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(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 ...

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(**ab** = Assembly Bill)                      (**ar** = Assembly Resolution)                      (**ajr** = Assembly Joint Resolution)  
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\* Contents organized for archiving by: Stefanie Rose (LRB) (August 2013)



WISCONSIN'S BUSINESS VOICE SINCE 1911

**TO:** Members, Assembly Committee on Natural Resources  
**FROM:** Scott Manley, Director of Environmental & Energy Policy  
**DATE:** January 10, 2012  
**RE:** Support for Assembly Bill 463 – Wetland Permitting Reform

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Wisconsin Manufacturers & Commerce (WMC) appreciates the opportunity to testify in support of Assembly Bill 463 (AB 463), which would make reasonable and common sense reforms to Wisconsin's wetland permitting program. We respectfully request your support for this important bill.

WMC is Wisconsin's largest general business trade association, with roughly one-fourth of the state's private sector workforce employed by a WMC member company. We represent businesses in the manufacturing, banking, energy, health care, insurance, retail and other service sectors of our economy. Last year WMC celebrated its one-hundredth anniversary of advocacy dedicated to making Wisconsin the most competitive state in the nation to do business.

Wetland permitting is among the most complex bodies of environmental regulation in the Wisconsin statutes. We commend Senator Kedzie and Representative Mursau for their leadership in tackling this difficult issue, and for their efforts to streamline and simplify Wisconsin regulation.

We believe AB 463 strikes the appropriate balance between streamlined regulation and the high level of environmental protection that all of us want. In particular, we believe the following reforms will help simplify the wetland permitting process:

**Use of General Permits:** The bill recognizes that very small wetland impacts can (and should) be regulated with an abbreviated permitting process through the use of general permits. This allows the DNR to focus limited staff resources on the "individual" permits that have a larger potential impact.

**Increased Mitigation Opportunities:** The bill enhances opportunities to mitigate impacts to wetlands, and will likely result in an increase in Wisconsin's wetland inventory. Mitigation also presents an opportunity to increase the quality of wetlands that are disturbed.

**Replacement of ASNRI Wetlands:** The bill replaces the ASNRI wetland concept with a better-defined list of rare or high-quality wetland categories that deserve additional regulatory scrutiny. Doing so allows DNR staff the discretion to look at the actual functional values of any given wetland, and make a judgment about the appropriateness of disturbing it, as opposed to applying a vague and rigid one-size-fits-all wetland policy.

As noted above, we believe AB 463 is a very important and needed step forward to reform Wisconsin's wetland permitting program. Enactment of this legislation will help economic development and job creation projects move forward in our state.

Having said that, WMC believes that additional changes could be made to make a very good bill even better:



**Ephemeral Ponds in Wooded Settings:** The creation of this category of wetlands in Section 75 of the bill provides a classification that is too broad, and lacks a direct linkage to functional values related to water quality. We are concerned that this category may be used to undermine the general permit process created in the bill.

**DNR Rulemaking Authority:** The bill gives DNR very broad rulemaking authority to implement wetland reforms. In some cases, we believe the proposed statutory language is perfectly clear, and does not need clarification by way of rules. We therefore recommend deleting two specific grants of rulemaking authority appearing in Sections 129 and 134 of the bill.

**Practicable Alternatives Analysis:** Although the bill makes improvements to the practicable alternatives analysis when evaluating wetland disturbances, we believe the bill could go even further to restrict that analysis to only those alternatives located on the project site. Asking businesses or homeowners to pursue alternatives on other pieces of property is likely to be impractical.

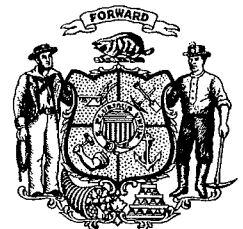
We believe making the changes above will improve upon a very good piece of legislation. Beyond those issues, we ask the committee to remain aware of the fact that AB 463 maintains a great deal of discretion within the DNR to administer Wisconsin's wetland program. The success or failure of these reforms to achieve noticeable improvements in Wisconsin's wetland permitting program will be dependent upon how the Department chooses to exercise that discretion.

In closing, WMC commends the authors of Assembly Bill 463 for a very thoughtful, reasonable and balanced approach to reforming our state's wetland regulations. We believe passage of this bill will help desperately-needed economic development and job creation projects to move forward in a simplified and more timely fashion. At the same time, we believe the bill protects functional values for wetlands, and is likely to result in a net increase in our wetland inventory through increased mitigation opportunities. The bill is a win-win for jobs and the environment.

We respectfully request your support for passage of Assembly Bill 463.



# WISCONSIN STATE LEGISLATURE





January 10, 2012

Representative Jeff Mursau, Chair  
And Members of the Assembly Committee on Natural Resources

Good Morning Chairman Mursau and Committee Members,

The Dairy Business Association (DBA) represents dairy producers, dairy processors and allied corporate industry members throughout Wisconsin. Our members are dairy farmers with herds as small as 50 cows and as large as 8,000. The dairy industry generates \$27 billion in economic activity each year and employs over 146,000 Wisconsin residents.

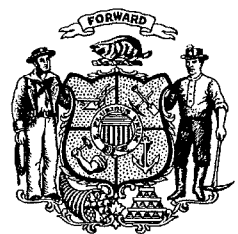
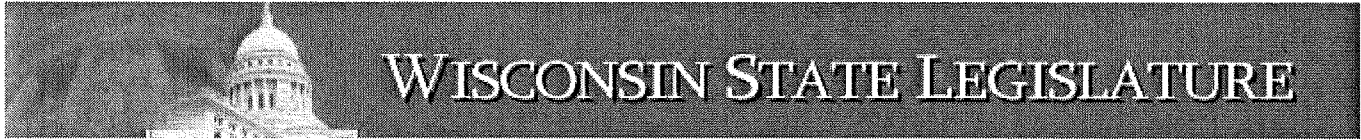
DBA is very supportive of AB 463 which would streamline the permitting process for wetland discharge and mitigation. This legislation will greatly enhance and provide a more consistent permit process by providing statutory timelines by which permit applications must be processed. The creation of general permits in the legislation will put Wisconsin's laws more in line with the federal wetlands programs and reduce the complexity of expanding or building new facilities. In the past, wetland permits have sometimes taken several years to obtain, resulting in lost business opportunities for the State of Wisconsin. In addition to the programmatic benefits, the proposed bill revises the wetland mitigation program ensuring a high quantity and even higher quality of wetlands in Wisconsin.

We do respectfully ask that the practicable alternative analysis portion of the bill, proposed at section 85 of the bill and section 281.36(3n)(a) of the statutes, be amended to include agricultural facilities, along with industrial and commercial facilities. This minor adjustment will make the bill more internally consistent and provide agricultural facilities the same flexibility given to industrial and commercial facilities.

Thank you for your time and consideration of this matter.

Sincerely,

Jayne Sellen  
Government Affairs Director





## John Muir Chapter

Sierra Club - John Muir Chapter  
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### **Oppose AB 463 to Alter Existing Wetlands and Mitigation Laws January 10, 2012, Before the Assembly Committee on Natural Resources By Caryl Terrell, Legislative Volunteer, Sierra Club – John Muir Chapter**

Thank you for accepting comments on behalf of our 15,000 Sierra Club members and supporters in Wisconsin. The Sierra Club has a long history of advocating for wetlands protection and working with state legislative leaders and the Department of Natural Resources in developing public policy to enhance and restore Wisconsin's natural wetlands legacy.

The Sierra Club urges you to oppose AB 463. This bill rolls back wetland protections that jeopardize not only sensitive areas throughout the state, including trout streams, outstanding resource waters, and state natural areas, but also the many additional wetlands that provide native species habitat and flood relief.

