



## PATRICK TESTIN

STATE SENATOR

DATE: October 6, 2021

RE: **Testimony on Assembly Bill 521**

TO: The Assembly Committee on Local Government

FROM: Senator Patrick Testin

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Thank you Chairman Novak and committee members for hearing my testimony in support of Assembly Bill 521 (AB 521). The need for this bill was brought to my attention by a constituent of mine, Mike Langlois, who you will hear from next. Mr. Langlois's family has owned and run a campground in the town of Plover since 1972. I will let Mr. Langlois and his family explain their case fully, but the crux of their case comes down to zoning in a floodplain, and what FEMA allows in a floodplain, and what the Department of Natural Resources allows.

First, let's look at the federal definition of "structure" According to 44 CFR subsection 59.1, *Structure means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. Structure, for insurance purposes, means:*

- (1) A building with two or more outside rigid walls and a fully secured roof, that is affixed to a permanent site;*
- (2) A manufactured home ("a manufactured home," also known as a mobile home, is a structure: built on a permanent chassis, transported to its site in one or more sections, and affixed to a permanent foundation); or*
- (3) A travel trailer without wheels, built on a chassis and affixed to a permanent foundation, that is regulated under the community's floodplain management and building ordinances or laws.*

Then, there is what the DNR defines as a "structure". Under NR 129.02 (16):

*"Structure" means any public or private man-made object with form, shape and utility, either permanently or temporarily attached to or placed upon the ground, river bed, stream bed or lakebed.*

That, to me, seems like wildly inconsistent definitions, and the federal guidelines seem a lot more reasonable. So, I was happy to draft AB 521, both to help out my constituents, but also to result in more consistency in floodplain zoning. I hope you can join me in supporting AB 521.



## Assembly Committee on Local Government

### *2021 Assembly Bill 521*

#### *Regulation of structures and accessory structures in floodplains*

*October 6, 2021*

Good morning Chair Novak and members of the Committee. My name is Amanda Minks, and I am the Public Trust and Zoning Section Chief with the Wisconsin Department of Natural Resources. Thank you for the opportunity to provide testimony, for informational purposes, on Assembly Bill 521 (AB 521).

As currently drafted, AB 521 would result in broad and significant changes to our state floodplain management program. The bill would remove all state regulations of structures in the floodplain beyond those required by the federal government for the national flood insurance program standards, established by the Federal Emergency Management Agency (FEMA). An example of state regulations removed under the bill would include residential building restrictions in the floodway, the most hazardous part of the floodplain.

The scope of the federal program is to set minimum standards to reduce impacts to personal property due to flooding, but that program does not address human health and safety. FEMA encourages states and communities to establish higher standards, particularly related to human safety, as this is outside the scope of the federal program. The impacts of adopting AB 521 would include:

- The risk to human health and safety and for property damage would increase during flood events
- Flood insurance rates could increase significantly, from \$1,500 to \$3,000 annually for some homeowners
- Flood control grant sources are already at a 75% funding gap and would be further stressed to provide funding to help communities and homeowners with flood damage costs
- Economic losses from flooding, which reached \$209 million in 2018, would likely increase
- Development pressure in flood-prone areas around the state would intensify
- Developer confusion and the need for hydrologic and hydraulic studies and permitting would increase

The DNR would welcome the opportunity to provide more details about these impacts and concerns should the members of this committee be interested.

It is the DNR's understanding that this bill was originally intended to address decking in campgrounds located in the floodplain. While AB 521 goes far beyond this narrow issue, the DNR does see an opportunity to address this specific issue with more narrowly defined legislation.

The purpose of regulating decking in campgrounds is to ensure that decks do not get damaged, or cause damage to others, during a flood event. Campers can be easily moved out of the floodplain if a flood is imminent. While it may also be possible to remove decks from the floodplain, certain sideboards may be needed to accommodate removal, as it may not be feasible to remove large, heavy decks in a timely manner. It may also be possible to anchor decks so they cannot be picked up and carried away during flooding.

