

11hr_AC-NR_ab0043_pt01



(FORM UPDATED: 08/11/2010)

WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

2011-12

(session year)

Assembly

(Assembly, Senate or Joint)

Committee on Natural Resources...

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**

* Contents organized for archiving by: Stefanie Rose (LRB) (August 2013)

Tiffany, Stroebel, Litjens, Molepske Jr, Mason,
Danou, Clark, Milroy and Hulsey.

Absent: (0) None.

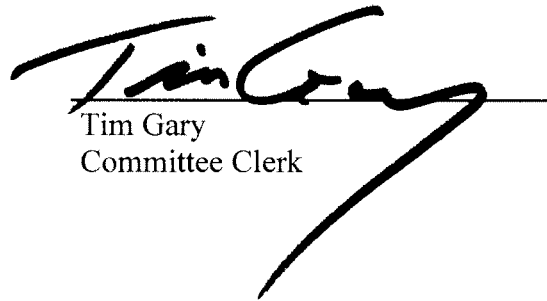
Excused: (0) None.

Moved by Representative Rivard, seconded by Representative
Steineke that **Assembly Bill 43** be recommended for passage.

Ayes: (10) Representatives Mursau, Rivard, Williams,
Kleefisch, Nerison, Severson, Steineke,
Tiffany, Stroebel, Litjens.

Noes: (6) Representatives Molepske Jr, Mason, Danou,
Clark, Milroy and Hulsey.

PASSAGE RECOMMENDED, Ayes 10, Noes 6



Tim Gary
Committee Clerk

Vote Record Committee on Natural Resources

Date: January 18, 2012

Moved by: Rivard

Seconded by: Steineke

AB 43 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 _____

By recommended for:
 Passage Adoption Confirmation Concurrence Indefinite Postponement
 Introduction Rejection Tabling Nonconcurrence

<u>Committee Member</u>	<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
Representative Jeffrey Mursau, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Roger Rivard	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Mary Williams	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Joel Kleefisch	<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"/>
Representative Erik Severson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Jim Steineke	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Thomas Tiffany	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Duey Stroebel	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Michelle Litjens	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Louis Molepske Jr	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Cory Mason	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Chris Danou	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Fred Clark	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Nick Milroy	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Brett Hulse	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Totals: _____ _____ _____ _____

Motion Carried Motion Failed





RIVER ALLIANCE OF WISCONSIN

March 30, 2011

Representative Jeff Mursau, Chair
Assembly Committee on Natural Resources
412 East
State Capitol

RE: Assembly Bill 43, Removal of Abandoned Dams

The River Alliance of Wisconsin is a statewide, nonpartisan, nonprofit organization representing over 3200 citizens and businesses and 150 local watershed groups throughout the state. We advocate for protection and restoration of the state's flowing waters. Since 1993, we have worked with over 60 communities and dam owners on the management and removal of dams.

The River Alliance agrees with the need for DNR to consider how a dam removal (as well as a dam construction or repair) will impact people's safety, health and welfare. The explicit requirement that DNR must do just this is clearly laid out in Chapter 31.02 of the Wisconsin State Statutes, which describes the powers and duties of the DNR with regards to dams, in the interest of public rights in navigable waters, and to protect life, health and property.

We are opposed to AB 43 and the proposed change to Chapter 31. The proposed language modifications do not add to or clarify the duties and powers of the DNR. Rather, they are confusing and redundant. If the DNR is proposing to remove an abandoned dam, the process is still subject to all the opportunities for hearing as described in Chapter 31.253.

The language change proposed under Chapter 31.187(1) and Chapter 31.253 is confusing because it seems to imply that the DNR must undertake some different process than what it already does to determine the impact of a removal on the safety, health and welfare of the public. This is especially problematic where DNR is trying to remove a dam that is ownerless, abandoned and dangerously unmaintained. It isn't sensible or prudent to throw up additional barriers to dealing with a dangerous public safety situation. In the course of following the requirements laid out in Chapter 31, DNR will have provided ample opportunity for interested parties to view the plan, weigh in, and identify issues of concern.