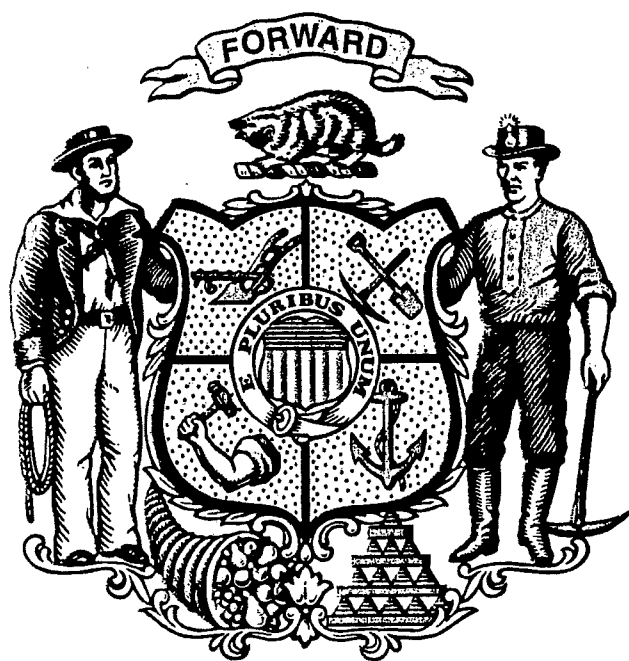
Wetlands are the transitional area between water and land that act as natural guardians of clean water by filtering damaging pollutants from rivers and lakes. Wetlands also protect against flooding, due to their ability to absorb large quantities of water quickly and later slowly release them. Because wetlands provide crucial habitat for 75% of Wisconsin's fish and wildlife, protecting this habitat is key to protecting native species.

This proposal leaves wetlands vulnerable in several ways.

1. Deleting the statutory definition of (ASNRI) wetlands (areas with significant ecological, educational or recreational value currently under special protection). **As a result, no wetland is off limits;**
2. **Rolling back the "Avoid and Minimize" rule** that requires developers to consider non-wetland sites;
3. **Requiring mitigation too early in the permit process** before alternatives to habitat destruction can be fully explored. This allows the permit process to degenerate to the level of a "let's make a deal" free-for-all; and
4. **Setting arbitrary, aggressive time limits for the DNR to review applications**, regardless of site conditions, staffing levels, project complexity or seasonal weather conditions that make on-site inspections impractical. Automatic approval of general wetland permits follows if time runs out for DNR review. This ignores the existing expedited review request option for applicants.

Legislators on both sides of the aisle understood the value of wetlands when they worked to enact The Wetland Mitigation Law, 1999 WI Act 147, and 2001 WI Act 6 to protect isolated wetlands. We are dismayed that these protections are now being undermined in AB 463. The current bill also seems to be a solution in search of a problem, as the Department has successfully reduced average permit review time for mitigation projects by 23 days since 2006, and reduced processing time for 6,500 non-mitigation projects from 135 days in 2003 to 30 days last year. The agency approved 108 project applications that included compensatory mitigation from 2002 - 2010; with 42 of those applications submitted since 2007. Only twelve applications were withdrawn, and 3 recent applications were listed as pending due to no activity from the applicant. (Source: *Isthmus* (citing DNR data), December 16, 2011 issue; *Status of Wisconsin's Wetland Compensatory Mitigation Program (2002-2010)*, *Biennial Report from the Wisconsin Department of Natural Resources to the Wisconsin State Legislature*).

According to the WDNR, Wisconsin has already lost 47% of approximately 10 million acres since becoming a state (Source: *Wetland Activities in Wisconsin: Status Report for 2007; Gains, Losses and Acre-Neutral Activities, July 2008*). As currently written, this bill risks permanent destruction of additional critical wetlands habitat throughout our state, from Lulu Lake in the southeast to the Kakagon - Bad River Sloughs. The state's goal for wetland protection should be to stop the unnecessary destruction of the state's remaining legacy of wetlands and to restore and enhance wetlands that have been degraded over time. For this reason, we are here today to urge you to remove all provisions in AB 463 that rollback wetland protections. Thanks for your consideration, and we look forward to working with you in developing a proposal that protects habitat while promoting sustainable business development.





January, 10, 2012

Remarks addressing Natural Resources Committee in favor of LRB 3704

412 East

State Capitol

Daniel Wald

Jane McDonald

9368 Bluff View Ln

Pittsville, WI 54466

715-676-2363

Dan Wald

I would like to thank the committee for giving us this opportunity to speak. My wife and I are testifying in favor of LRB 3704. Reforms to wetland permitting and regulations are drastically needed in Wisconsin and the issues my wife and I have endured for over seven years are testament to why reforms are needed.

My wife and I own our home and 20 acres in Wood County, or at least we thought we did. Our nightmare started in 2004 when we constructed a garage on our lawn. Upon nearing completion, a DNR water quality specialist arrived at our home, ordering us to tear down our garage and restore our lawn because we had built our garage in wetlands without DNR authorization. In 2005, we discovered an up-to-date wetland determination of our property which showed it was not wetland and presented this information at an enforcement conference that was requested by the water quality specialist. After that, the issue faded, our garage stayed, and life went on.

In 2007, after consulting with a wetland biologist, various federal agencies, and the county, we constructed two ponds on our property. No one had a problem with what we were doing. The following year we received yet another invitation to an enforcement conference from the same water quality specialist for constructing our ponds in wetlands without DNR authorization. After speaking

with the enforcement specialist handling the case, she reviewed our information, cancelled the conference, and basically said we were free to go—there was nothing to pursue. Once again life went on.

In 2009, we received a call from the EPA wanting to close out our case, saying the DNR and Corps of Engineers had done a terrible job. I explained to the EPA agent that if I performed my job like the DNR agent did I would not have a job very long. He told me “you know, these guys work for the government, they just don’t have any bosses”. He wanted to come out dig a couple of holes through our pond spoils and be gone. We agreed specifically to that, but when he arrived with agents from the Corps of Engineers, they performed a wetland delineation of our property without warrant or permission. I asked him why he had done that and told me it was at the request of the DNR water quality specialist.

In 2010 we received a complaint from the Wisconsin Department of Justice for constructing two ponds in wetlands without DNR permits. We soon learned that the warrantless and uninvited wetland delineation would apply in our case since our case is civil. We had no constitutional rights. The partial wetland delineation would be allowed since courts have ruled only partial evidence is needed to reclassify our property. We also learned it would cost us hundreds of thousands of dollars to fight for our home and property, although we would more than likely lose in court anyhow.

In the end, we were coerced into accepting a \$15,000 fine, costly restoration, **no-mow zones** on our lawn, and had to record a deed restriction which in part reads...“no land disturbing activities, including, but not limited to building construction, pond construction...” Our property is virtually unsellable on the market and we cannot even erect an American flag pole on our lawn without permission from the DNR. We fear losing our home from the enormous expenses of attorney, wetland consultant, and surveyor fees.

Unfortunately, our example is not as uncommon as you might think. When overzealous agencies are given unrestrained police powers and are backed up by judicial activism, property rights are tossed aside.

Property rights are the cornerstone of freedom in our country. Supporting this bill will move us closer to freedom and restore the atmosphere of the government working for the people instead of against the people.

Thank You.

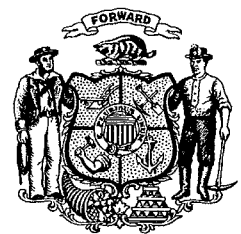
My name is Jane McDonald. Over ten years ago my husband and I bought our home in the hope that we would be able to grow gardens, mow lawn, plants trees, and put up an American flag pole. We pay our mortgage and taxes, yet feel like prisoners on our own property.

The last seven plus years has taken a huge toll on my husband and me not only financially, but emotionally as well. Since the DNR showed up at our door step, I have lost my best friend to cancer, we had 3 miscarriages, and we have buried both my mother and father within 7 months of each other. I share this with you because my husband and I were sitting out on our swing which is located behind our garage that is not suppose to exist, that overlooks our pond we were told has to be pushed in and I remember looking at my husband telling him that I do not have any fight left in me. My husband told me we can either do nothing or we can tell our story so that others will not lose their Constitutional rights or their property. I pray this does not happen to your children or grandchildren.

I am a teacher. Awhile back, one of my students asked me why I don't smile like I use to. That's when it became apparent just how this matter has affected me. I am a good teacher that cares about my students and their future.

I ask you.....how does this happen to good American citizens?

Thank You





222 S. Hamilton St., #1  
Madison, WI 53703  
Phone: 608.250.9971

**To: Wisconsin Legislators**  
**From: Wisconsin Wetlands Association (January 10, 2012)**  
**Subject: Wetland Bill (LRB 2803/1)**

In response to multiple requests from Senate and Assembly offices, we have prepared this memorandum/preliminary analysis to help you understand the implications of the proposed wetlands bill (LRB 2803/1), and Wisconsin Wetlands Association's reaction. We cannot support the bill, as drafted, but believe our concerns are easily addressed. Our recommendations are contained in this memo.