Recently, the DNR has had the opportunity to pursue creative solutions on this specific topic with Portage County Zoning. Based on this experience, the DNR might offer a tailored solution looking at deck sizing and removal strategies. Most campers do not exceed 40 feet in length as they are designed with national park size restrictions in mind. Some of these campers are equipped with built-in grill stations on the exterior of the camper or have other exterior amenities so decking the full length of the camper may not be desirable. Through conversations with communities and other experts, the DNR believes that individual deck pieces up to 32 square feet in size can be easily removed in a light-duty pickup truck. One possible solution would be to craft floodplain ordinances to allow multiple 32 square feet deck pieces to be set together so stakeholders can enjoy a larger deck surface while ensuring that the deck can be easily removed during a flood event. This would offer stakeholders flexibility in decking configuration or orientation based on their specific camper needs and ensures a safe way to get in and out of the camper.

Campgrounds can be a profitable and safe activity in the floodplain so long as safety measures are in place and effectively executed when needed. If ordinances and evacuation plans are designed to ensure that decks and other similar accessory campground structures can be effectively removed before flooding, the DNR finds that the risk to human health and property is appropriately mitigated and we would likely support the ordinance. The department would be happy to engage with private campground owners and members of the legislature to brainstorm solutions to allow for accessory campground structures so long as they can be effectively removed from the floodplain during emergency events.

In summary, floodplain zoning protects human life, health, and property, and is particularly important given historic high-water levels throughout the Great Lakes and the general increase in the frequency and severity of flood events throughout Wisconsin. We implore the members of this committee to pursue a targeted solution for the issue at hand rather than a sweeping bill that will put more families at physical and financial risk from flooding and increased insurance and flood damage costs.

On behalf of the Waterways Bureau, I would like to thank you for your time today. My colleague, Brian Cunningham, DNR National Flood Insurance Program Coordinator, and I would be happy to answer any questions you may have.





## ASSOCIATION OF STATE FLOODPLAIN MANAGERS, INC.

8301 Excelsior Dr., Madison, Wisconsin 53717

Phone: 608-828-3000 | Fax: 608-828-6319 | [asfpm@floods.org](mailto:asfpm@floods.org) | [www.floods.org](http://www.floods.org)

Executive Director  
Chad M. Berginnis, CFM

Deputy Director Operations  
Ingrid D. Wadsworth, CFM

Director Emeritus  
Larry A. Larson, P.E., CFM

October 6, 2021

Honorable Todd Novak, Chair  
Wisconsin Senate Committee on Housing, Commerce and Trade

Honorable Rick Gundrum, Vice Chair  
Wisconsin Senate Committee on Housing, Commerce and Trade

RE: ASFPM written testimony on Wisconsin AB 521

Dear Senators:

The Association of State Floodplain Managers (ASFPM) is aware of today's hearing on Wisconsin Assembly Bill 521 and we ask that this letter be made part of the hearing record. ASFPM is a 20,000-member national non-profit organization dedicated to reducing flood losses and protecting the natural functions of floodplains. The ASFPM office is located on the west side of Madison in an area that experienced extreme flooding in August of 2018. We are concerned about HB 521 which essentially prevents the Department of Natural Resources from promulgating a rule or imposing any restrictions which are higher than the FEMA minimum development standards for floodplain areas. ASFPM would like to provide information for your consideration from our national perspective on the potential consequences of this proposed legislation.

The minimum development standards of the National Flood Insurance Program (NFIP) were developed nearly 50 years ago and have not been significantly changed since the mid-1970s. At the time, the rules and standards reflected what was known about flood hazard management and flood mapping, and sought to balance development needs of communities and flood risk. The NFIP requirements are the minimum and in 44 CFR 60.1(d), FEMA encourages higher standards, stating "Any floodplain management regulations adopted by a State or a community which are more restrictive than the criteria set forth in this part are encouraged and shall take precedence." Wisconsin, along with several other Midwest states, developed their floodplain standards prior to FEMA, reflecting the type of flooding events typical in the region and included measures that were deemed to be necessary to protect communities and citizens from flood loss. Some of these measures were more restrictive than the FEMA NFIP minimum standards which were finalized at a later date.