But rapid action needs to be taken to remedy potentially dangerous situations. A terrible event in 1999 highlighted this point. The DNR wanted to remove the decrepit Shopiere Dam in Rock County after trying for years to contact the dam owner, who moved away from Wisconsin with the property's taxes unpaid. The property and dam were foreclosed on by the County who did not want to take ownership of the dam because it was a liability. The community was actively opposed to the removal and a local citizens group asked DNR to hold off on removal because

We Save Rivers

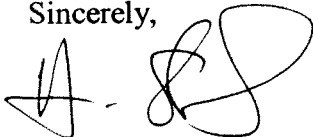
they wanted the dam to be maintained. In the interim, an 18-year-old boy drowned from swimming below the dam, which had developed dangerous currents around it.

In the case where a dam owner has applied for a permit to remove a dam, there is ample opportunity through Chapter 31.06 for parties to comment, have concerns addressed and take ownership of the structure to repair, rebuild or maintain a dam structure being abandoned by its owner. DNR cannot force an owner to keep the dam up, rebuild it or make expensive repairs. They can, and do, put requirements in place to minimize negative impacts from the removal process (and the River Alliance knows this painfully firsthand as a project manager of dam removals).

There is no denying dam removals can sometimes be contentious decisions. But DNR must be given the ability to act, first and foremost, to protect public safety. Adding confusing and muddled language to Chapter 31.187 acts in direct conflict to this and leaves Wisconsin residents more vulnerable to tragic episodes like the one described above.

The facts about dams in Wisconsin are disquieting. We have 3800 permitted dams in our rivers and streams. USGS data showed that in 2000, 42% of these had reached the end of their engineering life, meaning they usually require significant engineering upgrades to stay safe and operate efficiently. By 2020, that number will rise to 78%. Until recently, many of those dams had not been inspected regularly and state grants to repair and remove dams had dried up. The number of people and properties downstream of dams has been increasing as well. The legislature has been taking a number of strong steps to address this in recent years with the changes in inspection requirements and refunding of the dam grants (both in the past budget and again in this forthcoming one). These are all good logical steps to take. But muddling the language in Chapter 31 relating to abandoned dams is a step in the wrong direction. Please reject AB 43.

Sincerely,

A handwritten signature in black ink, appearing to read 'Helen Sarakinos', written over a horizontal line.

Helen Sarakinos
Director, River Restoration Program



Thank you for allowing me to testify on AB 43.

This is a very simple bill, but passage could play a very important role in the welfare of Wisconsin citizens with property, homes, or business' located near an existing dam. AB 43 should not be considered an impediment to how decisions about dam removal are made, but rather, as an enhancement to current law, that will provide mere consideration about how the removal of an existing dam might impact the safety and well being of citizens. The DNR will still maintain full authority over the regulation of dams, and nothing about this bill should be considered an attack on that authority.

How it works today.

The process is well established.

Why AB 43? While much of the statutory authority given the DNR to monitor or remove dams is based on protecting public safety, there seems to be nothing in either statute or rule that gives guidance on public safety concerns that might be created by removing specific a dam. However, if the historical record tells us that dam removal could cause serious flooding or dangerous high water, I think we have a responsibility to consider that information along with all other relevant information, before moving forward with the process. That is all AB 43 asks for.

31.187 Abandoned dams. (1) The department may remove or cause to be removed, in such manner as it deems fit, old and abandoned dams in streams in this state, upon giving 60 days' notice in writing to the owner thereof, if the owner can be found. If the owner of the dam is unknown or cannot, by due diligence, be found, the department shall publish a class 3 notice, under ch.

985, in the county in which the dam is situated.

(2) Whenever the department determines that the conservation of any species or variety of wild animals will be promoted thereby, the department may maintain and repair any dam located wholly upon lands the title to which is in the state either as proprietor or in trust for the people after giving due consideration to fixing the level and regulating the flow of the public waters.