There are many provisions in this bill that we support and we commend Senators Kedzie and Schultz, Representative Mursau, and their staff, for their efforts to understand and address ways to improve the state's current wetland regulatory framework without harming wetland resources. Examples of the positive, common sense provisions in the bill include:

1. Establishing one permit system for all wetlands.
2. Creating a more efficient review and approval process for routine projects with minor impacts (i.e., general permits) *as already provided for* under current federal approvals for WI projects.
3. Modifying statutes relating to public input on and enforcement of wetland permits to be consistent with current or proposed WI statutes for lakes, rivers, and streams.
4. Authorizing the DNR to establish an in-lieu fee mitigation program in collaboration with the U.S. Army Corps of Engineers.

Despite these positive program modifications, there are other provisions that substantially change existing wetland protections. We do not believe it was the intention of the authors to fundamentally weaken wetland protections in the state, but the practical implications of some sections of this bill do just that.

We believe these concerns are easily addressed with modest amendments. For each concern raised we offer constructive solutions that will help to either alleviate conflicts with the federal wetland permit approval process, will prevent impacts to exceptional wetland resources and critical wildlife habitat, and will help to set reasonable expectations for when and where wetland impacts are likely to be approved. Throughout this process we have worked hard to identify solutions that will also be palatable to development interests and continue to be willing to do so.

With the recommended corrections, Wisconsin Wetlands Association will support the bill and encourage citizens to support it as well. Without them, we must strongly oppose.

We thank you for your consideration of this input and are available to meet at your convenience if you would like to discuss any of these concerns or recommendations in more detail. You can reach our Policy Director, Erin O'Brien, or Executive Director, Tracy Hames at 608-250-9971.

## ***Wisconsin Wetlands Association Analysis and Recommendations for LRB 2803/1***

### **I. Recognition and protection of high quality, rare, or imperiled wetlands.**

A stated objective of the bill is to create more and better wetlands. This is difficult to do if we allow the highest quality wetlands to be filled. The bill eliminates all references to *Areas of Special Natural Resource Interest* but fails to include either a comprehensive list of wetland community types that may be of exceptional quality and/or highly threatened, or clear criteria for their identification. Impacts to these types of wetlands are, and should be, the least likely to be approved under current state laws and rules. It is imperative that Wisconsin's wetland statutes recognize that development will be off-limits or difficult to approve if it will impact exceptional wetland resources.

**Recommendation #1:** Add the following item to the *Standards for issuing permits* (pg 28 lines 13-24):

4. The proposed project will not result in any impact to an exceptional wetland resource unless the exceptional wetland resource will be restored to its pre-project condition within 90-days after such impact is initiated.

**Recommendation #2:** Define "exceptional wetland resource" as: Exceptional wetland resources include but are not limited to those wetlands determined by the department to be high quality, globally or regionally rare, historically intact, or difficult to replace.

We recommend this approach rather than inserting a list of wetland types because there is no meaningful way to create one list that adequately captures the regional differences in the abundance, quality, and conservation status of Wisconsin's 12 wetland types.

Without the above recommendations, the bill overlooks an important objective of Wisconsin's wetland conservation strategy.

### **II. Individual Permits:**

As written, the bill unacceptably weakens state review criteria in two fundamental ways:

1. It eliminates the requirement for developers to avoid wetland impacts by limiting the alternatives that must be considered to those that are on or adjacent to their preferred site (page 27 lines 12-24).
2. It requires DNR to consider "up-front" the benefits of any proposed mitigation regardless of the type of wetland impacted, how close the restoration is to the site of discharge, or what type of wetland is restored (pg 28 lines 10-12).

These provisions also create different application requirements and review criteria for state and federal permits. These differences will lead to confusion for applicants and controversy over wetland policies, and have the potential to substantially increase unnecessary wetland development.

If left unaddressed, these provisions equate to major rollbacks in Wisconsin's wetland protection laws. This concern can easily be addressed, however, by narrowing the circumstances where the above described provisions apply as follows:

**Recommendation #3:** Modify *Review Limits* (pg 27 lines 17 to 24) to read: "The department shall limit its review to those practicable alternatives that are located at the site of the discharge and that are located adjacent to that site if the applicant has demonstrated that all of the following apply:

- a. There is a demonstrable public economic benefit (this phrase should be defined).
- b. The project is an expansion of an existing facility or located in an existing industrial park.
- c. The wetland is not an exceptional wetland resource (as defined above).
- d. The wetland is highly degraded and disturbed.

This language recognizes that off-site expansions of existing facilities are generally not practicable and allows for a somewhat limited review for *planned* industrial development. It also recognizes that alternative, non-wetland sites are generally available. Historically the applicant has the opportunity and burden to rebut this presumption in their application. The recommended language is supported in federal statute and case law.

Variants of points c & d were contained in earlier drafts and emphasized by the authors as important sideboards to this section. Their removal substantially broadens the scope and intent of this section of the draft bill and substantially weakens wetland protections in Wisconsin.

**Recommendation #4:** Amend the *Factors used in review* (pg 28 lines 10-12) to read:

4. The impact on functional values resulting from any on-site or adjacent mitigation.
5. The net positive or negative environmental impact to the proposed discharge site.

Limiting these factors to consideration of on-site or adjacent impacts and enhancements allows for common sense decision making without rolling back current wetland protections. It allows DNR to recognize site-specific scenarios where restoration of adjacent wetland resources may result in a better ecological outcome than protecting the last bits of something that is already highly degraded and fragmented. It also enables the Department to consider and weigh impacts to all of the potential environmental impacts on a site (e.g., woods, rivers, endangered species habitat), not just wetlands.

Because wetland impacts are site specific, these decision criteria do not work in cases where the impacts occur at one site and the mitigation occurs elsewhere in the watershed. This does not mean that impacts won't be approved, or that mitigation won't be allowed elsewhere in the watershed (the draft bill and federal law still allow this). It does recognize that off-site mitigation has no bearing on the significance of the impacts to wetland functions at the project site.

These concerns are easily addressed with the above recommended language. Left unchanged the provision represents a major rollback of existing wetland protection policy.

- b. *Timelines* – In the case of both individual and expedited permit reviews, there needs to be language that exempts DNR from prescribed timelines in cases where weather conditions, for



example frozen conditions or floods, prevent the department from making a determination. This language currently appears in Section 281.37(3m)(b) of state statute but was repealed on pg 41 line 24 of the draft bill.

**Recommendation #5:** Re-insert language from Section 281.37(3m)(b) of state statute to exempt DNR from prescribed timelines in cases where weather conditions prevent the department from making a determination.

### **III. General Permits:**

The bill enables DNR to create, renew or modify General Permits (GP) more efficiently while also maintaining opportunities for public input. The bill also requires DNR to issue GPs for specific types of activities, and allows them to establish GPs for others.

With the exception of municipal bridge and culvert projects, the types of activities and acreage limitations to be covered under GPs are consistent with those already approved for GP coverage under existing federally issued general permits. The provision allowing DNR to prohibit GP approval for discharges into specified wetland types (pg 19-20) is too prescriptive to allow for adequate review of impacts to high quality or threatened wetland resources. It is also inconsistent with criteria on pg 23 which allows DNR to require an individual permit to avoid significant adverse impacts to wetland functions.

The bill also allows presumptive approval of projects covered under General Permits, which we do not support.

We recommend the following corrections:

**Recommendation #6:** Modify pg 19, lines 13-16 to be consistent with the current federal GP by establishing a 0.1 acre limit for municipal bridge and culvert projects.

**Recommendation #7:** Delete pg 20 lines 3-9 and amend pg 19 line 25 and pg 20 line 1 to read *“As part of a general permit, the department shall prohibit discharges into wetlands that are identified by the department as exceptional wetland resources.”*

**Recommendation #8:** Eliminate the presumptive approval after 30-days for projects authorized under General Permits (pg 23, line 6-9).

### **IV. Establishment of a Mitigation Program:**

Under federal law, mitigation is a regulatory tool that requires compensation for *unavoidable* wetland impacts. Requiring mitigation and restoration surcharge fees are new state policies that we support with the following caveats:

- a. The science involved in creating and restoring wetland habitats to compensate for impacts to wetland functions is a very technical and complex endeavor.
- b. Studies and decades of on-the-ground experience tell us that failures come easier than successes at both the project and programmatic levels.
- c. “More and better wetlands” is very difficult to achieve in a mitigation context where new losses are authorized.