Over time it has become evident that the current minimum NFIP standards no longer provide adequate flood risk protection for communities and citizens, therefore on January 5, 2021, ASFPM joined a

*Dedicated to reducing flood risk and losses in the nation.*

### Chair

Carey Johnson  
Assistant Director  
KY Division of Water  
502-782-6990  
[carey.johnson@ky.gov](mailto:carey.johnson@ky.gov)

### Vice Chair

Shannon Riess, CFM  
Floodplain Manager  
FL Div. of Em. Mgmt.  
850-815-4513  
[shannon.riess@em.myflorida.com](mailto:shannon.riess@em.myflorida.com)

### Treasurer

Glenn Heistand, P.E., CFM  
Sen. Hydraulic Engr.  
IL State Water Survey  
217-244-8856  
[heistand@illinois.edu](mailto:heistand@illinois.edu)

### Secretary

Stacey Ricks, CFM  
State NFIP Coordinator  
MS Emerg. Mgmt. Agency  
601-933-6605  
[sricks@mema.ms.gov](mailto:sricks@mema.ms.gov)



# Association of State Floodplain Managers, Inc.

petition requesting that FEMA undertake a rule making process to update their regulations and develop forward-looking minimum construction and land-use criteria for flood-prone areas to better address the increased flooding we see in the current century. FEMA responded to the petition on July 9, 2021, essentially agreeing with the need to update their rules and informing that they intend to start the rule making process in the near future. A copy of the petition and FEMA's response can be viewed at <https://no.floods.org/asfpm-nrdc-petition>. The petition provides extensive information on the benefits of higher floodplain management standards.

Two NFIP minimum standards that FEMA has agreed to address are areas where Wisconsin already has higher minimum standards, Freeboard and Floodway Surcharge.

Freeboard – Wisconsin currently requires structures to be constructed to provide 2 feet of elevation over FEMA's standard of the Base Flood Elevation (BFE). This standard helps protect property owners from flooding from unexpected conditions or future changing conditions as well as saving on flood insurance costs. Wisconsin's current 2-foot freeboard standard is estimated to save property owners \$700 annually on flood insurance premiums or \$21,000 over the life of a 30-year mortgage. The cost of elevating a structure on 2 feet of fill is estimated to be \$4,470 with a 3.3-year payback in reduced flood insurance cost. The resale value may also be higher due to lower risk and flood insurance costs.

Wisconsin is only one of many states with higher elevation standards. In 2015, 44% of states had statewide freeboard standards ranging from 1 to 3 feet above BFE. An additional 596 communities also had higher freeboard standards. In all, approximately 62% of the U.S. population live in communities with higher freeboard standards.

Floodway Surcharge – The floodway is the most dangerous portion of the floodplain, where floodwaters can move at high velocities and are therefore more likely to cause loss of life and property damage. FEMA standards currently map floodways to allow for development to create up to a 1-foot increase (surcharge) over BFE in the floodway. In densely populated areas with existing development, even the allowable FEMA one-foot increase in depth of flooding could significantly add to flood damages and costs to upstream, downstream and adjacent properties. ASFPM research shows that as compared to a natural zero-surcharge floodway, encroachments that caused one foot of surcharge reduced the cross-sectional width available for the conveyance of floodwaters by 50% and increased the floodwater velocities on average by 33%. US Army Corps of Engineers flood depth damage curves based on reviews of damage associated with historic flood events, indicate that in the case of a single family structure with no basement and with the finished floor equal to the base flood elevation, a 1-foot surcharge would increase flood damages from 12% to 23.3% of the total value of the structure. Wisconsin floodplain management standards do not allow the floodway to be calculated with surcharge thereby assuring the future development does not increase damage to other properties or increase danger to people during flooding events. This Wisconsin standard protects the property rights of those who would be impacted by this increase in flood levels.

