications to the rule language agreed upon this week specify under what circumstances the Natural Resources Board will have final decision-making authority over Stewardship purchases, and clarify language regarding when restrictions on public use are appropriate.

Beginning this year, the Stewardship Program will provide \$86 million to the Department of Natural Resources, local governments, land trusts and other conservation organizations to purchase lands to preserve valuable natural areas and wildlife habitat, and expand opportunities for outdoor recreation.

"The Stewardship Fund is a key to our rich outdoor traditions in Wisconsin," says George Meyer, Executive Director of the Wisconsin Wildlife Federation. "With this rule, we know that sportsmen and women -- and their grandchildren--can plan on expanding opportunities to enjoy Wisconsin's natural heritage," Meyer says.

Mary Jean Huston, Director of the Wisconsin Office of The Nature Conservancy adds, "The Stewardship Fund makes Wisconsin a national leader in land conservation. It is an extraordinary asset for the citizens of this state, and these rules help us protect the truly irreplaceable lands and our ability to enjoy them."

Jeff Nania, Special Projects Coordinator with the Wisconsin Waterfowl Association states, "The number of people and organizations influencing this rule is an important



reminder about how broad the public support for Stewardship is. With this agreement, the conservation community can move forward in shared support of the Stewardship program.”

“This year marks the 20<sup>th</sup> Anniversary of the Stewardship Fund. It’s an important year for all conservation supporters to celebrate the program’s notable accomplishments. With this agreement, we look forward to another decade of conservation successes,” says Mike Strigel, Executive Director of Gathering Waters Conservancy.

The groups listed here strongly encourage the Legislature, the Department of Natural Resources and the Natural Resources Board to consider and adopt the modifications in this agreement in their entirety.

###

Contact:

George Meyer, Wisconsin Wildlife Federation  
608-516-5545, [georgemeyer@tds.net](mailto:georgemeyer@tds.net)

Jeff Nania, Wisconsin Waterfowl Association  
609-697-7002, [jeffnania@hotmail.com](mailto:jeffnania@hotmail.com)

Michael Strigel, Gathering Waters Conservancy  
608-251-9131, [mike@gatheringwaters.org](mailto:mike@gatheringwaters.org)

Casey Eggleston, The Nature Conservancy in Wisconsin  
608-316-6412, [ceggleston@tnc.org](mailto:ceggleston@tnc.org)

Sandy Heidel  
608-781-7620, [skheidel@charter.net](mailto:skheidel@charter.net)

1. Direct that the NRB revise NR 52.04 and 52.05 to provide that the NRB approve all prohibitions and restrictions to the exercise of Nature Based Outdoor Activities (NBOAs) on Stewardship purchased lands. Such revision should be done in a manner that streamlines the time for approval of all uncontested prohibitions and restrictions and provides fair but timely NRB determinations of contested requests. **(See attached Natural Resources Board appeal process)**
2. Direct the DNR to create NR 52.04 (2) (f): If the Department after evaluating any objections, determines there is an unresolved objection based on standards set forth in this chapter or there is a material dispute of fact and/or a misapplication of section 23.0916 or rules developed pursuant thereto and the issue cannot be resolved within the departments evaluation period, the department shall submit the proposal to the Natural Resources Board for its determination.
3. Direct the NRB to modify NR 52.05 (1) (b) to provide that the “unique plant and animal community” exception to public access for NBOAs on Stewardship funded lands is not to be used to protect “game” and “unprotected” animals.
4. Direct the NRB to delete NR 52.05 (1) (c) (2), which allows that the NBOA preferences of past landowners of a parcel to override the legislative intent that Stewardship Funded lands to be open to NBOAs.
5. Direct the NRB to modify NR 52.01 (3) to include the following: notwithstanding NR 51.03(1)(c), contributions of property used as sponsor match are not subject to this chapter.
6. Direct the NRB to modify NR 52.05 (1) (c) in order to provide that the fact that NBOAs are allowed on public lands near a proposed Stewardship parcel not be used as a factor in exercising the “accommodation of usership patterns” exception for public access for NBOAs on such a parcel.
7. Direct that the NRB modify NR 52.05 (1) (a) (3) by deleting the word “potential”, in order to avoid the prohibition or restriction of NBOAs on the speculative basis that sometime in the future a conflict might arise.
8. Direct that the NRB create NR 52.05 (2) to provide that “If a Stewardship grant applicant, who proposes to prohibit or restrict an NBOA, has a general organizational policy prohibiting or restricting that NBOA, the applicant must identify that general policy in its application and must demonstrate that the requested NBOA restriction or prohibition is justified regardless of the general policy. The Department will provide a thorough review of such proposed prohibition or restriction to ensure that it is consistent with the intent of the statute and this section.”