For these reasons, avoidance and minimization, where practicable, is still the best policy for meeting wetland conservation goals. Mitigation should never *entitle* an applicant to a permit. Where losses are approved, mitigation must be approached in a way that will ensure successful, high quality, wetland restoration projects. Program accountability will be critically important. Whether this new regulatory framework adequately protects our wetland resources will only be known in time with both legislative and public oversight.

We do recommend the following small but important changes to the mitigation sections of this bill:

**Recommendation #8:** Re-insert language to clarify that mitigation should never entitle an applicant to a permit. Explicit language to this effect is currently contained in Section 281.37(2) of state statute. This language is repealed on pg 38 line 16 of the draft bill.

**IV: Public access to wetland mitigation sites:** We support requiring public access to mitigation sites as long as adequate protections exist to restrict access to prevent impacts to sensitive resources.

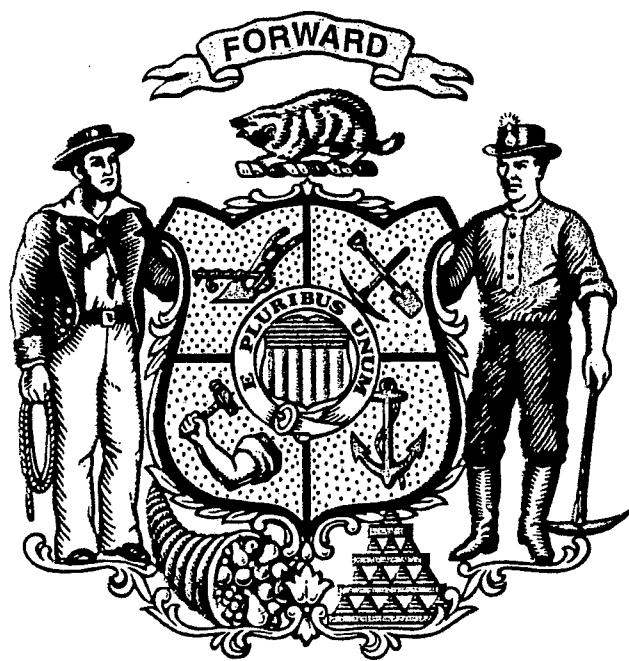
**Recommendation #9:** Amend page 36 lines 6-7 to read: *"The department may establish reasonable restrictions on the use of the land by the public in order to protect public safety, to protect a unique plant or animal community, or to protect wildlife during critical stages of their lifecycle."*

75% of Wisconsin wildlife depend on wetlands for some portion of their lifecycle, including many economically important game species. Including the recommended provision will ensure that public use plans for wetland mitigation sites do not interfere with the state's ability to seasonally protect and manage other important wildlife (e.g., nesting waterfowl).

# Summary of Major Changes to the Department of Natural Resources Review of Wetland Fill Permits

*Prepared by the Wisconsin Wetlands Association (January 10, 2012)*

| Proposed Change   | Current Law  |
|---|--|
| <p><i>New Review Limits</i> created in Section 281.36(3n) – see pg. 27, Section 85, lines 17-24:</p> <p>(a) The department <b>shall</b> limit its review to those practicable alternatives that are:</p> <ul style="list-style-type: none"> <li>▪ located at or adjacent to the site of the discharge if the applicant has demonstrated               <ul style="list-style-type: none"> <li>▪ that the proposed project causing the discharge will result in a demonstrable economic benefit;</li> <li>▪ that the proposed project is necessary for the expansion of an existing industrial or commercial facility that is in existence at the time the application is submitted; OR</li> <li>▪ that the proposed project will occur in an industrial park that is in existence at the time the application is submitted.</li> </ul> </li> </ul>   | <p>The department may limit the scope of the analysis of alternatives <i>only</i> in the following cases – see NR 103.08(4)(c).</p> <ol style="list-style-type: none"> <li>1. The activity is wetland dependent.</li> <li>2. The surface area of the wetland impact, which includes impacts noted in s. NR 103.08 (3), is 0.10 acres or less.</li> <li>3. All wetlands that may be affected by an activity are less than one acre in size, located outside a 100–year floodplain, and not any of the following types:           <ol style="list-style-type: none"> <li>a. Deep marsh.</li> <li>b. Ridge and swale complex.</li> <li>c. Wet prairie not dominated by reed canary grass (<i>Phalaris arundinacea</i>) to the exclusion of a significant population of native species.</li> <li>d. Ephemeral pond in a wooded setting.</li> <li>e. Sedge meadow or fresh wet meadow not dominated by reed canary grass (<i>Phalaris arundinacea</i>) to the exclusion of a significant population of native species and located south of highway 10.</li> <li>f. Bog located south of highway 10.</li> <li>g. Hardwood swamp located south of highway 10.</li> <li>h. Conifer swamp located south of highway 10.</li> <li>i. Cedar swamp located north of highway 10.</li> </ol> </li> </ol>                                    |
| <p><i>New Factors Used in Review</i> created in Section 281.36(3n) – see pg. 28, Section 85, lines 1-12:</p> <p>(b) In its review under par. (a), the department <b>shall</b> consider all of the following factors when it assesses the impacts to wetland functional values:</p> <ol style="list-style-type: none"> <li>1. The direct impacts of the proposed project to wetland functional values.</li> <li>2. The cumulative impacts attributable to the proposed project that may occur to wetland functional values based on past impacts or reasonably anticipated impacts caused by similar projects in the area affected by the project.</li> <li>3. Potential secondary impacts of the proposed project to wetland functional values.</li> <li>4. The impact on functional values resulting from the mitigation that is required under sub. (3r).</li> <li>5. The net positive or negative environmental impact of the proposed project.</li> </ol> | <p>Factors that <b>must</b> be considered by the department during its review – see NR 103.08(3).</p> <p>(3) To protect all present and prospective future uses of wetlands, the following factors shall be considered by the department:</p> <ol style="list-style-type: none"> <li>(a) Wetland dependency of the proposal;</li> <li>(b) Practicable alternatives to the proposal which will avoid and minimize adverse impacts to wetlands and will not result in other significant adverse environmental consequences;</li> <li>(c) Impacts which may result from the activity on the maintenance, protection, restoration or enhancement of standards under s. NR 103.03;</li> <li>(d) Cumulative impacts attributable to the proposed activity which may occur, based upon past or reasonably anticipated impacts on wetland functional values of similar activities in the affected area;</li> <li>(e) Potential secondary impacts on wetland functional values from the proposed activity; and</li> <li>(f) Any potential adverse impacts to wetlands in areas of special natural resource interest as listed in s. NR 103.04.</li> <li>(g) Any potential adverse impact to wetlands in environmentally sensitive areas and environmental corridors identified in areawide water quality management plans.</li> </ol> |





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[www.lwm-info.org](http://www.lwm-info.org)

To: Assembly Committee on Natural Resources  
From: Curt Witynski, Assistant Director, League of Wisconsin Municipalities  
Date: January 10, 2012  
Re: AB 463; Wetlands Regulations

The League of Wisconsin Municipalities supports AB 463. The bill provides local governments with more flexibility to pursue economic development projects that may impact a wetland while benefiting the watershed overall due to greater use of mitigation and other factors. This bill gives the DNR greater flexibility to consider mitigation and to look holistically at environmental impacts of projects that could impact wetlands.

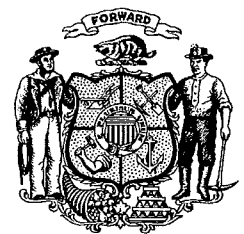
AB 463 allows for more use of mitigation to offset the potential impacts of a project on a particular wetland. Under the bill, mitigation can be considered for all wetlands, including those located in areas of special natural resource interest. See Section 121.

Under current law, mitigation cannot be considered until the end of the permitting process. As a result, for most projects the DNR never gets to look at the mitigation option. Under the bill, mitigation can be considered in determining whether to issue a permit. Section 85.

Under current law, mitigation and other environmental benefits are not considered in the review process. Under AB 463, DNR may now consider “the impact on functional values resulting from the mitigation” and the “net positive or negative environmental impact of the proposed project.” See section 85. This allows DNR to consider the overall environmental impacts of the project on the watershed.

Finally, under current law, the DNR cannot authorize a wetland project if there is a “practicable alternative.” That term was not well defined and was broadly applied. AB 463 defines the term “practicable”. See Section 63. Also, under the bill, review of the scope of practicable alternatives can be limited to the project site or adjacent to the site if the applicant can demonstrate that the project will (i) “result in a demonstrable economic benefit,” (ii) is necessary for the “expansion of an existing industrial or commercial facility” *or* (iii) is in an industrial park in existence at the time of the application.