The changes proposed in SB 521 could also impact the rating of communities in the state that participate in the Community Rating System (CRS) program. This voluntary program provides reductions in flood insurance premiums for residents of communities that participate in the program. To earn CRS credit, communities implement flood protection and education activities that can help save lives and property when a flood occurs, with each 500 credits earned providing a 5% reduction in flood insurance premiums up to a maximum of 45%. Credits can be earned for certain statewide standards above the NFIP minimum. Eliminating the freeboard standard would reduce Wisconsin communities' credits by at

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# Association of State Floodplain Managers, Inc.

least 225 points. That combined with the loss of other credits for reduction in statewide standards will likely drop many communities by at least one level with the accompanying 5% loss of premium reduction.

Strong floodplain management regulations will be needed to keep Wisconsin communities, residents and property owners resilient and safe and provide a buffer from the increasingly extreme flooding events of recent decades. Over the last 5 years the state has experienced seven significant regional flooding events, 5 of which received a federal major disaster declaration. The 10 highest river stages on the Baraboo River, recorded at the Reedsburg gage, have all occurred since 2008. In 2015, NOAA released updated precipitation estimates for Wisconsin. The NOAA Atlas 14 estimates the 100-year, 24-hour storm, typically used in developing the FEMA floodplain maps increased by up to 40% over the previous estimates from TP 40, a 1961 document.

While Wisconsin's higher standards have provided a good level of protection against the increased severity of flooding in the state, there have been recent events that have put them to the test. Properties in two communities along the Kickapoo River, that had elevated structures 2 feet above the 100-year flood after past flooding events, were again flooded during a 2018 event. While unfortunate, the 2018 event was more severe than the design event and the structures experienced a lower level of flooding and damage than they would have if they were not elevated.

Sweeping to changes state floodplain regulations to accommodate a few unique circumstances will put many citizens of the state at risk, increase property damage and make the state less resilient to future flooding. Fifty years ago, Wisconsin was a national leader for higher floodplain management standards. In the ensuing years many other states and communities have realized that NFIP minimum standards were just that – minimum standards – that should be exceeded. The changes to Chapter 87.30, Wisconsin Statutes proposed in AB 521 would take the state in the wrong direction and increase the potential loss of life and significant damage from future flooding events. For these reasons ASFPM opposes the bill.

Thank you for your consideration. Please contact me should you have any questions: [cberginnis@floods.org](mailto:cberginnis@floods.org) or at 608-828-6338, if I can be of further assistance.

Very respectfully,



Chad Berginnis  
ASFPM Executive Director

Cc: [Representative Duchow](#)      [Representative Skowronski](#)      [Representative Brooks](#)  
[Representative Macco](#)      [Representative Spreitzer](#)      [Representative Baldeh](#)  
[Representative Conley](#)

Att: Petition Requesting That the Federal Emergency Management Agency Amend Its Regulations Implementing the National Flood Insurance Program  
FEMA response to the Petition for Rule Making

***Dedicated to reducing flood risk and losses in the nation.***

Date: October 6, 2021  
RE: Testimony on Assembly Bill 521  
TO: The Assembly Committee on Local Government  
From: Mike Langlois Co-Owner Ridgewood Campground, Inc.

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My name is Mike Langlois and my wife Kathleen and I have owned and operated Ridgewood Campground for over 21 years located on the Wisconsin River in the Town of Plover.

I would like to thank the members of this committee for accepting my testimony on Assembly Bill 521. This Bill corrects an overreach of authority resulting from the current DNR definition of structures being applied to campgrounds located in floodplains throughout the State of Wisconsin.

We are here today because in 1972 one parcel of land, about 28 acres owned by my father and mother Art and Joan Langlois was approved for campground use. Part of this parcel is located in a 100-year floodplain and part of this parcel is not. Almost 50 years ago, on a parcel of land located in a floodplain that was zoned and approved for campground use, Ridgewood Campground was approved by the Town of Plover, Portage County, the DNR the Corp of Engineers and permits were granted to construct a manmade pond and a campground in the floodplain. The existing campground operates according to and in compliance with the Campground State Code ATCP 79 and is inspected annually by our State agent.

