



ROGER ROTH

PRESIDENT

WISCONSIN STATE SENATE

December 21, 2017

Senate Committee on Natural Resources and Energy

2017 Senate Bill 600

Relating to: permitting and mitigation requirements for nonfederal and artificial wetlands and state assumption of the federal regulatory program governing the discharge of dredged or fill material into navigable waters.

Wetlands are an important part of Wisconsin: they provide habitats for fish and wildlife, retain storm water, offer recreation, and serve as purifiers for lakes, rivers and groundwater. There are about 5 million acres of wetlands in Wisconsin, which comprises 15% of the state.

When a landowner or business decides to develop a property, it must be determined whether that activity could impact wetlands. The vast majority of wetlands are adjacent to navigable waters, which fall under federal jurisdiction (federal wetlands). Senate Bill 600 does nothing to change the current process regarding these wetlands.

What this bill seeks to address are difficulties that arise with non-navigable, isolated, intrastate wetlands. Currently, impacts to wetlands of any size and type are subject to a complex set of regulations, making it difficult for permit applicants to navigate the processes – often costing the applicant thousands of dollars and months of time in order to comply.

You will surely hear examples here today from constituents around the state, conveying their difficulties with the existing permitting process. For example, when the economic downturn occurred several years ago, in many instances construction activity on sites in development stopped. Since then, development that was already approved has been halted due to the discovery of new wetlands on existing sites.

SB 600 removes bureaucratic hurdles while retaining the mitigation requirements in current law for these nonfederal wetlands. This means there will be no net loss of wetlands in this state.

In order to ensure that funds accrued for wetlands mitigation projects are distributed efficiently, the bill requires the current balance in the DNR in-lieu fee program be expended by June 30, 2019, and future funds be expended within a two year period. This requirement is intended expedite the state's process of creating, protecting, and enhancing quality wetlands around Wisconsin.

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The bill also addresses artificial wetlands, which are created as a result of human modifications to the landscape and for which there is no prior wetland or stream history or significant functional value or use. Artificial wetlands are currently exempt from wetland regulations in some cases. This bill exempts them entirely, which I believe has received widespread support.

Finally, the bill authorizes DNR to seek federal wetlands permitting authority if EPA delegates it to the state. Current federal law allows a state to apply to EPA to make this request, and we believe that exploring this option could create more regulatory certainty.

The authors of this legislation recognize that quality wetlands serve to benefit our environment in a number of important ways. This bill will result in no net loss of nonfederal wetlands and significant expenditures will be made through the mitigation program to create and protect our state's valuable natural resources.

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To: Chairman Cowles and members of the Senate Committee on Natural Resources and Energy, and Chairman Horlacher and members of the Assembly Committee on Regulatory Licensing Reform

From: Representative Jim Steineke, 5th Assembly District

Date: December 21, 2017

Re: 2017 Assembly Bill 547 and Senate Bill 600

Chairmen Cowles and Horlacher,

I appreciate the opportunity to come before your committees to discuss how we permit, protect and promote wetland habitats in Wisconsin. As you're likely aware, our state is home to over 5 million acres of wetlands – coming in many shapes, sizes and forms. However, due to a variety of reasons, the complex patchwork of regulations that effects these wetlands have become convoluted over time and are oftentimes difficult and costly for our constituents to navigate.

As elected officials, you know as well as I how often we're contacted by constituents who are looking for help or simply for guidance in navigating the bureaucracy that comes with state government. It was instances like this that inspired me to get involved with this issue and bring forth this legislation.

One important example that comes to mind was brought to me by Ray and Daniel Diederich – whose dairy farm is located just outside of Hobart. Earlier this summer, Daniel reached out to my office to express his frustration as he worked on behalf of his family to obtain the permits necessary to expand their existing dairy barn. The problem? Daniel's great-grandfather had years prior inadvertently created a manmade wetland on their farm. Due to the way our current laws are written, this artificial wetland was impeding the Diederich's from expanding their barn and growing their home-grown, Wisconsin business.

This example, and others that you'll hear in today's testimony, inspired me to dig further into the issue of wetland regulations. After some research, what I found was a process that had been cobbled together over the years and lacked the cohesion and efficiencies today's economy requires. What I was also surprised to learn, was that the system currently in place isn't meeting many of the needs of our trained wetland experts or those specialists looking to restore wetland habitat.

Over the past several months, I've worked with Senator Roth and Representative Stafsholt to put together a proposal which I believe will help solve a number of the most critical issues affecting wetlands law.

It's important to remember that Assembly Bill 457 and Senate Bill 600 maintains all of the current protections for federally-defined wetlands and upholds the mitigation rate of replacing each acre of disturbed wetlands with a minimum of 1.2 acres of protected wetlands. Additionally, the bill we've put forward takes steps to expedite the creation of quality wetlands by expending the millions of dollars accrued by the state's popular in-lieu fee program. In turn, this will result in a net gain of wetland acreage across Wisconsin.

I don't want to take too much of your time this morning as we have a number of people who have traveled some distance to share with you their stories. However, before I conclude, I want to take this opportunity to thank the many members of the public who have traveled to Madison today to share with you their personal stories about how our current wetlands laws have affected them or their businesses.

Since putting out this bill, we've heard from a handful of groups that have raised concerns regarding how this bill will preserve and enhance wetland habitats in the future. Through a number of very productive conversations with these groups, I've been encouraged to see that we fundamentally agree that much of our current system isn't working as well as it should.

In having these conversations in-good-faith, I strongly believe that we will be able to strike a proper balance in managing the efficiencies our economy needs along with the protections our wetlands require. That said, I also value the input we'll receive from members of the public during today's hearing and will be open to feedback from my legislative colleagues following today's hearing.

I look forward to the conversation to be had here today and again would like to extend my thanks to chairmen Cowles and Horlacher for the opportunity to come before you today to talk about this important issue.

December 20, 2017

To Senate President Roger Roth, Representative Jim Steineke, Members of the Senate Committee on Natural Resources and Energy and the Assembly Committee on Regulatory Licensing Reform

RE: SB 600/AB 547 – Additional information in support of Testimony

Senators and Representatives,

As wetland consultants, we appreciate the opportunity to provide supporting information to supplement our testimony.

Thanks to the work of Sen. Roth and Rep. Steineke on this bill and the most prior wetland bill SB 320/AB 388 worked on by the Senators of this committee, we have a rare opportunity in front of us. It is rare to see so many groups interested in wetlands either through business and/or conservation concerns so willing to talk to each other and work towards solutions for problems within the wetland regulatory environment. We hope that you embrace the opportunity in front of us and encourage all of us to get together in the same room and work out a package of reforms to present to you in January that you will be able to pass this session.

I believe that all groups working together, including business groups, conservation groups and wetland consultants, can come to common sense solutions to regulatory issues that are efficient, unambiguous and cost effective that help to streamline the wetland regulatory environment within developed areas of the State.

The comments on specific issues here are meant to give you and those groups some ideas from a consultant perspective and someone that has worked within the wetland regulatory environment for 16 years.

Thank you for your consideration,

Chad M Fradette, EP, Chemist
DNR Professionally Assured Wetland Delineator
Green Bay, Wisconsin

Benjamin J La Count, PLS
Wetland Scientist, Planner
Green Bay, Wisconsin

Bill Commentary

1. Artificial Wetlands

The Senate Committee on Natural Resources and Energy has already completed excellent work on SB 320 and passed the bill. That bill has broad bipartisan support. The text of that bill should be substituted for Sections 3 and 4 of this bill.

One modification to the language in SB 320 would be helpful:

- Storm water ponds constructed within historic wetlands prior to wetland laws prohibiting the practice and that are still in use as storm water ponds should be considered exempt wetlands.

2. Delegation of Authority

“281.12 (2) The department, on behalf of and at the direction of the governor, may submit an application to the federal environmental protection agency under 33 USC 1344 (g) seeking the delegation of authority to this state to administer its own individual and general permit program for the discharge of dredged or fill material into the navigable waters of this state. If the federal environmental protection agency delegates this authority to this state, the department may assume that authority.”

We believe that this section is looking to give DNR more authority to act on behalf of the US Army Corps of Engineers (USACE) in order to speed up permit review. At times the USACE is slow at their reviews. There are some specific reasons for this and we would propose that the Governor ask for authority over those specific issues rather than blanket authority as that may require a dramatic increase in DNR regulatory staff and at times the USACE balances out the DNR and leads to cooperative decisions especially on sensitive and larger wetland fill permit requests. The specific reviews that slow down the USACE regulatory process which can be easily performed by the DNR with minimal staffing increase are the following:

- Review of tree surveys conducted by consultants as required for protection of bat habitat
- Review of archaeology sites – this function is already completed by DNR staff and is a duplication of efforts
- Jurisdictional determinations

3. WDNR In-Lieu Fee Program - Mitigation

The In-Lieu Fee Program was developed to help with projects requiring mitigation when no private mitigation banks are available. Unfortunately, the DNR helped to create the shortage in private mitigation banks and was then tasked to solve the problem. Many people do not want to enter their properties into the program due to heavy DNR oversight in the process. Projects within the In-Lieu fee program require public access which has stymied development of good projects because few people want to give up the private use of their properties with little benefit to them other than creating and restoring wetland on their properties.

- In-Lieu fee projects completed on private properties should have the public use requirement removed.

As stated above, the DNR has stymied development of private wetland mitigation banks in the past and, although better today, still stymies innovative ideas in private mitigation bank approvals. Wetland Mitigation Bank developers believe the DNR is in competition with them and finds it a potential conflict of interest to have an entity that approves and regulates their Sites to be building their own banks through

the In-Lieu Fee program. In order to facilitate more private wetland mitigation bank creation and to alleviate those tensions, the following should be considered:

- DNR should be prohibited from using anything within an In-Lieu Fee wetland project that was denied for use on a Private Wetland Mitigation Bank
- Private Mitigation Banks should be allowed to utilize anything within an In-Lieu fee program Site project plan
- If the USACE approves a Private Wetland Mitigation Bank Instrument, the DNR should be prohibited from denying use of those credits for mitigation for Wisconsin Permits.
- If the USACE is willing to allow use of innovative wetland restoration techniques, the DNR should be required to allow the Private Mitigation Bank to attempt said technique
- The DNR should be prohibited from disallowing mixed habitats, including some inclusion of shallow open water wetlands, within mitigation banks and In-Lieu Fee projects.

4. Exemption of Non-Federal Wetlands

“281.36 (4n) EXEMPTION; NONFEDERAL WETLANDS. The permitting requirement under sub. (3b) does not apply to any discharge into a nonfederal wetland.”

In this section it appears that the authors are trying to alleviate the burdensome regulation that many projects endure. We can respect and understand what they were trying to do here. This is also the provision that has brought so many groups to the table to help.

In place of this language, a comprehensive, but efficient, unambiguous and cost-effective amendment package needs to be produced to help alleviate some of the burden that businesses and private property owners endure in developed areas of the State. A set of statutes that have different permitting rules for the following are necessary to relieve the regulatory burden. **We believe the focus of these reforms should be within non-federal wetlands within incorporated areas that are Prior Converted farmlands.** Prior converted (PC) farmland refers to farmland where the conversion of the wetland was "commenced" prior to December 23, 1985. This provision is part of the Food Security Act of 1985 also as known as "Swampbuster".

- PC farmland – wetlands that fall into this category are easily identifiable and typically of low functional value (or low quality). The NRCS has inventoried the entire state and can provide this information. The DNR should be required to obtain this information and place it on the State's Surface Water Data Reviewer database
- Wetland Delineators can identify these wetlands during project development and apply to the USACE for a Jurisdictional Determination which when received would start the PC Farmland rules
- The PC Farmland rules would apply to currently farmed land and undeveloped land within urban settings, undeveloped lots within subdivisions and industrial areas, etc.
- Special measures must be taken in areas that are used for fish spawning and fish spawning routes, most of these routes and areas are identified and the DNR should be directed to identify these areas within this PC Farmland zone as soon as possible
- Practicable alternatives analysis (PAA) should be eliminated for these PC Farmland areas
- Filling wetlands to create developable land within PC Farmland zone should be allowed
- The current wetland permit process should still be available and be an alternative for these areas as in some situations it may be easier to navigate
- Mitigation of the wetlands should be required with reduced monitoring requirements

- On-site and off-site mitigation within the local watershed should be allowed as an alternative to In-Lieu fee or private mitigation banks

5. DNR discussions during past year

Over the past year we have asked the DNR to meet with myself and other consultants to discuss ways in which the DNR can help to alleviate the burden of wetland permitting and other wetland issues within their current regulatory structure. The DNR staff have been very helpful in this request. Here are some issues we have some resolution on of which some may need statutory language in order to protect them from arbitrarily being changed by future DNR staff.

- A *de minimis* wetland general permit can be developed to match the one currently in use by the USACE. This general permit would allow small wetland impacts up to 400 square feet. Although this may sound like a small amount, it is within these size permits that many times practicable alternatives cannot be met. This is a move that will allow many small wetland crossings to occur.
- Storm water ponds are able to be exempted from regulation by DNR storm water staff which eliminate the need for property owners to perform a wetland delineation and exemption request for a storm water pond.
- Professionally Assured Wetland Delineators will be allowed to perform some wetland exemption requests with DNR training. There are discussions ongoing to expand this into more areas as well.
- Professionally Assured Wetland Delineators now have an open invitation to join in on the DNR weekly meetings to discuss problem projects and permits so that DNR staff and the consultant can come to a resolution. After a trial basis this invitation may be extended to other groups.
- DNR staff have broadened their view of artificial wetlands. However, due to their limited statutory authority to provide exemptions the language of SB 320 should still be included within this bill.

6. Farmers and tiling issues

Tiling in farm fields is not addressed in this bill, but the manner in which they are regulated should be discussed. We are not sure why DNR needs to be involved in this area as the NRCS and USACE have to review each tiling project under the Food Security Act. DNR provides enforcement upon complaint and currently has no policy to deal with these projects. If they are going to be involved they must develop a statewide policy and equally enforce its provisions across the state rather than being forced to pick on property owners via complaint only. Spotty enforcement has angered many large farming operations across the state and they feel like they are being singled out for enforcement. Unfortunately, a DNR Water Management Specialist stated that some large farming operations are being singled out as some groups are watching land purchases and complaining to the DNR about tiling by these farmers. DNR must quickly figure out a consistent regulatory and enforcement policy or decline to regulate the activity at all.

7. Tools to help landowners including both statutory and non-statutory items

- DNR charges a fee for use of GIS data. The DNR should be required to change their fee structure from its current archaic format of per geographic area to a statewide database with annual subscription
- The DNR Wetland ID Program needs to allow Conditionally Assured Delineators to perform work as an Assured Delineator under DNR oversight or under oversight of an Assured Delineator in order to develop their skills so that they may “graduate” into an Assured Delineator. This is currently under discussion with DNR Staff.

- Professionally Assured Delineators should be allowed to be part of an apprenticeship program where they help to create new Conditionally Assured Delineators. This is currently under discussion with DNR staff.
- As stated in Section 5, allowing Professionally Assured Delineators to carry more responsibilities is currently in discussion with DNR staff.
- Wetlands crossing of up to 50 feet should be allowed with a general permit with no practicable alternatives analysis or a reduced practicable alternatives analysis. This is currently in discussion with DNR staff.
- Wetland delineators should be allowed to delineate wetlands outside the growing season if they are able to accumulate the necessary data. This issue is currently in discussion with DNR staff and we expect this idea will go into a pilot project this winter.
- PC farmland and other low-quality wetlands in all areas of the State should be held to a lower threshold in the practicable alternative analysis during wetland permit review.
- An approach to review of wetland permits should take on an overall use and end use review approach and should allow innovative on-site and off-site wetland creation and restoration.
- Consultants should be allowed to present a project to DNR staff for cursory review prior to permit submittal with only approximated wetland boundaries. DNR staff should provide a preliminary opinion of whether a project has merit and where it is deficient. This idea is currently in discussion with DNR staff.
- Extension of wetland concurrence from 5 years to 10 years. This would require that any wetland delineation be compliant with USACE and DNR report submission checklists in order to protect owners from liability. Sites may need a cursory review after 5 years, but a landowner should be allowed a grace period to correct any anthropogenic issues that have led to additional wetland formation outside original wetlands boundaries.



**Assembly Committee on Regulatory Licensing Reform and
Senate Committee on Natural Resources and Energy**

Assembly Bill 547 and Senate Bill 600

December 21, 2017

Good morning Chairman Horlacher, Chairman Cowles and committee members. Thank you for the opportunity to provide information on Assembly Bill 547 and its companion Senate Bill 600. My name is Russ Rasmussen, and I am the Policy Initiatives Advisor for the Wisconsin Department of Natural Resources.

Under current law, DNR regulates the discharge of dredged and fill material into wetlands in the state. In addition, the United States Army Corps of Engineers regulates discharges to "Waters of the United States", which includes certain wetlands located in Wisconsin, under Section 404 of the Clean Water Act.

This bill authorizes the Department at the direction of the governor to seek delegation of wetland permitting authority under Section 404 from the federal government. The process for seeking delegation involves application to the United States Environmental Protection Agency, which reviews and approves proposed state delegations under federal law and regulation. Two states, Michigan and New Jersey, currently have delegated programs for issuing Section 404 permits.

Under current law, DNR regulates wetlands, which are defined as areas where water is at, near, or above the surface long enough to be capable of supporting aquatic or hydrophytic vegetation and which has soils indicative of wet conditions. Wetlands that meet these criteria can be either natural features or artificially created as a result of manipulations to the landscape. Under current administrative code, certain artificial wetlands are exempt from regulation unless DNR determines that the wetland has significant functional values or is used as habitat for aquatic organisms or resident and transient wildlife species, or has recreational, cultural, educational, scientific and natural scenic beauty values and uses.

This bill removes certain artificial wetlands from the definition of wetlands that are regulated under current law. Artificial wetlands under this bill include wetlands created by human modifications to the landscape or hydrology and for which DNR has no definitive evidence showing a prior wetland or stream history, but does not include wetlands subject to federal jurisdiction or created as a result of the wetland mitigation program.

Under current law, all regulated wetlands in Wisconsin are subject to the same permitting requirements whether the federal government also has jurisdiction over the wetlands as waters of the United States. Also under current law, DNR must require mitigation for wetland individual permits it issues.

This bill creates a new exemption from wetland permitting for discharges of dredged or fill material to non-federal wetlands, but requires mitigation for these discharges. The bill also gives DNR explicit authority to promulgate rules to interpret and implement the exemption. Testimony by others today will likely highlight specific examples of difficulties that some property owners have faced during the exemption and permitting process. We are aware of the challenges that the current process sometimes pose and are committed to working to help address those challenges.

Under current law, DNR has established an in lieu fee program that has been approved by the U.S. ACOE and EPA, which must be consistent with federal regulations. Under the program, where in lieu fee is an appropriate mechanism to compensate for permitted wetland impacts, permittees pay an established fee to DNR, which assumes the responsibility to provide mitigation for the impact by restoring, enhancing, creating, or preserving wetlands or other water resource features. DNR makes these funds available through requests for proposal. This bill requires DNR to expend all in lieu fee money received before the bill is effective no later than June 30, 2019, and to expend in lieu fee money received after January 7, 2019 within 24 months of receiving the money.

Under the bill, DNR will be required to report to the governor and standing committees of the legislature each session to explain how DNR has expended funds, and if necessary why the funds have not been expended. This bill also specifies that DNR may not impose requirements or conditions under the in lieu fee program that exceed the requirements and conditions established by the Army Corp under the federal compensatory mitigation regulation.

Finally, this bill removes reference to the escrow subprogram for mitigation, which by its terms was transferred to the in lieu fee program when that program was approved by the Army Corps. The escrow program served as a bridge while DNR worked to receive Army Corps approval for its mitigation program, and is no longer in use.

Wisconsin's Green Fire: Voices for Conservation

Analysis of proposal to remove state regulatory oversight of non-federal wetlands in legislation: AB547 / SB600

December 18, 2017

Legislation Description: The following is an excerpt of the analysis of AB547 / SB600 by the Legislative Reference Bureau (LRB).

"This bill exempts nonfederal and artificial wetlands from certain Department of Natural Resources wetland permitting requirements and, if the Environmental Protection Agency delegates to the state the authority to administer its own permit program for the discharge of dredge or fill material into navigable waters, authorizes DNR to assume that authority. Under current federal law, generally, a person must obtain a permit from the federal government for discharges to wetlands that are under the jurisdiction of the federal government. Federal law requires an applicant to submit with a permit application a certification from the state that the proposed discharge will comply with state water quality standards or that the state has waived such certification. In this state, DNR grants this certification by issuing a state wetland permit. Under current law, DNR must issue wetland general permits for discharges of dredged or fill material into certain wetlands and may require a person to apply for and obtain a wetland individual permit if DNR determines that conditions specific to the site require additional restrictions on the discharge in order to provide reasonable assurance that no significant adverse impacts to wetland functional values will occur. The bill exempts wetlands that are not subject to federal jurisdiction (nonfederal wetlands) from state wetland permitting requirements. Generally speaking, only wetlands that are adjacent to navigable waters are subject to federal jurisdiction. The bill continues to require the mitigation of impacts from a discharge to a nonfederal wetland, which under current law is required before DNR may issue a wetland individual permit. The bill also excludes artificial wetlands from the definition of a wetland, thereby exempting these wetlands from the permitting and mitigation requirements that apply to the discharge of dredged or fill material into a wetland."

Background: The federally mandated Clean Water Act applies to wetlands adjacent to a navigable water body. Current Wisconsin law applies to *all* wetlands, regardless of their location in the landscape. Under both federal and state laws, before a wetland can be destroyed or filled, developers must first demonstrate that there is no practical alternative. Furthermore, if there is not an alternative, they must minimize the adverse impacts to the wetlands that will be lost. In addition, compensatory mitigation is required for wetland fills under an individual permit.

Wisconsin Green Fire has researched and evaluated legislative proposals to reduce state regulatory oversight of those wetlands that are not covered by the Clean Water Act. Assembly Bill AB547 and Senate Bill SB600, if enacted, would exempt non-federal wetlands from permitting requirements and would allow filling or destruction of these aquatic habitats without a permit or oversight by the Wisconsin Department of Natural Resources. The bill would require compensatory mitigation of filled non-federal wetlands, but how that mitigation would occur, for an activity that is exempt, is unclear.

Wisconsin's Green Fire: Voices for Conservation

Impacts Synopsis: If enacted into law, AB547 / SB600 would result in degradation or outright conversion of wetland habitats, reducing Wisconsin's rich diversity of wetland habitats and the ecosystems they support. It removes protection for wetlands that provide many ecological services, including feeding downstream waters, supporting groundwater connections, trapping floodwaters, removing pollution, and providing fish and wildlife habitat. These wetland services support agriculture, recreation, and are key drivers of Wisconsin's tourism economy. According to the Department of Tourism, this sector contributes \$20 billion to Wisconsin's economy.¹ The rich diversity of wetland habitats supports hunting, fishing, wildlife watching, hiking, skiing, camping, and snowmobiling. *These ecosystem services are provided regardless of the wetland's proximity to a federally navigable waterway.*

WGF recognizes there are legitimate concerns regarding the regulation of created, artificial, and farmed wetlands, that are covered only by state wetland laws. We are willing to lend our expertise to help craft legislation to address these specific concerns. The current legislation is broad, and would likely result in adverse impacts or destruction of high quality wetlands important to the public interest.

Context: Wisconsin, prior to European settlement, had roughly 10 million acres of wetland habitat. About half, (5 million acres), was filled or destroyed as the state was developed and wetlands were converted to agricultural and urban-industrial uses. Of the remaining wetland habitat, approximately 4 million acres are covered under the Clean Water Act. Under current Wisconsin law, an additional 1 million acres are protected.² Under these regulatory systems, wetlands are routinely managed through a coordinated permit system that considers wetland functions and values. This system has been portrayed as inflexible and overly burdensome. However, several legislative measures have been implemented in recent years to make Wisconsin's wetland regulatory system more flexible for those proposing to fill wetlands for further development. Since 2012, Wisconsin has offered general permits for wetland fills up to 10,000 square feet, with no requirement for compensatory mitigation. In 2015, WDNR approved 91% of the general permit applications for wetland fills and 87% of the individual permit applications for larger wetland fills.³ As a result, 334 general permits and 39 individual permits for wetland fill were issued that year.

Natural Resources Impacts: Several examples of wetlands that would no longer be protected under state law under this legislation are depicted below. "Non-federal" wetlands occur across the entire state, and vary regionally in abundance, context, and wetland type.

Wisconsin's Green Fire: Voices for Conservation

Central Wisconsin



Not all isolated wetlands are small. This complex of open bog and meadow occurs in central Wisconsin in an area formerly occupied by an enormous glacial lake.

Central Wisconsin



Non-federal wetlands include unique wetland types. When Glacial Lake Wisconsin drained, it left an area characterized by sandy soils, a high water table, and vast wetlands. The photo depicts an area of sandy ridges (some of them are ancient dunes), which are now vegetated with forests of oak and jack pine. Between the ridges are numerous isolated wetlands of marsh and meadow. The area is just west of the Necedah National Wildlife Refuge in Juneau County.

Wisconsin's Green Fire: Voices for Conservation

Northern Wisconsin

"Isolated" wetlands aren't isolated. Rough end moraine topography northeast of Chippewa Falls contains a notably dense concentration of lakes and wetlands in a complex mosaic that includes many lakes and ponds as well as adjoining (federal) wetlands, along with isolated wetlands.



Northern Wisconsin

Glacial landforms such as ground moraine and outwash cover much of northern and eastern Wisconsin. Where drainage is impeded by fine-textured soils or bedrock, wetlands often occur. Although the isolated wetlands shown here (mostly conifer swamp in the foreground; mostly open bog or muskeg toward the back) occur on an island in Lake Superior, this situation is representative of many locations in northern Wisconsin.



Wisconsin's Green Fire: Voices for Conservation

Southeast Wisconsin



Southeastern Wisconsin contains some of the Upper Midwest's best examples of glacial landforms, and these in turn support many examples of isolated wetlands. This ephemeral pond occurs between gravel ridges within the rugged terrain of the "kettle" interlobate moraine. Ephemeral ponds, though usually small, provide critical breeding habitat for frogs, salamanders, and many invertebrates, some of them highly specialized and occurring in no other wetland community.

Driftless Area - Southwestern and West Central Wisconsin

Wetlands are comparatively scarce in the un-glaciated Driftless Area. Among the key exceptions are the seepages, springs, and headwaters streams that provide a steady source of clean, cold, highly oxygenated water to the region's trout streams and large rivers.

Pictured here is a seepage area with skunk cabbage, marsh marigold, and alder at the base of a sandstone bluff.



Wisconsin's Green Fire: Voices for Conservation

Great Lakes Northwestern and Eastern Wisconsin



Interdunal wetlands, such as this example in the Apostle Islands, have no surface water connections. They are extremely dynamic ecosystems that support rare species and provide feeding and resting areas for many migratory birds. The complex and sometimes extensive ridge and swale systems found along Lake Michigan (not pictured) are also of exceptionally high value. In northwestern Wisconsin, the poorly drained red clay soils near Lake Superior support a diverse array of wetlands of high importance to wildlife and rare plants.

Wisconsin's Green Fire: Voices for Conservation

This analysis was prepared by members of Wisconsin's Green Fire Public Trust and Wetlands Workgroup. Members include retired staff from regulatory programs in the Wisconsin Department of Natural Resources and wetland scientists. Wisconsin's Green Fire: Voices for Conservation (WGF) is a newly formed independent nonpartisan organization. WGF supports the conservation legacy of Wisconsin by promoting science-based management of its natural resources. Members represent extensive experience in natural resource management, environmental law and policy, scientific research, and education. Members have backgrounds in government, non-governmental organizations, universities and colleges and the private sector. More information about WGF can be found at www.wigreenfire.org.

Photo Credits – Eric Epstein

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2. REVERSING THE LOSS: A Strategy to Protect, Restore and Explore Wisconsin Wetlands Developed by the Wisconsin Wetland Team — June 2008, Wisconsin Department of Natural Resources Publication # PUB-WT-893-2008
3. DNR data analysis in "State of the Watershed Management Bureau 2015-2016." August 1, 2016. Prepared by the Bureau of Watershed Management, Wisconsin Department of Natural Resources.

Wisconsin Green Fire Hearing Testimony
Assembly Bill 547 & Senate Bill 600
December 21, 2017
By Tom Jerow & Ron Eckstein

Good Afternoon,

My name is Tom Jerow. I'm here with my colleague Ron Eckstein. We are both retired from the Wisconsin Department of Natural Resources. I worked mostly in various water programs for 34 years including 19 years supervising field staff in wetland permitting program. Ron worked as a wildlife biologist working in mainly in Oneida and Vilas Counties for 36 years. We represent the newly formed Wisconsin's Green Fire: Voices for Conservation. Our goal today is to provide you, the decision makers, with information on impacts to the environment and natural resources based on science and professional experience. Our testimony is for informational purpose. More information about our organization can be found in our detailed issue paper which is being provided to you as part of our testimony today.

If enacted into law, AB 547 / SB 600 would result in degradation or outright conversion of wetland habitats, reducing Wisconsin's rich diversity of wetlands and the ecosystems they support. Our issue paper has 7 examples with photographs of non-federal isolated wetland ecosystems from across the state. According to DNR estimates there are approximately one million acres of similar wetlands across the state of Wisconsin. This proposal would remove protections for wetlands that provide many ecological services, including feeding downstream waters, supporting groundwater connections, trapping floodwaters, removing pollution, and providing fish and wildlife habitat. These wetland services support agriculture, recreation, and are key drivers of Wisconsin's \$20 billion dollar tourism economy. As an example of the importance Natural Resources have to our economy, Wisconsin sells more out-of-state fishing licenses than 49 other states. Only Florida sells more out-of-state fishing licenses. The rich diversity of wetland habitats supports hunting, fishing, wildlife watching, hiking, skiing, camping, and snowmobiling. These ecosystem services are provided regardless of the wetland's proximity to a federally navigable waterway.

I'd like to talk briefly about one ecosystem service that isolated wetlands provide and Ron will cover another. Wetlands, including non-federal wetlands, act like a sponge during extreme storms events holding excess water and releasing it gradually over time. This lessens the impacts from flooding. Flooding in urban and rural areas impacts all aspects of life in Wisconsin including agriculture, housing and subdivisions, business and industry and last but not least our natural resources. In recent years Wisconsin has experienced some devastating storm and flooding events which demonstrate the importance of protecting our wetland resources. These storm events, as devastating as they were, would have caused even more property damage if not for ecological services wetlands provide. Now I'd like to turn to my colleague, Ron to share his scientific and professional experience with wetlands.