AB 463 sensibly balances the need to allow economic development with the goal of protecting our wetlands. We urge you to recommend approval of the bill. Thanks for considering our comments.



# **Wisconsin Towns Association**

**Richard J. Stadelman, Executive Director**

**W7686 County Road MMM**

**Shawano, Wis. 54166**

**Tel. (715) 526-3157**

**Fax (715) 524-3917**

**Email: wtowns@frontiernet.net**

To: Senate Committee on Natural Resources and Environment

From: Richard J. Stadelman, Executive Director

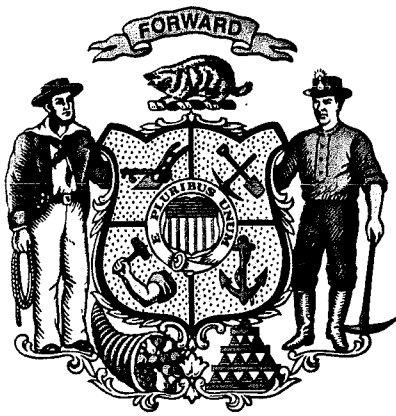
Re: SB 368/AB 463 Wetland Regulations Reforms

Date: January 12, 2012

Wisconsin Towns Association supports the passage of wetland regulations reforms as proposed in SB 368 and AB 463. Specifically our Association supports granting authority to the Department of Natural Resources (DNR) to issue general permits for culvert and bridge projects on local highways. This provision will give flexibility to the DNR to expedite routine culvert and bridge projects that may affect wetlands, while still protecting water quality and maintaining other benefits of wetlands. Approvals will still have to be given under this DNR authority, but it will reduce fees and paper work for local officials, while ensuring that culverts and bridge projects are constructed in accordance standards to be established under the general permit.

Our Association would ask for a simple amendment related to wetland mitigation bank approval by the DNR to require that the DNR give written notice to any town, village, city, and county where the land being applied for a wetland mitigation bank is proposed at the time of given the published notice of the application. Current administrative rule (NR 350.12(5)) only requires a Class I publication in a local newspaper of the filing of an application for mitigation bank approval. A written notice to the town, village, city and county where the land being applied for mitigation bank prior to DNR approval will afford the local governments to give input on the merits of approving the land for a mitigation bank. In at least one case of a previous approval of a mitigation bank in Douglas County the town had no information about the application until after the DNR approval was given. We believe that rather than wait for an administrative rule change to NR 350.12 (5), a simple amendment to SB 368 and AB 463 would be the fastest and surest method to require such a notice.

We thank your committee for consideration in this matter.







# Jeff Mursau

STATE REPRESENTATIVE • 36<sup>TH</sup> ASSEMBLY DISTRICT

## **Assembly Bill 463** **State Wetlands and Mitigation Program Reform**

Thank you committee members for hearing AB 463 today.

Early last year, Senator Kedzie approached me to consider joining him in reforming Wisconsin's chapter 281 regulating Wisconsin wetlands. We consulted with the Department of Natural Resources (DNR), the US Army Corp of Engineers, environmental interest groups and regulated business groups. The result of our work is AB 463.

I believe the business groups want AB 463 to go further and the environmental groups would like it to not go so far: This product is a compromise, and the nature of compromise is that no one gets everything they want. It creates a balance between our environment and our economy expressed by everyone.

AB 463 builds on the framework of statutes created in 2001 following a US Supreme Court ruling the federal government has no jurisdiction over isolated wetlands unconnected to waterways.

AB 463 will create real, opposed to theoretical, opportunities for wetland banks and third party wetland improvements. We will have more banks with more wetland improvement projects throughout Wisconsin. Our opportunity is now. It is time to realize our dreams with common purpose, common effort and un-common achievement.

AB 463 creates administrative efficiencies to help DNR finish routine minor project applications. As a result DNR will be able to spend 80% of their staff time assessing more sensitive wetland project applications that have more sensitive or larger environmental impacts.

AB 463 marries chapter 281 wetland law to existing and proposed statutes in chapter 30 and it synchs these chapters with Army Corp regulations.

DNR states chapter 30 general permit holders achieve an average 90% compliance each year and we fully expect that to occur with wetland general permits as well. The overwhelming majority of citizens and businesses in Wisconsin want to follow the law. Further, by freeing up staff time from minor and routine projects, DNR will be able to use a newly acquired citation authority for enforcement, which currently doesn't exist, to search out bad actors and punish them appropriately.

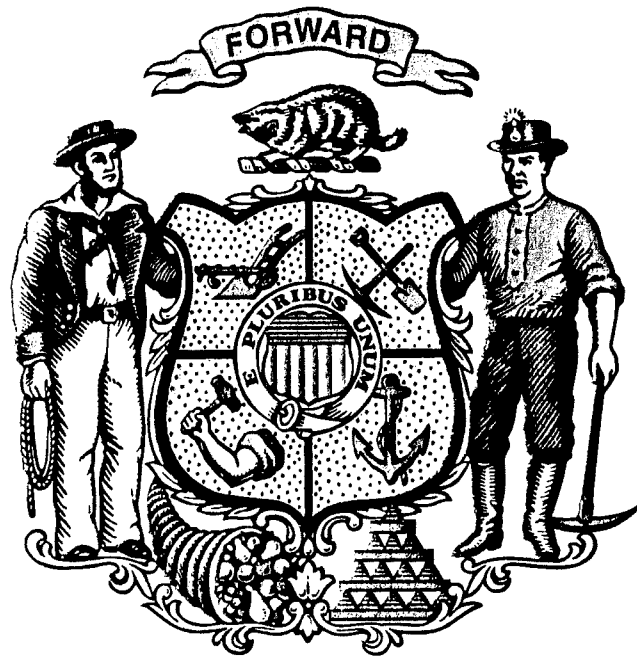
AB 463 will allow for adequate funding for a wetland identification system. This work is not currently being done right now and there is a serious need and demand for this service. Everyone in Wisconsin will benefit from the proper identification of our environmental resources and prevent unnecessary wetland fills or discharges in the years to come.

Finally AB 463 will reduce the public demand and legislative support for parochial legislation to fix problems for individual application problems. We have seen it regularly over the years: applicants can't get a reasonable answer in a reasonable period of time, applicants petition their legislators, a bill is introduced that attempts to fix a problem for only one applicant, DNR and other legislators resist since it doesn't fix the problem for everyone, everyone wrings their hands and in the end, nothing has changed. AB 463 will end the cycle.

Thank you again for hearing this bill today. I have invited DNR to testify today in order to assist in answering technical questions you may have today.

**Madison Office:** P.O. Box 8953 • Madison, Wisconsin 53708 • Telephone (608) 266-3780 • Fax (608) 282-3636

**District Office:** 4 Oak Street • Crivitz, Wisconsin 54114 • Rep.Mursau@legis.wi.gov



Testimony of Jeff Smith on the Wetlands  
Permitting Bill

**Thank you Mr Chairman and Committee members.**

**My name is Jeff Smith. I'm the Legislative Director of the Wisconsin State Council of Trout Unlimited. I represent about 5000 anglers and conservationists in the state.**

**We understand that there is a lot of unemployment in the state. We also understand increased development will create jobs and that development will be enhanced if some environmental regulations were to be trimmed.**

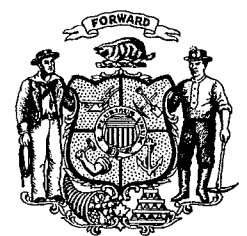
**This bill does a lot in terms of streamlining the permit process and providing for public input. To the extent those provisions enhance the possibilities for development, we're all for them.**

**But the bill does a number of things to permanently alter or destroy wetlands such as removing ASNARI protections and rolling back the “Avoid and Minimize” rule.**

**Unemployment is certainly a hardship for many Wisconsinites but it is temporary. Removing wetland protection regulations is a permanent reduction or destruction of one of nature’s most vital tools.**

**So, this is one of those continuous choices of state lawmakers: Do you take short term economic gains at the expense of long term and permanent natural resource degradation? We say, protect the resource.**

**Thank you for considering our thoughts on these matters.**





Wisconsin Ducks Unlimited  
Nels Swenson – State Chairman  
1358 Pinion Trail  
Oregon, WI 53575  
(608)712-3347 or Nelly\_1950@hotmail.com

**Ducks Unlimited Testimony  
LRB 3704 and LRB 2803/1  
State Wetlands and Mitigation Program**

Thank you Mr. Chairman and members of the Natural Resources Committee for this opportunity. My name is Nels Swenson, and I am the State Chairman for Wisconsin Ducks Unlimited. Ducks Unlimited is a non-profit wetlands conservation organization celebrating our 75<sup>th</sup> anniversary this year. Our 36,000 members in Wisconsin care deeply about conserving wetlands and waterfowl, and have contributed approximately \$20 million dollars for wetland conservation in Wisconsin. In fact, this past year we celebrated our 100,000 acre conserved in the state. Having lost more than half of our original wetlands, we have much more to do. And that is one reason why I am here today.