In about 2002 as a result of Mirant power company proposing to locate structures in our campground located in the floodplain, Portage County P&Z, DNR, Amy Corp representatives and others inspected the site with no mention that the campground, campsites, camping units or structures were in violation of any County ordinances or in violation of any DNR or Federal regulations.

In 2017, Ridgewood Campground was granted the permits by Portage County P&Z and the DNR to upgrade our road system and excavate the part of the parcel that is not in the floodplain in preparation for future development. Once that work was completed we applied for additional permits from the County to add approximately 127 campsites, a lined swimming pond and other

structures to be located on this same parcel for campground use. The permits were denied with the explanation given that the existing campground was in violation of the Floodplain zoning ordinance and that before we could expand, the existing campground had to be brought up to code.

Over the last 4 years with our attorney Pat Arendt and with the unwavering support of the Town of Plover and the Portage County Planning & Zoning Committee, we have been attempting to change the proposed Floodplain ordinance under campgrounds. If adopted, as currently written and without any formal enforcement agreement or grandfather clause in place, the Portage County Zoning Administrator, under the authority of the County Executive can make us gut our campground causing people in the camp to leave and not return. After being in business for almost 50 years the enforcement of the proposed Floodplain ordinance by the Zoning Administrator will destroy our current business model and existing revenue streams.

As we went through the process of trying to change the ordinance we were continually told by the Zoning Administrator that they were following a DNR model ordinance that could not be changed. We have come to realize that the problem is not Planning Zoning, the problem is the DNR definition of a structure being applied to campgrounds located in floodplains.

Because the DNR definition of a structure in a floodplain is any man-made object placed upon the ground either permanently or temporarily, any Zoning Administrator in any County can use their own discretion at any time and leverage this definition of a structure and regulate anything from a camping unit, to a deck, to a tent, to a grill, to a fire pit, to a picnic table to a lawn chair, to a beach ball in a floodplain anywhere in the State. As a result, we have no idea what we can put in our campground or not put in our campground. Currently Zoning Administrators can use their own discretion and at any time stop approved campgrounds from putting anything in their campground located in a floodplain unconditionally regulating and restricting the use of their approved campground.

FEMA doesn't directly require regulation of structures without two walls and a roof. After Senate Bill 521 went through the Senate committee review, changes were made and now there is no reasonable justification for not passing this revised bill, bipartisan Assembly Bill 521. This revised



bill still gives Counties and the DNR authority over Floodplains through a Floodplain ordinance and will not prevent municipalities from getting flood insurance and their insurance premiums will not go up.

Therefore, we are asking that the bipartisan Assembly Bill 521 be approved establishing the DNR definitions, regulations and restrictions to be no more restrictive than the current FEMA requirements for approved campgrounds.

I am here today requesting you all vote yes to this bill and save not only our business but save the camping place on the Wisconsin River for the 116 families that currently occupy our campground.

I also request you all vote yes to pass this bill for all other campground owners of existing campgrounds located in floodplains throughout the State.

And most importantly I request you all vote yes to pass this bill for our son, Senior Airman Zachary Langlois and graduate of Real-Estate and Land Economics from the University of Madison who will be the third generation owner of Ridgewood Campground.

Thank you for your time!

Date: October 6, 2021

RE: Testimony on Assembly Bill 521

TO: The Assembly Committee on Local Government

From: Kathleen Langlois, P.E. Co-Owner Ridgewood Campground, Inc.

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My name is Kathleen Langlois and I'm a licensed professional Mechanical Engineer, and co-owner of Ridgewood Campground with my husband Michael Langlois. Our campground is in the Town of Plover and is located directly on the Wisconsin River. Prior to the onset of the COVID pandemic, I was nearing completion of my master's degree from Harvard University in their Sustainability and Environmental Management Graduate Program.