In agricultural and urban landscapes, isolated wetlands are, many times, the only remaining wildlife habitat and are very important to upland game, waterfowl, migratory

birds, and many non-game species. In addition even game species such as deer, fox, cotton-tails rabbits, and wild turkeys use these wetlands as winter cover in the corn & soybean-dominated regions of the state as well as in urban areas.

In particular, isolated wetlands are very important for local populations of waterfowl such as blue-winged teal and mallards and they are critical winter habitat for local populations of ring-necked pheasants (an exotic bird for an exotic, corn-based landscape). Without isolated wetlands, hunting opportunities in many local areas would disappear.

The value of these wetlands to game and non-game wildlife is documented by many years of wildlife research conducted right here in Wisconsin by DNR and University research scientists. Hunters have played a big role in funding research & management of wetlands because hunters recognize that these wetlands are very important, and many times critical, to sustaining local populations of game.

Wetlands that have been drained and restored are very good wildlife habitat but new wetlands that are developed in upland areas support many fewer plants and animals; have a shorter food chain; and, are much less attractive to local wildlife populations.

WGF recognizes there are legitimate concerns regarding the regulation of created, artificial, and farmed wetlands, that are covered only by state wetland laws. We feel that the "Artificial Wetlands Bill (AB388/SB32) does a much better job addressing the some of the concerns we've heard today. We are also willing to lend our expertise to help craft legislation to address some of the other specific concerns we've heard today. However, the current legislation is overly broad, and would result in adverse impacts or destruction of high quality wetlands important to the public interest.



US Army Corps
of Engineers

St. Paul District Regulatory Branch (Corps) Information Regarding AB-547/SB-600 in Wisconsin

December 21, 2017

The Corps appreciates the opportunity to submit testimony in response to Assembly Bill 547/Senate Bill 600 (Bill). The Corps and the Department of Natural Resources in Wisconsin have a long history of working together to align our program requirements wherever possible. We offer the following information describing how we anticipate the current version of the Bill may impact stakeholders required to comply with federal and state wetland laws.

Section 14 of the Bill would create 281.36(4n) to exempt non-federal wetlands from state permitting requirements.

Corps evaluation of potential implications from this proposal: We anticipate that any change which necessitates definitive identification of federal wetlands (meaning those wetlands subject to the Clean Water Act, or CWA) to determine state permit requirements is likely to slow down the wetland regulatory process for stakeholders. If the state exempts non-federal wetlands from state permitting requirements, it is likely that stakeholders will want to know definitively whether their waters are federal wetlands. We anticipate this will result in a potentially large increase in the number of Approved Jurisdictional Determination (AJDs) requests submitted to the Corps. In fact, some stakeholders have already indicated that they intend to request AJDs from the Corps in order to determine 281.36 permit requirements, should this provision be enacted. It is often unnecessary for the Corps to complete an AJD to support a permit decision, and thus a small percentage of time and resources are dedicated to completion of AJDs. Completing an AJD is often complex and time-consuming, and requires detailed site-specific information, much of which can only be gathered during the growing season. The additional cost to applicants, the seasonal constraints around data collection, and the time necessary to evaluate the data and prepare an AJD are common reasons why AJDs are rarely sought by applicants. Any additional resources the Corps commits to preparing AJDs would proportionally reduce the time and resources committed to permit evaluations.

Section 11 of the Bill would create 281.36(3r)(f) to require that DNR expend moneys received for the ILF program within 24 months of being credited.

Corps evaluation of potential implications from this proposal: The Corps supports, and the federal permitting program benefits from, timely selection and approval of ILF sites. However, the requirements for operating a sustainable ILF program in compliance with federal regulations make strict expenditure timelines challenging. ILF funds must be retained for much longer than two years to support site monitoring and long-term management activities. Additionally, ILF credits are sold continuously, and the rate of sales, and therefore accrual of funds, is unpredictable. Sufficient funds must accrue to pursue viable, self-sustaining mitigation sites. The ILF program solicits proposals, selects project sites, and prepares and submits site plans to the Corps and Interagency Review Team for review only after sufficient funds are collected; the time required to accrue sufficient funds can vary dramatically. After that site selection process, the defined federal approval process, including required coordination with the public and other agencies, is 255 days. That timeframe can be longer if DNR must respond to substantive objections or information needs. Seasonal constraints related to site evaluation and construction also strongly influence timeframes.

Point of contact: Rebecca Graser, Wisconsin Program Manager (651) 290-5728,
rebecca.m.graser@usace.army.mil

for common-sense applications of wetlands rules & regulations, and for a reasonable, predictable timeline for receiving wetland permitting where appropriate, we see these bills before us today which still remove all permitting and protections from non-federal wetlands in our state.

I've seen it stated in media reports that Wisconsin has more regulation of these type of wetlands than other states. What is never mentioned in these reports is that we have far more of these isolated wetlands than most other states, a legacy of our ancient glacial history. One only has to look at a wetland map of the US to see why we might have cause for being careful not to squander our resources.

These isolated wetlands create many of the spaces that we hold dear as Wisconsinites. They're where our ducks raise their young, where we hunt in the fall, home to countless species, endangered & thriving, places where "Something Special in Wisconsin", comes to life. When we remove protections from all of these habitats, in order to make it easier to have development on the least valuable 1% of them, we have our priorities inverted.

I've also seen our conservation groups depicted as protectionists. Nothing could be further from the truth. Our members are working people, business owners and community members, interested in building their own success and improving their family's future. We are not opposed to improving the process of wetland regulation and permitting, but the protection of these resources requires a process, and this bill starts by removing that, entirely. It's the wrong way to go about making an improvement. You don't burn your house down, if the windows need replacing, right?!

Along with my testimony I've included our concepts for improving the process, developed among the best & brightest of our cooperative groups. I'm told you've seen them before, but I'll finish my time by making an appeal for a more open discussion process, to significantly change and improve these bills. All of us at WWA would look forward to continuing to be a part of that process, both for a better environment for business, and to better protect our environment.

On behalf of the board of directors, volunteers, and members of the Wisconsin Waterfowl Association, I ask you to reject AB547 and SB600, as currently written, and encourage the authors to bring stakeholders together to make the improvements we've suggested, a reality.

Thank you for allowing me to address your committees.

Donald Kirby - Executive Director

Date: December 4, 2017

To: Senator Rob Cowles, Senator Roger Roth, Representative Jim Steineke, Representative Rob Stafsholt

RE: Proposed Wetland Law Changes

All,

As a community of hunters, anglers, and other conservationists, we are deeply appreciative of the opportunity to provide input on the proposed changes to Wisconsin's wetland laws currently being considered. We collectively represent tens of thousands of members statewide who dedicate their time and treasure to the conservation of natural resources.

Wisconsin is home to a rich outdoor heritage of hunting, fishing, trapping and other recreation rooted in our state's robust wildlife populations and diverse habitats. In fact, the hunting and fishing economy exceeds that of many traditional "industry or development" based economies – emphasizing the importance of protecting vital fish and wildlife habitats. For this reason, careful thought and a science-based approach must be a primary component of any policy discussions related to Wisconsin natural resources, including wetlands.

In Wisconsin, it is clear that a strong economy and a strong ecology can coexist and the attached recommendations recognize this reality. The attached memo represents a targeted and strategic step towards further improvement of the wetland permit process in Wisconsin to help advance economic development throughout the state and free Wisconsinites from undue regulatory burdens, while continuing to value and conserve Wisconsin wetlands. It is the product of the good faith and collaborative effort we took, on short notice, to understand the problem(s) you seek to resolve and offer effective solutions.

It was sound science, collaborative work and deliberate conservation actions that led to the recovery of some of Wisconsin's most economically important wildlife species such as the whitetail deer, wild turkey, black bear, and Canada goose. It was robust public discourse and detailed cost-benefit analysis that led to the creation of valuable public hunting areas like Horicon Marsh, Sensiba Marsh and others. It will take similar effort to adequately conserve and restore Wisconsin's wetlands in the face of increasing development pressure and a transitioning landscape.

We believe there is room for improvement and streamlining, but make no mistake that we care deeply for the conservation and preservation of Wisconsin's wetlands. Our proposal represents a move towards refinement and compromise for Wisconsin, and we remain committed to being a resource to you and your staff as this process continues to move forward.

Sincerely,

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Green Bay Duck Hunters Association

Wisconsin Pheasants Forever

National Wild Turkey Federation

Wisconsin Conservation Congress

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Wisconsin Trapper's Association

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Gathering Waters

Outline for a policy package to address wetland regulatory bottlenecks:

1. Exemptions for artificial wetlands as per the amended Jacques/Wangaard bills (AB 388/SB 320)

Eliminates regulation of landscape features that develop wetland characteristics but either do not meet the statutory definition of a wetland or formed in areas without wetland history. This change expands the types of features classified and exempt as artificial wetlands and substantially reduces timeframes for verifying eligibility.

2. Exemptions for impacts to “incidental” wetlands that emerge as a result of grading or other hydrologic modifications on dormant or phased development sites and orphaned lots.

Wetlands that formed recently as a result of phased development generally do not have the same inherent functions or values as naturally occurring wetlands. This exemption would apply to active, stalled, or phased development on sites that were previously delineated and approved for construction, but where incidental wetlands subsequently emerged during dormancy or between phases. If no wetland history is present, these areas would be exempt as artificial wetlands. This exemption accounts for the additional circumstances where wetland history is present and:

- a) new wetlands emerged that were not present in the originally approved delineation; or,*
- b) additional wetland acreage emerged beyond what was identified and authorized for fill.*

Provided that the entire parcel was delineated and the long-term project plans were reviewed and approved in accordance with wetland laws that existed at the time of approval, the permit remains valid up to 10 years following initial approval. This should be incorporated as a condition of new permits and applied retroactively for 10 years.

Wetlands exempted under this provision will also be exempt from mitigation requirements.

**Note – Extending the valid life of the permit achieves the same goal as extending the life of the delineation, but this option may be more robust with less potential for federal conflict.*

3. Exemptions for maintenance of existing water management infrastructure that was either approved under WI wetland law or installed prior to the establishment of WI laws.

Maintenance of existing approved structures or features in non-federal wetlands is essential and expected and need not be regulated.

4. Changes to the Wetland Identification Program

The program provides important services, but program staff’s workload has increased exponentially to include new activities not authorized under Ch. 23.321. The statute requires fees and site visits for all reviews, and WDNR has applied these requirements to the authorized and new services. WDNR has also established policy that wetland boundary determinations must be verified prior to submission of wetland permit applications (i.e., needed for a complete application). These items contribute to project delays and expenses.

Legislative refinements are needed to clarify what activities are/are not to be carried out under the Wetland ID Program vs by regional permit staff, and to provide WDNR the discretion to forego site visits for artificial wetland determinations and in cases where field reports clearly indicate no wetlands are present. Administrative refinements are also needed to enable wetland boundary verification to happen as part of the permit review process.

Further, the DNR would be required to make a concurrence decision on wetland delineation submissions within 45 days or the delineation shall be considered approved.

5. Wetland Study Group and Wetland Program Evaluation

Achieving consistency and an appropriate level of flexibility in the administration of wetland laws has been a long-standing problem. This challenge has been exacerbated by the rapid pace and broad scope of changes to Wisconsin's wetland laws enacted since 2012. Program evaluation is needed to understand what elements of the program are working and not, and to identify effective and efficient legislative and administrative solutions. Input from affected interests and from qualified professionals is needed to ensure that ongoing or perceived program deficiencies are objectively evaluated and addressed. The legislature can support this goal by:

- A. Establishing a legislative study committee to investigate permit program trends and establish a better understanding of the root causes of additional program tensions.*
- B. Requiring WDNR to convene a Study Group, modeled after the Brownfields Study Group, to convene on an ongoing basis to evaluate bottlenecks or inconsistencies in the administration of existing wetland policies and to advise the Department and legislative leaders on additional changes that could be made to reduce wetland permitting timelines and expenses, while protecting important wetland resources. Participation by representatives of conservation organizations, residential and commercial developers, and wetland consultants would be essential. This solution-oriented forum could also provide an outlet for airing and addressing programmatic (i.e., not project-specific) grievances.*



The Friends of
Pheasant Branch
Conservancy

*Our Mission:
To restore, protect and promote the Pheasant Branch
Conservancy
And watershed for today and tomorrow*

The Friends of Pheasant Branch Conservancy · P.O. Box 628242, Middleton WI 53562-8242 · pheasantbranch.org

Testimony to Joint Hearing on AB 547 and SB 600
Thursday, December 21, 2017, 11:00 AM, 411 South State Capitol

My name is Lloyd Eagan and before getting into my formal testimony, I will share a little of my personal background. I have a bachelor's degree in Environmental Biology and a Masters Degree in Water Resources Management (UW-Madison). I am retired now, but I served the state as a resource manager for over 30 years. Some of my professional experience is pertinent here. In June 2008, I was Regional Director of the South Central Region of the Wisconsin Department of Natural Resources. That month we had unprecedented rain events. Baraboo received over 14 inches of rain in one day and the whole southern part of the state was severely flooded. Two interstate highways (both North-South and East-West) were closed due to flooding. There was major disruption and distress. BUT, there was no loss of life despite the horrendous conditions. Our wetland and floodplain protection requirements turned out to be key reasons for why Wisconsin avoided loss of life during this extreme weather event. Other states with less wetland protection have not done as well in protecting the lives of their citizens during flooding events. Our wetlands provided places for the flood waters to collect safely. Without our wetlands acting as sponges, the flood damages would have been much worse.

Currently, I serve as President of the Board of the Friends of Pheasant Branch Conservancy (FOPBC). I am here in that capacity to convey the Board's strong opposition to 2017 AB 547 and 2017 SB 600. These bills would exempt nonfederal and artificial wetlands from a number of current DNR permitting requirements and, with federal approval, would allow the DNR to administer its own permit program for discharge of dredged or fill materials into navigable waters. We are concerned that the loss of wetland protection will adversely affect not only the wetlands in the Pheasant Branch Watershed but also wetlands throughout the state. Even "isolated" wetlands that are clearly non-federal are connected in some way to groundwater and other surface waters.

The value of our state's wetlands was clearly recognized in 2001 when the legislature unanimously passed a law protecting ALL wetlands federal and nonfederal in the state. Let's not undo that benchmark legislation in exchange for short-term development gains.

FOPBC is a non-profit organization with the mission of restoring, protecting and promoting the Pheasant Branch Conservancy and its watershed in Dane County. The wetlands in the Pheasant Branch Watershed and Pheasant Branch Conservancy provide multiple benefits to the City of Middleton, Pheasant Branch Creek, Lake Mendota and the entire Yahara Chain of Lakes:

- Flood storage capacity, increasingly important as large rain events occur more frequently and development pressures increase. The wetlands of the watershed are critical to protecting the infrastructure of the City of Middleton.
- Replenishment of groundwater aquifers
- Filtering of pollutants out of surface waters to protect the water quality of our creeks and lakes
- Habitat for fish and wildlife habitat for fishing and hunting
- Enhancement of property values
- Support of tourism
- Aesthetic benefits to all citizens of the state

The loss of wetlands cannot be justified by the creation of artificial wetlands, which do not provide the same functions as existing wetlands. Experience has shown that wetland mitigation is hard to get right and often fails.

We join others here today and those that have provided written testimony to request you to re-consider the efficacy of advancing SB 600 and AB 547 given the devastating consequences of losing the ecological protections that wetlands offer.

To the members of the Committees,

Ducks Unlimited has invested heavily in the state of Wisconsin and while we care deeply for the conservation and preservation of Wisconsin's wetlands we recognize there is room for permit streamlining and refinement. We would like to take this opportunity to thank the bill authors for allowing us the opportunity to meet with them in order to better understand the wetland permit challenges that exist. In doing so we have heard the concerns of the development community and engaged in constructive dialogue in an effort to help craft a more surgical solution instead of simply dropping all protections as the current bills would do.

In coordination with many others from the sportsmen-conservation community, we distilled what we were hearing from developers, wetland consultants, and others and developed the proposal you have in front of you. We offer this as an alternative to the bills being considered today and hope that this document will act as a framework for whatever changes the committees determine appropriate for the current bills.

The proposal represents a targeted and strategic step towards further improvement of the wetland permit process in Wisconsin to help advance economic development throughout the state and free Wisconsinites from undue regulatory burdens, while continuing to value and conserve Wisconsin wetlands. It is the product of the good faith and collaborative effort we took, on short notice, to understand the problems bill authors seek to resolve and offer effective solutions.

Ducks Unlimited remains committed to working with the authors and these committees and is a resource to you and your staff.

Thank you,

Kyle Rorah

Government Affairs Representative
Ducks Unlimited Inc.



FACT SHEET

WISCONSIN

(Based on numbers available 01/01/17)

MEMBERSHIP

GRAND TOTAL: 35,105

- **Members: 34,761**
 - General Members: 31,323
 - Greenwings: 1,754
 - Legacy Greenwing Members: 314
 - Sponsor Members: 1,370
- **Major Sponsors: 344**
 - Life Sponsor: 229
 - Diamond Life Sponsor: 55
 - Sponsor in Perpetuity: 24
 - Diamond Sponsor in Perpetuity: 4
 - Heritage Sponsor: 9
 - Diamond Heritage Sponsor: 6
 - Benefactor Roll of Honor: 9
 - Gold Benefactor Sponsor: 2
 - Diamond Benefactor Sponsor: 2
 - Legacy Sponsor: 3
 - Gold Legacy Sponsor: 0
 - Platinum Legacy Sponsor: 0
 - Diamond Legacy Sponsor: 1
 - Conservation Pioneer Sponsor: 0
 - Waterfowl Patron Sponsor: 0
 - Wetland Guardian Sponsor: 0

FEATHER SOCIETY MEMBERS: 284

- Silver: 256
- Gold: 18
- Emerald: 8
- Platinum: 2
- Diamond: 0
- Legacy Conservation Pioneer: 0
- Legacy Waterfowl Patron: 0
- Legacy Wetlands Guardian: 0

U.S. CONSERVATION PROGRAMS

- Total acres conserved in flyway: 1,928,567
- Total acres conserved in this state: 114,466
- Total technical assistance acres in flyway: 4,047,796
- Total technical assistance acres in state: 99,933
- Amount spent to date on projects in flyway: \$482,661,859
- Amount spent to date on projects in state: \$27,273,318
- Primary waterfowl species that benefit from DU's efforts include: Black Duck; Mallard; Wood Duck; Canvasback and Blue-Winged Teal.

STATE FUND-RAISING EFFORTS

- Total event income dollars raised: \$2,901,312
- Number of committees: 153
- Number of fund-raising events: 248

YOUR STATE GOVERNMENT'S CONTRIBUTION TO DU FOR CANADIAN PROJECTS:

- Total contributions granted: \$5,545,519
- Location of projects: Manitoba: Brandon Key Program Area; Manitoba Prairie Pothole Region; Saskatchewan: Summerberry Marshes, Last Mountain Lake, Eagle Lake, Rush Lake

WISCONSIN STATE CHAIRMAN

Jeffrey Maletzke, State Chairman
511 Blackstock Avenue, Sheboygan, WI 53083
(920) 698-6353
jeffandpenny@hotmail.com

FOR INFORMATION ON DUCKS UNLIMITED EVENTS CONTACT:

Chris Anderson, Senior Regional Director, NE Wisconsin
3360 Shady Lane, Green Bay, WI 54313
(920) 770-4397
canderson@ducks.org

Steve Kresl, Senior Regional Director, Northern Wisconsin
1290 Covey Lane, Eagle River, WI 54521
(715) 477-2508
skresl@ducks.org

Tom Munich, Senior Regional Director, SE Wisconsin
207 N Carriage House Court, Oconomowoc, WI 53066
(262) 965-3700
tmunich@ducks.org

Michael L. Brumley, Regional Director, Central Wisconsin
1060 Newbury Street, Ripon, WI 54971
(920) 748-6878
mbrumley@ducks.org

Forrest Gross, Regional Director, SW Wisconsin
705 Randy Road, Sparta, WI 54656
(701) 934-2610
fgross@ducks.org

Patrick Patterson Regional Director, NW Wisconsin
6307 Nashua Street, Duluth, MN 55807
(612) 616-9846
ppatterson@ducks.org

Bret Plasters, Director Fundraising and Volunteer Relations
O (810) 652-6300 C (810) 240-9910
bplasters@ducks.org

FOR INFORMATION ON BECOMING A MAJOR SPONSOR CONTACT:

Steve Kass, Director of Development
(414) 254-1750
skass@ducks.org

Todd Bishop, Managing Director of Development
(734) 623-2012
tbishop@ducks.org

FOR INFORMATION ON DU'S GIFT PLANNING PROGRAM CONTACT:

Sarah McCallum, Director of Gift Planning
(734) 623-2031
smccallum@ducks.org

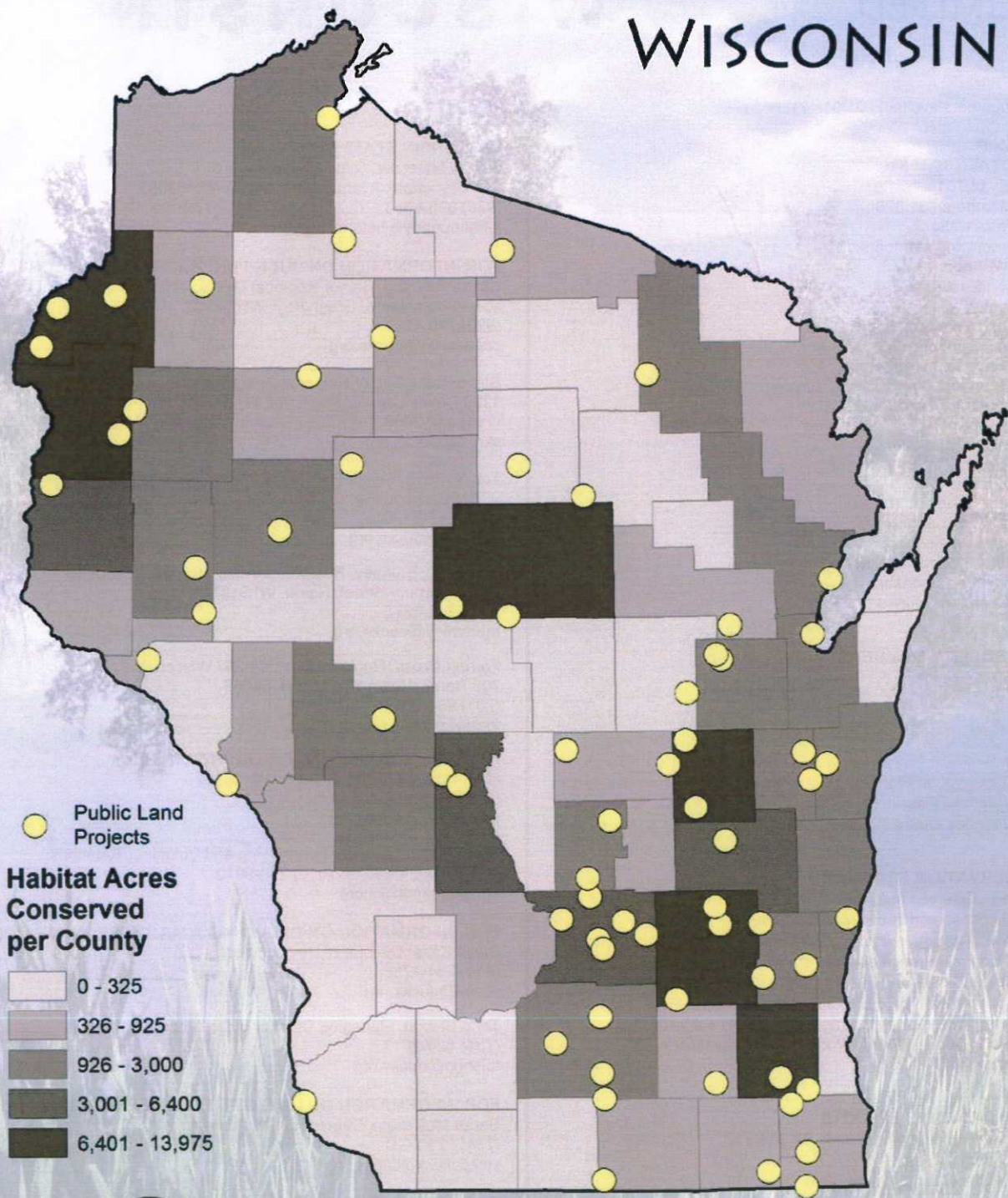
FOR INFORMATION ON DU'S CONSERVATION PROGRAMS CONTACT:


Jason Hill, Manager of Conservation Programs
(734) 623-2000
jhill@ducks.org

Brian Glenzinski, Regional Biologist
(608) 221-1206, Ext. 12
bglenzinski@ducks.org








WISCONSIN



 Public Land Projects

Habitat Acres Conserved per County

-  0 - 325
-  326 - 925
-  926 - 3,000
-  3,001 - 6,400
-  6,401 - 13,975



This illustration is intended for informational purposes only and the features depicted herein are not intended to be relied on as a survey, directional map, or legal instrument. Ducks Unlimited disclaims any liability associated with the use or misuse of this information. Please consult state and/or federal wildlife agencies for hunting regulations specific to any public hunting area in your state. For more information on National Wildlife Refuge Hunting Areas, visit <http://www.ducks.org/hunting/nwr/poe-huntmore>. For more information on hunting regulations, visit dnr.wi.gov.

Data Current as of December 31, 2016

Date: December 21, 2017

To: Senate and Assembly Committee Members

RE: Proposed Wetland Law Changes

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To: All Legislators

From: Tom Larson, WRA Senior Vice President of Legal and Public Affairs, Jim Villa, CEO, NAIOP-WI, Brad Boycks, Executive Director, WBA

Date: December 21, 2017

RE: Wetlands Regulatory Reform – AB 547/SB 600

The Wisconsin REALTORS® Association (WRA), NAIOP-W and the Wisconsin Builders Association (WBA) encourages you to support the Wetlands Regulatory Reform bill (AB 547/SB 600).

Wetlands play a vital role in our watersheds and our environment, protecting water quality, controlling flooding, and serving as wildlife habitat. However, not all wetlands are the same. In fact, two categories of wetlands exist – federal wetlands and non-federal wetlands. Generally, federal wetlands are those wetlands connected to navigable waterways, and non-federal wetlands are not connected to such waterways. Wisconsin is one of only a few states to regulate non-federal wetlands.

AB 547/SB 600, among other things, provides much-needed regulatory relief and enhances our wetland resources by:

- **Providing more flexibility for recreating and enhancing non-federal wetlands through mitigation.** Under the bill, economic development projects that encounter non-federal wetlands could move forward, but only if any disturbance to the wetland is mitigated by (a) re-creating the wetland nearby, and (b) making the new wetland at least 1.2 times larger than the original wetland disturbance. This provision will result in a net increase in wetlands throughout Wisconsin.
- **Allowing modifications, enhancements and maintenance to artificial or “man-made” wetlands without a permit.** Currently, these artificial wetlands (often found in retention ponds) are subject to onerous DNR permitting requirements that prevent expansions or routine maintenance activities such as the removal of muck and debris without a permit.
- **Requiring DNR to utilize financial resources to create additional wetland mitigation opportunities.** The DNR currently has over \$15 million in their wetland mitigation account, which has been generated largely by fees paid into the fee-in-lieu program. Rather than sitting in a bank account, this money would be better spent creating wetland mitigation banks or other wetland enhancement programs. This legislation would require them to spend the money and provide regular updates to the legislature and Governor as to how the money is being spent.

The WRA, NAIOP-WI, and the WBA respectfully request your support for AB 547/SB 600. If you have questions or need additional information, please contact us.

December 21, 2017

Dear Senator Cowles and Representative Horlacher and other members of the Senate Committee on Natural Resources and Energy and Assembly Committee on Regulatory Licensing Reform:

I appreciate the opportunity to testify on SB600/AB547, and hope you and others will listen to and consider these comments. Have you or any of your constituents or the communities you represent been affected by flooding in the last 10, 15, years? I have. My name is Lynn Persson and I live in Town of Westport here in Dane County. In last 20 years I have sandbagged at least 3 times from 100-year floods.

We may consider these flash floods acts of God that we can do little to avoid. If so, it is my thought that we should also consider the potholes wetlands, natural depressions in the landscape gifts of God that were given us to help reduce the impacts of these flash floods.

After one of the storms I saw a presentation as to what would happen to the Madison Lakes if a storm like happened in Baraboo area in June 2008 occurred in the Yahara River Watershed. You may have seen the picture of the Isthmus underwater. Some of you may have delighted in the picture, wishing Madison and Dane county would go away. But think what would happen if this storm happened in your Assembly or Senate district and the calls and damage you and your constituents would be dealing with.

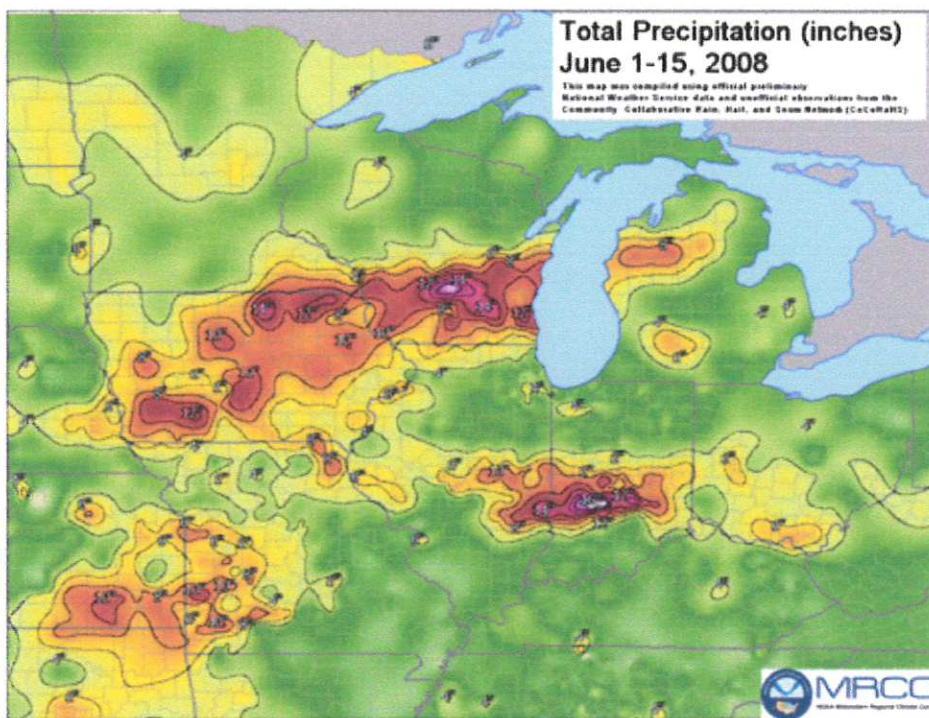


<https://www.climate.gov/news-features/climate-case-studies/what-if-it-happened-here>

What really impressed me in the presentation I saw was the importance of the depressions and non-connected wetlands in the basin above the Lakes (near Arlington, Goose Pond, etc..) in mitigating these impacts. Without these wetland depressions the same impact could happen with a much less intense storm than the Baraboo storm, or the same storm could have had even worse flooding impacts.