First, I want to say that we appreciate the legislature considering improvements to Wisconsin wetland law. Several provisions in the proposed legislation are welcomed, and some individuals and groups in this room have echoed those points. DU appreciates the provisions for public review of permit applications, the process for allowing General Permits and the provision for an in lieu fee program. These are positive steps that will benefit the public and private sectors, and the resource.

However, we do have concerns that elements of the proposed legislation do not provide adequate protection for some wetlands, nor does it ensure an adequate process for permitting. I'd like to say that in general, DU concurs with the concerns of the Wisconsin Wetlands Association and their careful and professional review of the legislation, including their recommendations. DU also supports a strong economy and environment, so we agree that a permitting system needs to adequately address business concerns as well as wetland conservation concerns. This system needs to be rooted and grounded in sound science and proven methodology, and where deficient, provide for the securement of better data and science application. Ducks Unlimited has spent \$20 million dollars in Wisconsin, dollars raised from our members and volunteers, matched with state and federal dollars, to conserve a resource for all Wisconsinites to enjoy. We do not want to see legislation that proposes to bail out permitting problems, yet leaves a big hole in the bottom of the wetland boat.

For example, DU is concerned that there is no longer reference to quality or special concern wetlands. The proposed legislation has an objective to conserve more and better wetlands. This will be difficult to do if we allow the highest quality wetlands to be negatively impacted. The bill eliminates all references to *Areas of Special Natural Resource Interest*, and then fails to include either a comprehensive list of wetland types that may be of exceptional quality and/or highly threatened, or clear criteria for their identification. This must be addressed in this proposed legislation. It is imperative that Wisconsin's wetland statutes recognize that development will be either off-limits or difficult to approve if they impact exceptional wetland resources.

We are also concerned about the apparent lack of the “avoid, minimize, mitigate” sequence that is inherent in the federal Clean Water Act that governs wetland regulation. Permit applicants must follow this sequence to ensure our water resources are dealt with properly. DU does not support de facto mitigation as a first step in dealing with wetland impacts. The “avoid, minimize, mitigate” sequence is rooted in federal regulation and has proven itself as a fair and balanced approach to wetland permitting, and we encourage restructuring the proposed legislation to reflect this.

DU does support a mitigation and in lieu fee program to deal with situations where wetland impacts cannot be avoided or minimized. However, we encourage more flexibility in these programs to ensure wetland losses are successfully mitigated, and that a net gain results from the permitting process. First, replacement loss in mitigation must be at least 1.5 to 1; in lieu programs (established by the Corps of Engineers in collaboration with the state and potentially 3<sup>rd</sup> parties) can actually have a higher replacement ratio. Secondly, DU suggests mitigation service areas are a minimum of 8-digit watersheds to increase the potential for successful mitigation projects. Thirdly, ensure realistic and scientifically-based performance standards exist in the mitigation and in lieu programs, taking into account landscape factors and watershed health. Lastly, although DU strongly supports public access for hunting and other outdoor recreation, we encourage at least an exemption provision for public access should unique circumstances arise where public access would not be either safe or that the overall project would be jeopardized.

I want to highlight that although some think wetlands are problems, they are a significant generator of jobs and economic benefits to our state. For example, there are 3.9 million people in Wisconsin who hunt, fish and watch wildlife. They spend \$3.92 Billion in pursuit of their hobbies annually. Many of those activities take place in, on, near or because of wetlands. We need to ensure the wetland economic engine is not filled, degraded or destroyed without essential protections, but that wetlands continue to thrive and provide a great quality of life that is uniquely Wisconsin. DU stands ready to work with members of the Wisconsin Legislature to ensure a better State Wetlands and Mitigation Program. Thank you for your time.



Wisconsin Ducks Unlimited  
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**Re: Ducks Unlimited Recommendations AB 463**

**Dear Representative Mursau and members of the Natural Resources Committee:**

Thank you Chairman Mursau and members of the Natural Resources Committee for your work on the State Wetlands and Mitigation bill, AB 463. There are many positive aspects of this bill, which we appreciate and support, but there are essential elements that need to be tweaked so we can support this entire legislation. Ducks Unlimited has the following recommendations for this bill to be acceptable to our 36,000 members. We have a 75 year history of being science-based, practical and very committed to our mission of wetlands conservation. We can act no other way. We believe the following recommendations are common sense solutions that would improve this legislation for all Wisconsin citizens, be a tribute to our state government, and most importantly, enhance our environment and economy.

**Recommendation #1:** Language needs to be added to include your intention to protect high quality and exceptional wetlands; at a minimum the legislation should state this clearly. The problematic issue has been in defining these types of wetlands. Therefore we ask the Committee to include language that would task the DNR, with input from independent wetland groups, business/agriculture, and others, to develop a system to ensure the state's high quality and exceptional wetlands receive a high degree of protection during the issuance of individual and general permits.

**Recommendation #2:** Regarding wetland mitigation, DU suggests mitigation service areas are a minimum of 8-digit watersheds to increase the potential for successful mitigation projects. We also would like the minimum ratio for mitigation be 1.5 acres, instead of 1.2 acres. We also desire some clarity as to whether mitigation banks are regulated by the USACOE, the state DNR, or both. We continue to hold firmly that in all cases, the “avoid, minimize and mitigate” sequence must be adhered to.

**Recommendation #3:** We have concern with page 27, Sec. 85.281.36. First, we don't agree with limited review by the DNR for all projects; however, we can concur with limited review as stated in lines 12-24 if the limited review is restricted to project types stated. This can be easily accomplished by inserting the word “and” following the word “benefit” on Page 27, line 21.

**Recommendation #4:** We also have concerns with factors used in review, Page 28, lines 1-12. To ensure that consideration of “net positive and negative environmental consequences” is based on the impacts and enhancements to functions and values, we recommend amending pg 28, items 4 and 5 (pg 28 lines 10-12) to read:

4. The impact on functional values resulting from mitigation occurring within the watershed as defined by an 8-digit hydrologic unit code. (It concerns us that the DNR will have to weigh the value of mitigation *prior* to the project being permitted!)
5. The net positive or negative environmental impact of the proposed project if the discharge and mitigation occur within the same watershed as defined by an 8-digit hydrologic unit code.



It is also our view that Line 1, page 28 needs to be amended to delete the reference to par. (a), and replace it with a reference to par (c)(3) (referring to pg 28, lines 22-23), referring to the *Standards for issuing permits* as it relates to significant adverse impacts to wetland functional values, water quality or other environmental consequence.

It is DU's belief that these recommendations are reasonable and rational, and most importantly, protect our wetland resources. Our actions on this legislation need to improve the current system, without eroding key wetland protections that have characterized our state. It is our desire that collectively we produce a piece of legislation that enhance our environment, our economy, and does not cause any generational damage to our excellent wetland natural resources. Please feel free to contact any of us listed on this letter and we would be glad to meet with you to seek further understanding and improvements to the bill. Thank you very much.

Sincerely,

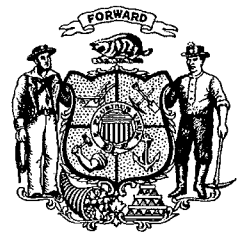
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# WISCONSIN STATE LEGISLATURE





## **Rep. Taylor's Testimony in Opposition to Assembly Bill 463**

Chairman Mursau and committee members,

Thank you for the opportunity to submit written testimony summarizing my concerns and opposition to Assembly Bill 463.

Assembly Bill 463 weakens our current wetland protections which are considered a model for the rest of the county. As currently drafted, Assembly Bill 463 allows developers and big businesses the ability to fill in wetlands by removing current wetland safeguards.