I'd like to thank the members of this committee for accepting my testimony on Assembly Bill 521. This Bill corrects an overreach of authority resulting from the current DNR definition of structures being applied to campgrounds located in floodplains throughout the State of Wisconsin. My husband and I were unaware that there was a floodplain ordinance that superseded State Campground Code 79 until we tried to expand our business out of the floodplain in 2017.

Everyone who stays in our campground is made well aware that we are located in a 100-year floodplain and my husband and I have over the years developed safety procedures for our campground and have developed a safety manual that has been approved by the Portage County Sheriff's Office - Emergency Management Division. Additionally, all our customers are highly encouraged to sign up for Portage County's Community Alerts which is an emergency and non-emergency community notification system. This alert system provides an extra measure of safety should a severe weather or life-threatening situation arise in our community. We have very visible and detailed signage in our clubhouse that is open 24/7 which instructs our people what to do in the event of a health emergency or a severe weather or a high water/ flood incident.

Regularly and more so when there is the probability of flooding we monitor real-time river flow rates through The National Weather Service's Advanced Hydrologic Prediction Service and through the National Oceanic and Atmospheric Administration's River Forecast Center. We additionally stay in continual contact with the Operations & Maintenance Management Team for Hydro Operations who are responsible for dam management along the section of river where our campground is located. All data is analyzed, compiled, and then relayed to our customers through an instantaneous group email notification system. We advise our people of the current river flow status, provide them with the Hydro Managers predicted river flows rates and with recommendations on any necessary steps to take that are based on the data we receive.

Some people believe that the DNR's definition of a structure in a floodplain "ANYTHING MAN-MADE" cannot be changed because we as managers of a campground in a floodplain, and the people that camp in our campground who are well aware they camp in a floodplain, do not have the ability to protect ourselves from floodwaters and therefore need the DNR and County Planning and Zoning Departments to protect us and our assets.

Over the 22 years we have owned and operated the campground, my husband and I have evaluated the flowrates of the Wisconsin River below the Stevens Point dam determining how they directly affect our campground property and our customers and have compiled the river flow data.

In 2010, the Hydro Managers projected flow rates at about 71,000 cubic feet per second and at that time based on our limited experience with flooding we knew we were going to flood but we did not know how much water we were going to experience or what type of flow rates we could expect over the campground land. Therefore, without any evacuation notice given by local authorities, we gave all our customers the data we had and suggested they move their camping units out of the floodplain.



The owners of the camping units made their own decisions and all but about 10% of them moved their camping units out of the campground. We provided equipment, manpower and resources to assist all camping unit owners with removal of their property from the floodplain. None of the camping units which were left on sites experienced any substantial damage and only one unit experienced very minor damage. None of the decks, transfer tanks or storage units floated down river. The flow across the land caused no significant damage to the property or roads during the flood stage or the following day when the waters receded.

During this 2010 flood, the flowrates maximized at 78,000 cubic feet per second and we created a hundred-year high-water benchmark on our property and suggested that owners of camping units elevate their units 16 to 24 inches above the bench mark.

In 2019, we experienced another “100-Year Flood” with flow rates approximating 72,000 cubic feet per second. Based on flood warnings and projections we received, we knew we were going to flood but we also knew from our experience that the risk to our people and the risk of any property damage was low. We contacted everyone in our campground and gave them the river flow data and projections we had and most of the owners of each camping unit made the decision not to move their camping unit out of the floodplain. Only one camping unit was moved out and none of the camping units which were left in the floodplain experienced any substantial damage with only two of them experiencing very minor damage.

What I would like you all to consider, which my husband and I are well aware of, is that if owners and operators of campgrounds located in floodplains, don't take every precaution to protect their customers and their customers property they will be out of business.

Additionally, every owner of every camping unit in our campground that has a transfer tank, wooden deck, barbecue grill, picnic table, patio furniture and many other beloved camping possessions does not want to lose their assets and will take every necessary precaution to ensure their personal property will not be damaged and will not float away down the river.