We need to continue to protect these God-given, non-federal wetlands. The cost of not protecting them could be significant to your counties, towns and villages and your constituents. If the legislature is having trouble finding money to pay for roads and infrastructure now, think about what it might take to rebuild roads and infrastructure if we continue to get significant flooding events in Wisconsin. If our interstates get repeatedly shut down like they did in 2008 what is the impact on commerce?

If you look at the 2008 storm, it didn't just impact Baraboo. The damage cost was high (final estimate \$1.5 Billion).



“A partial list of the costs in the Wisconsin Recovery Task Force Damage report issued in September totaled greater than \$1.5 billion (Wisconsin Recovery Task Force, 2008). The Governor of Wisconsin asked the Federal government for additional funding to aid in the cleanup, estimating that \$1.2 billion was still needed for housing, business, and infrastructure needs (Associated Press, 2008).”

“...damage was extensive. Railroad embankments were washed out or flooded. Airports were closed. About 200 people in Baraboo were rescued from homes and businesses by refurbished World War II amphibious vehicles used by companies that provide tours of the Wisconsin River and nearby areas (Novotny, 2008). Throughout the region, people were sandbagging to protect homes and businesses from rising water. At least 161 communities were forced to divert untreated sewage around their overwhelmed treatment plants (Wisconsin State Journal, 2008). Crop losses alone were estimated to be \$300–\$400 million (Wisconsin Recovery Task Force, 2008). Along the Crawfish and Rock Rivers, some businesses and industry had to shut down by June 11 and could not reopen for weeks because of extended flooding along these

streams that lasted into July (fig. 5). Lake Delton catastrophically drained into the Wisconsin River from a land breach along a narrow area of shoreline between the lake and river on June 9... “

Source: <https://archive.usgs.gov/archive/sites/wi.water.usgs.gov/surface-water/flood2008/conditions.html>

You may say this was a once in a lifetime event. Don't worry. But Governor Walker has issued at least 11 Emergency Flood declarations since 2013, covering 6 major events:

#248 & 249 (July 2017 storms) – Racine, Walworth, Kenosha, Rock Green, Lafayette, Dane, Iowa, Grant, Crawford, Richland, Sauk, Juneau, Vernon, Monroe, La Crosse, Jackson, Trempealeau, Buffalo and Pepin Counties. While not in list, I believe the City Hall of Waukesha was flooded.

#244 (May, 2017) / Barron, Rusk, and Jackson Counties

#215, 206 & 217 (September 2016) / Chippewa, Eau Claire, Clark, Buffalo, Jackson, Trempealeau, La Crosse, Monroe, Vernon, Adams, Juneau, Columbia, Sauk, Richland and Crawford Counties

#202, 205, 207 (July 2016) / Douglas, Bayfield, Iron, Ashland, Florence, Price, Sawyer, Washburn, and Burnett Counties

#138 (June 16, 2014) / Dane, Grant and Green

#110 & 107 (June 2013) / Bayfield, Ashland, St. Croix, Vernon, Crawford, Richland, Sauk, Grant, Iowa, Dane and Rock Counties

Northeast and Southeast Wisconsin were spared many of these storms (except July 2017). Consider yourselves and your constituents lucky. Some of these could hit you in the future. Lake Michigan and Green Bay water levels could rise again (remember 1980's). If they do (and they will), you (and your constituents) will be glad you protected and have the natural flood control of these depressions and God-given wetlands. You can see where many of them are in the attached map.

Obviously protecting wetlands is only one way you can protect Wisconsin's roads, infrastructure, farms, homeowners and businesses from flooding and it won't solve everything. But it is less expensive many other methods that may be less effective. I challenge you to find more money to repair Wisconsin Roads if they are damaged by significant flooding.

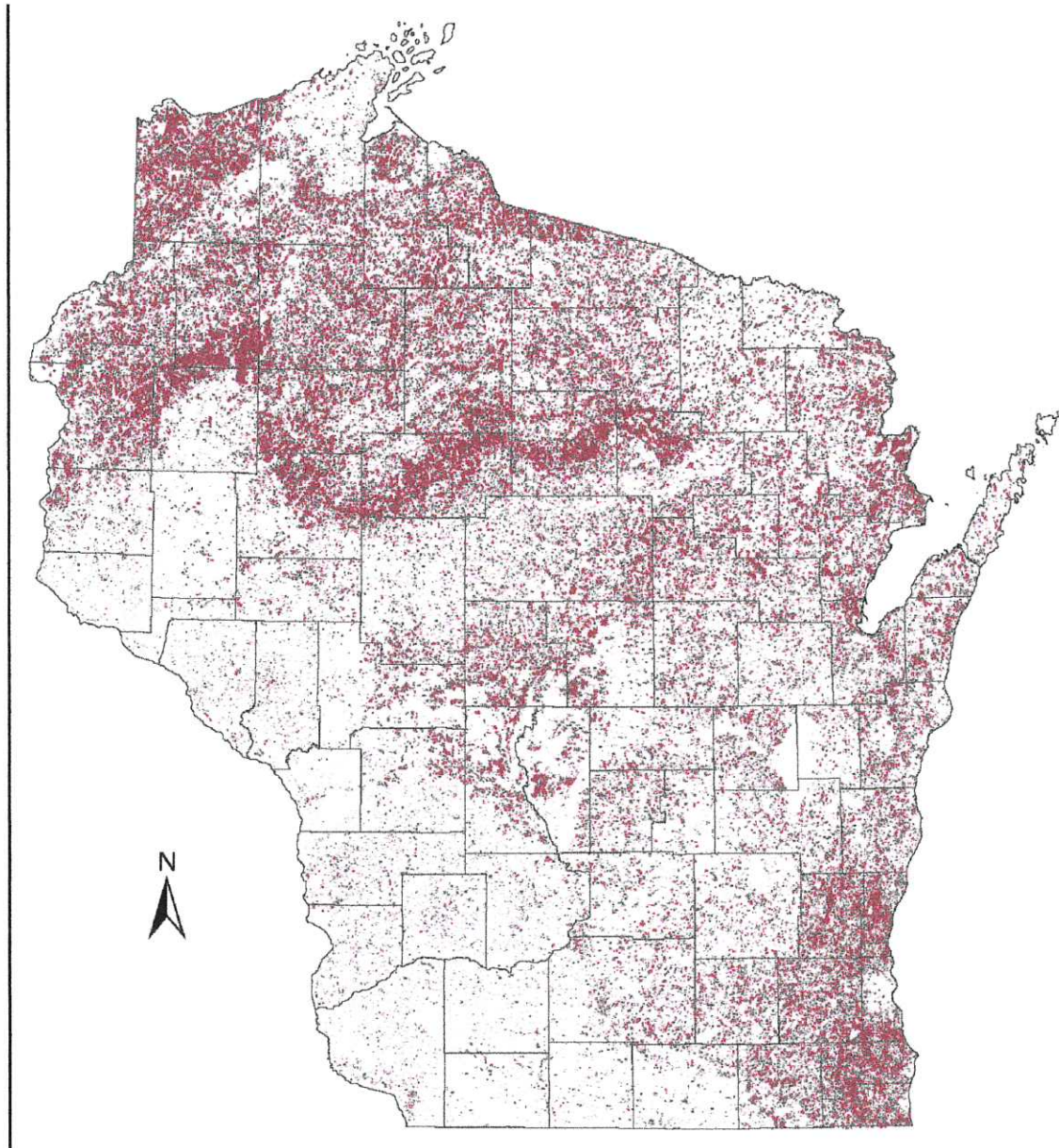
Your grandkids will also appreciate it. Maybe, they may even happen to enjoy some of the other values of wetlands and the wildlife that live in those wetlands. These values are less easily quantified. And if your grandkids are lucky enough to live near a river or lake, maybe they won't have to sandbag as many times as I have and can just enjoy God's gifts of natural areas and wildlife.

Thank you for your consideration of my comments.

Lynn Persson

5567 Kupfer Road Waunakee, WI 53597

lynn@terraexperience.com



Non Federal Wetlands In Wisconsin

Lane, Charles R. Isolated Wetlands. US Environmental

Protection Agency: Cincinnati, Ohio. 1/29/2016

Esri, HERE, DeLorme, MapmyIndia, © OpenStreetMap contributors, and the GIS user community



Keller
Planners | Architects | Builders
*With Offices in the Fox Cities, Madison,
Milwaukee & Wausau*

12/21/2017

My name is Dave Uttech and I am presenting on behalf of Keller, Inc.

The project that I will be presenting today is Countryside Ford in Columbus, WI. This was a ground up dealership moving from the east side of the highway to the west side of the highway.

Document 1: shows a proposed site plan which maximized the buildable area. I also allowed for a second site with good highway visibility.

Document 2: shows a wet land delineation. W.1 is a small strip of wetland 20' wide x 200' long in the upper right corner of the parking lot. W.2 is the wetlands in the road ditch.

Document 3: is an enlarged view of the wetlands.

Document 4: shows a revised site plan working around the wetlands. We eliminated parking and got rid of the access to outlet 1.

Document 5: is a site and drainage plan of what was built.

At first glance it would appear this had little impact on the Owner, however, we have lost our access to outlet 1 because we can't cross the wetland. Our only access is to provide a drive lane through the car lot along the west edge until you get past the wetland. This is less than ideal for a car dealership.

The bigger issue is the future of this wetland. We are not allowed to drain water from this parking lot into the wetland. The entire parking lot drains away from the wetland and the water is piped under ground to a detention pond on the other side of the wetland. We have a large detention pond which is lined and is deeper than the bottom of the wetland.

The only water that will go into this wetland is the rain that falls in the 20' x 200' area. All the other water is diverted away. This wetland is an island and will dry up and disappear within 10 years. A better design would have been to fill this area and relocate it to the southwest end of the property by the other wetlands on the outlet 1 (refer to document 2).

The existing DNR design criteria does not protect wetlands. It eliminates them by starving them. Do a 2 for 1 or 3 for 1 swap, but get the wetlands in one larger area where you will encourage wildlife nesting.

ADDRESS

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From a personal standpoint, I own and live on a 240-acre farm a long Beaver Dam Lake. I have large areas of wetlands and farmed wetlands on my farm. This past year I enrolled 14-acres in CRP and planted grass to encourage wildlife and waterfowl nesting. I support keeping wetlands, just not how it's currently being handled on the commercial level. I urge passage to this amendment. It will have a more positive impact on wetlands than our current program.

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What Kind of Wetland Do I Have?

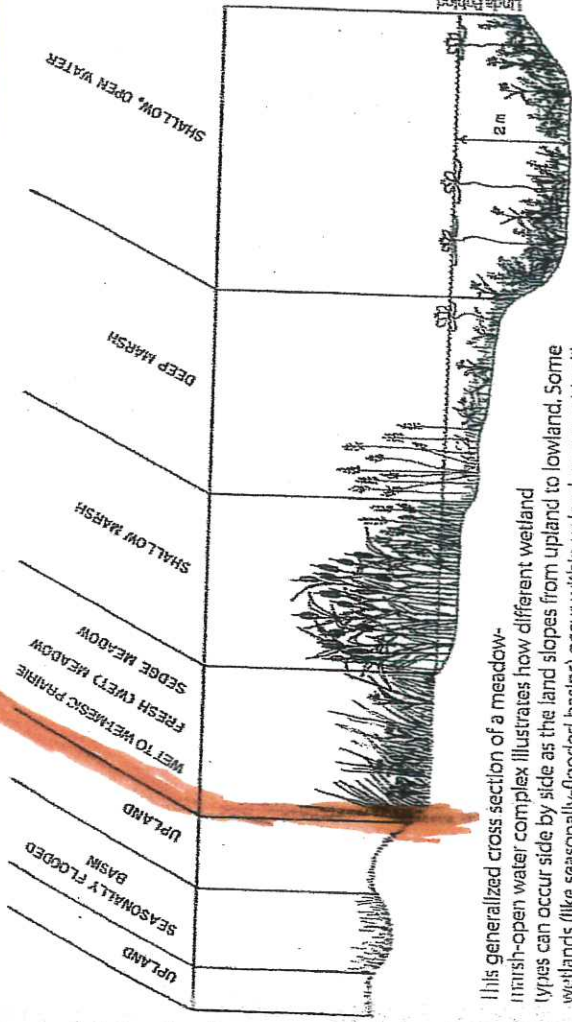
Natural communities are groupings of plants and animals that interact with their physical environment (soil, bedrock, water, etc.) and with natural processes (rainfall, temperature, etc.). Natural community names are widely used by consultants, natural resource managers, and conservationists.

Wisconsin is blessed with a variety of wetland habitats that can be separated into different natural community types based on plants, soil types, and water levels. The type of wetland you have depends on soil type, land form,



Wisconsin Wetlands Association (WWA) designated 100 high-quality wetlands across the state representing the variety of wetland types listed in this section. These *Wetland Gems* are great places to visit and learn about wetlands; a few are identified in this section. You can find more about *Wetland Gems* at WWA's website (wisconsinwetlands.org) or in the *Wetland Gems* book that is available from WWA and at many public libraries throughout the state.

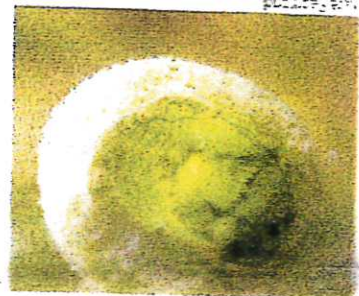
Guy Shacketford



This generalized cross section of a meadow-mish-open water complex illustrates how different wetland types can occur side by side as the land slopes from upland to lowland. Some wetlands (like seasonally-flooded basins) occur within upland communities like forests. Other wetlands (like sedge meadows) occur further down-slope and often have standing water only in the spring. Marshes are generally wet year round, and can have shallow or deep water.

weather patterns, vegetation, and hydrology (timing, frequency, and depth of water). It's common for different types to be found on the same property. In this section, we introduce you to five broad wetland types that you might find on your land: marshes and deep water wetlands, sedge meadows, forested wetlands, shrub thickets, and bogs and fens. We'll describe what they are, where they are found, how you can recognize them, and what plants and animals you might find there.

You can learn more about wetland types from the Wisconsin Wetlands Association (www.wisconsinwetlands.org) or the Wisconsin Department of Natural Resources (dnr.wi.gov)—use search keywords "wetland types".



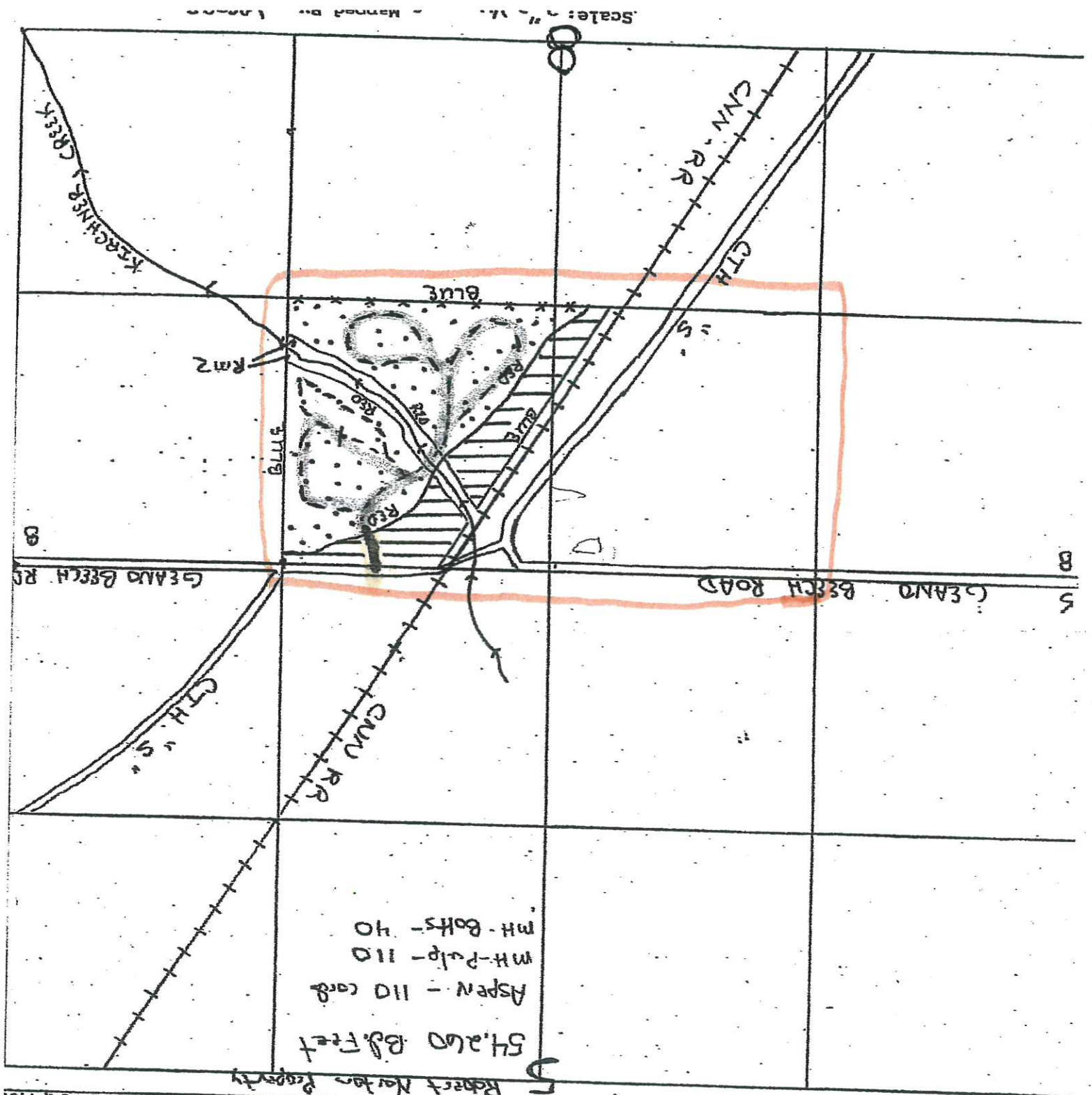
Guy Shacketford



Guy Shacketford



Guy Shacketford



Scale: 1" = 100' - Mapped by: [unclear]

Tract #	Advertised #	Contract #	Contractor	Acres to Cut
1	1	1		35

Map Legend:

- [Symbol: Dotted pattern] - HARVEST ALL TREES MARKED WITH ONE SPOT OF PAINT (Red/Orange)
- [Symbol: Hatched pattern] - AT STUMP + DBH, HARVEST ALL ASPEN + W. BIRCH
- [Symbol: Horizontal lines] - HARVEST ALL TREES
- [Symbol: White box] - RM2 - ASPEN MGT. ZONE, NO HARVESTING OR SKIDDING WITHIN CROSS AT CROSSING DESIGNATED

Estimated Volumes:

- ASPHEN - 110 cord
- MH-Pulp - 110
- MH-Bolts - 40

54,260 Bd. Feet

Robert Norton Property

Desc. NUNE - AUNW - Town of Little Suager

Section(s) 8, T 20 N-R 21 E.



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Dale Maas, Secretary
Joel Taylor, Public Relations
Joe Weiss, Historian

RE: SB 600 and AB 547

Chairman Cowles, Chairman Horlacher and committee members.

As Chairman of the Wisconsin Conservation Congress I want to thank you for the opportunity to testify before you today on SB 600 and AB 547. Unfortunately I will be testifying because the Wisconsin Conservation Congress is strongly opposed to these bills.

The sporting community is somewhat disappointed that during the drafting of this legislation, which will directly affect our sporting heritage, there was never an opportunity presented to any sporting interest to have input in the language of this bill. Further, even after the bill was drafted and you received letters for not only the WCC but other sporting groups it was only one selected hunting organization that was ask or allowed to have any discussions with authors of this bill. Hunting, fishing and trapping are a multibillion dollar industry in Wisconsin and our interest should matter.

My personal background is in agriculture In Manitowoc Co. a huge dairy county, and I have a rather good understanding of wetlands from that perspective. In the 1960's and 70's farmers were still being paid by government to clear land and drain wetland in Wisconsin. While my father was not a farmer, I had several uncles who were, and as kids we help clean the roots and rock form clear cut and set tiles on land they were turning into good farm fields. If any wetlands were not drained in that time it was ~~because they were either too wet or they were needed to catch large~~

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amounts of water to protect and hold the soils on the lands that were cleared and drained. In fact, I can show you many examples where farmers in our area of the state, over the past two decades, actually enrolled acres in to sediment basins or reestablished wetlands because some of the lands they drain in the past still drowned out ever third year, or they need additional wetlands to help catch and hold soils. This was done through conservation easements, CRP, CREP and other government programs

For the past 27 years I have been employed on my cousin's dairy farm which is currently a 500 head dairy farm in Manitowoc Co. I have friends and family that either own or manage dairy's in sizes from 40 head to 6500 head. Manitowoc Co. is a heavy clay soil area and there are spider webs of tile everywhere in the fields. I have replaced broken tile and helped set new tiles on these lands. Farm land in Manitowoc Co. has sold for over \$15,000 an acre due to the large demand for farm land by the dairy industry. Because of the cost of land, many farms have either done extensive replacement of old tiles, or enhanced the tiling systems in their fields to make that expensive land more productive.

A farmer can replace or repair existing tiles on their land without a permit as long as they stay the same tile size, depth and location. This is known as tile maintenance. If they choose to enhance the tiling system they do need to get a permit, which is what many are now doing. Never once have I heard from anyone I am connected with that the permitting system for agriculture is too cumbersome or complicated that it would warrant this type of legislation. I know of many farmers and acres that have had tiling upgrades in our area.

From my experience and knowledge on this issue this legislation is not needed or wanted by agriculture. Currently any farmer has other Federal, State and local rules that apply to them when it comes to water and soil they manage on their land. These rules are connected with payments they



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receive, which are almost always cost shared, from County Soil and Water and Federal programs like Natural Resource Conservation Service (NRCS). These funds come from both Federal and the state and are administered through the county Soil and Water Office. These rules assist the a farmer to develop land management plans to prevent run off, soil erosion , surface water contamination and ground water contamination, just to name a few. Farmers follow these rules in order to comply and receive Farmland Preservation Tax Credits and other federal payments. Even if this legislation passes I can't imagine a farmer wanting to drain more wetlands unless they were planning on instantly selling to development for risk of losing the Farmland Preservation tax Credit or other federal aid they use to operate their farms.

Now I want to turn the page and look at this from the sportsmen's eyes. From a sporting heritage perspective my personal experience is something most outdoorsmen and women can relate to. My father was a huge trapper and many of the places he took us kids and set traps were on isolated wetlands. Growing up our family, like many others, didn't have a lot of money and the furs he caught helped every year make our Christmas's a little brighter. Some years I remember when fur prices were good my parents purchased things like a new dining room set or living room furniture with the proceeds from his trapping. I took my children on some of the first youth waterfowl hunts on some of these same isolated wetland because they are loaded with duck and geese. It was because of that my son is a huge waterfowl hunter today. Just this year I harvested my only deer during

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the firearm season along an isolated wetland. It was a nice large doe that I jump shot from some long grass and cattails that were growing within 20 feet of an isolated wetland.

These isolated wetland that this legislation seeks to allow to be filled or removed are the honey holes of hunting. I don't know of a single sportsman that can't tell you of a story they had hunting or trapping on or near one of these valued treasures. These isolated wetlands are where deer, ducks, geese, furbearers and many other species choose to make their home. Every sportsman I know has one of these isolated wetlands they call their honey hole.

In closing I would like to reiterate what I stated in a letter that I sent to all legislators several months ago about this legislation. There is room for improvement but this legislation is like trying to drive a tack with a 10# sledge hammer. Collectively, many sporting groups have agreed upon a 4 point document that each of you have received that would make this bill palatable to the sporting community. We feel this is a reasonable compromise that will allow the business community some flexibility they are looking at as it pertains to wetland issues, yet still offer the protections that the sporting community find so very important. Without these 4 points added to this legislation the WCC is on record as strongly opposed to seeing this bill move forward.

Respectfully, Larry Bonde

Wisconsin Conservation Congress Chairman

A handwritten signature in cursive script that reads "Larry Bonde". The signature is written in black ink and is positioned at the bottom left of the page.



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DNR Permitting – Senate Briefing 12/21/2017

Good Morning,

In the fall of 1999, the Village of North Fond du Lac created its first TID district with an adjacent 128 acre farm for the creation of a business park. The normal process of engineering the property with the design of the infrastructure, streets, drainage and water retention was completed along with a wetland delineation. Plans were submitted and approved by the DNR.

Once the design was completed and approved, the infrastructure for the business park was installed. The fill from the excavation was used to roughly raise the elevation of the business park to the proposed elevations. In some areas, up to 4 feet of fill was placed to accomplish this. In addition to this fill, the area was also used to stockpile topsoil and clay fill from various projects. Recent wetland delineations have shown that this filling has now caused areas of artificial wetlands.

Companies locating in the park started slow and went dormant for several years as the economy was growing at a snail's pace. Over the last year, activity has picked up considerably with weekly inquiries on available property in the park. To promote our business park, the Village partnered with the county and create a fully permitted virtual building to expedite any company wishing a quick start to locating in the park.

The concept of a fully permitted virtual building was started in April of 2016 with the final permit approval in October of 2017. A company choosing a vacant lot would not wait this amount of time to start construction and would look elsewhere. The majority of this permitting time from start to finish was working through the DNR regulations and exploring what type of permit to pursue for property that had already been approved as a storm water pond years before when the original layout was submitted and was now being treated as a wetland.

New inquires for parcels of various sizes are causing the deviation from a systematic approach of placing parcels in the best location by now having to work around the human created wetlands. Requests for large parcels of 10 to 15 acres make it literally impossible to find within the park. Without change, large portions of our business park would become unusable or cause unacceptable delays in the permitting process. On our most recent and still active project, on an approximate 12 acre site, we have about 4.5 acres of delineated wetlands that did not exist on a 1999 delineation. Most of these wetlands are located on top of fill material that was placed in the last several years following our approved master drainage plan.

Proposed Senate Bill 600 would take a major step in enhancing the economic development atmosphere for the village and Wisconsin. With this legislation, rules would be in place to allow a reasonable approach to permitting while still protecting the environment.

THE ISLAND CITY

Mayor Bert Skinner

Clerk-Treas. Julie A. Kessler

mayor@cityofcumberland.netclerk@cityofcumberland.net

Public Works Dir. Keith Hardie

publicworks@cityofcumberland.net

715.822.2752 / Fax 715.822.3799

www.cityofcumberland.net950 1st Avenue, Cumberland, WI 54829

I would like to thank this committee for allowing us to speak on behalf of the City of Cumberland in favor of Senate Bill 600 and Assembly Bill 547.

Cumberland is known as the Island City. It is surrounded by 1169 acres of beautiful Beaver Dam Lake, the sixth deepest lake in Wisconsin. Cumberland is located on a glacial esker, resulting in many wetlands created around the community. This offers beautiful landscape, but also many challenges to economic growth.

I have personally contacted numerous property owners, inquiring about the possibility of purchasing land for economic development. Most of these contacts were unwilling to sell. The only land that was available for purchase was west of town. The City just purchased 156 acres of this land that could potentially lead to development. All utility connections are in the proximity of this property, which is a cost savings to the community when considering expansion. Keeping that in mind, this particular land purchase was a wise choice.

The reason that we are here today is that portions of this property challenge the feasibility of development due to current regulations. The current structure of gaining permits to utilize this land is too cost prohibitive for the City. We need you to pass this bill so that we can proceed with our development plans for Cumberland to grow and develop new economic opportunities.

We have two existing businesses that are seeking a location for expansion- a meat processing plant and a car dealership. They currently employ a large number of people and will potentially add more job opportunities. If they do not have a place to expand, they may leave and go to another community. We would not only lose future jobs, but existing ones as well. This would cause a loss in tax revenue, loss of enrollment in the school district, loss of professional services required, and loss of business in the City.

Cumberland needs new economic development to sustain existing jobs and increase new employment opportunities. It is important for the growth of Cumberland to increase our tax base, thereby spreading out the cost of services and utilities to more users as well as existing ones.

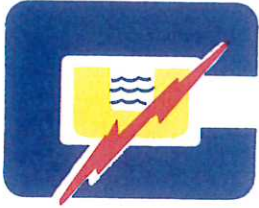
I understand that there are endangered species within our area. We will continue to protect them. However, we do not want the citizens of Cumberland to find themselves on the Endangered List.

Representing the citizens of the City of Cumberland I ask your support on their behalf to support Senate Bill 600 and Assembly Bill 547 to reduce these restrictions and allow non-permitted wetlands access into wetland areas no less than 2 acres in size.

Respectfully yours,

Handwritten signature of Albert B. Skinner Jr. in black ink, appearing as 'Albert B. Skinner Jr.' with a stylized flourish at the end.

Albert B. Skinner Jr.
Mayor City of Cumberland, WI



CUMBERLAND MUNICIPAL UTILITY

Charles Christensen,
General Manager

TESTIMONY BY
Dean Bergstrom to the
Assembly Committee on Regulatory Licensing Reform
& the Senate Committee on Natural Resources and Energy
Referring to Assembly Bill 547 & Senate Bill 600
For a Public Hearing Record
on Thursday, December 21, 2017, 11:00 a.m.
Room 411 South, State Capital, Madison, WI

My name is Dean Bergstrom, Assistant Manager of the Cumberland Municipal Utility in Cumberland, Wisconsin. I would like to thank the committees for granting this hearing so that we can be present to testify in support of these bills.