Assembly Bill 463 eliminates all references to Areas of Special Natural Resource Interest (areas with significant ecological, educational or recreational value currently under special protection) but fails to include a comprehensive list of wetland types that may be of exceptional quality and/or highly threatened. Impacts to these types of wetlands are the least likely to be approved under current state laws and rules. Wisconsin's wetland statutes recognize that development should not come at the expense of our exceptional wetland resources.

Under the bill the DNR has to limit its review of alternatives to those that are located at the site of the discharge and those adjacent to the site if the applicant has demonstrated that the proposed project will have an economic benefit, that the proposed project is necessary of the expansion of an existing business or that the proposed project will occur in an existing industrial park.

If the DNR concludes the project has no other viable location they can approve wetland mitigation project at another location. Creating wetlands is not an easy task. Rebecca Kihslinger, science and policy analyst with the Environmental Law Institute concluded in the National Wetlands Newsletter, vol. 30. no. 2 that "although wetland mitigation accounts for a significant annual investment in habitat restoration and protection, it has not, to date, proven to be a reliable conservation tool. Despite the nationwide "no net loss" goal, the federal compensatory mitigation program may currently lead to a net loss in wetland acres and functions."

Additionally, replacing high quality wetland with lower quality wetlands is not in the best interests of our environment or wildlife.

Under the bill, if the DNR also must issue an automatic permit should they not act on the general permit application before the 30 day deadline, regardless of the human, wildlife or environmental impact of such a permit. It is bad policy to endanger water protections through automatic permitting and irresponsible to jeopardize the health and welfare of

our communities merely because the DNR was delayed on acting on a permitting application. A 30 day deadline is not going to be sufficient in all cases for the DNR to do the work that is needed to effectively evaluate an application. This deadline could result in the DNR taking shortcuts and not using due diligence to properly evaluate applications, which again not only has ramifications for the health of our environment but for the health of Wisconsinites.

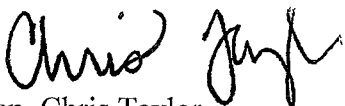
Wisconsin's pristine environment generates millions of dollars in revenue and hundreds of thousands of jobs each year, a fact this bill jeopardizes. Tourism, which is the second largest industry in Wisconsin and generates almost \$12.1 billion in travel expenditures and provided 286,394 jobs in 2009 alone, is largely dependent on our pristine natural resources, which these bills seem intent on destroying.

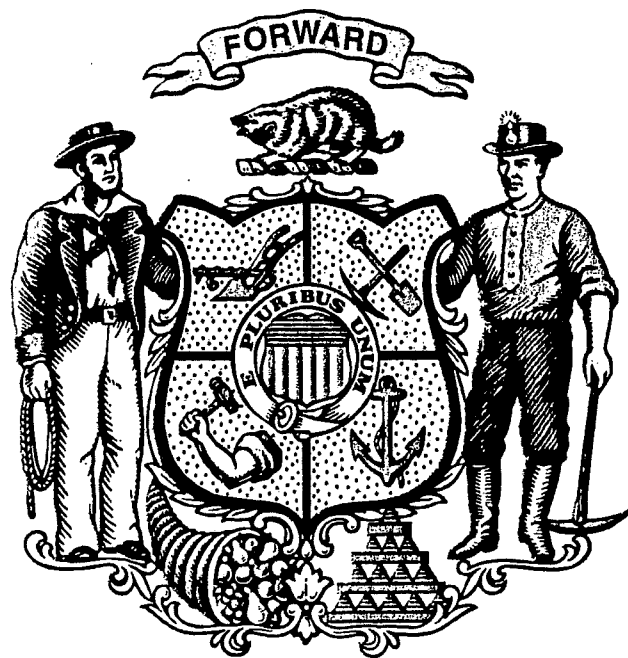
This bill puts at risk an industry that generates over \$12 billion in expenditures for Wisconsin. Seventy-Five percent of Wisconsin wildlife depends on wetlands for some portion of their lifecycle, including many game species. Without clean lakes, rivers and streams anglers will not come to fish; families will not come to vacation, and nature enthusiasts will stay home.

Finally, it is important to note that our current wetland protections received bi-partisan support when originally passed, including the support of Senator Kedzie, a sponsor of this unfortunate bill to undo these protections. Wetlands protections aren't, and shouldn't be, a partisan issue.

I urge committee members to reject Assembly Bill 463 as currently drafted and maintain our current environmental protection standards which safeguard the health and welfare of our citizens.

Thank you.

  
Rep. Chris Taylor





US Army Corps  
of Engineers  
St. Paul District

# U.S. Army Corps of Engineers (ACOE) Information Regarding Section 404 Permit Reviews in Wisconsin (for comparison to AB-463/v1)

January 2012, Regulatory Branch

## Definition of discharges subject to authorization by ACOE (33 CFR 323.2):

- The federal definition of fill (proposed WI statute 281.36 (1) (bd)) is distinct from the federal definition of dredged material (not referenced in the proposed legislation).

## ACOE General Permits (GP's)

- ACOE GP development includes: identification of the individual and cumulative environmental consequences of the proposed GP (National Environmental Policy Act review); a public interest review; and review ensuring compliance with the EPA's Section 404(b)(1) guidelines.
- ACOE GP's are not appropriate for categories of activities which may have (individually or cumulatively) significantly adverse impacts. ACOE GP's are re-evaluated every five years.
- The ACOE GP's do not contain presumptive approval after a specified time elapses. National objectives recommend 75% of all decisions be completed within 60 days.
- The ACOE GP's include special conditions to ensure that activities meet federal guidelines. For example, the GP-002-WI is not applicable for proposed discharges into calcareous fens.
- The ACOE GP's are applicable only to "single and complete" projects – no permit stacking is allowed.

## ACOE Individual Permits (IP's)

- ACOE alternatives review is never limited by rule to on-site and immediately adjacent. The appropriate range of alternatives for a proposed project is routinely identified by ACOE during pre-application meetings.
  - The ACOE does not consider economic benefit<sup>1</sup> an appropriate factor to limit the areal scope of alternatives.
  - Industrial and commercial facilities or proposed developments within industrial parks are not by rule subject to restricted ACOE alternative analysis.
- All ACOE IP's are subject to a public interest review. The ACOE public interest review includes a variety of factors listed in 33 CFR Part 320.4(a), which include socio-economic<sup>1</sup>, infrastructure and safety, as well as natural resource considerations. The strength with which the ACOE considers the factor is directly related to how strongly the factor is tied to the ACOE program.

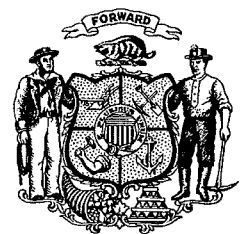
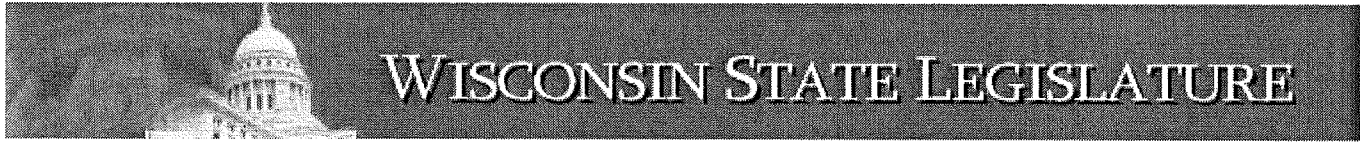
## ACOE Compensatory Mitigation (33 CFR Part 332)

- The St. Paul ACOE routinely requires compensatory mitigation for impacts exceeding 10,000 square feet of waters of the U.S.
- ACOE compensatory mitigation may include aquatic resource creation, restoration, enhancement, or preservation, and may include upland buffer areas.
- ACOE compensatory mitigation applies a "watershed approach" and is not otherwise limited by area.
- Federally funded aquatic resource conservation projects undertaken for purposes other than ACOE compensatory mitigation cannot be used for the purpose of generating compensatory mitigation credit.
- Public recreational use of ACOE compensatory mitigation sites is determined appropriate on a case-by-case basis to ensure that the uses are not incompatible with the goals of the site.
- ACOE in lieu fee programs require a process similar to mitigation banks, including site development plans, long-term management requirements, and a finalized agreement with ACOE prior to use.