They already know that weather is uncertain, and that precautions are necessary, and that we must remain alert.

I am not suggesting that we do not need appropriate safety procedures in place in our communities or that we don't need the official 72-hour evacuation notice given by our Emergency Management Division when needed, but this has nothing to do with the definition of a structure that the DNR has developed and currently uses, which far exceeds FEMA's definition of a structure.

As an engineer I require data in my analysis and in my recommendations, and I am not aware of any data that proves that the FEMA definition of a structure in a floodplain used throughout the United States when applied to approved campgrounds, is not adequate to protect people's lives, their assets, and campground infrastructure. And unless this data is produced, the FEMA definition for structures in a campground located in a floodplain should be the overriding definition that the DNR, Counties and Municipalities adhere to for approved campgrounds.

Thank you for your time and for the opportunity to speak to you today.

Date: October 6, 2021

RE: Testimony on Assembly Bill 521

TO: The Assembly Committee on Local Government

From: Zachary Arthur Langlois; Son of Mike & Kathleen Langlois the owners of  
Ridgewood Campground, Inc.

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My name is Zac Langlois, I'm 24 years old and I was born and raised at Ridgewood Campground located on the Wisconsin River in the Town of Plover.

I would like to thank the members of this committee for accepting my testimony on Assembly Bill 521. This Bill corrects an overreach of authority resulting from the current DNR definition of structures being applied to campgrounds located in floodplains throughout the State of Wisconsin.

I officially started working at Ridgewood Campground at the age of twelve, picking up fallen branches from the many trees in the campground, mowing grass and working with my parents to begin to learn general maintenance and operation procedures involved with managing a campground that is located in a floodplain. Also, over the years I have been included in the meetings with our State agent who inspects the campground yearly making sure that it operates according to and in compliance with the Campground State Code ATCP 79. This experience has given me the necessary understanding of how to make sure a campground stays in compliance with the State Code for campgrounds.

When I was a senior in high school I signed up for the United States Air Force Air Guard to serve my county while providing me with a way to offset the high cost of my next level of education. At the same time, I was accepted into the University of Wisconsin Madison, the College of Engineering and the Mechanical Engineering program. However, before I entered college I further evaluated what I actually wanted to do and I determined that my real desire was to take over our family business, Ridgewood Campground, knowing that it would provide me with the experience and resources needed for me to develop other campgrounds throughout the State.



I graduated from the University of Madison in December of 2020 with a bachelor's degree in the second highest rated Real Estate and Land Economics program in the country and in December 2021, I will be returning to get my master's degree in Real Estate Finance. My educational goals have been part of my plan to take over Ridgewood Campground keeping the business in the family and providing for an easy secure way for my parents to transition out of the business with a well-deserved retirement future.

If Assembly Bill 521 does not pass all my dreams and hopes for taking over our family business go away and because the revenue and value of the existing campground drops substantially, so does my father and mothers retirement plan.

Assembly Bill 521 is a very serious bill to our family and to other family owned and operated campgrounds throughout the State who have spent a lifetime building a business for themselves and their families while providing an economical recreational activity for others that in many cases would not have the opportunity to have the water access provided.

After Senate Bill 521 went through the Senate committee review, changes were made resulting from the DNR's and municipality's concerns that flood insurance premiums would escalate on structures defined as having two walls and a roof. At the hearing the DNR's substantial objections really related to a standard building structure that would fall within the FEMA definition of a structure or accessory structure.

The revised bill, Assembly Bill 521 applies to licensed Campgrounds. Those terms "licensed" and "campground" are defined in ATCP 79.05 and 79.03 (3). The principle intent of the revised bill is to limit by definition structures in a campground to FEMA's two walls and a roof from the DNR's any man-made object. The regulation of any man-made object is overly broad and imposes an unnecessary burden on campers,

campground operators and county government that are then subject to permitting requirements for such items as decks, grills, lawn chairs and even ketchup bottles.