The Cumberland Utility had been seeking to purchase property adjacent to the City of Cumberland for over the past year, and not until this past spring did this 150 acres become available for purchase.

After purchasing the property, we contacted an engineering firm to perform a wetland delineation of the property. We had known of wetlands present on the property, but after the delineation was completed, we then only realized that there were so many pockets of small wetlands less than 2 acres present on the property. After doing further investigation, we then learned to mitigate wetlands present on properties it would cost anywhere from \$80,000 to \$100,000 an acre of wetlands.

After having soil borings performed throughout the entire 150 acres, it was determined that there was very hard packed soil throughout the property, and that the water in the wetland acres had no place to drain or seep into the ground, resulting in water staying on the site and not leaving the area. The water sits on the wetlands, and over time, the water turns septic and evaporates.

When the wetland delineation was being performed on the acreage, we were informed of the high cost of mitigating wetlands by filling them in, as previously stated of 80 to 100 Thousand Dollars per acre. A majority of the wetlands in the acreage are of two acres or less in size, and we understood that the larger wetland areas visible and easily seen needed to be worked-around. Therefore our planning for developing building sites, city streets and infrastructure accounted for avoiding the larger wetlands. With the cost of mitigation on top of the development costs, it would be economically unfeasible for a city the size of Cumberland to absorb.

This property has many hills and ridges, and the southwest corner of the property is 50 feet higher in elevation than the northeast corner of the property, along with many dips and valleys where water can collect, however the water does not seem to go anywhere, or soak into the ground the way you would assume normal wetland waters would, filtering the water before it reaches the water table. For all practical purposes, these wetland areas are tightly sealed. We drilled two test holes 30 feet deep, approximately 20 feet away from one of the larger wetland areas within the property, and never hit ground water or any wet soil in those two borings. This leads us to believe that these wetlands do not penetrate the very hard-packed soil that the acreage consists of.

There are approximately 4,867 acres of wetlands within a two mile radius of the Cumberland city limits. Cumberland is referred to and known as "The Island City." (Included is an aerial map of the city for your reference). Many, if not all of the wetlands, are not delineated. If all of the wetland acreage were delineated, there could be many more actual acres of wetlands in and around the city of Cumberland.

Our plan for the 150 acre property, is to develop it not only for two of the businesses that have contacted us for their expansion needs, but also for attracting additional commercial businesses to Cumberland that will benefit from the high visibility along the road frontage of State Highway 63 entering from the south, and State Highway 48 connecting from the west.

We do have some time constraints, as one of the expanding businesses, Don Johnson Motors, needs to break ground in the spring of 2018 to fulfill their agreements with car dealership brands they have contracted with in order to provide state-of-the-art facilities within the upcoming year. The other business, Louie's Finer Meats, also wishes to begin their expansion by adding a production facility on this acreage, and expanding their present facility into larger retail space.

On behalf of the Cumberland Municipal Utility, the City of Cumberland and all of the residents of the City of Cumberland, Wisconsin, we respectfully ask for your support for Assembly Bill 547 and Senate Bill 600 to relax the restrictions and allow non-permitted access into wetland areas of less than two acres in size.

Thank you very much for your consideration of this important matter.

Sincerely,



Dean Bergstrom, Assistant Manager
Cumberland Municipal Utility

Louie's Finer Meats

Hwy 63 N.
P.O. Box 774
Cumberland, WI 54829



715.822.4728
715.822.3150 fax
www.louiesfinermeats.com

TESTIMONY BY
Louis E. Muench to the
Assembly Committee on Regulatory Licensing Reform
& the Senate Committee on Natural Resources and Energy
held on Thursday, December 21, 2017, 11:00 a.m.
Room 411 South, State Capital, Madison, WI

My name is Louie Muench. I am the Co-Owner and President of Louie's Finer Meats in Cumberland, Wisconsin. I would like to thank both committees for granting this hearing and allowing us to come here and testify.

Louie's Finer Meats has been a family owned business since 1970. We have done several expansions during that time, in which our sales have grown to over Five Million Dollars annually, with 50 full time and part time employees. We have over 500 state, national and international awards.

We are very active community members in the City of Cumberland. We recently have gotten to the point where we have outgrown our current facility and we have no further room to expand at the present site.

We would like to convert our present area to entirely all retail space, and move our production facility to a new site within the city limits of Cumberland, that would allow us to have many more production avenues to proceed with.

We wish to start by building a 12,000 sq. foot production facility on approximately 10 acres of land, which will allow us to have truck traffic to come to that facility and lessen the congestion at our current site. At the present time, it is very difficult to locate ten acres of property inside the current city limits of Cumberland, and this parcel of land that was purchased by the Cumberland Municipal Utility would allow us to utilize a portion of that property, which would have City water, sewer and electricity, as that is what we need to run our production.

"Home of Award Winning Sausage"

With that expansion, we would immediately be allowed to expand our production and enable us to employ 20 to 25 more people at the new facility. Also as previously mentioned, our retail business would also expand at our current location, allowing us to hire additional employees for our retail services.

For us, being a family-owned business in Cumberland for the past 47 years, we would find it nearly impossible to purchase another 10 acres of land at such a great value. Wetland mitigation costs ranging from \$80,000 to \$100,000 an acre would be a tremendously enormous expense for this property, making the value of the proposed project unfeasible.

On behalf of Louie's Finer Meats and all of our current employees, along with the additional workforce we could have, we respectfully request your support for Assembly Bill 547 and Senate Bill 600 to relax the restrictions and allow non-permitted access into wetland areas of less than 2 acres in size.

Thank you for your time and consideration of this important matter.

Sincerely



Louis E. Muench, President & Co-Owner
Louie's Finer Meats



December 12, 2017

Dear Senators and Assemblymen:

My name is Joshua Johnson. I am the owner of Don Johnson's Cumberland Motors, a fifth-generation family-owned auto dealership that represents the Ford, Chrysler, Dodge, Fiat, Jeep and RAM vehicle brands. We currently employ 26 individuals.

It is our goal to substantially expand our operations in Cumberland, including building a new dealership facility that will allow us to add up to 50 new jobs. In preparation for the pending construction project, a survey was conducted of our current property. That survey concluded that several, otherwise unrecognizable, "small wetlands" existed on our lot--each of which were under 2 acres in size. Unfortunately, the layout of our property does not allow us to complete the expansion without impeding at least one of these areas.

The estimated cost of one acre area of wetland mitigation ranges from \$80,000 to \$100,000. The enormity of this expense, quickly renders the proposed project unfeasible. We are thereby left with the options of forgoing the expansion and continuing current operations at a cost of the 50 incremental jobs to be created or relocating to a new community, which would cost Cumberland the existing employment.

Cumberland is commonly known as the "Island City" as it is largely surrounded by lakes. As a result of this proximity to water, it is not at all unusual to find small areas of damp ground on any parcel of property. Excessive state-specific regulations and the financial burden of wetland mitigation required impede the ability of businesses to expand as well as the economic wellbeing of the community as a whole.

On behalf of our company, the 26 individuals we employ, and the 50 or so additional individuals we intend to, we ask for your support of Assembly Bill 547 and Senate Bill 600, which will continue to ensure high quality wetlands in Wisconsin without forcing costly and burdensome state-specific regulations on businesses like ours.

Sincerely,

Joshua Johnson
CEO

Don Johnson Motors
734 West Avenue, Rice Lake, WI 54868
Ph: 715.234.8161 | Fax: 715.234.8862

Don Johnson's Hayward Motors
15570 Hwy 63 North, Hayward, WI 54843
Ph: 715.634.4848 | Fax: 715.634.6817

Don Johnson's Cumberland Motors
1925 Elm Street, Cumberland, WI 54829
Ph: 715.822.4931 | Fax: 715.822.3862

THE ISLAND CITY
Clerk-Treas. Julie Kessler
cumberland@charter.net
Public Works Dir. Keith Hardie
publicworks@cityofcumberland.net
715.822.2752 / Fax 715.822.3799

Mayor Bert Skinner
citymayor@charter.net



www.cityofcumberland.net



950 1st Avenue Cumberland, Wisconsin 54829

December 15, 2017

RE: The City of Cumberland Waste Water Plant water quality improvements

To Whom It May Concern:

In 2012 the City of Cumberland completed master plans for both the wastewater plant and the collections system and started the design for upgrades to the treatment plant. The first design was to replace the existing RBC plant with an oxidation ditch plant. The city received the new discharge permit limits for the plant and decided that the best long term option for the City would be to change from the oxidation ditch design to a Membrane Bio Reactor plant (MBR) which would allow the City to meet the .075 mg/l phosphorus limits well into the future. The change from the ditch plant to the MBR also came with the additional cost of approximately \$900,000. In 2015 the City started construction on the new MBR plant with the plant going on line in late 2016. As of 2017 the City has been meeting and exceeding the .075 mg/l phosphorus. The total cost for the upgrade to the plant was \$6,842,894.75. It should also be noted this is the first municipally operated MBR plant in the state of Wisconsin and has been receiving inquiries from other communities facing the new .075 phosphorus limits.

In addition to the plants MBR upgrade the City installed a septic receiving station at the facility, upgraded a lift station and lined several sewer mains all with the purpose of protecting the water quality of Beaver Dam Lake and the Hay River.

Thank you

Keith Hardie
Director of Public Works/Zoning Administer
950 1st Avenue
Cumberland, Wisconsin 54829
715-822-2752 Fax 715-822-3799

Dec. 19, 2017

The Honorable Bert Skinner
Mayor of Cumberland, WI.
950 1st Ave, Cumberland, WI. 54829

Dear Mayor Skinner,

In March 2010, the Beaver Dam Lake Management District (BDLMD), the City of Cumberland, Barron County and the WDNR approved the Library Lake Restoration Plan. This Plan along with the BDLMD Lake Management Plan provides the road map for the ongoing protection of the entire Beaver Dam Lake and the restoration of Library Lake. Storm Water Management is a key factor in achieving the goals of each Plan. The City of Cumberland has supported the BDLMD activities since its founding in 1991.

One of the BDLMD goals has been to address storm water runoff. Since 2010, the Lake District has applied for and received numerous grants that have been used to build 3 major storm water ponds and infrastructure. These are the Neurer, Northeast and Southwest storm water projects. This has required a significant financial commitment of the tax payers of the Lake District and City of Cumberland residents currently totaling **\$1,057,521.00**. The grant and cost details are listed below. In addition to the three storm water ponds the Lake District financed the installation of 5 catch basin sumps; 3 located at the City Parking lot along Library Lake, a sump on 3rd Ave. and one at Lake Street by the City Park and Beach.

The BDLMD remains committed to addressing issues affecting Beaver Dam Lake, Library Lake, Collingwood Lake and the surrounding area. The Lake District supports the City of Cumberland's effort to address future land needs to further the economic development of the City.

Sincerely,

Tom Schroeder
President – Beaver Dam Lake Management District

Name of Project	Grant Number	Grant\$ plus match\$ = total cost
Neurer		
Planning Grant	LPL-1481-12	19,473.55 + 9591.45 = 29,065
Acquisition for Easement	LPT-360-11	65,625 + 21,875 = 87,000
Construction of Facility	LPT-439-12	159,717 + 53,239 = 212,956
NE Storm water pond		
Planning Grant	Part City of Cumberland Grant	11,775 + 3925 = 15,700
Acquisition for Easements	LPT-484-15	73,371 + 24,457 = 97,828
Construction of Facility	LPT-50416	182108 + 60702 = 242,810
SW Storm water Pond		
Planning Grant	LPL-1565-15	24,120 + 11,880 = 36,000
Acquisition of property	LPT-54417	49,852 + 16,618 = 66,470
Construction of Facility	LPT- 53217	200,000 + 69,692 = 269,692



Farm Fresh Goodness Made Great

The canning plant currently owned by Seneca Foods Cumberland has been part of the Cumberland community since 1911. We currently employ 65 full time staff and over 300 seasonal employees. We grow snap beans on 160 farms in Wisconsin, Minnesota and Illinois. Most of our beans are grown within 160 miles of the plant in Wisconsin. We use an integrated pest management system to insure that the food and the environment is safe guarded. We produce 9,000,000 cases of canned snap beans and 12 million pounds of frozen beans annually.

Our seasonal staff is housed mostly in the community. They shop and pay rent to locally. Their children participate in local activities and school while they are here for the canning season.

Seneca is proud of our work to safe guard the communities we are part of. The Cumberland plant uses approximately 1,000,000 gallons of water per day during the season. Approximately 750,000 gallons of that is disposed of per our Wisconsin water permit(WPDES). We spray irrigate this water over approximately 300 acres. 75 acres of this land is rented from the city and includes 3 acres for seepage beds to dispose of our can cooling water and our pumping and storage site. We could not continue to operate our facility without this land. We have used this system with DNR permitting since before 1980. There have been no issues and we continue to work with the DNR in managing the irrigation land to protect the environment. WDNR has just renewed our WPDES permit effective January 1, 2018 to December 31, 2022. I was named operator of the year for the NW district of waste water operators due to the system being run without incident over the years. Seneca also is covered by the State Tier II Storm water permit to prevent storm water run-off contamination of the surrounding lake. We also have an Air permit to run our boilers to product the steam necessary to process the snap beans. We are in compliance and report to the WDNR as necessary on these permits.

Seneca has a extensive companywide recycling program dedicated to keeping us good environmental stewards. At Cumberland recycle our waste cans, card board, plastic, used oil, lightbulbs, batteries, and used ink. All other solid waste is sent to the Barron County incinerator for heat recovery recycling.

Roy Riebe III

Quality and Environmental Manager

Seneca Foods

1055 Elm Street

Cumberland, WI 54829

Phone: [715-822-2181](tel:715-822-2181) Ext 235 Fax: [715-822-2114](tel:715-822-2114)

Cell: [715-419-2672](tel:715-419-2672)

ebe@senecafoods.com



CUMBERLAND SCHOOL DISTRICT

December 19, 2017

Wisconsin State Capitol
2 East Main Street
Madison, WI 53703

RE: 2017 ASSEMBLY BILL 547

Dear Legislators:

My name is Barry Rose and I am the Superintendent of the Cumberland School District where I have resided in the Cumberland Community for the past ten years. Our School District's core competencies are future focused, progressive thinking, and committed to excellence.

On behalf of the City of Cumberland, I am writing in support of Assembly Bill 547, specifically, for the increased flexibility of non-federal wetlands allowing for future growth and development in our community. Economic growth is essential for our community and vital as we move forward. Equally important, is the mere fact that economic growth is critical and has a profound impact on the funding and sustainability of Public Education.

I appreciate your time and thank you in advance for your consideration.

Sincerely,

Dr. Barry Rose, Superintendent
Cumberland School District

Dr. Barry Rose
District Administrator
1010 8th Avenue
Cumberland, WI 54829
(715) 822-5124 - phone
(715) 822-5136 - fax
e-mail: brose@csdmail.com

James Richie
Elementary School Principal
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Cumberland, WI 54829
(715) 822-5125 - phone
(715) 822-5135 - fax
e-mail: jrich@csdmail.com

Colin Green
Middle School Principal
980 8th Avenue
Cumberland, WI 54829
(715) 822-5122 - phone
(715) 822-5132 - fax
e-mail: cgree@csdmail.com

Ritchie Narges
High School Principal
1000 8th Avenue
Cumberland, WI 54829
(715) 822-5121 - phone
(715) 822-5138 - fax
e-mail: marg@csdmail.com

MISSION STATEMENT
The mission of the Cumberland School District is to provide a well-rounded education that incorporates the highest standards and develops citizens with skills for life-long learning

Cumberland School District is an equal opportunity employer.

Visit our website at
www.cumberland.k12.wi.us



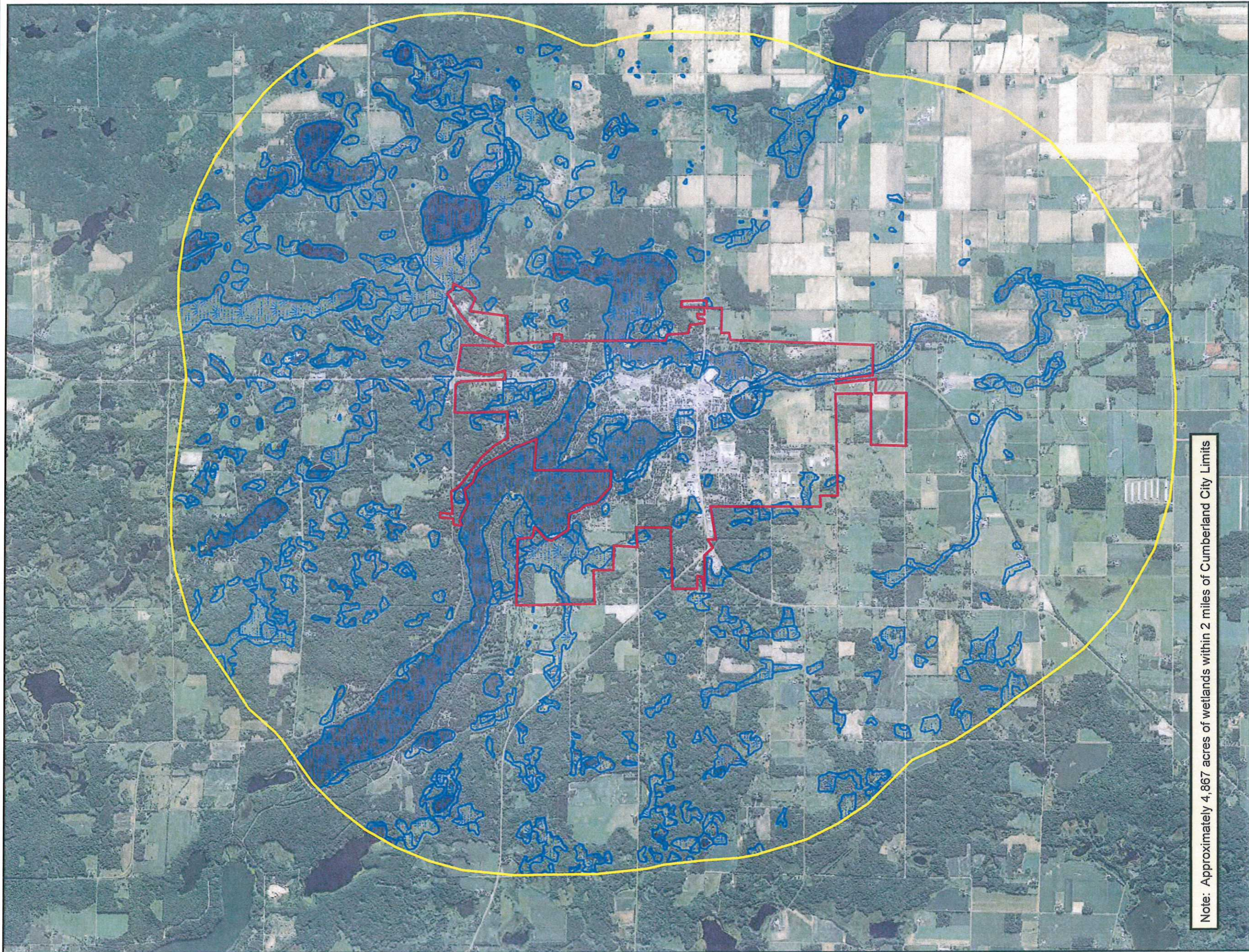
Hi Bert,

Per our phone conversation last week, here are a few comments about 3M's commitment to supporting the environment and local communities. Please let me know if you have any further questions.

- 3M has operated a manufacturing facility in Cumberland for over 67 years and provides great jobs for approx. 200 people
- 3M has a long history of being a proactive environmental steward
- Our pollution prevention pays programs have prevented over 2.25 million tons (across all of 3M) of pollution since 1975.
- 3M was one of the first companies to set Sustainability goals. Our first round of sustainability goals were set in 1990
- One of our corporate goals is for 30% of plants to achieve 'zero landfill' status by 2025.
- 3M Cumberland was among the first plants in 3M to achieve zero landfill status and we have been very proud of that achievement.
- 3M Cumberland is a member of the WI Green Tier program. (A partnership between the WI DNR and businesses that have demonstrated superior environmental performance with commitment to continuous improvement)
- Our plant Green Team coordinates participation in adopt a highway program and DNR tree sales program.
- 3M Cumberland is active in community volunteering and giving to local schools and non-profits. Over \$70k (monetary & product donations) last year.

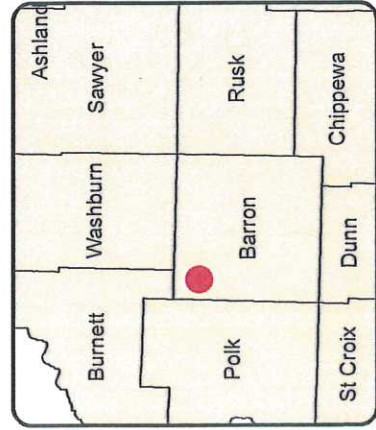


Paul Quam | Plant Manager
Abrasive Systems Division
3M Cumberland, 1640 Western Ave | Cumberland, WI 54829
Office: 715 822 6512 | Mobile: 320 335 1321

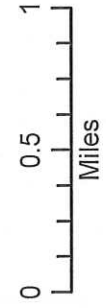


Note: Approximately 4,867 acres of wetlands within 2 miles of Cumberland City Limits

National Wetland Inventory Within 2 Miles of Cumberland City Limits



Location
 Section 12, T35N, R14W
 Barron County, Wisconsin



Project Information
 Project Number: 23-1697.00
 Modified: August 15, 2017



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3433 Oakwood Hills Parkway
 Eau Claire, Wisconsin 54701
 www.AyresAssociates.com



***Wisconsin Wetlands Association Testimony on Senate Bill 600/Assembly Bill 5476
Presented by Erin O'Brien, December 21, 2017***

Good afternoon and thank you for the opportunity to testify on AB 547/SB 600. For those of you who don't know us, Wisconsin Wetlands Association is a non-profit, non-partisan, statewide wetland conservation organization. We were founded in 1969 and have been working across the state to promote wetland protection, restoration, research and enjoyment ever since.

We have long held that we will support efforts to streamline wetland regulations so long as the reforms do not erode protections for valuable wetland resources. In recent years, we have successfully collaborated with Republican legislators on numerous issues and bills to achieve this goal. This includes work with Senator Tiffany on regulatory reforms for fish farms, Representative Sanfelippo on discharge of dredge spoils to wetlands for ditch maintenance in drainage districts, and Representative Jacque and Senators Wanggaard and Cowles on expanding exemptions for artificial wetlands.

Though we are perceived as an "environmental" organization, regulatory issues represent a small part of our portfolio. Our broader programs focus on promoting *voluntary* wetland conservation and providing field-based training and technical support to help Wisconsin communities restore wetlands to solve problems.

Wisconsin Wetlands Association opposes AB 457 and SB 600 because eliminating protections for more than 1 million acres of wetlands would exponentially accelerate wetland loss across the state and cause irreparable harm to Wisconsin's waters, wildlife, and downstream communities.

This bill was introduced on the commonly-mistaken premises that non-federal wetlands are low quality and limited to damp spots in the middle of farm fields, and that those areas have no value. I will let others set the record straight on the value of these wetlands in order to focus on the regulatory concerns that brought us here today and what's needed to address them.

Our comments are informed by discussions with all three of the bill's authors and their staff, the builders and WMC, our colleague Paul Kent, and interviews with many wetland consultants. We learned a great deal in this process, and identified the following areas where there appears to be agreement among the parties.

1. There is strong support to clarify and expand exemptions for artificial wetlands and for the operation and maintenance of storm water ponds.
2. Developers need a way to identify and address wetland issues during project planning so they can proceed with construction without the burden or risk of triggering additional regulatory requirements.

3. There are a number of administrative areas where the 2012 wetland regulatory reforms are not yet working as intended or even adding to regulatory burdens.
4. There are many more untapped opportunities to reduce the time and expense of wetland regulatory compliance while also achieving better environmental outcomes.

The memo circulated to the committee by Ducks Unlimited, which we helped craft, presents recommendations to help the legislature immediately address items 1 & 2 and to establish a path forward to collaboratively evaluate and address other ongoing concerns.

Despite these areas of agreement, there appears to be less common ground how to address the problems. We see three fundamental problems that hinder a collaborative and effective approach to wetland regulations in Wisconsin.

1. Those who work in wetlands conservation or hunt and recreate in isolated wetlands have a very different understanding of the value of certain wetlands, and mitigation, than those who primarily interact with wetlands through regulations.
2. Those advocating for exemptions see regulations as onerous and unnecessary, while those advocating for the resource view an efficient permit *process* as an essential conservation planning tool.
3. Try as we might, legislators and lobbyists, developers and conservation groups, each have an incomplete understanding of wetland permitting policies and problems. We all have a role to play, but I'd like to make a pitch that we need the participation of wetland consultants to fill in the gaps, translate, and help broker solutions.

While many wetland consultants are members of my organization, they are a community of professionals that we share with their business sector clients. They are highly trained, understand wetlands and wetland policy, and are uniquely qualified to objectively identify problems with the administration of today's regulations and to propose effective solutions.

I'll close with this: Exempting isolated wetlands from state permit requirements, would cause great harm and won't resolve many common concerns. If we don't get things right on this bill, we will be back again next session, and the one after that, with another controversial bill that attempts, but ultimately fails, to resolve wetland regulatory problems. That would be unfortunate and is avoidable.

Wisconsin Wetlands Association remains available to lend our time and expertise to help craft a solution-oriented substitute amendment to this bill and to participate in a longer-term dialogue on how to reduce the burden and improve the environmental outcomes of wetland regulatory reviews.

Feel free to contact me or my colleague Brian Vigue at 608-250-9971 if we can be of further assistance.
Erin.obrien@wisconsinwetlands.org / brian.vigue@wisconsinwetlands.org.

Wisconsin Wildlife Federation Testimony Regarding AB 547 and SB 600

Chairman Cowles, Chairman Horlacher, Committee members, thank you for the opportunity to testify today in strong opposition to Assembly Bill 547 and Senate Bill 600 on behalf of the 205 sports clubs in Wisconsin that belong to the Wisconsin Wildlife Federation. We represent statewide organizations such as the Wisconsin Waterfowl Association and the Wisconsin Trappers Association who are here today in opposition to the bill, county sports federations such as the Brown County Conservation Alliance and the La Crosse County Conservation Alliance who have registered their opposition to the bill and lastly we represent over 150 local rod and gun clubs located in every county in the state.

There is strong and virtually universal opposition to these bills by sportsmen and women because they strike at the very fundamental ability of sportsmen and women to hunt, fish and trap in this state, that being the removal of legal protection for over one million acres of fish and wildlife habitat critical for hunting, fishing and trapping in this state.

In 2001 these sports groups were some of the strongest groups that came forward to support state regulatory protection of non-federal wetlands and were able to convince a Republican Assembly and a Democratic Senate and a Republican Governor to unanimously enact a law requiring state permits before non-federal wetlands can be filled. These wetlands are many of our prime waterfowl marshes, provide critical habitat for furbearers that are important to trappers and form the headwaters of the great majority of streams in the state including our extremely valuable trout streams.

Needless to say it was shocking to see these bills being introduced in the Legislature without any consultation or prior discussion with the sportsmen and women of the state. Despite this major oversight by the bill's authors the Wisconsin Wildlife Federation and other conservation groups such as Ducks Unlimited, the Wisconsin Waterfowl Association and the Wisconsin Wetlands Association immediately reached out to the authors to see what the regulatory issues were that are at the root of the situation and expressed a willingness to deal with any legitimate regulatory problems without sacrificing the vast majority of the one million acres of important fish and wildlife habitat.

The aforementioned groups, along with several other groups such as the Wisconsin Conservation Congress, Trout Unlimited and Gathering Waters Conservancy have brought forth the attached proposal that addresses many of the problems raised by wetland development interests and sets up collaborative processes whereby other regulatory issues can be identified and addressed by the DNR and the Legislature on an ongoing basis. This latter strategy has been successfully used for Brownfield cleanup policy in the state for over 20 years.

The sports groups have been involved in discussions with wetland development groups and legislators to try to reach common ground on the issue. Ducks Unlimited and the Waterfowl Association have been our representatives at the table. There is a willingness by the conservation groups to solve the wetland regulatory issues raised by the development interests but sportsmen and women are united that any such proposal has to be carefully constructed so as not to open the floodgates for the loss of the vast majority of nonfederal wetlands which provide valuable fish and wildlife habitat, water quality protection and evermore critical flood damage relief.

Date: December 4, 2017

To: Senator Rob Cowles, Senator Roger Roth, Representative Jim Steineke, Representative Rob Stafsholt

RE: Proposed Wetland Law Changes

All,

As a community of hunters, anglers, and other conservationists, we are deeply appreciative of the opportunity to provide input on the proposed changes to Wisconsin's wetland laws currently being considered. We collectively represent tens of thousands of members statewide who dedicate their time and treasure to the conservation of natural resources.

Wisconsin is home to a rich outdoor heritage of hunting, fishing, trapping and other recreation rooted in our state's robust wildlife populations and diverse habitats. In fact, the hunting and fishing economy exceeds that of many traditional "industry or development" based economies – emphasizing the importance of protecting vital fish and wildlife habitats. For this reason, careful thought and a science-based approach must be a primary component of any policy discussions related to Wisconsin natural resources, including wetlands.

In Wisconsin, it is clear that a strong economy and a strong ecology can coexist and the attached recommendations recognize this reality. The attached memo represents a targeted and strategic step towards further improvement of the wetland permit process in Wisconsin to help advance economic development throughout the state and free Wisconsinites from undue regulatory burdens, while continuing to value and conserve Wisconsin wetlands. It is the product of the good faith and collaborative effort we took, on short notice, to understand the problem(s) you seek to resolve and offer effective solutions.

It was sound science, collaborative work and deliberate conservation actions that led to the recovery of some of Wisconsin's most economically important wildlife species such as the whitetail deer, wild turkey, black bear, and Canada goose. It was robust public discourse and detailed cost-benefit analysis that led to the creation of valuable public hunting areas like Horicon Marsh, Sensiba Marsh and others. It will take similar effort to adequately conserve and restore Wisconsin's wetlands in the face of increasing development pressure and a transitioning landscape.

We believe there is room for improvement and streamlining, but make no mistake that we care deeply for the conservation and preservation of Wisconsin's wetlands. Our proposal represents a move towards refinement and compromise for Wisconsin, and we remain committed to being a resource to you and your staff as this process continues to move forward.