9. Direct that the NRB modify NR 52.05 (1) (c) to require that an NBOA restriction or prohibition on adjacent land owned by the applicant either purchased without Stewardship funds or purchased with Stewardship funds before the adoption of section 23.0916, Wisconsin Statutes, cannot be used as the sole factor in exercising the “accommodation of usership patterns” exception for public access for NBOAs on such a parcel.
10. Direct the DNR to modify NR 52.05 to 1. Fully take into account the public rights protected by the public trust doctrine and 2. Clarify the authority and responsibility of the Department to adopt state regulation on waters purchased or accessed through properties purchased with Stewardship funds. The department shall include sportsmen and women, land trusts, and other appropriate individuals and organizations in the development of these provisions.
11. Direct the NRB to modify NR 52.04 (1) (d) to read: “The department’s initial assessment of the need to prohibit the NBOA pursuant to ss.23.0916 (2) (b) or (3) (b), Stats., include the comments of local, regional and statewide resource professionals that have information related to the natural resources on the property.
12. Direct the NRB to delete NR 52.04 (2) (d).
13. Direct the NRB to delete NR 52.04 (2) (g).
14. Direct the NRB to create NR 52.05 (3): “Proposed restrictions or prohibitions of NBOAs for Stewardship purchased parcels in incorporated communities are determined to be in conformance with section 23.0916, Wisconsin Statutes, if:
  - a. the parcel is five acres or less in size; and
  - b. the parcel is not adjacent to a public property where the restricted or proposed NBOA is allowed; and
  - c. the restrictions or prohibitions are not fishing related and the parcel is adjacent to a public waterway.

## Natural Resources Board Streamlined Appeal Process

1. For proposed grant and land purchases that have proposed NBOA restrictions and prohibitions and are not objected to or do not have any unresolved objections or disputes of material fact or material misapplications of section 23.0916 or rules developed pursuant thereto (as defined in NR 52.04(2)(f) above):

---NRB Approval of such transactions by adding as Item B under standard Board Item 2: "Ratification of Acts of the Secretary" (Item takes a minute on the Board agenda)

---NRB Teleconference approval of such transactions in the two months when no NRB or as necessary to meet deadlines.

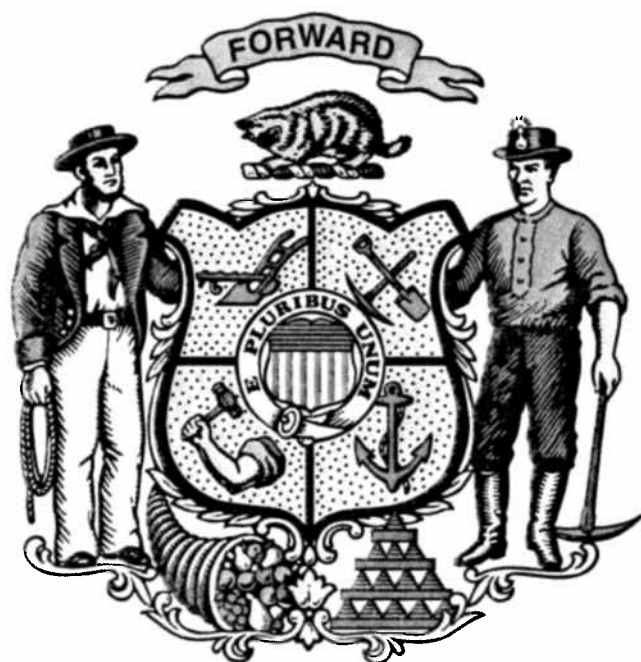
---In exigent situations, such as an urgent need to complete a closure, a signed grant may be done with a Board after-the-fact ratification

2. For proposed grant purchases that have proposed NBOA restrictions or prohibitions and that have unresolved objections based on standards set forth in this chapter or that have a unresolved dispute of material fact or material misapplications of section 23.0916 or rules developed pursuant thereto (as defined in NR 52.04(2)(f) above):

---Background information document put together by DNR staff including the reason for the proposed restriction or prohibition, the comments of the objector and the Department's decision.

---Item is placed on next NRB agenda with seven days notice to the applicant and the objector or less if agreed upon by all parties; Parties can furnish the Board with additional written materials.

---Ten minutes total scheduled for those supporting restrictions or prohibitions and ten minutes total scheduled for those that object to the proposed restrictions or prohibitions.





**TESTIMONY: ASSEMBLY BILL 942**  
**ASSEMBLY NATURAL RESOURCES COMMITTEE**  
**4/13/10**

Chairman Black, members of the committee, thank you for allowing me to testify today in support of Assembly Bill 942.

This bill would make it easier for property owners who live on the bay of Green Bay as well as Lake Michigan and Lake Superior to remove an extremely troublesome and invasive plant called phragmites.

Over the past several years, after having this issue brought to our attention, Representative Nygren and I have been working to find a solution to what can best be described as a rapidly growing problem.

Phragmites are extremely problematic and have virtually taken over the shores of Green Bay along my district and beyond. With the addition of Rep. Soletski's support every district that lines Green Bay is now represented on this bill from Marinette County to Door County.