The revised bill also limits the DNR's ability to restrict how accessible structures are used. Currently the DNR has limited the size and use of portable decks next to a Camping Unit to 32 sq feet and its use to ingress and egress only. The small size at a minimum does not allow for ADA access into Camping Units. Small, 200 sq ft or less portable decks are regularly used by campers as a dry clean surface to recreate next to a camping unit under the camping unit's awning.

This revised bill overcomes the principal objections of the DNR stated at the Senate Hearing that local municipalities would not be eligible for certain Flood Insurance credit as it would still allow for regulation of traditional structures in a floodplain in a campground that would be the subject of that credit calculation.

Most importantly, this Bipartisan bill provides the needed protection campground business located in floodplains throughout the State need, preventing any Zoning Administrator from being able to use their own discretion at any time, leveraging the current DNR definition of a structure and regulating anything man-made in a campground that is located in a floodplain in the State of Wisconsin.

Therefore, I ask that you please pass Bipartisan Assembly Bill 521.

Thank you.

October 1, 2021

**To:** Honorable Members of Wisconsin's Assembly Committee on Local Government

**From:** Mr. David C. Fowler, Wisconsin Association for Floodplain, Stormwater and Coastal Management (WAFSCM), Legislative Chairperson, September 8<sup>th</sup>, 2021.

**Regarding:** ASSEMBLY BILL 521: AN ACT to create 87.30 (1s) of the statutes; relating to: regulation of structures and accessory structures in floodplains.

Good morning Chairman Novak and members of the Committee. Thank you for the opportunity to testify on Assembly Bill 521, my name is David Fowler. I have over 30 years of experience with flooding issues both professionally and personally. I have been a Certified Floodplain Manager in the State of Wisconsin since 2002, and I am currently the Legislative Chairperson of the Wisconsin Association for Floodplain, Stormwater and Coastal Management (WAFSCM). It is in that capacity that I am providing written testimony on AB 521.

The Wisconsin Association for Floodplain, Stormwater, and Coastal Management (WAFSCM) is the state chapter for the national Association of State Floodplain Managers (ASFPM). The Wisconsin Chapter promotes sound approaches for managing Wisconsin's floodplain, stormwater, and coastal systems. The organization was formed in 2000 and currently has over 200 members from around the state representing both private and public organizations.

Wisconsin continues to suffer from severe weather resulting in flooding in all areas of the state. In fact, flooding is our most common natural disaster. In 2018 alone, Wisconsin saw record flooding in almost every corner of the state. Flooding impacts are only going to increase, as our state faces the challenge of changing rainfall patterns that will bring larger storms with heavier downpours.

Wisconsin has long led the nation in sound floodplain management by requiring floodplain and floodway standards higher than those proposed by the federal government. The Federal Emergency Management Agency encourages states and municipalities to enact higher standards to better protect public tax dollars and to reduce flood damages and loss of life during flood events. Wisconsin's current floodplain management program is a good one and prioritizes the public safety goal of removing existing structures and preventing construction of new structures within the floodplain and not allowing structures within the floodway. This is sound floodplain management



policy that eliminates the flood risk. This legislation will put our state out of step with the direction of the country in reducing flood risk.

To allow structures and fill (currently not allowed due to higher Wisconsin state standards) within the floodway may pose risks by increasing the potential of these structures being washed downstream due to their location in the moving water of the floodway. These structures when carried by the flood flow can cause increased flood heights by clogging bridges and culverts, damage private and public infrastructure and buildings, and cause increased risks to public health and safety. The addition of fill in quantities currently not allowed can also have impacts by raising the flood elevation by reducing the carrying capacity of the floodway. This increase in flood elevation can also increase flood damages and put the public at risk.

I strongly urge the Committee to consider the increased risk that lowering the floodplain and floodway standards to the federal minimum pose to the residents of Wisconsin.

Thank You for your consideration of this matter.

David C. Fowler CFM

WAFSCM Legislative Chairperson