Sincerely,

Ducks Unlimited
Wisconsin Waterfowl Association
Wisconsin Wetlands Association
Wisconsin Trapper's Association
Wisconsin Wildlife Federation
Trout Unlimited
Gathering Waters

Outline for a policy package to address wetland regulatory bottlenecks:

1. Exemptions for artificial wetlands as per the amended Jacques/Wangaard bills (AB 388/SB 320)

Eliminates regulation of landscape features that develop wetland characteristics but either do not meet the statutory definition of a wetland or formed in areas without wetland history. This change expands the types of features classified and exempt as artificial wetlands and substantially reduces timeframes for verifying eligibility.

2. Exemptions for impacts to “incidental” wetlands that emerge as a result of grading or other hydrologic modifications on dormant or phased development sites and orphaned lots.

Wetlands that formed recently as a result of phased development generally do not have the same inherent functions or values as naturally occurring wetlands. This exemption would apply to active, stalled, or phased development on sites that were previously delineated and approved for construction, but where incidental wetlands subsequently emerged during dormancy or between phases. If no wetland history is present, these areas would be exempt as artificial wetlands. This exemption accounts for the additional circumstances where wetland history is present and:

- a) new wetlands emerged that were not present in the originally approved delineation; or,*
- b) additional wetland acreage emerged beyond what was identified and authorized for fill.*

Provided that the entire parcel was delineated and the long-term project plans were reviewed and approved in accordance with wetland laws that existed at the time of approval, the permit remains valid up to 10 years following initial approval. This should be incorporated as a condition of new permits and applied retroactively for 10 years.

Wetlands exempted under this provision will also be exempt from mitigation requirements.

**Note – Extending the valid life of the permit achieves the same goal as extending the life of the delineation, but this option may be more robust with less potential for federal conflict.*

3. Exemptions for maintenance of existing water management infrastructure that was either approved under WI wetland law or installed prior to the establishment of WI laws.

Maintenance of existing approved structures or features in non-federal wetlands is essential and expected and need not be regulated.

4. Changes to the Wetland Identification Program

The program provides important services, but program staff's workload has increased exponentially to include new activities not authorized under Ch. 23.321. The statute requires fees and site visits for all reviews, and WDNR has applied these requirements to the authorized and new services. WDNR has also established policy that wetland boundary determinations must be verified prior to submission of wetland permit applications (i.e., needed for a complete application). These items contribute to project delays and expenses.

Legislative refinements are needed to clarify what activities are/are not to be carried out under the Wetland ID Program vs by regional permit staff, and to provide WDNR the discretion to forego site visits for artificial wetland determinations and in cases where field reports clearly indicate no wetlands are present. Administrative refinements are also needed to enable wetland boundary verification to happen as part of the permit review process.

Further, the DNR would be required to make a concurrence decision on wetland delineation submissions within 45 days or the delineation shall be considered approved.

5. Wetland Study Group and Wetland Program Evaluation

Achieving consistency and an appropriate level of flexibility in the administration of wetland laws has been a long-standing problem. This challenge has been exacerbated by the rapid pace and broad scope of changes to Wisconsin's wetland laws enacted since 2012. Program evaluation is needed to understand what elements of the program are working and not, and to identify effective and efficient legislative and administrative solutions. Input from affected interests and from qualified professionals is needed to ensure that ongoing or perceived program deficiencies are objectively evaluated and addressed. The legislature can support this goal by:

- A. Establishing a legislative study committee to investigate permit program trends and establish a better understanding of the root causes of additional program tensions.*
- B. Requiring WDNR to convene a Study Group, modeled after the Brownfields Study Group, to convene on an ongoing basis to evaluate bottlenecks or inconsistencies in the administration of existing wetland policies and to advise the Department and legislative leaders on additional changes that could be made to reduce wetland permitting timelines and expenses, while protecting important wetland resources. Participation by representatives of conservation organizations, residential and commercial developers, and wetland consultants would be essential. This solution-oriented forum could also provide an outlet for airing and addressing programmatic (i.e., not project-specific) grievances.*

Isolated Wetlands Need To Be Protected

There are one million acres of isolated wetlands in Wisconsin. Isolated wetlands are an important and valuable asset to Wisconsin communities. They function to retain runoff, sediment and nutrients. Isolated wetlands keep stormwater runoff on the landscape while keeping floodwater and pollutants out of our lakes and streams. These wetlands are vital components of the landscape and their functions have significant economic, ecological and cultural values for Wisconsin's citizens.

Their economic value is in flood prevention, reduced sedimentation, better water quality and retention of nutrients that spur excessive aquatic plant growth. With recent heavy precipitation, flooding in Wisconsin has become a more frequent cause of significant and, at times, catastrophic damage to agricultural fields, homes, businesses and public infrastructure like roads and bridges. Filling and draining isolated wetlands will only add to flood damage. The more acres of isolated wetlands that are filled and drained; the more floodwater will increase.

The increase flows from tributary streams will carry more sediment and contribute to greater dredging cost for the maintenance of the commercial navigation channel of the Mississippi River. Loss of water depths in Mississippi River pools, due to sedimentation from runoff, smothers fish and wildlife habitat and reduces or eliminates recreational boat access to backwaters.

Isolated wetlands are also important habitat for many native plants and animals. Waterfowl in particular need these wetlands as places to breed, raise their young and find food and shelter.

About 20 percent of Wisconsin's wetlands are isolated and do not discharge to surface waters, our lakes and streams. If drained, the increase in floodwaters will carry additional sediment and pollutants, which previously had been captured by the isolated wetlands, to our lakes and streams. The increased flood flow due to wetland filling will also cause more erosion to stream bed and banks resulting in even more sediment flowing to downstream areas.

Soils in wetlands can be unstable to build on and usually require substantial dredging, filling and drainage to support infrastructure. In the process important wildlife habitat is lost. When land is developed in Wisconsin for urban uses, state and local rules require developers to construct stormwater retention and detention facilities. The purpose of these facilities are to control runoff, and prevent pollutants from being carried by stormwater to lakes and streams. Constructed stormwater facilities mimic what isolated wetlands do naturally.

Isolated wetlands in rural areas are not covered by urban stormwater rules. If they are allowed to be filled drained or altered; then additional stormwater, sediment and nutrients will be discharged to our lakes and streams. Most of Wisconsin's one million acres of isolated wetlands are in rural areas. Loss of these rural wetlands means loss of important fish and wildlife habitat.

Keeping isolated wetlands protected by state law will protect our communities from increased flooding and sedimentation. Wisconsin should work to retain the significant economic and conservation benefits of isolated wetlands in their natural state.

Provided By: The La Crosse County Conservation Alliance
November, 2017

Contact: John Wetzel, Secretary
john769@centurytel.net



Testimony Regarding AB 547 & SB 600 – December 21, 2017

My name is John Holevoet, and I am the director of government affairs for the Dairy Business Association (DBA). DBA represents dairy farmers, dairy processors, and allied businesses throughout Wisconsin. Our members include dairy farms of all sizes, with herds ranging from fewer than 50 to more than 10,000 cows. Through a deep commitment to advocacy, collaboration and open conversations, DBA seeks to empower our membership to lead Wisconsin's dairy community forward.

I want to thank Chairman Horlacher and Chairman Cowles as well the other members of their respective committees for the opportunity to speak regarding AB 547 and SB 600. We support these bills. The proposed legislation has several parts, but the general thrust of the bills would be to allow more flexibility when dealing with wetlands. That is a pragmatic approach and one that will pay dividends in terms of encouraging development while also protecting the environment. For example, the focus on mitigation is likely to focus resources and attention on those areas where help is most needed or it would be most impactful.

Of the legislation's various parts, I want to focus my testimony on changes it would have regarding the treatment of manmade or so-called "artificial wetlands." These bills would exclude such areas from the definition of wetland and the requirements that go along with such a definition. This change makes common sense. It will also help agriculture to be more adaptable.

The bill identified "artificial wetlands" as nonfederal wetlands that were created by "human modifications to the landscape or hydrology and for which DNR has no definitive evidence showing a prior wetland or stream history." Unfortunately, "artificial wetland" have been far too easy to create on farms. They have been the result of various drainage, irrigation, or even conservation practices. Once "created" a wetland can then become a regulatory nightmare especially for a family farm that is looking to grow in place at or near the original farmstead location.

I would like to provide an example of the challenges farmers face dealing with "artificial wetlands" now. The DBA member in question is a 300-cow dairy farm in Brown County. The farm is owned and managed by a father and son team. It is at the same location their family has farmed since 1913. They are a progressive and civic-minded farm family. They have served on different state and local boards. They are active participants in more than one conservation initiative. In short, they are model members of our dairy community. Being conservation-focused, the family installed grassed waterways to help prevent erosion and reduce runoff. They did not implement this practice because of the promise of cost-share or to receive some sort of payment. They spent the time and money necessary to install these grassed waterways because they want to be good stewards of the land and water.

As many of you know, these are challenging economic times for dairy farmers, who are facing a third year of low milk prices. To help cope with this, the farm planned a modest addition to their free-stall barn to allow them to house and milk more cows. Their plans were disrupted because of an "artificial wetland" created by one of these grassed waterways. This is a ridiculous turn of events. They were

not going to be disturbing a wetland as most people would think of it. They were merely going to build on part of their land, which they had previously set aside and allowed vegetation to grow on because of a voluntary desire to do better for the environment.

This example is disturbing for multiple reasons. It is sad to think of farmers having to deal with one more hurdle to them using their land in a responsible fashion to support their family. It is even worse to think about the negative message this situation sends to these farmers and others about voluntary participation in conservation practices. It actually discourages farmers from taking certain steps for conservation. We want farmers to view state and local officials working on conservation as allies, but it is hard to foster that positive relationship when issues like this arise.

AB 547 and SB 600 would prevent this particular situation from persisting and would stop it from being repeated elsewhere. Wetlands are important to the landscape. Farmers have to protect them and understand their importance, including as it relates to meeting water quality goals for which farmers and others will be held accountable. I ask you all to support these two bills because of the provisions they have to address issues farmers and others are having because of the regulation of manmade wetlands. This is just one reason to vote for these measures. I am here on behalf of just one segment of our state's economy, but many others are also here to voice support for these bills. Ultimately, support for these bills is warranted for many good reasons.

Thank you for your time and attention to this matter. I would welcome any questions about my testimony that you may have.



December 21, 2017
<http://wicouncil.tu.org>

Contact: Council Vice-Chair Mike Kuhr
(414) 588-4281

WITU Opposes Wetlands Bills SB 600 / AB 547 as currently written

Mr. Chairman and Members of your respective Committees, thank you for taking the time today to hear our comments on SB 600 / AB 547 regarding non-federal wetlands in Wisconsin.

My name is Mike Kuhr, I'm a stay at home father and a small business owner. I'm currently volunteering as the Vice Chair for the Wisconsin State Council of Trout Unlimited. Although our organization has gone on record as being opposed to the bills being discussed today, we are certainly open to changing our position should an amended version come forth that would be more protective of ecologically valuable wetlands in Wisconsin.

Trout Unlimited is the nation's leading coldwater conservation organization, and here in Wisconsin, we have over 5,000 members working to ensure that future generations have access to cold, clean, fishable water. Last year, our members volunteered over 48,000 hours of their time working on 82 conservation projects, 97 education events, and running 3 veterans service programs at the VA hospitals in Milwaukee, Madison, and Green Bay.

Our members value the recreational opportunities that the woods and waters of Wisconsin offer. We realize that these opportunities are enhanced by the ecological benefits of wetlands found throughout our state. We also recognize the economic impacts that trout fishing in particular, and angling in general, provide to our state. A 2013 study by the American Sportfishing Association (the "ASA") found that Wisconsin was the 3rd highest ranked state in the number of non-resident anglers. We know the fishing's good here, and apparently so does the rest of the country. According to the ASA report, angling results in over \$1.4 BILLION of retail sales each year in our state. All told, recreational angling creates over \$2.2 BILLION in annual economic impact for Wisconsin's economy.

We understand that non-federal wetlands lack a permanent surface water connection to waterbodies like lakes, rivers, and trout streams. However, these wetlands provide a host of other benefits, such as supplying critical groundwater to trout streams, particularly in headwaters sections, as well as protection against flooding, erosion, and nutrient pollution. These wetlands also provide habitat for diverse plant, animal, and bird species.

The Wisconsin Council of Trout Unlimited ("WITU") is a 501(c) 3 non-profit organization which consists of approximately 5,500 volunteer members in 21 chapters in Wisconsin working to ensure that future generations have access to cold, clean, fishable water. Last year, WITU and its Chapters reported over 48,800 volunteer hours, working on 82 conservation projects, 97 youth education events, and operating 3 veterans service programs.

Trout Unlimited and our members realize that not all wetlands are created equal. We don't believe that regulating these wetlands in an "all or nothing" fashion is good for Wisconsin. Surely there are some non-federal wetlands that provide valuable benefits to our state and they deserve more scrutiny before being filled in. Likewise, we believe there are instances where it seems reasonable to simplify the process of dealing with certain types of wetlands, like artificial wetlands, wetlands dominated by invasive species, and some agricultural wetlands. In fact, TU is open to finding an agreement on agricultural wetlands that would work for both our friends in the hunting community and our partners in the farming community.

We hope to be a part of a workable solution, one that will provide protections for ecologically valuable wetlands, while still allowing our agricultural industries to thrive, and our communities to grow in a responsible manner. We urge you as members of these respective committees to continue to work to make this a wetlands bill that's good for all of Wisconsin.

Thank you for your time and for your commitment to public service.

Mike Kuhr
Wisconsin Trout Unlimited
Council Vice-Chair
mikek.trout@yahoo.com
(414) 588-4281

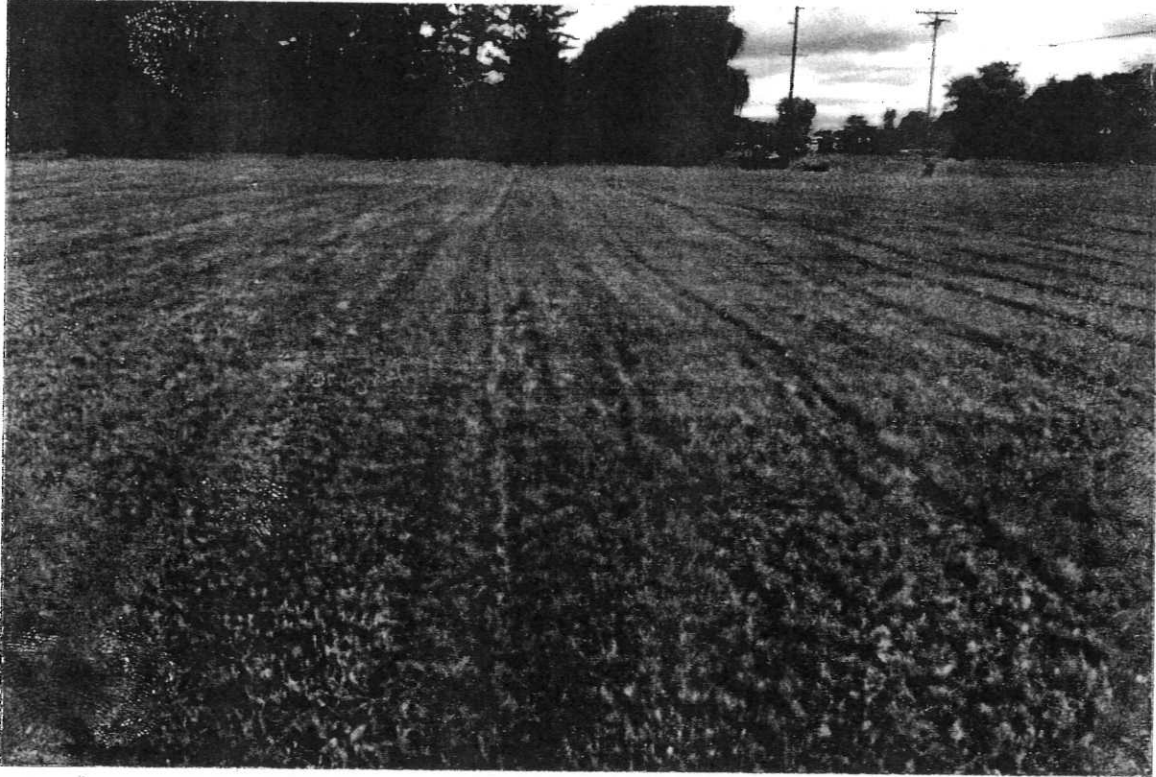
The American Sportfishing Association's report entitled "Sportfishing in America" dated January 2013 can be viewed here:

[http://asafishing.org/wp-content/uploads/Sportfishing in America January 2013.pdf](http://asafishing.org/wp-content/uploads/Sportfishing_in_America_January_2013.pdf)
Page 5 of the report shows Wisconsin Ranked 3rd in the number of Non-Resident Anglers, behind only Florida and Michigan.

The Wisconsin Council of Trout Unlimited ("WITU") is a 501(c) 3 non-profit organization which consists of approximately 5,500 volunteer members in 21 chapters in Wisconsin working to ensure that future generations have access to cold, clean, fishable water. Last year, WITU and its Chapters reported over 48,800 volunteer hours, working on 82 conservation projects, 97 youth education events, and operating 3 veterans service programs.

The System is Broke!

And we're caught in the Middle...



Isolated / Artificial Wetland – Tomah, WI.

Good Morning, I'm Pete Thorson a property owner in Tomah WI. Who for 16 years, have argued with the Army Corps of Engineers and WDNR's position, that my property is a Water of the United States "WOTUS" (wetland)

Testimony given to Wis. Legis on SB 600 public hearing (12-21-17)

For 16 Years the EPA and Army Corps of Engineers, have manipulated the original intent of the 1972 CWA. And created the confusion and disarray that it is in today. In 2001 the ACOE & WDNR accused me and others of polluting my property. When I deposited 16 loads of clean sand, for the development site in Tomah. This happened 2 months after the United States Supreme Court ruled, the Fed's do Not have jurisdiction on Isolated/Artificial wetlands like ours. (SWANCC 1-9-2001)

And a month and a half before the passage of (Act 6 - May 7, 2001) (the issue we are here today, to hopefully rescind) This whole debacle, fined us \$165,000 (fed/state) and cost us upwards of half million dollars. For what? Then cost Tomah a Walgreens store, it's tax base and many jobs.

Ironically this site's ground water was threatened years ago, with a superfund landfill to our immediate west. (see attachment A) Never the less the United States Supreme Court agreed with us in 2006, when they vacated and remanded our case (US vs. Gerke 2006) along with a case, we now call Rapanos. In Rapanos, the Supreme court rejected the idea:

“all tributaries connected to navigable waters are regulated”.

The Justices also wrote: “the reach of the CWA is notoriously unclear” and “ACOE interprets the act as a limitless grant of authority” (Rapanos – 2006) Again in 2012 & 2016 in cases like (Sackett, Hawkes & Kent Recycling) the Justices sided with property owners and warned the EPA and Army Corps of their unsubstantiated jurisdictional claims.

Since Jurisdictional Determinations are only valid for 5 years. We submitted an updated delineation for our property in 2015. Only to be railroaded by their vague interpretations, unlawful guidance and unsubstantiated Regional Supplements once again. After 2 ½ yrs. of excuses and no reply's. It's blatantly obvious, The Corps has again ignored the United State Supreme Courts direction and guidance in the

last 5 wetlands or WOTUS cases. (SWANCC, Rapanos, Sackett, Hawkes & Kent Recycling) Its business as usual at the Corps, with another determination. This isolated/artificially manipulated site, created by the reconstruction of Hwy 12 and city streets. Is now again, in their opinion a "Waters of the United States" (WOTUS).

That's probably why our Attorney General (Brad Schimel) led a coalition of 30 states, (including Wisconsin) with the current stay and rewrite of the current "WOTUS" rule. (see attachment B) As he defends, **"States have Rights Too"**

This 2 ½ year debacle, for a 5-ac. site. 67 miles away from the closest Navigable Water. (Wisconsin River) For a farm drainage ditch, where the Corps admits "Has No Permeable flow". Is Unfounded!



Farm Drainage Ditch
No Permeable Flow

The State of Wisconsin doesn't take jurisdiction on Farm or Roadside drainage ditches. So why do the Fed's? This expansive control, is beyond the legal intent authorized to them, in the original intent of the CWA.

So, I Thank You for doing the right thing here. And taking the necessary steps, to fix the isolated/artificial wetland issues. **But....** We still have a major Problem.

The Army Corps of Engineers

- **This State (Wisconsin) and others, cannot follow the Corps lead when it comes to wetlands or WOTUS.** (for 16 yrs. they have proven to us they have, No regard for law.. Just review the last 5 Supreme Court cases / Then ask yourself why did 2 federal courts "stay" the new "WOTUS" rule-2015 and 30 states oppose it today?)
- **The "87" delineation manual is only approved method of determining a wetland.** Until a replacement is congressionally approved thereafter. As referenced in the manual. In 2012 the Army Corps, unlawfully introduced "Regional Supplements" (Midwest/NE-NC here in WI) to assist in the process of determining if a property is considered a wetland. **The Problem here is...**
The Regional supplements:

1) contradict the original manual (need all 3 criteria) 2) Has never received public comment, like we are here doing today. 3) Rebukes congress intent, "original 87 manual where it clearly states, to be used until a replacement is congressionally approved" 4) Regional supplement have their own disclaimer: "the findings of this report, are not to be construed as an official Dept. of Army position, unless so designated by authorized documents."

Bottom line... Congress has not Approved them, So why is the State of Wisconsin (WDNR)? using them? We should Not!! Until 435 Representatives, 100 senators and the President agrees to them and a majority signs off on it.

Regional Supplements were introduced by the ACOE, But never were Approved, Publicly commented, or met the regular conditions of law in the Congressional Review Act.(CRA) (see Pacific Legal Foundation-Red Tape Rollback)

At a minimum:

Please add an Amendment to AB-600: **To cease the use of All Regional Supplement** (Midwest / NE-NC) **to the 87 Delineation manual until.**

1. They are Congressionally (Fed) approved, or the State of Wisconsin approves the context of it, and a Memorandum of Agreement (MA) is entered into with EPA & ACOE like they did with the 87-delineation manual.

Until then, this state is unlawfully using a method of determination, which directly affect thousands of Farmer's, Rancher's, Property Owners & Business's. Contrary to the original intent of the 87 manual.

The timing is Now!

- President Trump signed a Executive Order on Federalism () "states have rights too".
- Speaker of the House (Paul Ryan) is read to assist!
- We now have a "Business-Friendly" EPA Administrator in (Scott Pruitt)
- The New Assistant Administrator of Water (David Ross) has Wisconsin ties.
- Newly appointed EPA Regional Administrator (Cathy Stepp) calls Wisconsin home.

Let's fix this Right!

Pete Thorson, affected party.



TESTIMONY BEFORE THE JOINT HEARING OF THE ASSEMBLY COMMITTEE ON
REGULATORY LICENSING REFORM AND THE SENATE COMMITTEE ON NATURAL
RESOURCES IN SUPPORT OF ASSEMBLY BILL 547 AND SENATE BILL 600

Chairman Horlacher, Chairman Cowles and Committee Members:

Thank you for the opportunity to testify today. My name is Lucas Vebber and I am the General Counsel and Director of Environmental and Energy Policy at Wisconsin Manufacturers & Commerce (WMC). WMC is Wisconsin's Chamber of Commerce and Manufacturers' Association. With members of all sizes and throughout all sectors of Wisconsin's economy, we are the largest business trade association in the state. Since our founding in 1911 we have been committed to making Wisconsin the most competitive state in the nation in which to do business. I am here today to testify in support of Assembly Bill 547 and Senate Bill 600.

Background on Wetland Regulations

Wisconsin has 15,000 lakes, 84,000 miles of rivers, more than 1,000 miles of shoreline along the great lakes and around 4 million acres of wetlands that are hydrologically connected to one or more of these water bodies. Those waters are all protected under various state and federal laws including the federal Clean Water Act and are in no way impacted by this legislation. This legislation deals with isolated (i.e., not connected to a waterway) non-federal wetlands and artificial wetlands.

From a regulatory standpoint, wetlands really fall into one of two broad categories: either "federal" wetlands or "nonfederal" wetlands. A "federal" wetland is one that is subject to the federal Clean Water Act. Traditionally these are wetlands connected to, or nearby, navigable waters, and make up 80-90% of Wisconsin's total wetlands. A "nonfederal" wetland is one that is not connected to navigable water, and not regulated under federal law.

Nearly twenty years ago, Wisconsin was the first state to pass a law to treat these "nonfederal" wetlands essentially the same as "federal" wetlands. According to a recent report produced by the Association of State Wetland Managers, none of our neighboring states regulate isolated wetlands. In fact, there are only 4 other states in the country that regulate isolated wetlands.¹ Nearly 1 million acres in Wisconsin are subject to this onerous Wisconsin-specific regulation. While at the time it was believed that Wisconsin would be a leader that showed the way for others to follow, the reality is that this regulatory system has been cumbersome and costly and has made Wisconsin a regulatory outlier.

¹ "Status and Trends Report on State Wetland Programs in the United States," Page 28, Association of State Wetland Managers, available at: https://www.aswm.org/pdf_lib/state_summaries/status_and_trends_report_on_state_wetland_programs_in_the_unit_ed_states_102015.pdf

Impact in Wisconsin

One project recently featured in a video now available on WMC's webpage² saw delay of more than a year at a cost of over \$100,000.00 to comply with Wisconsin's nonfederal wetland permitting requirements. Had that project been located in just about any other state, they would have been able to avoid both the delay and the expense.

This legislation fixes this failed two-decade long experiment in over-regulation while continuing to protect our state's pristine environment. First, it eliminates the permitting requirement for these "nonfederal" wetlands. Importantly, however, it maintains current law mitigation requirements for replacing any of those "nonfederal" wetlands that are impacted going forward. Wisconsin's mitigation laws require you to create more wetlands than you are impacting, and in so doing, the legislation continues to guarantee that while eliminating costly regulations, Wisconsin will still see a net increase in total wetlands. A developer will still need to conduct a delineation of a site to determine where wetlands are located, and will still need to obtain a jurisdictional determination to see which of those wetlands are "federal" versus "nonfederal."

Additionally, the legislation sets strict timelines for the state to expend monies paid into the "in lieu fee" program. This program was established to gather funds from development projects that are then used to create wetlands around Wisconsin. There's around \$15 million currently in the fund that has not yet been appropriated by the DNR to create high quality wetlands in our state. The legislation sets a timeline that would hold DNR accountable for getting those projects moving, and ensures that future dollars are also spent efficiently to create high quality wetlands in a timely manner.

Conclusion

We ask that you strongly support these common sense proposals that will protect our environment while alleviating a significant barrier to economic growth and development in Wisconsin.

Thank you for your time, I would be happy to answer any questions you may have today.

² "WMC Releases Latest Two-Minute Drill: Wetland Reform," available at <https://www.wmc.org/news/press-releases/wmc-releases-latest-two-minute-drill-wetland-reform/>

Regulatory Restrictions on Agricultural Land

The following is a brief compilation of impediments faced by the farming community due to the current regulatory restrictions on agricultural land.

1. Terminology differences between government agencies
 - a. "Prior converted/non-wetland" is not recognized by the DNR. NRCS and Army Corps of Engineers both acknowledge this terminology. So long as the property has been maintained (i.e. plowed, planted, hayed, mowed, etc...) and has not set vacant for 15 years and gone back to natural vegetation, these agencies do not regulate the installation of drain tile on that land.
2. Permit requirements differ between government agencies
 - a. NRCS has a one page document (Form 1026) to fill out indicating where the ditching and/or tiling will take place. No additional paperwork, time delay, or financial requirements.
 - b. Army Corps of Engineers does not have any regulatory requirements on actively farmed "prior converted/non-wetland" property.
 - c. DNR requires an extensive, lengthy and costly permit process to even determine if this work can be done on the property. They do not recognize the "prior converted/non-wetland" designation like the other agencies.
 - i. These additional time delays and associated fees drastically impact farming operations. Often times these projects can be delayed by a year or more and can have several thousands of dollars associated with the permitting process. This has a severe negative impact on the agricultural and local communities associated with the farmers.
3. "Normal" farming practices
 - a. It is unclear as to whether the installation of drain tile on agricultural land is considered a "normal" farming practice. The installation of drain tile has been practiced for well over 100 years across our nation. The majority of highly productive agricultural states (Iowa, Illinois, Indiana, Ohio, Minnesota, etc...) have extensive drain tile systems installed on their agricultural land, and are continuing to add to that every day.
 - b. Installation of drain tile is a key land improvement to the viability of farming in challenging economic times. This land improvement will give Wisconsin farmers a leg up on becoming economically competitive with other high production states. Land improvement itself should be considered a "normal" farming practice because it is inherently vital to the success of the farming operation.
 - c. The installation of drain tile is an excellent practice for farmers. Not only is it a vital component to economic success in a tough market, it is also a key component to helping improve environmental health, soil health, and water quality.

Prepared by:
Jim Joling
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James Joling
Owner - Joling Drainage Solutions, LLC
6043 Hagen Hill Circle
Madison, WI 53718
October 24, 2017

Nancy Mistele
Director – Office of Business Development
Department of Administration
101 East Wilson Street
Madison, WI 53703

Dear Nancy,

I am writing you in regard to a letter I received last week from the DNR pertaining to wetland restrictions on an agricultural drain tile project. For your reference I have attached a copy of that letter to the email in which this letter will be sent.

The letter opens wanting to speak about “information received about drain tile installation.” What information was received? Who was the information received from? In previous discussions with the DNR, I was told by David Hon, Eau Claire DNR, and Bradley Betthauser, Wisconsin Rapids DNR, that the DNR does not conduct site visits. Why did Bradley have time to drive around and look at the project site? It is strange to me that he has time to investigate this on-site, yet cannot meet a farmer on-site to discuss a project. Why does the DNR take a stance against a farmer? Should they not be unbiased?