As you will hear from some of my constituents who are here today, phragmites are a major source of concern with respect to its impact on the local environment and native plants and habitat, property values, tourism and the ability of area residents and homeowners to enjoy the Bay.

As you will also hear, Phragmites also present a significant fire danger in the areas where they exist.

In the past Rep. Nygren and I worked with staff and officials from the DNR to make changes to the General Permit process that we hoped would resolve the concerns of our constituents with respect to their ability to remove these plants. Unfortunately, many of our constituents did not find the changes all that helpful and requested that a legislative solution be pursued to resolve this problem.

The result of this effort is the bill and the amendment that are before you. AB-942 is narrow in scope as it applies only to the bay of Green Bay, Lake Superior and Lake Michigan and outlying waters.

As amended, AB-942 exempts the use of motor vehicles on lakebeds for the sole purpose of removing phragmites so long as the following conditions are met:

- The operation of the motor vehicle is for the purpose of mowing or applying an herbicide for the purpose of controlling *Phragmites australis*.

- The operation of the motor vehicle occurs only on the exposed bed of the outlying water.
- The operation of the motor vehicle occurs between the period beginning on July 1 of a given year and ending on March 15 of the following year.
- The mowing or application of the herbicide interferes with or destroys native species only to the degree that is necessary to control the invasive species *Phragmites australis*.

I believe AB-942 provides our best chance to provide relief to the people and communities who have to deal with this problem year after year and hopefully to protect inland lakes from being taken over by this extremely aggressive and invasive species.

Its companion bill, SB-614, recently passed the Senate Natural Resources committee as amended on a 7-0 vote.

Thank you.



## Amendment to AB-942

The amendment does the following:

- Removes the reference to the lakebed needing to be dry.

There was some question as to how it would be determined if the lakebed was dry and who would make that determination. We felt that so long as the lakebed is exposed that the intent of our bill is still represented in the amendment.

- Moves the starting date from August 1<sup>st</sup> to July 1<sup>st</sup>.

This change reflects concerns voiced by our constituents at the Senate hearing.



210

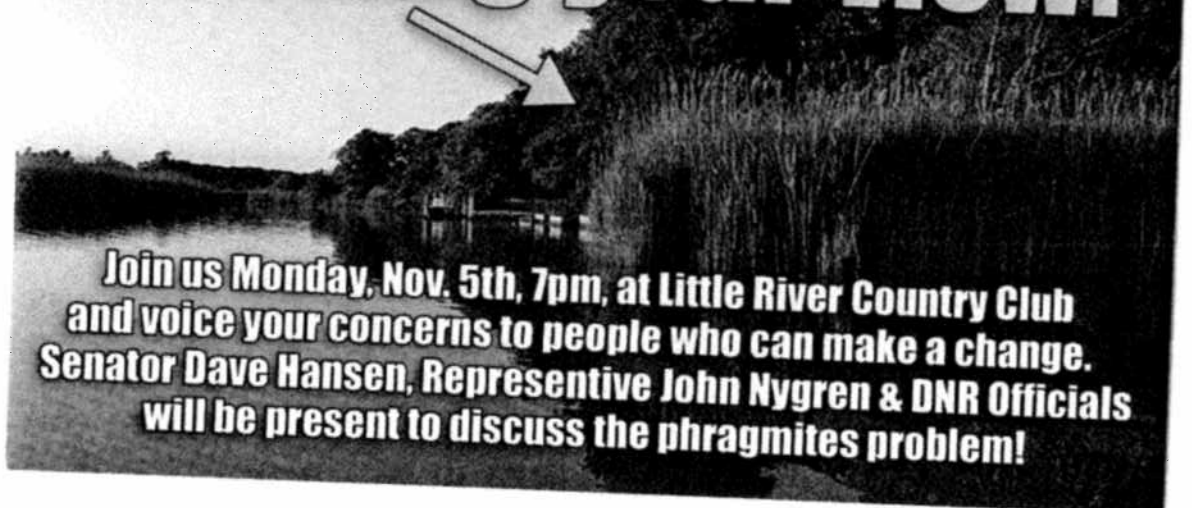
4/13 Hearing

- + Rep Soletski
- + Sen Hansen
- + Nygren
- + Gary Guenette
- + Bob Frank
- + Chuck Boyle
- + Martin Egnor
- + Kenneth Exworthy
- + Ted Sauve

AB 942  
Folder



# Phragmites blocking your view?



Join us Monday, Nov. 5th, 7pm, at Little River Country Club  
and voice your concerns to people who can make a change.  
Senator Dave Hansen, Representative John Nygren & DNR Officials  
will be present to discuss the phragmites problem!

AB 942  
Folder

## PLEASE JOIN US!

Monday, Nov. 5th at 7pm  
Little River County Club  
N2235 Shore Dr.

# Phragmites blocking your view?



## ATTENTION

*Anyone adversely affected by  
phragmites is welcome to attend,  
voice their concerns and  
learn more about the problem.*