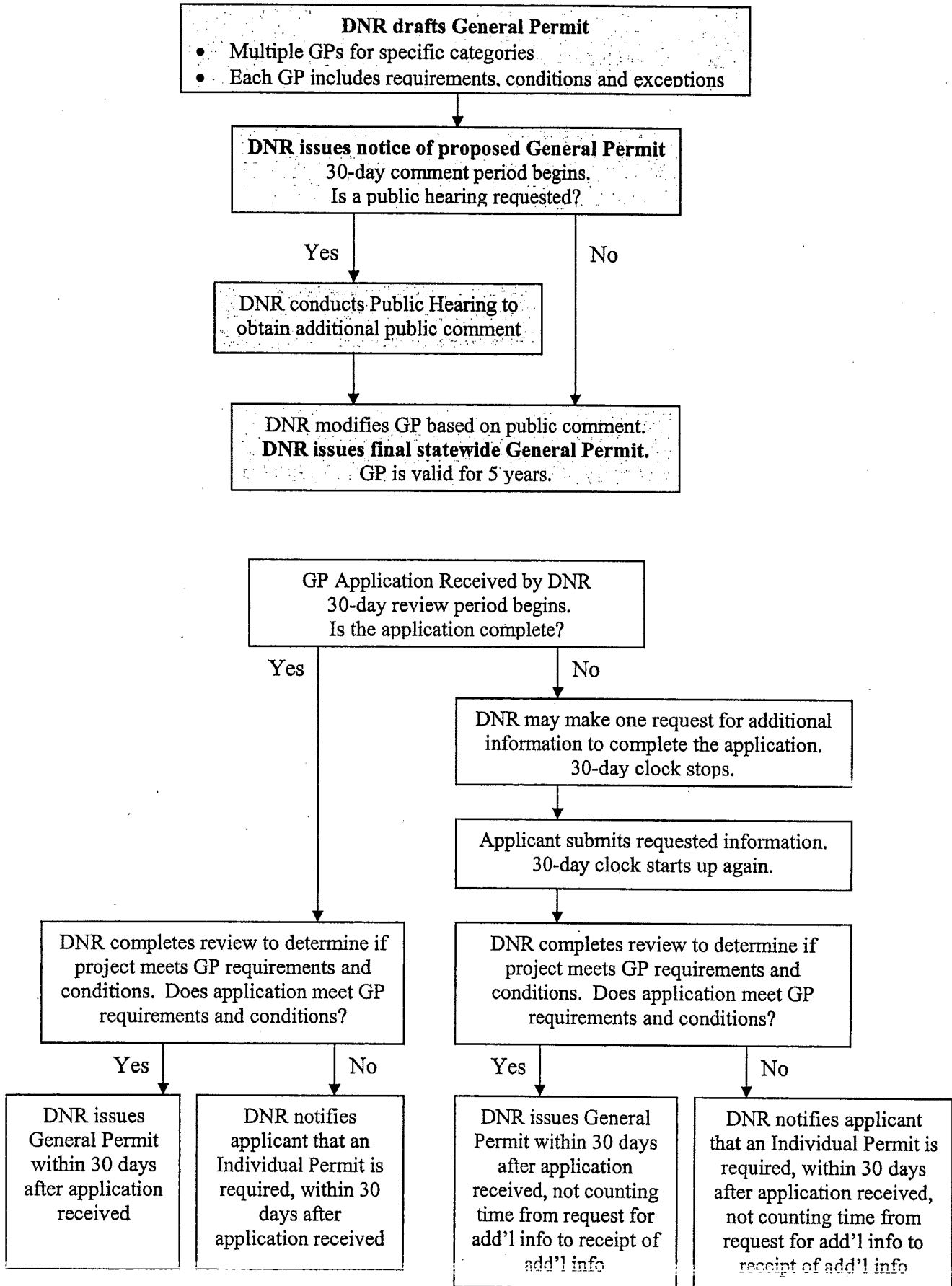
## Key Corps Regulatory Staff for additional information in Wisconsin

- Tamara Cameron, Branch Chief (800) 290 - 5847, extension 5197, or 651-290-5197
- State Program Manager: Rebecca Graser (262) 717-9531, extension 3

<sup>1</sup> Economic benefit, while not appropriate to reduce the array of alternatives available to an applicant during ACOE review, is considered by the ACOE during the public interest review. The ACOE recognizes that most, if not all, projects proposed include an economic benefit.



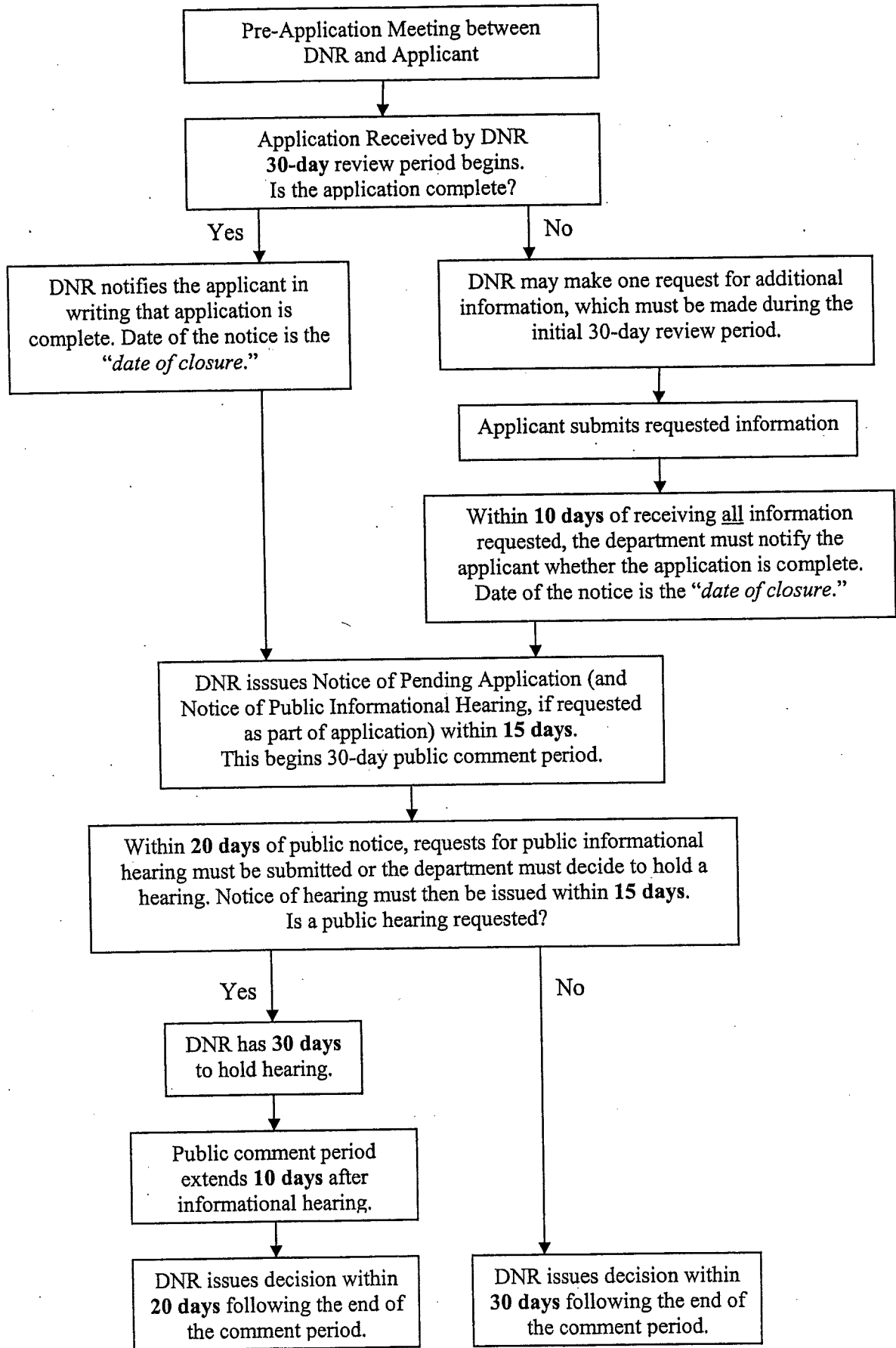
# Proposed Wetland GENERAL PERMIT Process and Timelines



**PERMIT AUTOMATICALLY APPROVED IF DNR DOES NOT MEET DECISION DEADLINE**



# Proposed Wetland INDIVIDUAL PERMIT Process and Timelines



**MITIGATION REQUIRED FOR ALL INDIVIDUAL PERMITS**