The letter speaks of how the soils “often times contain the criteria to meet requirements for wetlands.” The letter does not say that the field is a wetland, or has any wetlands defined within its perimeter. On Monday, October 16, 2017, Bradley Betthauser told me that “there are no wetlands currently registered on the WI DNR inventory, however, imagery does show some possible ‘indicators’ of wetlands.” If the current inventory does not have any listed wetlands why do I, the landowner, have to provide additional proof that there are no wetlands? Does the DNR have authority to halt a project, or even question land classification based solely on “soil type?” Why must the landowner prove it is not a wetland when it already is not classified as a wetland? I have a current written authorization from NRCS concurring with a 1988 NRCS wetland determination of the property stating that there are no known wetlands on it. The NRCS does not require any further deliberation about this project. It is being questioned solely because on the DNR inventory it is labeled by a pink color as a “potential wetland” based on its soil types. Per the DNR, anything in this pink area requires the landowner to prove that no wetlands exist in that defined area. Landowners must have a wetland determination done. This can either be done by the DNR, up to 5 acres at a cost of \$300 per acre, or by hiring a private consultant for larger projects. The estimated cost for private consultants can range from \$6000-\$10,000 per site of approximately 30-40

acres. Why must the landowner have to provide additional proof via a very expensive and time-consuming endeavor? The DNR uses this intimidation tactic to bully farmers. Most farmers do not want to attempt to question the government, nor can they afford the additional expense or time delay of such efforts.

In the same paragraph, according to the DNR, "wetlands can be farmed under 'normal farming' practices. Such activities include seeding, disking, plowing, harvesting, maintenance of previously established drainage ditches, etc." As per conservation and environmental progression in agri-business, plowing and disking are viewed as detrimental to soil health. Our farm business has not practiced these obsolete activities for more than a decade because we consider ourselves stewards of the land and want to improve the environmental health of our area. Are we no longer considered a "normal farm?" We believe that this antiquated information suggests that the DNR is out of touch with what university studies and other modern agri-business professionals suggest farmers practice to improve soil health on their properties. Also, the fact that drain tile installation is not considered a "normal farming" practice is quite strange. Drain tile installation has been practiced on farms in the U.S. since the early 1800's. According to the U.S. Census of Agriculture an estimated 12 million acres of cropland are drained through tiles. Why is tiling not considered a "normal farming" practice by the DNR? What authority does the DNR have to define what a "normal farming" practice is?

In my opinion, maintenance of previously established drainage ditches can be drastically reduced by implementing a network of drain tiles in cropland. The main reason that drainage ditches require maintenance is because of the runoff, or soil erosion. This is caused mainly by the inability of the soil profile to accept rainwater and forcing the water to then carry soil off the field and into drainage ways. The soil carries many nutrients with it, most notably nitrates and phosphates. The water eventually ends up in our streams, rivers and lakes. Through our attendance of many soil and water health seminars, we have become more knowledgeable and conscious of polluting our lakes and streams. In these seminars we have learned that phosphate is the number one contributor to algae blooms. These are an increasingly critical detriment to our lakes, especially Lake Petenwell and Castle Rock Lake all the way down to the Yahara Chain of Lakes. Not only does this pollute our environment, but it will undeniably have a long-lasting, negative effect on our tourism economy. I would certainly expect the DNR to be more proactive with this approach than what they have shown. Does the DNR prioritize wetland acreage over water quality in our state? To me, the DNR is either clueless as to what causes the damage to our environment or they are seeking to fulfill a private agenda.

"If installation of drain tile results in the discharge of fill materials into wetlands then written authorization pursuant to s. 281.36, 401 CWA, Wis. Stats. may be required prior to conducting this type of activity." For reference, we typically require minimal excavation on our projects. The tile network can be described as similar to a manifold system where there is typically a main and a series of laterals connecting to that main. The connection holes typically measure approximately two feet in width, ten feet in length and less than three feet in depth. In prior conversations with DNR personnel, discharge has been explained to us as the excavated material for our installation practices. We were told that we could not set the excavated fill material next to our holes, or even place that same material back in the hole it came from. Other than stating "this is the only way we can stop farmers from tiling," we have yet to receive any explanation for the reason as to why this cannot happen. We are not tiling in the middle of swamps, ponds or cattails. We are tiling existing farmland that has been routinely cropped and has written authorization stating wetland compliance from another federal agency. Also, in prior

conversation, David Hon of the Eau Claire office was very dismissive, rude and argumentative when asked to explain why the DNR took the positions he spoke of against tiling. It was very evident that he had zero interest in working on a solution. Instead, he was very content to stand behind his badge and dictate what I must do. Drain tile installation has many environmental benefits to both local and downstream soil and water health. Does the DNR have no interest in working with the farming community towards the improvement of soil health and water quality in our state? Should we not work together to promote environmentally responsible conservation practices? Can this be done without increasing the amount of regulations, which deter many farmers from establishing or improving good farming practices, put on the farming community? These regulations are often seen as obstructing farmers from improving their agri-business.

We were previously told by the DNR that no authorization would be given for discharge of fill in a wetland area. Why does this letter state that written authorization may be required? It leads the landowner to believe there is a possibility of resolving this situation with favorable results to the farmer's goals. This tells me that the DNR is trying to grab any land it can in order to pursue an alternate agenda of gaining wetland acres and not protecting the natural resources of our waterways. This dishonorable choice of words helps the DNR gain access to the land in question in an attempt to take more land from farmers.

The last paragraph of the letter says "please contact me...within 15 days of this letter to set up an appointment to inspect the site and determine a remedy to the situation." This is a blatant attempt by the DNR to gain access to my land in an attempt to pursue an agenda of obtaining and retaining the most wetland acres it can. Why does the DNR need to inspect my land that is currently not registered as a wetland? This is total harassment by a government agency. Why am I being harassed based on a soil type that up to this point does not contain wetlands according to the DNR? This overreach is terrifying to say the least. Less farmland is becoming available each year with our growing population. Farmers are already struggling to produce more grain with less land. Additional burden being placed on them by the DNR will only make the struggles tougher to overcome.

In prior discussion about the DNR statutes I was told by Bradley Betthausser that drain tile is not considered a permanent structure and therefore cannot be installed without written authorization, if possible. If it was considered a permanent structure written authorization would not be required. On Monday, October 16, 2017, Bradley told me that the DNR is concerned that installing a drain tile system in a potential wetland area would permanently convert that area to "upland." If drain tile is not considered a permanent structure, how can the change to the land be permanent? It appears the DNR is trying to have it both ways to prevent farmers from improving their land quality, which hurts their bottom line. Why is the DNR against farmers improving their land quality? Soil and water health is extremely important to farmers, so why is it not important to the DNR?

The letter was copied to several additional recipients, many of whom are not part of the DNR. Does the DNR have the authority to involve other agencies in a preliminary discussion of my personal business? Why does the DNR have the need to involve people outside of its own agency? Why did the DNR copy this to several others, but leave out a significant agency such as the NRCS? Keep in mind, this was prior to the DNR's knowledge of my approval letter from NRCS. I feel that this is another attempt at intimidation which could result in future ramifications.

I have great concern about future repercussions from the DNR both personally and with my agri-business. I feel that I have already been targeted because of my professional services to our local area. In conversation with other tile installers throughout the state, they are not being harassed like I have been. They are concerned that this unwarranted activity might begin to spread and affect them as well. There are many struggling farmers who are excited about the possibilities, but feel intimidated by regulation and shiny badges. They are afraid to speak up and due to my business I am placed at the helm. I am their spokesman, and as such I will be pursued as the enemy. What can be done to ensure that I am not targeted unfairly?

Please let me know what can be done to eliminate the unjust harassment and overreach by the DNR going forward.

Thank you for your time.

Sincerely,

James Joling

Owner - Joling Drainage Solutions, LLC

CC:

Sean Duffy, United States Representative – 7th Congressional District of Wisconsin

Scott Walker, Wisconsin Governor

Patrick Testin, Wisconsin State Senator – Wisconsin's 24th District

Nancy Vandermeer, Wisconsin State Representative – 70th Assembly District of Wisconsin

Dan Meyer, Secretary of Wisconsin Department of Natural Resources

Jeff Lyon, Secretary of Wisconsin Department of Agriculture, Trade and Consumer Protection

Bradley Betthausen, Wisconsin Department of Natural Resources

Donald Radtke, Vice President Wisconsin Farm Bureau Federation

Location: DNR Office – Wisconsin Rapids; 1:00pm
Attendees: Keith Patrick, Bradley Betthausen, Peter Joling, James Joling
Preparer: James Joling

1. James asked who sent the DNR information about the project.
 - a. Bradley stated that nobody called in.
 - b. Then, Bradley said he happened to be driving by while on the job.
 - c. Then, Bradley said sources do wish to remain anonymous.
2. DNR would like all available information regarding proposed projects.
 - a. Would like to be involved to determine if project violates wetland rules
 - b. Any areas that have “pink” soils are potential wetlands
 - i. Maps were told to be not completely accurate
3. DNR offers wetland delineation for \$300/acre, up to 5 acres total
 - a. James expressed that this is not nearly enough scope because majority of projects are 40+ acres
 - b. DNR was asked why they require additional delineation if NRCS already signed off on project as prior converted/non-wetland.
 - c. NRCS does not require any fees of any kind.
 - d. DNR does not recognize term “prior converted/non-wetland.”
4. Environmental concerns
 - a. It is very apparent that DNR does not have education on the positive environmental impacts of drain tile. Their apparent concern is wetland acreage. Intended use of land does not appear to matter (Agribusiness).
 - b. DNR gave examples of where tile was installed and ended up “killing fish”
 - i. Explained to them that the tile was not to blame, rather the improper management of manure application methods led to allowing harmful pollutants to be discharged from piping.
 - c. DNR was not aware of how soil erosion/runoff can be drastically reduced by tiling. This would result in keeping soils, fertilizers and chemicals on field rather than running off the field and into the streams.
 - d. Keith asked James if he would be willing to attend/speak at DNR meetings. James agreed to the possibility.
 - i. Topics may include environmental impacts, soil health, water quality and installation process.
5. James asked if tile was considered a “structure” on the land.
 - a. Answer is unclear at this point. DNR will research and get back to us.
 - b. DNR pointed to tile as not lasting long in some cases. DNR does not believe tile can or will last long enough to be considered a structure on the land.
 - i. While it is true that tile can fail, this is not because of the tile itself. Proper means and methods of tile installation need to be used. With

proper means and methods of installation the tile's lifetime is not known. A lot of tile is still functional after 50-150 years. Many "structures" on property don't last near that long. We have experience connecting to clay and cement tile lines installed prior to the 1920's that are still completely functional.

6. DNR and NRCS have different definitions of wetlands, but use the same science to determine a wetland. If NRCS gives permission why does the DNR require much additional verification, permits, and/or fees? Why does the DNR require farmers to pay for additional requirements that the NRCS does not? DNR will not comply with NRCS designation of "prior converted/non-wetland". It was expressed to DNR that this places a great amount of additional burden and stress on farmers.
7. Normal farming practices
 - a. Is tiling considered a "normal" farming practice? DNR does not believe so, but when asked to show where in the law it states that tiling is not an accepted normal farming practice Keith's reply was "it doesn't say it is?"
 - b. Why is the burden of proof being placed on the farmer/landowner?
 - c. Why is land improvement not considered a "normal" farming practice?
8. DNR regulations
 - a. We talked about how farmers are extremely frustrated with the number of additional hoops they are required to jump through for the DNR. These burdens incur additional financial and time delays that cause serious negative economic impacts to farmers.
 - b. We spoke about cost associated with the additional regulations placed on farmers.
 - c. We spoke about farm fields that have decades of cropping history associated with them, are labeled "prior converted/non-wetland" by NRCS, and given permission for project by NRCS. The DNR does not care what NRCS said.
9. We spoke about economic conditions of farming and the benefits tile can produce for our communities. By eliminating time delays and financial requirements of additional permits required by DNR, farmers have a chance to invest locally into their land and improve their farming practices. That money is returned to the local WI economy.
10. We spoke about our history of good working relationships with the Army Corps of Engineers, WI DNR and NRCS. Prior to this year we have never had this much burden put on the farmer by the DNR. It seems that a new agenda has been implemented in the DNR to harass the farming community.
11. We spoke about our proposed tiling project in the DNR office.
 - a. We talked about the areas of the field and were told by Bradley that all areas labeled "prior converted/non-wetland" on the NRCS map were ok to tile.
 - b. After receiving the ok to tile the described areas of the field the conversation turned to the waterway. We talked about maintaining the existing waterway as pointed out on documentation James gave to Robert Rosenberger (DNR) and

Bradley. James said that he would like to maintain it next summer (2018). We were told that it may have stream history from the 1800's to it and that a navigability study was required to see if we needed permits (fees) to maintain it.

- c. Peter told the DNR that NRCS requires farmers to fill out a one page form describing what we are doing and where. That is all. They do not require fees for this. Why does the DNR have associated fees, permits and time delays with the same process? Those drastically impact farming operations.
- d. Keith suggested that we take a trip to the site to see if we could establish the navigability of the waterway so that we would perhaps have a quicker response to the situation.
- e. Once we arrived at the site the DNR spent a couple brief minutes looking at the waterway. It was quickly determined to be non-navigable.
- f. Immediately, Keith expressed concerns about the field itself. The field is labeled as "prior converted/non-wetland" by NRCS. It has a century of farm history, including land improvements and management prior to 1988. At this time Keith requested additional time to speak to his superiors in Madison.
- g. It was abruptly apparent that the site visit was not so much about the waterway. Instead, it was to gain access to the land. It appeared that Keith and Brad tried to gain the trust of the landowner just to gain access to the land and utilize underhanded techniques to further an agenda of gaining wetland acres.
- h. This is the type of deceitful tactics and manipulative measures taken by a government agency in an attempted land-grab. This unethical, premeditated practice shows exactly why the DNR has a huge trust issue with the public and especially the farming community. This brings into question whether this entire meeting was a setup to lower the guard of the landowner and gain trust under the premise of "cooperation" and "working together" to further an agenda of gaining wetland inventory. As stated by Keith on site, "we are constantly losing wetlands."
- i. Keith stated the he was a farmer and that he also farmed "wetlands". I perceived this as him calling my field a "wetland". I told him that I completely disagree with that assertion. I expressed my feeling that there is a complete difference in the improvement of agricultural land that is designated "prior converted/non-wetland" by NRCS and has NRCS permission for improvement, and what the DNR considers "wetlands". Keith never did state what kind of farmer he is. I'm not sure if he raises crops, livestock, or trees. This may be another generalization in order to appease a fellow "farmer".
- j. Also, while on site, Keith pointed out that we are located along a highway. James asked what difference that makes, he smiled and said that people notice. Apparently the DNR cannot tell people to mind their business without placing additional burden on the farmers. They are all too eager to halt agribusiness in an attempt to gain wetlands and appease the "anonymous" passer-by.

- k. Keith requested additional time to talk to his superiors in Madison on how to allow us to proceed with our project. One concern was about other people using us as an example of “why were they allowed to do it but I am not” reaction from public.
 - l. This on-site meeting was brought up after we were given permission to complete the tiling project on any area labeled “prior converted/non-wetland” on the NRCS map provided.
12. DNR should be more interested in educating the farming community on the proper environmental health management of nutrient runoff than they appear. It is evident they are not concerned with healthy soil and healthy water. They are concerned with wetlands.
- a. James told DNR that water being discharged from a tile outlet will often times meet or exceed USA bottled water standards the majority of the year. They were not interested in entertaining the subject.
 - b. We were told “we are constantly losing wetlands”. This shows the agenda for land grab.
 - c. Again, environmental impacts, soil health and water quality seem to take a back seat to the prospect of the DNR gaining wetland acres and regulating agribusiness in Wisconsin.
13. Our intent is to install drain tile on the “prior converted/non-wetland” acres as allowed in the meeting. We will not maintain the waterway until further clarification.



John Muir Chapter

Sierra Club - John Muir Chapter
754 Williamson St., Madison, Wisconsin 53703-3546
Telephone: (608) 256-0565
E-mail: john.muir.chapter@sierraclub.org Website: sierraclub.org/Wisconsin

Statement of the Sierra Club's John Muir Chapter in opposition to Senate Bill 600/Assembly Bill 547 December 21, 2017

Chairman Cowles and Swearingen and members of the committees, my name is Bill Davis. I am the Chapter Director for the John Muir Chapter of the Sierra Club. I would like to thank you for the opportunity to provide comments in opposition to SB 600/AB 547. The John Muir Chapter represents over 18,000 members and supporters living throughout the state. We work to provide opportunities for Wisconsinites to enjoy nature and advocate for the fair and rational management of our common resources so that all Wisconsin residents have access to the clean air, water and land they need for their health, safety and well-being as well as to move our economy forward.

Under the proposal, SB600/AB 547 developers can fill Non-federal wetlands without a permit or any environmental review. Non-federal wetlands account for an estimated 20% of Wisconsin's wetlands, approximately one million acres.

Protecting wetlands protects the citizens of Wisconsin and where we live. Although these are often described as "isolated" or "ephemeral", these wetlands are hydrologically connected to surface and groundwater in many valuable ways and provide many public benefits. Non-federal wetlands are diverse, high quality, and important. Without wetlands, we will see increased flooding, worse water quality, and fewer habitats for important waterfowl, fish, and other animals.

Flawed Process

SB600/AB 547 is extremely damaging to the hunting and fishing community as well as those that will be subject to increased flooding and decreased water quality. The fact that the legislature is only holding one hearing, in Madison, the day before many people will be traveling for the Holidays is an insult to the people of Wisconsin. A subject of this magnitude deserves thoughtful input and consideration from all people that will be affected by it. There are wetlands that will be affected by this bill in all parts of the state. There should be hearing around the state to allow those citizens to be heard.

Increased flooding and decreased water quality

Non-federally protected wetlands serve other important ecosystem roles, such as filtering pollutants from getting into Wisconsin lakes and streams, and providing valuable flood storage thereby reducing flood damage to public and private property during storm events. The latter is

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particularly important given the increased number of high intensity storms the state is experiencing.

Habitat

The wetlands affected by this bill occur throughout the state. A large proportion of them are high quality providing critical habitat for waterfowl, furbearers, pheasants and other game, nongame and endangered species valuable habitat throughout the state of Wisconsin. In addition these nonfederal wetlands often form the headwaters of Wisconsin's streams including Wisconsin's prized trout waters. They also:

- Provide critical and abundant habitat for waterfowl game species production;
- deliver year-round base flow to cold water trout streams;
- improve water quality by slowing the flow and reducing erosion;
- are home for a variety of rare plants, animals, and birds.

Picking Winners and Losers

Some will undoubtedly argue that this bill is somehow protecting private property rights; it isn't, it is simply deciding who can impose a burden on other landowners. We often receive calls in our office from landowners around the state complaining that they have erosion or flooding problems, or no longer see various waterfowl or songbirds they used to enjoy because their neighbor has destroyed an adjacent wetland. This bill will increase this exponentially. This is not defending private property it is allowing one property owner to diminish the quality of life of another property owner. That is bad public policy plain and simple.

It is for these reasons we urge the committee to oppose SB 600/AB547.

Thank you again for the opportunity to testify.



**To: Members of the Senate Committee on Natural Resources and Energy and
Members of the Assembly Committee on Regulatory Licensing Reform**

Date: December 21, 2017

From: Sarah Barry, Director of Government Relations

Re: Opposition to SB 600 & AB 547

Clean Wisconsin is a non-profit environmental advocacy group focused on clean water, clean air and clean energy issues. We were founded forty-seven years ago as Wisconsin's Environmental Decade and we have 20,000 members and supporters around the state.

Clean Wisconsin is opposed to Senate Bill 600 and Assembly Bill 547 because it is unnecessary and extremely detrimental to the environment. This proposal will require Wisconsin to remove critical protective standards for over a million acres of isolated wetlands in Wisconsin. Our wetlands are critical ecosystems that protect communities from flooding, provide habitat for rare and endangered species, filter out pollutants, and they are a place people enjoy recreating outdoors. When important naturally-occurring wetlands are filled in we will see more flooding, compromised water quality, and huge costs to communities for property damage. Wetlands reduce flooding peaks by as much as 60 percent and the EPA estimates that an acre of wetlands can store 1 to 1.5 million gallons of floodwaters.

Our isolated wetland protections were passed in response to a 2001 United States Supreme Court case called the SWANCC decision that ended federal protections. The state protections were a strong bipartisan recognition of the continued value of these wetlands here in Wisconsin. This bill not only removes these critical protections for this valuable resource, the mitigation program highlighted in the bill does not require that created wetlands be anywhere near the wetland that is filled in. Creating a new wetland somewhere else doesn't help the neighbor whose basement is flooding. Currently, almost all wetland permit requests are approved by the DNR and the permit process itself encourages developers to be thoughtful when seeking to fill in wetlands.

The natural characteristics of wetlands allow for the storage of large quantities of water during extreme weather events. This water is released gradually over a long period of time. Wetlands' dense vegetation and location within the overall landscape can naturally provide retention areas for rain or snow melt moving to rivers and lakes downhill. Wetlands lessen the need to fund expensive flood and storm water control projects. Wetlands serve many of the same purposes as dikes, levees, concrete-lined channels and retention basins. Unlike man-made infrastructure, wetlands do not require continuous expenses for upkeep, repair, and upgrades.

Over the last decade large rain events in Southeast and Western Wisconsin led to significant flooding. In July of last year, a rain event in Northern Wisconsin that dropped approximately a foot of water in five hours caused nearly \$35 million in damage. The damage was severe, and the community is still recovering from this event. Without the nearby Bibon Swamp retaining more than 10 billion gallons of water, damage to property would have been much worse. The Bibon Swamp is a large wetland in the

upper reach of the White River and during this event the water level rose over six feet. The wetland naturally released the water over an extended period. Without this wetland all the water would have likely ended up in the White River and it could have destroyed a hydropower dam located only a couple of miles downstream.

Polluted runoff from cities, farms and construction sites is filtered by wetlands before entering lakes and rivers. Clean lakes and rivers are the backbone of Wisconsin's tourism industry, which had a \$20 billion impact on the state's economy in 2016. The filtering capability of wetlands also cuts down on the cost of treating drinking water. Some wetlands can remove a quantity of pollutants from the watershed equivalent to that removed at a \$5 million treatment plant.

Wetlands support a healthy ecosystem in Wisconsin, they help prevent exorbitant flooding, they maintain water quality, and they mitigate costs to our local economies and citizens. It does not make sense to make sweeping changes to wetland protections in Wisconsin for so many reasons. We urge you to oppose Senate Bill 600 and Assembly Bill 547.

James M. Voss
5718 Indian Trace
Madison, WI 53716
608-221-3159
jvoss@uwalumni.com

December 21, 2017

Senator Robert L. Cowles
Room 118 South
State Capitol
PO Box 7882
Madison, WI 53707-7882

Representative Cody Horlacher
Room 214 North
State Capitol
PO Box 8952
Madison, WI 53708

RE: Testimony on SB600 and AB547

Dear Senator Cowles and Representative Horlacher:

I am writing to you as a concerned Wisconsin citizen, property owner and outdoorsman in strong opposition to SB600 and AB547. All Wisconsin wetlands, including those not subject to federal jurisdiction (nonfederal wetlands) are vitally important to preserving clean groundwater and surface waters throughout the state, and to preserving sufficient fish and wildlife habitat for countless species.

There is already in place a fair WDNR permit process that allows for the filling of hundreds of acres of nonfederal wetlands every year. SB600/AB547 would open more than a million acres of these vital wetlands to unregulated and indiscriminate filling.

That would be a tragic mistake, with permanent adverse environmental consequences for fish, wildlife and Wisconsin citizens. A number of venerable Wisconsin sportsmen organizations have already spoken eloquently in opposition to SB600/AB547, and I echo their concerns. But, I also speak for the average Wisconsin citizen who simply enjoys the wetlands and the life-giving clean water that they deliver to our precious groundwater



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Ronald Sauey, Ph.D. (1948-1987)
and George Archibald, Ph.D.

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Virginia Wolfe
Belinda Wright

International Crane Foundation

Headquarters

E-11376 Shady Lane Road
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Baraboo, WI 53913-0447, USA
608-356-9462
608-356-9465 fax

info@savingcranes.org
www.savingcranes.org

Regional Programs

East Asia
South/Southeast Asia
Sub-Saharan Africa
North America

Subject: Testimony for hearing on SB600

Senator Cowles,

I present this testimony in opposition of SB600 on behalf of the nearly 8,700 International Crane Foundation members, 4,400 of which reside in Wisconsin.

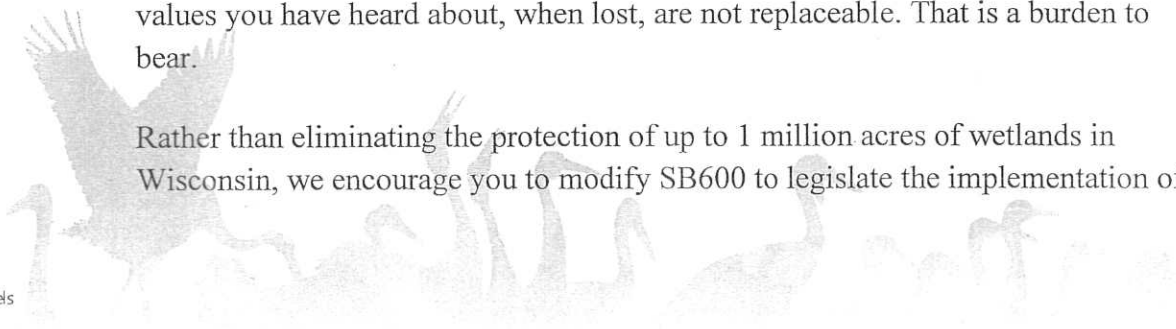
The mission of the International Crane Foundation is to conserve cranes and the ecosystems, watersheds, and flyways on which they depend. An important component of accomplishing that endeavor is healthy wetlands, a natural resource on which all cranes depend.

The removal of wetland protection as proposed in this legislation would have negative impacts on cranes and all other wetland-dependent wildlife in Wisconsin. These negative impacts affect hundreds of migratory species like cranes and thousands upon thousands of birds in Wisconsin and up and down the birds' migratory flyway. That is a very important issue and is your responsibility to consider.

In addition to the deleterious impacts on wildlife are the negative effects on the livelihoods of Wisconsin residents. All individuals, whether realizing it or not, depend on healthy natural systems. People appreciate the quality of life when pursuing their outdoor hobby or dependence on functioning wetland systems. Wisconsinites living in urban, suburban and rural areas appreciate wetlands and value them as an important component of Wisconsin's landscape for recreation and economic development.

Most importantly, the change to wetland protection in Wisconsin as proposed would have impacts for this generation and for all future generations. All the wetland values you have heard about, when lost, are not replaceable. That is a burden to bear.

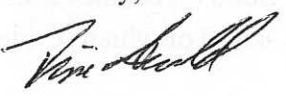
Rather than eliminating the protection of up to 1 million acres of wetlands in Wisconsin, we encourage you to modify SB600 to legislate the implementation of a



process to address specific wetland regulatory issues. Let's not potentially destroy up to a million acres of wetlands when specific instances of perceived unnecessary wetland protection can be addressed case by case.

Thanks for taking time to read these concerns. The members of the International Crane Foundation steadfastly assume the desires and best interests of Wisconsin's residents and the health of the natural resources of the State are taken into consideration when this legislation is hopefully reconsidered.

Sincerely,



Tim Grunewald

Director North America Programs

Cc: Senator Jon Erpenbach

Representative Dave Considine



Martin and Karen Voss
S7345 County Road B
Eau Claire, WI 54701

December 19, 2017

Representative Cody Horlacher
Room 214 North
State Capitol
PO Box 8952
Madison, WI 53708

Senator Robert L. Cowles
Room 118 South
State Capitol
PO Box 7882
Madison, WI 53707-7882

Subject: SB 600 and AB 547

Dear Senator Cowles and Representative Horlacher,

We are writing to you as concerned wetland landowners, to strongly oppose SB 600 and AB 547, bills which would remove all protection from isolated, non-federal wetlands in Wisconsin. These wetlands make up critically important habitat, and comprise about a fifth of our state wetlands. They support a rich, diverse community of animal and plant species.

We own 85 acres of land in Eau Claire County and nearly a quarter of it is wetland. As anglers and hunters, we deeply appreciate that these wetlands are great contributors to our successful deer and bird hunts each year, enjoyed by extended family and friends. Every one of our rural neighbors are owners and stewards of ephemeral ponds and isolated wetlands, which support a rich variety of nesting waterfowl and upland birds, and provide stopovers for migrating birds. They support frogs, salamanders, insects, and are watering holes for deer and other mammals.

Ephemeral wetlands have some of the richest diversity of species and support some of the densest populations of frogs, toads, and salamanders. Specifically, because they are ephemeral and not connected to waterways, they lack predatory aquatic species, and therefore are critical habitat for susceptible species. They are such an important part of the ecological landscape.

Removing all regulatory protections from these wetlands would cause irreparable harm to the environment, and we would lose some of the important wetland functions they serve. When wetlands disappear, the landscape is much more prone to flooding, and associated economic loss. One need not look any further than the flooding of Houston Texas this year to see how costly the cumulative impacts of wetland loss can be. Wetlands are critically

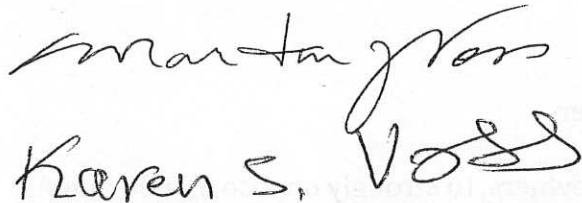
important to maintaining our rich but threatened groundwater resources, allowing for the slowing and filtering of rainwater runoff, and recharging our groundwater supply.

The existing WDNR permit process for these non-federal wetlands is more than fair for individuals who propose projects that include wetland filling. Most of these applications are approved and filling is allowed. The permit process is necessary to protect those wetlands identified as having highest value, and those for which feasible alternatives to filling exist. Removing any regulatory control over non-federal wetland filling would be unnecessarily harmful to the environment and costly to our thriving outdoor recreational economy.

Again, please DO NOT vote for or sponsor SB 600 or AB 547. Loss of existing oversight and protections for non-federal wetlands would hurt Wisconsin's environment and economy.

Sincerely,

Martin J. Voss and Karen S. Voss

The image shows two handwritten signatures in black ink. The first signature is 'Martin J. Voss' and the second is 'Karen S. Voss'. Both signatures are written in a cursive, flowing style.



**Wisconsin
Wetlands**
ASSOCIATION

214 N. Hamilton St. #201
Madison, WI 53703

Helping people care for wetlands



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**Send a message
with your gift:
We need our
wetland protections.**

We are facing the single largest legislative threat to our wetlands in many, many years. This fall, a bill was introduced (LRB 4115-1/AB 547) that, in its current form, seeks to remove all protections for 20% of Wisconsin's remaining wetlands (that's one million acres!). With half of our original wetlands already gone, we can't let this bill go through in its current form.

Your support is needed to turn this around. You can help our policy makers see wetlands as solutions, not obstacles, to the issues facing Wisconsin.

You understand the importance of wetlands to our fish and wildlife, our lakes, rivers, and forests, our farms, our communities, and *our homes*. Thanks to decades of support from members like you, Wisconsin has been a leader in wetland protection. But, as you know, strong pressure to roll back wetland protection is growing.

Your gift right now sends the message to our policy makers that this roll back of wetland protection is not ok—Wisconsin's water, wildlife, and communities need wetlands.

Please help us put Wisconsin back on the right track. Use the envelope included in this newsletter to protect wetlands with your gift today.

Wisconsin Wetlands

A QUARTERLY PUBLICATION | VOL 4 | 2017



Wisconsin's beautiful and diverse wetlands are shrouded in misconceptions, and our state's small, isolated wetlands are among the most overlooked and misunderstood. But even small wetlands are crucial to the health of our land, water, wildlife, and communities. Recent conversations in the media and at the Capitol have reminded us how important it is for wetland supporters to continue helping the broader public (and decision-makers) understand the value and importance of all wetlands. This issue aims to tackle the mystery and misconceptions surrounding the "isolated" wetlands of Wisconsin.



Voices of wetland protectors

Wisconsin has long been a national leader in wetland conservation. On page 6, hear from hunting, angling, and fishing groups across the state, including Wisconsin Wetlands Association, who rally to protect these valuable resources.

Helping people care for wetlands

MONIKA BLAZS

Wetlands bring sportsmen and conservationists to the table

Wisconsin has long been a national leader in wetland conservation. Our unique geologic history blessed us with abundant wetland resources, and the use and enjoyment of those wetlands has long been part of Wisconsin's hunting and stewardship traditions.

When federal protections for "isolated" wetlands were lost in 2001, Wisconsin's sporting and conservation groups moved swiftly and effectively to secure protections for these wetlands under state law. Many of these same groups are rallying again today to push back on a recent proposal threatening to eliminate these protections. Here are a few voices from the front lines:



In our 80-year history, Ducks Unlimited has conserved over 14 million acres of wetlands in North America, including numerous wetland types and both federal and non-federally protected acres. As a waterfowl production state, Wisconsin is important to duck hunters across the country. Having a strong habitat base of all wetland types here is critically important for our nation's outdoor heritage.

Kyle Rorah

Governmental Affairs Representative, Ducks Unlimited Great Lakes/Atlantic Office



The Nature Conservancy's mission is to protect the lands and waters on which all life depends. We cannot leave more than one million acres of wetlands unprotected in Wisconsin.

Mary Jean Huston

State Director, The Nature Conservancy in Wisconsin



Non-federal wetlands may lack a surface connection to waterbodies, but they serve critical roles in flood control, groundwater recharge, and the filtration of excessive nutrients. The destruction of up to 20% of the state's wetlands would have an extremely negative impact on the state's fisheries as well as on tourism dollars that flow into the state because of the quality of those fisheries.

Linn Beck

Chair, Wisconsin Trout Unlimited State Council



We're working hard to dispel the myth that geographically isolated wetlands aren't valuable. This includes helping policy makers understand how these wetlands keep downstream waters healthy and downstream communities safe.

Erin O'Brien

Policy Programs Director, Wisconsin Wetlands Association

Other sporting organizations actively engaged in advocating to retain state protections for Wisconsin's isolated wetlands include (but are not limited to): Wisconsin Waterfowl Association, Wisconsin Wildlife Federation, Pheasants Forever, and the Wisconsin Trappers Association.



Wetland Science Conference

2018 Wisconsin Wetlands Association

Registration open for Wetland Resilience conference

Register today for the region's oldest and largest (and dare we say best?) conference for wetland and water professionals: Wisconsin Wetlands Association's Wetland Science Conference. Join us February 20-22, 2018, at the Olympia Resort in Oconomowoc.

This year's theme, *Wetland Resilience*, will examine the many sides of wetland resilience, including how managers can help promote wetland resilience now and in the future and how communities can include wetlands and watersheds in their planning for resilience. Our conference will also build the resilience of our wetland community, creating and growing networks of professionals and enthusiasts who can collaborate and innovate for the good of our wetlands, our watersheds, and our communities.

This year's symposium, *Preparing Wisconsin's Wetlands for a Changing World*, will provide attendees with the most up-to-date and regionally pertinent projections for Wisconsin's climate in the coming years and how those changes may influence wetlands, water quality, flooding, and the health of wetlands and waters in the state. It will also highlight the important ecosystem services offered by wetlands in the landscape to moderate flooding and related threats.

You'll leave feeling empowered to implement proactive adaptation planning in the wetlands you care for.

Not able to attend the full conference? Join us for these public events:

- **Annual WWA Membership Meeting and Social** on Tuesday, February 20th, 6:00-9:00 pm.
- **Banquet & Presentation** on Wednesday, February 21st, 6:00-9:00 pm. Ken Leinbach from the Urban Ecology Center in Milwaukee will share a tale of real time possibility that is sure to inspire. Tickets for the banquet

are \$45 and must be purchased in advance.

- Both of these events will be held at the Olympia Resort in Oconomowoc.

Whether you join us for one of these events or for the whole conference, you won't want to miss your chance to connect with hundreds of others who are working for Wisconsin's wetlands. Read more about the conference on the enclosed flyer. Visit conference.wisconsinwetlands.org/registration to register for the conference or purchase your banquet ticket.

Annual WWA Membership Meeting February 21st



All members of Wisconsin Wetlands Association are invited to join us for the 2018 Annual Membership Meeting, where you will hear about our work in 2017, meet and vote for our 2018 Board of Directors candidates, and enjoy light snacks, a cash bar, and music by the Garlic Mustard Pickers band.

The annual meeting is held in conjunction with our 2018 Wetland Science Conference at the Olympia Resort in Oconomowoc. You do not need to attend the conference to attend the annual meeting. This event is free, although RSVPs are requested: email info@wisconsinwetlands.org or call our office at (608) 250-9971.

Testimony on Senate Bill 600/Assembly Bill 547

Presented by Laurie Smaglick Johnson , December 21, 2017

My name is Laurie Smaglick Johnson. I am a retired corporate executive, having spent nearly forty years working in the corporate world in various capacities, most recently, as Chief Marketing Officer for a Fortune 500 Company. I know as well as anyone the importance of economic prosperity and laws that facilitate such. During those years however, I witnessed many instances of decision making that served one goal, and one goal only – the optimization of profits – at the expense of things that – in the long run – were bad for the company, the employees and even the shareholders. I learned that many of today's corporate executives have not yet achieved the maturity necessary to see past their current jobs, careers, and motivation to succeed, in order to make decisions that will serve their constituents for the long haul.

Today, we are here to address a pending decision that is not good for our joint constituency for the long haul. There is one thing that should be obvious to all of us. We all need clean water to drink; clean air to breathe; and natural spaces in which to live our lives, and allow the creatures we share this earth with to live their lives. Although economic prosperity is important to all of us, it should never, EVER come before protecting our natural resources. It seems so obvious that we should not even have to say this but making more money will not be important if we are thirsty, or breathe air that will make us sick, as is happening in many places that have made poor decisions about their natural resources. In the past forty years, I have traveled the globe extensively. I have witnessed the consequences of not protecting natural resources on many continents.

The current bill, as proposed is overreaching. It puts at risk many acres of wetlands that MUST be protected from those in our society that have not yet made it past their motivation to succeed to possess the maturity to understand the need to care for our natural resources. It is the imperative of our lawmakers to protect society from those in power that have not yet matured to do this themselves. I have hope, that as the baby boomers continue to mature to this stage, there will be an ever growing pool of understanding this fundamental need and therefore a shift in our society that will no longer necessitate a meeting like this.

I am walking the talk in this regard. I purchased a 75 acre tract of land in SE Wisconsin in 1999 and have been working to restore all aspects of it. The 35 acre wetland that is a part of this land was the very first to be restored and now protects a very large watershed in the SE part of the state. Breeding wildlife has made a significant comeback, and it hosts a large number of migrating species during the migration season. I have continued on to restore the ten acre grasslands portion of this property and the 30 acre forest will be next. I was invited and subsequently went to DC to discuss my project with Paul Ryan in order to help him understand the importance of such projects. Our lawmakers MUST be the gatekeepers that keep our capitalistic minded society from exploiting and destroying the very things we need to survive. I stand ready to help in any regard that will protect this earth for my little niece and all of her generation.

Laurie Smaglick Johnson 8601 McHenry St Burlington WI 53105 262.492.8650

Date: December 19, 2017

Re: 2017 Assembly Bill 547

Example No. 1: Appleton Residential Subdivision

Pertinent	Consideration	Items
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Wetland Delineation 1: Prior to planning the development of the site, a wetland delineation was performed in 2005 for the entire property. Army Corp of Engineers concurrence in March of 2006. WDNR concurrence in May of 2006. There were no wetlands encountered within the entire-property limits.

Preliminary Plats: This subdivision is entering its' fourth addition. The City and State have approved each phase of this preliminary plat since 2006 submittals.

- 2006 Plat : Developed in 2006 with 50 Lots
- 2010 Plat : First Addition developed in 2010 with 3 Lots
- 2015 Plat : Second Addition developed in 2015 with 27 Lots
- 2017 Plat : Third Addition developed in 2017 with 21 Lots

This subdivision, due to the recession in 2007/2008, was dormant from 2006 to 2015 with minimal lot sales. The agricultural ditch that had conveyed storm water prior to development was adequately sized to convey very large storms and hence the lands remained dry. Once development began, storm sewer was used to replace the agricultural ditches. However, because the excessive cost of conveying very large storms in storm sewers, the City recognizes that smaller storm sewer may be used, provided there is a safe route for any overflow. These smaller pipes tended to backup water in the agricultural ditches that remained, and thereby creating what now are considered wetlands, over the nine year dormancy of the subdivision. This wetland strip is approximately 0.8 acres.

Design: The original topographic survey does illustrate drainage conveyance in a couple different areas that are utilized for agricultural drainage ditches. During the development of this property, temporary drainage pipes were installed to pick up these agricultural drainage ditches.

Result: These temporary storm sewer pipes were not able to allow convey the 100 year storm event to the downstream storm water pond effectively. Thus, upstream temporary ponding occurred which made the agricultural ditch hydric. If the consideration of the impact of wetland creation due to the timing of phasing of projects is not brought into play, significant uncertainty and financial repercussions will occur.

Recommendations (Not necessarily exclusive to this development)

1. Residential subdivisions approved at the Preliminary Plat stage, with a concurred wetland delineation that contain no wetlands, are exempt from wetland permitting.
2. Commercial or Industrial Parks should be exempt from Wetland Permitting after Preliminary Plat approvals have been obtained. A concurred wetland delineation that contain no wetlands, are exempt from wetland permitting.
3. Parcel developments that have been approved with a planned expansion and have had a concurred wetland delineation that illustrate no wetlands should be exempt from wetland permitting.
4. Above 1-3, if wetlands are identified in the initial development stages, the original wetland limits should be able to be utilized for future phase(s).
5. Previous designs that illustrate hydrology was affected and created artificial wetlands are not subject to wetland permitting.
6. It is also recommended that the burden of proof that the plans were erroneously approved based upon faulty data at the time of approval, should be on the approving agency. The burden of proof that the conditions on the site did indeed changed, should not be on the applicant.

Written Testimony in Opposition to Wisconsin SB600 and AB547

While I recognize that there are aspects of the current Wisconsin DNR wetland jurisdictional framework (specifically concerning features like roadside ditches) that need to be modified, removing WDNR jurisdiction over isolated wetlands is not warranted and does not appear to be driven by any kind of accepted science-based reasoning.

Isolated wetlands are analogous to having grocery stores, restaurants and other commercial entities within your close geographic neighborhood. When those businesses are removed, either forever or to be reestablished outside the neighborhood in dense commercial centers (the Wal-Mart on the edge of town scenario), the result is a lack of opportunity within the neighborhood and which eventually leads to its decline.

By removing regulation of isolated wetlands, you would be removing a driver of diversity from the local environment, either forever or replacing it with a generally less diverse wetland mitigation bank, which is likely not benefitting the original location. The gradual removal of these diversity drivers within the local environment will result in reduced wildlife and vegetation quality and diversity, along with the decline of water quality and recreation value.

Please vote No on SB600 and AB547.

Sincerely,

A handwritten signature in black ink, appearing to read 'T. Stautz', with a long horizontal line extending to the right.

Theran Stautz
Wetland Ecologist
WDNR Assured Wetland Delineator

Sauk County Sportman's Alliance

Representing over 2500 outdoor enthusiasts in *Greater Sauk County*, the Alliance is a county-wide collaboration of clubs dedicated to the conservation of Sauk County's wildlife and wild lands. The alliance seeks to inform, educate and involve its members, as well as, provide unity and fellowship among all sportsmen in the county and state.

October 23, 2017

To: Representative Joan Ballweg
Representative Ed Brooks
Representative Todd Novak
Representative Dave Considine
Senator Howard Marklein
Senator John Erpenbach

Re: Assembly Bill 547 – Regulation of non-federally regulated wetlands.

The Sauk County Sportman's Alliance is joining Wisconsin's other Sportsmens Groups in opposition to AB 547 that removes protection from one million acres of non-federally regulated wetlands. We urge you to oppose this bill.

AB 547 proposes to eliminate DNR permit authority for Wisconsin's wetlands classified as non-federally regulated. A large proportion of these wetlands are high quality and provide valuable fish and wildlife habitat throughout the state of Wisconsin. These wetlands are critical habitat for waterfowl, furbearers, pheasants and other game, nongame and endangered species. In addition, these nonfederal wetlands often form the headwaters of Wisconsin's streams including Wisconsin's prized trout waters. Sauk County's hunters, trappers, anglers and wildlife enthusiasts all understand that wetlands are critical to healthy and abundant wildlife populations.

Furthermore, we remember well the significant flooding events that have occurred in our county in recent years. Wetlands function as mother nature's sponges to slow heavy rains that scour our streams and farmlands. It doesn't make sense to remove regulatory protections and eliminate even more of our county's original wetland acreage. This will only aggravate the flooding potential in the future.



John Balfanz, President
Sauk County Sportsman's Alliance
E10193 Prairie Road
Prairie du Sac, WI 53578
608-643-2310



John Balfanz, President
608-643-2310

Pam Putkamer, Sec/Treasurer
608-356-4181

To: Members of the Senate Committee on Natural Resources and Energy & Members of the Assembly Committee on Regulatory Licensing Reform

From: Cherish Schwenn, WRMCA Executive Director

Date: 12/21/17

Re: Support of SB 600

Good morning Chairman Roth, Chairman Horlacher and members of the Senate Committee on Natural Resources and Energy and the Assembly Committee on Regulatory Licensing Reform. Thank you for the opportunity to provide testimony today. My name is Cherish Schwenn and I am the Executive Director of the Wisconsin Ready Mixed Concrete Association.

The Wisconsin Ready Mixed Concrete Association (WRMCA) is a professional statewide trade association representing the ready mixed concrete industry in Wisconsin. Our membership represents approximately two-thirds of all ready mixed concrete production in the state and upper peninsula of Michigan. Our membership includes both producers of ready-mixed concrete and the suppliers who help in manufacturing the product.

I am submitting testimony in support of Senate Bill 600. This legislation allows for a common-sense regulatory approach to artificial wetlands, while maintaining needed mitigation requirements and environmental protections.

There have been situations where WRMCA members have been frustrated in using their private property to its highest and best use due to overreaching regulations. For example, many in the concrete industry own quarries and sand pits to produce the aggregate used in concrete. The movement of earth on site in these operations sometimes results in a berm that traps water and creates a new artificial wet environment. These small businesses should not incur the cost and time necessary to seek a DNR permit to change, reduce or remove these artificially created wet areas. This bill would solve these problems.

WRMCA supports Senate Bill 600 as a practical approach to defining and regulating certain artificial wetlands.

Thank you for your consideration.



**Wisconsin
Ready Mixed
Concrete
Association**

HOW ideas GET built. ©



N28 W23000 Roundy Drive, #204, Pewaukee, WI 53072

December 19, 2017

TO: The State of Wisconsin Committee on Regulatory Licensing Reform

FROM: Dean A Frederick, PE
Vice President Development
Thomson Companies

RE: 2017 Assembly Bill 547
LRB-4410/1

Honorable Members of the State of Wisconsin Committee on Regulatory Licensing Reform:

Thomson Companies is a real development company with over 50 years of experience in creating residential, commercial, and industrial developments in Wisconsin. Over this period of time, we have worked jointly with both State and Federal agencies for the preservation and enhancement of environmental features including wetlands. Among the many attributes of Assembly Bill 547, it will provide the Wisconsin Department of Resources with the necessary tools to manage a common sense approach for the treatment of manmade wetlands and the wetland mitigation in lieu fee subprogram. By example, following is a development project in the City of St. Francis that was negatively impacted by the existing law and regulations:

Subject Parcel:

- Approximate eleven (11) acres of vacant land in the City of St. Francis, Wisconsin. The property is located on South Lake Drive, between Howard and E. Lunham Avenue, and overlooks Lake Michigan.

Proposed Development:

- An upscale apartment development within in an existing City of St. Francis Tax Incremental District. The project proposed three (3) multi-story residential buildings with a total completed project value at nearly \$60,000,000.

Parcel History:

- For many decades prior to 1999 this parcel and the adjacent lands were farmed.
- In 1999, several parcels were created, including the Subject Parcel, for the purpose of developing multi-family residential housing under condominium ownership and as market rate apartments.
- In 2000, no wetlands were found to be in existence on the Subject Parcel.
- In 2001, Kimball Hill Homes began development of their Phase I condominiums on the lands to the north of the Subject Parcel and Thomson Companies began development of market rate apartments on the lands to the south of the Subject Parcel.
- From 2001 to 2005, there were no changes or development on the Subject Parcel.
- In 2005, Kimball Hill Homes began site development preparation for Phase II of their condominium development on the Subject Parcel. Phase II was granted various development approvals including a WDNR Grading Permit (NOI #18973). At that time there were no wetlands present on the site. Kimball Hill Homes proceeded with land disturbing activities, utility installations, and site grading which included the installation of temporary silt traps & diversion swales, and partially excavated basements to generate fill necessary to complete Phase I. At some point in 2005, because of the economic downturn, the project was halted, leaving the temporary sediment traps, diversion swales, and partial basement depressions.



Figure 1 - Subject Parcel in 2005

- From 2005 to 2007, there were no changes or further development to the Subject Parcel.
- In 2007, Thomson Companies agreed to and purchased the Subject Parcel from Kimball Hill Homes in 2008 in essentially the same condition as it was left in 2005.

- From 2007 to 2015, there were no changes or further development to the Subject Parcel.
- In 2015, Bear Development agreed to purchase the Subject Parcel from Thomson Companies and under took a due diligence process which included an wetland assessment predicated on an indication on the WDNR Surface Water Data Viewer Map.

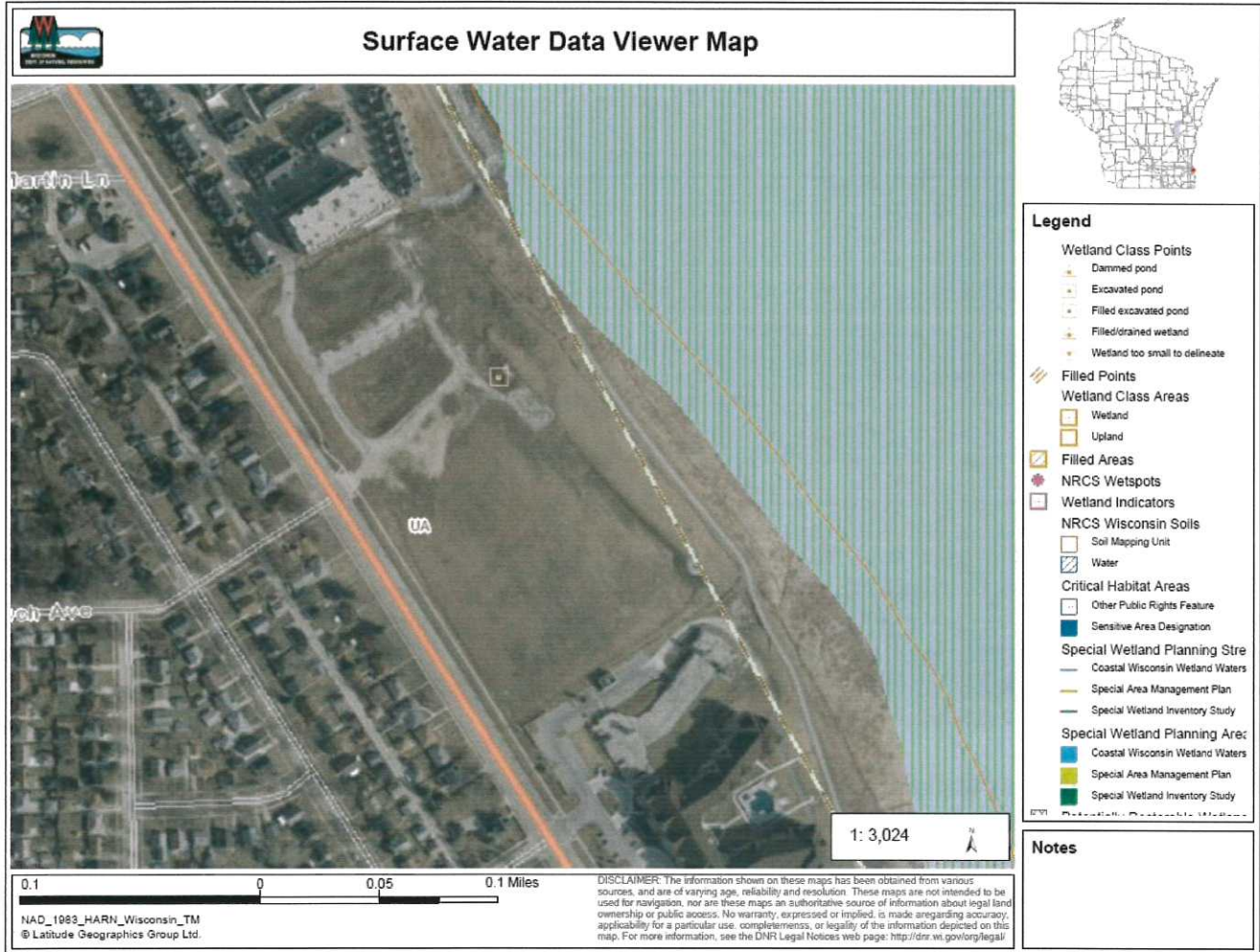


Figure 2 - 2015 WDNR Surface Water Data Viewer Map

Bear Development engaged an assured wetland delineator to complete a wetland delineation for the Subject Parcel. The delineation identified 4 wetlands, consisting of a total area of 23,765 square feet. The assured wetland delineator’s report clearly states that the identified wetlands are a result of prior construction activities and that “normal circumstances are not present because the area was excavated for a basement” or “sediment trap”.

The isolated nature of the small wetland areas and their location on the Subject Parcel created a practical impossibility to avoid the wetlands for the proposed multi-family residential development. The financial model for the development of the Subject Parcel necessitated retaining the proposed design to achieve the \$60,000,000 tax increment.



Figure 3 - 2015 Delineated Wetlands

While the wetlands were created by construction activity, the site had been dormant since 2005. WDNR determined that the sediment traps (Wetlands 3 & 4) were exempt because they were temporary stormwater/water quality management installations. WDNR also determined that the manmade partial basement depressions (Wetlands 1 & 2) were isolated wetlands under WDNR jurisdiction.



Figure 4 - 2015 Delineated Wetland 1



Figure 5 - 2015 Delineated Wetland 2

- In 2016, Thomson Companies, as the owner of the Subject Parcel, and after consultation with WDNR applied to WDNR for a wetland individual permit to fill manmade Wetlands 1 & 2 for a total 0.36 acres. The Individual Permit was ultimately granted in early 2016 contingent on the purchase of Wetland Mitigation Credits for 0.52 acres at a cost of \$32,240.

Impacts of the Current Wetland Law & Regulation:

- Delayed increase of tax increment to the existing and fledgling City of St. Francis Tax Incremental District which ultimately leads to a delay in tax revenue to the constituents of the City of St. Francis.
- Over a one (1) year delay in obtaining development approvals that were contingent on the resolution of the impacts of the manmade wetlands and issuance of a WDNR Individual Permit.
- Additional fees for the professional services of an assured wetland delineator that was necessary to expedite the evaluation of the manmade wetlands and application for a WDNR Individual Permit.
- An in lieu fee payment.

In summary, this property never had a wetland history of hydric soils, wetland vegetation, or hydrology prior to the earth moving activities and installation of underground utilities necessary to expand the Kimball Hill Homes condominium development. It was farmland along the shores of Lake Michigan. Similar to many other developments of its time, site construction ceased due to the recession leaving a partially completed development and the manmade features which over time developed wetland features.

Although I believe that WDNR Staff was sympathetic to the site's history and chronology, the WDNR Staff had no means to consider the basement excavations anything other than an isolated wetland. But for man's intervention on the Subject Property, no wetlands would have ever existed and regulation by WDNR would not have been required.

Testimony in Support of Assembly Bill 547:

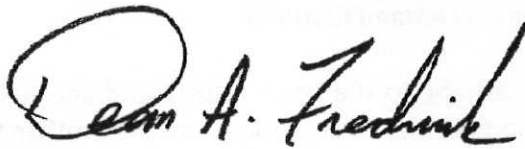
- The creations of the "artificial wetland" definition would have:
 - Enabled WDNR Staff to make an "artificial wetland" determination for all of the wetlands delineated on the Subject Parcel.
 - Allowed for the continued development of the Subject Parcel without lengthy delays associated with the WDNR individual permit application processing and permit issuance.
 - Expedited the addition of \$60,000,000 of tax increment to City of St. Francis, both to the existing tax incremental district and City's base valuation.
 - Avoided the delay in the determination of the "in lieu fee" and the purchase of Mitigation Credits.
 - Eliminated the payment of tens of thousands of dollars for professional service fees associated with the individual permit application processing and permit issuance.

The old adage, "Time is Money" is accurate as it correlates to delays for new and continued development. Construction material costs increase. Labor costs increase. Interest carry costs increase. Just as importantly, taxing authorities are also effected when delays defer the increase of tax increment.

Just as important as the "artificial wetland" designation, Assembly Bill 547 also positively addresses the "in lieu fee" subprogram. The availability of wetland mitigation is an important tool for both the State of Wisconsin and for land developers. We are innately sensitive to the preservation of quality wetlands; however, there are many examples where low quality wetlands could be enhanced through either on site mitigation or through purchases in offsite wetland mitigation developments/banks. This bill as proposed by requiring the "in lieu fee" to be expended will provide an urgency for the creation of compensatory wetlands and the enhancement for other outdoor activities.

Assembly Bill 547 will provide a positive fiscal impact for not only the State of Wisconsin, but, also for the business community by providing the WDNR Staff clear definition and destination for wetlands, by forcing the expenditure of "in lieu fees", and by providing the governor the ability to submit to EPA for authority to administer individual and general permit programs for fill permits associated with the navigable waters of the State. For all of these reasons, I strongly encourage passage of Assembly Bill 547.

Thank you for your consideration.

A handwritten signature in black ink, reading "Dean A. Fredrick". The signature is written in a cursive, flowing style with a large initial 'D'.

Testimony in Opposition to Senate Bill 600 and Assembly Bill 547

December 21, 2017

Paul Heinen

The Nature Conservancy State Government Relations Director

The Nature Conservancy is **opposed to Senate Bill 600 and Assembly Bill 547**, which exempt all non-federal wetlands from wetland permitting requirements. It puts more than 1 million acres (about 20 percent) of Wisconsin's remaining wetlands at risk of being drained, developed or converted to other uses.

The Nature Conservancy is not opposed to sustainable development or to an efficient regulatory process. We support thoughtful development that finds the right fit for people in nature, ensuring that people have safe, desirable places to live, businesses build where they can prosper, and wetlands remain intact so they can continue to reduce flooding problems, clean our water and play an essential role in keeping Wisconsin a healthy, thriving and desirable place to live and work.

Non-federal wetlands are those not protected by the Clean Water Act, but which Wisconsin has had the foresight to protect up to this point. Often described as "isolated," these wetlands are presumed by some to be low value. But they are not low value or truly isolated. Groundwater flows and the movement of plants and animals across the landscape connect "isolated" wetlands, enabling them to provide many of the same services as other wetlands, like purifying water. Many isolated wetlands also support plants and animals that occur nowhere else and are totally dependent on these wetlands.

One of the biggest impacts of this bill would be to allow drainage of isolated wetlands. To drain an area, a water outlet would be created to the nearest stream or other waterbody. During rain events, that would allow the floodwaters, nutrients and sediments the wetlands formerly stored to be flushed to the nearest stream, causing more water quality and flooding impacts downstream.

Destroying and altering wetlands is costly to homeowners, businesses and taxpayers. When we lose the services that wetlands provide for free, we often have to engineer costly alternatives to the lost wetland services or just absorb the additional costs.

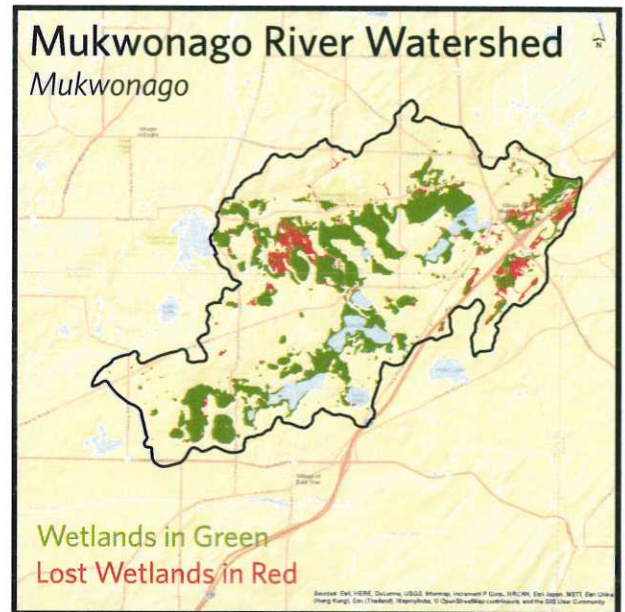
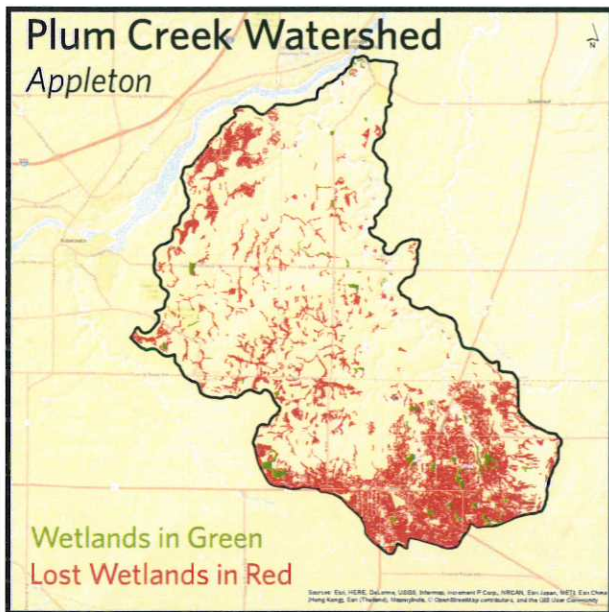
We've lost 50 percent of the wetlands once found in Wisconsin. The remaining 5 million acres are working hard to support wildlife, provide clean water and protect our properties from flood damage. We can't afford to lose more.

The Nature Conservancy is a global conservation organization dedicated to conserving the lands and waters on which all life depends. Guided by science, we create innovative, on-the-ground solutions to our world's toughest challenges so that nature and people can thrive together. We are tackling climate change, conserving lands, waters and oceans at an unprecedented scale, providing food and water sustainably and helping make cities more sustainable. Working in 72 countries, we use a collaborative approach that engages local communities, governments, the private sector, and other partners.

Isolated Wetlands :

Clean our Water, Reduce Flooding, and Save Money

Compare these two watersheds, where wetlands already lost are shown in red, and remaining wetlands are green.



© Outagamie County



Mukwonago River © John C. St. Onge, 2017

Plum Creek Watershed

Wetland Status

More than 90% of isolated wetlands destroyed.

Water Quality

Degraded fish and aquatic habitat. Major contributor of damaging nutrients to Green Bay's dead zone.

Flooding and Erosion

More than 50% of streambanks heavily eroded due to lack of wetlands to slow water flows and store floodwaters.

Economics

Will cost millions to restore water quality and recreational value.

Mukwonago River Watershed

Wetland Status

Only 21% of isolated wetland lost.

Water Quality

Exceptional fishing, hunting, boating, water skiing, swimming, and wildlife viewing.

Flooding and Erosion

Intact streambanks. In last summer's floods, the area experienced only minor flooding, while a state of emergency was declared in surrounding watersheds with greater wetland loss.

Economics

Providing millions in increased home values and business incomes associated with hunting and recreation.



Conversation on Wetlands in Wisconsin



Back Ground

- Who is Cedar Corporation
- My background
- Three Key Wetland Issues

Key Issue

Our goal is to protect wetlands while allowing economic development to occur in a timely manner.

1. We need a system that distinguishes between man-made and naturally occurring wetlands
2. Wetland delineation requirements are negatively impacting the development timeline
3. Need to be allowed to mitigate Industrially zoned land today in preparation of future development

Naturally Occurring Wetlands vs Man-Made

The project

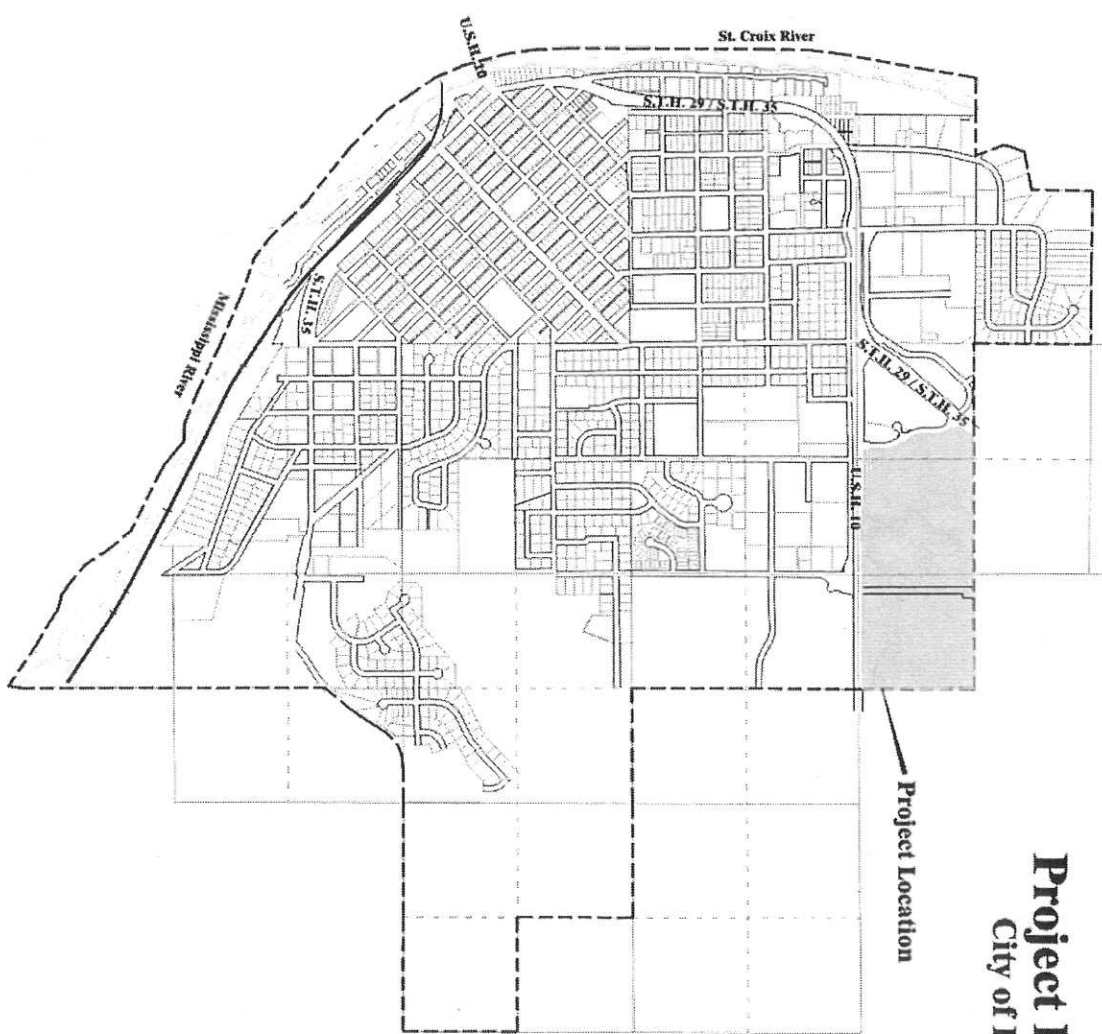
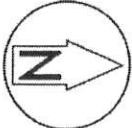
- **Diversified Manufacturing (DMC), Prescott WI**
- DMC, currently located in Newport, MN with 85 employees, has run out of space.
- DMC desires to build a new 150,000 sq. ft. corporate HQ and manufacturing facility within the City's WEDC Certified Sites industrial park.
- The 150,000 sq. ft. facility would employ 125 within three years and will also have a daycare for employees.

Timeline

- **2013** - site was delineated and wetlands were identified in the NW corner (retention pond) as part of receiving shovel ready status through WEDC's State Certification
- **2014** – A large out of state company selects Prescott for a new distribution center due to the Certified Site designation
 - As part of permitted development the retention pond was expanded to accommodate stormwater
 - Material was removed from the pond and spread along the Eastern edge of new access road per DNR permit
 - A new east/west road is constructed that sloped into a shallow gully along its eastern edge per WisDOT permit

Timeline

- **2017** – Second out of state company decides to locate in the industrial park in late January.
- Cattails are visually identified by City in the spring, resulting in DNR requiring a new delineation.
- DNR declares the area a wetland resulting in the business having to redesign the site and building layout so as to avoid the wetlands; costing an additional \$600,000
- Company now has to maintain the wetlands



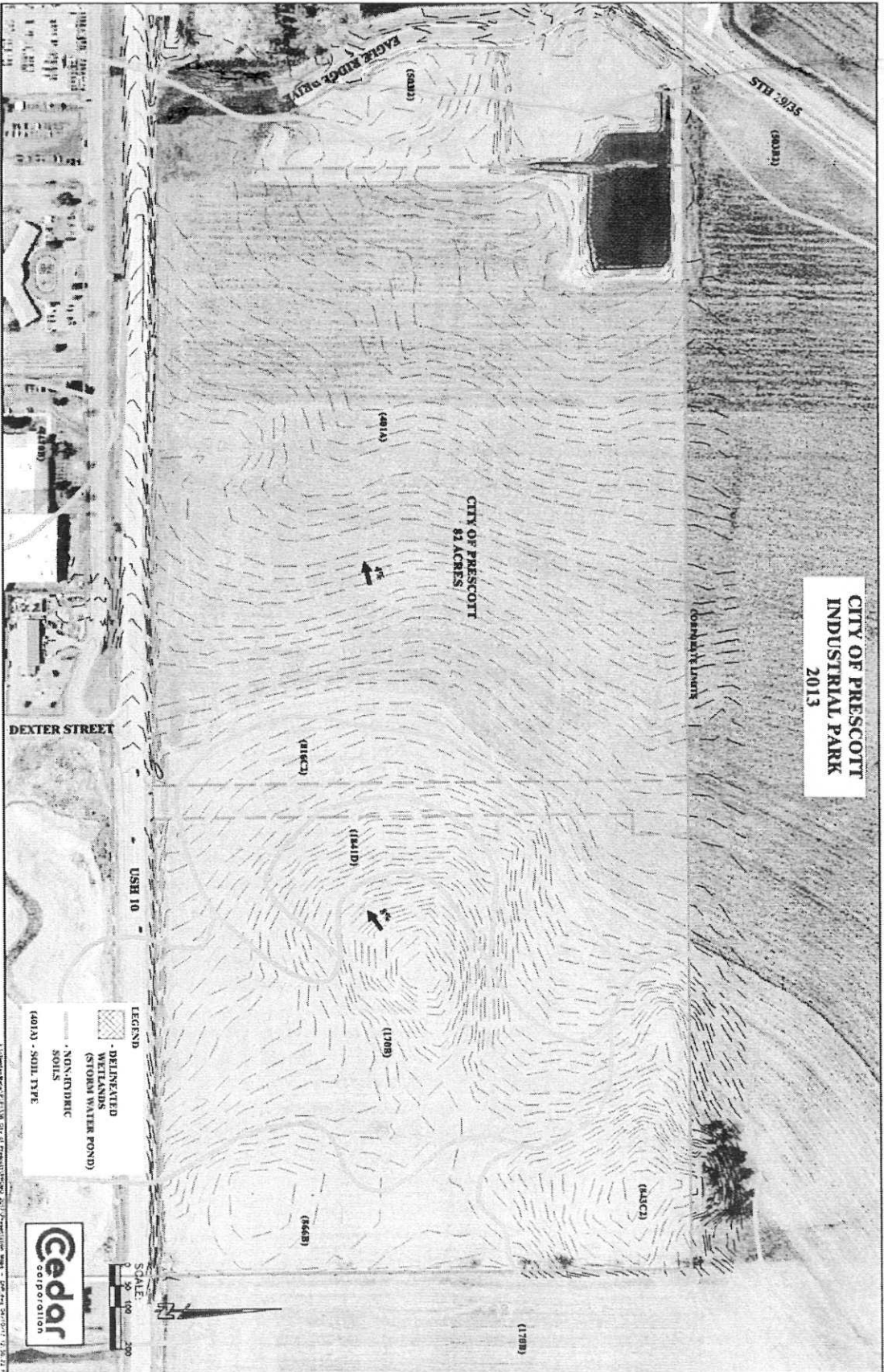
Project Location

City of Prescott

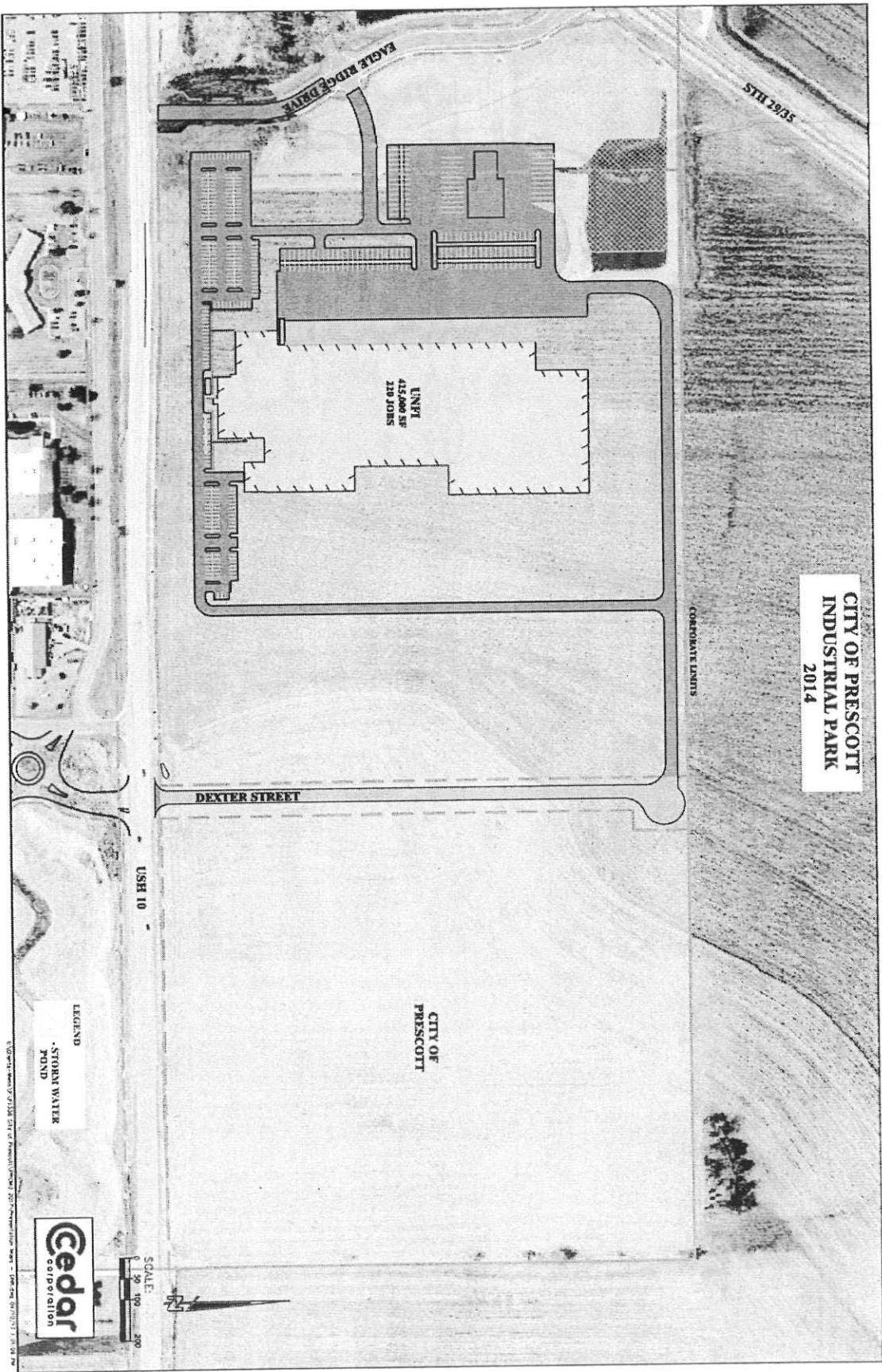
Project Location



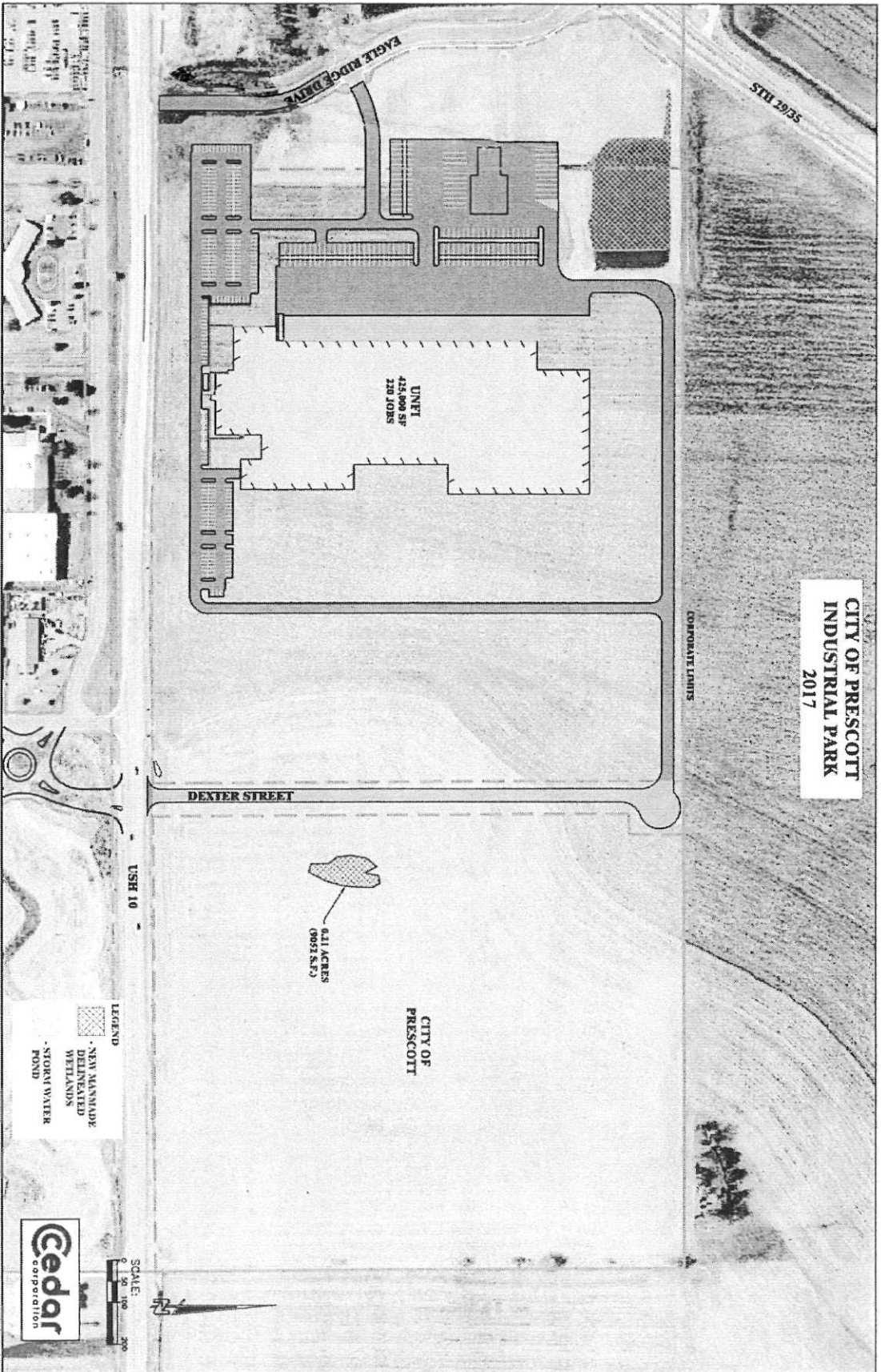
Delineated wetlands as of 2013



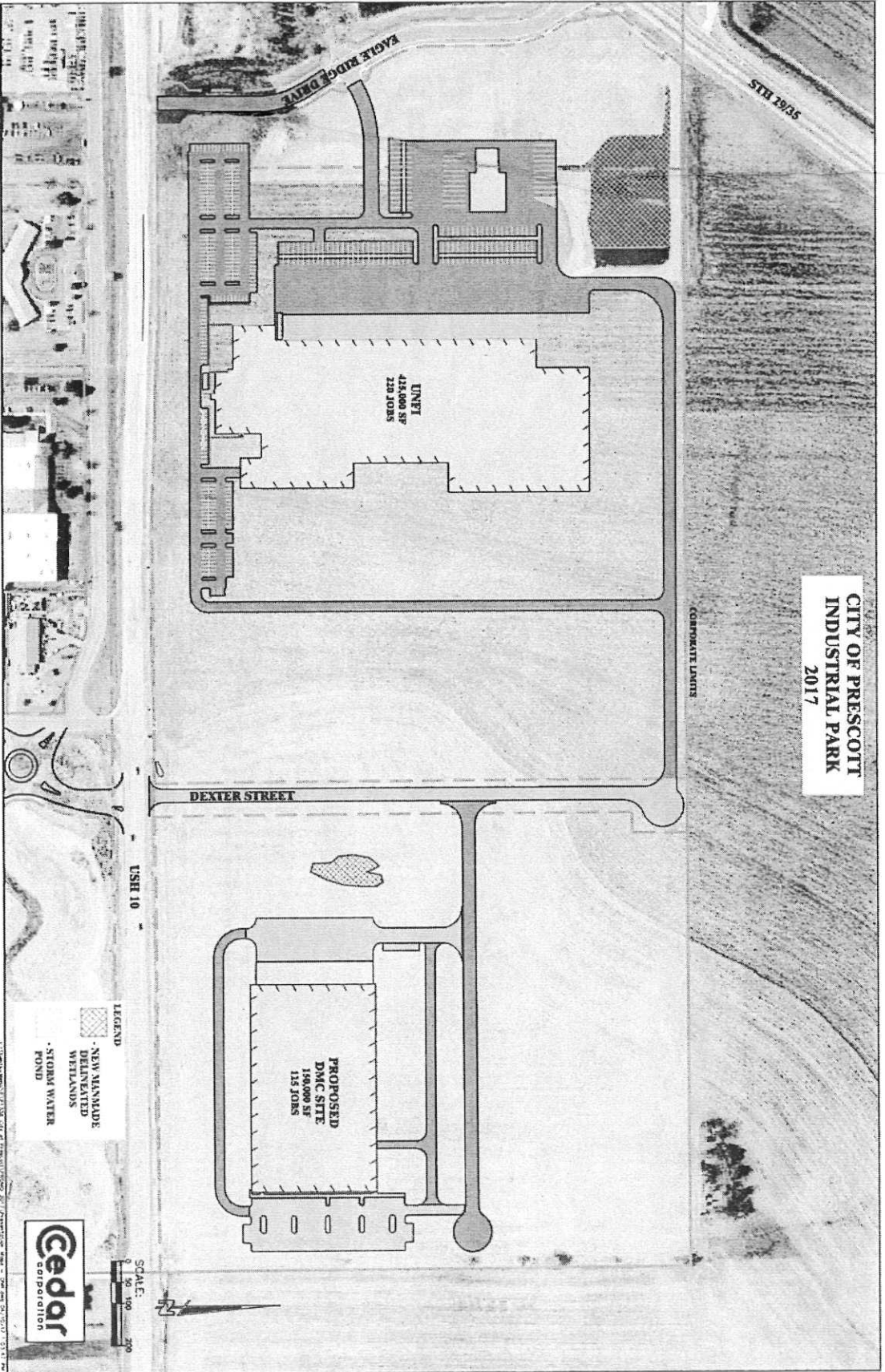
No additional wetlands as of 2014



New man made wetlands as of 2017



Revised location of DMC facility as of 2013



(2) Current Delineation Timelines

- There is an average of only 143 days in the growing season in western WI to perform a wetland delineation (mid to end of April to mid September)
- A typical delineation takes approximately 3-4 weeks plus DNR approval
- Most economic development projects begin in late fall to early winter
- There are only 16 assured delineators in the state (14 of which are in the east/southeast portion of the state)

(3) Mitigation of Industrial Land to Support Future Development

Industrial Park Expansion, Eau Claire:

- The City of Eau Claire has run out of large industrially zoned land that is ready for development
- City of Eau Claire would like to move ahead and mitigate known wetlands (delineation has been performed and shared with DNR) on the last 120 +/- acres in their Industrial park
- City has been informed by DNR that mitigation cannot occur until a business has decided to develop the site.
- This causes a classic catch-22 as interested business will not contemplate locating until the wetlands are addressed and the community cannot address the wetlands without a company or "project".

Conclusion

- We need to create a balance of protecting the natural environment, while still allowing development to move forward in a timely and cost effective manner!

Questions, please contact:

Seth Hudson,

Sr Manager Community and

Economic Development

715-235-9081

Seth.Hudson@cedarcorp.com





Building a Better World
for All of Us®

MEMORANDUM

TO: David Belman
FROM: SEH staff
DATE: December 14, 2017
RE: Wetlands Examples

We were asked to cite various examples where projects have been impacted by current wetland regulations. Please see the following list of recent projects:

Project: Weston Meadows
Municipality: Oconomowoc
Project: Residential Development
Result : Phase 1 created at sediment trap and an area adjacent to a soil stockpile that does not drain properly. These areas total less than 10,000 sq. ft. and DNR required they be delineated as wetland even though they were not delineated as wetland back in 2004 at the time of the original delineation
Final assessment:: The loss of 2 duplexes and 1 single family lot not only affects the developers return on investment, but reduces the potential tax revenue to the local municipality each year. The tax revenue helps offset maintenance to the public infrastructure for the life of the homes, and daily municipal operations such as flushing hydrants, plowing roads, etc.

Project: MATC
Municipality: Oak Creek
Project Stormwater Pond maintenance
Result : The ponds were constructed prior to DNR wetland authority and around the same time the federal clean water act was signed in the 1970's. An older aerial photo shows some wet spots near where the ponds were dug so the DNR called the ponds wetlands and required a individual wetland permit to maintain the ponds and excavate them to the original 1970's depths.
Final assessment:: The project was eventually permitted but it took almost 8 months to get the permit and there was a significant amount of time working with the DNR to get them to agree to waiving the mitigation requirements. Requiring mitigation credit purchase would have killed the project and these ponds were necessary to treat the storm water runoff at the site. The proximity of the site to General Mitchell Airport prohibited the creation of new stormwater ponds .

Project: Bear Development - St. Francis
Municipality: St. Francis
Project Multifamily Development/Apartments
Result : Phase 1 excavated two deep pits within the project boundaries because phase 1 needed additional fill and these 2 pits were the originally proposed locations for underground parking associated with Phase 2 construction. With the economic downturn the original owner lost the site, phase 2 was never constructed, and Bear Development bought it. The DNR required that the 2 pits be delineated as wetland. These areas totaled about 0.8 acres, even though these were not delineated as wetland back in the early 2000's at the time of the original delineation

Engineers | Architects | Planners | Scientists

Short Elliott Hendrickson Inc., 501 Maple Avenue, Delafield, WI 53018-9351
SEH is 100% employee-owned | sehinc.com | 262.646.6855 | 888.908.8166 fax

Final assessment:: A wetland fill permit was obtained and wetland mitigation was required but not without project delays and mitigation costs.

Project: Deer Trails – Belman Development
Municipality: Waukesha
Project : Single-Family Residential

Result : Wetlands surrounding a narrow navigable waterway bisect a piece of property that would connect an existing phase of the development to a piece of land adjacent. Current options for gaining access to the land is building a bridge that would completely straddle the wetlands (estimated cost close to million) or get an individual permit that would also require mitigation. Little or no mitigation credits are available to purchase.

Final assessment: Project has been put on hold for several years due to the cost and/or lack of wetland credits.

bp

c:\users\brianp\documents\seh wetlands memo for belman 12-15-17.docx



N28 W23000 Roundy Drive, #204, Pewaukee, WI 53072

December 19, 2017

TO: The State of Wisconsin Committee on Regulatory Licensing Reform

FROM: Dean A Frederick, PE
Vice President Development
Thomson Companies

RE: 2017 Assembly Bill 547
LRB-4410/1

Honorable Members of the State of Wisconsin Committee on Regulatory Licensing Reform:

Thomson Companies is a real development company with over 50 years of experience in creating residential, commercial, and industrial developments in Wisconsin. Over this period of time, we have worked jointly with both State and Federal agencies for the preservation and enhancement of environmental features including wetlands. Among the many attributes of Assembly Bill 547, it will provide the Wisconsin Department of Resources with the necessary tools to manage a common sense approach for the treatment of manmade wetlands and the wetland mitigation in lieu fee subprogram. By example, following is a development project in the City of St. Francis that was negatively impacted by the existing law and regulations:

Subject Parcel:

- Approximate eleven (11) acres of vacant land in the City of St. Francis, Wisconsin. The property is located on South Lake Drive, between Howard and E. Lunham Avenue, and overlooks Lake Michigan.

Proposed Development:

- An upscale apartment development within in an existing City of St. Francis Tax Incremental District. The project proposed three (3) multi-story residential buildings with a total completed project value at nearly \$60,000,000.

Parcel History:

- For many decades prior to 1999 this parcel and the adjacent lands were farmed.
- In 1999, several parcels were created, including the Subject Parcel, for the purpose of developing multi-family residential housing under condominium ownership and as market rate apartments.
- In 2000, no wetlands were found to be in existence on the Subject Parcel.
- In 2001, Kimball Hill Homes began development of their Phase I condominiums on the lands to the north of the Subject Parcel and Thomson Companies began development of market rate apartments on the lands to the south of the Subject Parcel.
- From 2001 to 2005, there were no changes or development on the Subject Parcel.
- In 2005, Kimball Hill Homes began site development preparation for Phase II of their condominium development on the Subject Parcel. Phase II was granted various development approvals including a WDNR Grading Permit (NOI #18973). At that time there were no wetlands present on the site. Kimball Hill Homes proceeded with land disturbing activities, utility installations, and site grading which included the installation of temporary silt traps & diversion swales, and partially excavated basements to generate fill necessary to complete Phase I. At some point in 2005, because of the economic downturn, the project was halted, leaving the temporary sediment traps, diversion swales, and partial basement depressions.



Figure 1 - Subject Parcel in 2005

- From 2005 to 2007, there were no changes or further development to the Subject Parcel.
- In 2007, Thomson Companies agreed to and purchased the Subject Parcel from Kimball Hill Homes in 2008 in essentially the same condition as it was left in 2005.

- From 2007 to 2015, there were no changes or further development to the Subject Parcel.
- In 2015, Bear Development agreed to purchase the Subject Parcel from Thomson Companies and under took a due diligence process which included an wetland assessment predicated on an indication on the WDNR Surface Water Data Viewer Map.

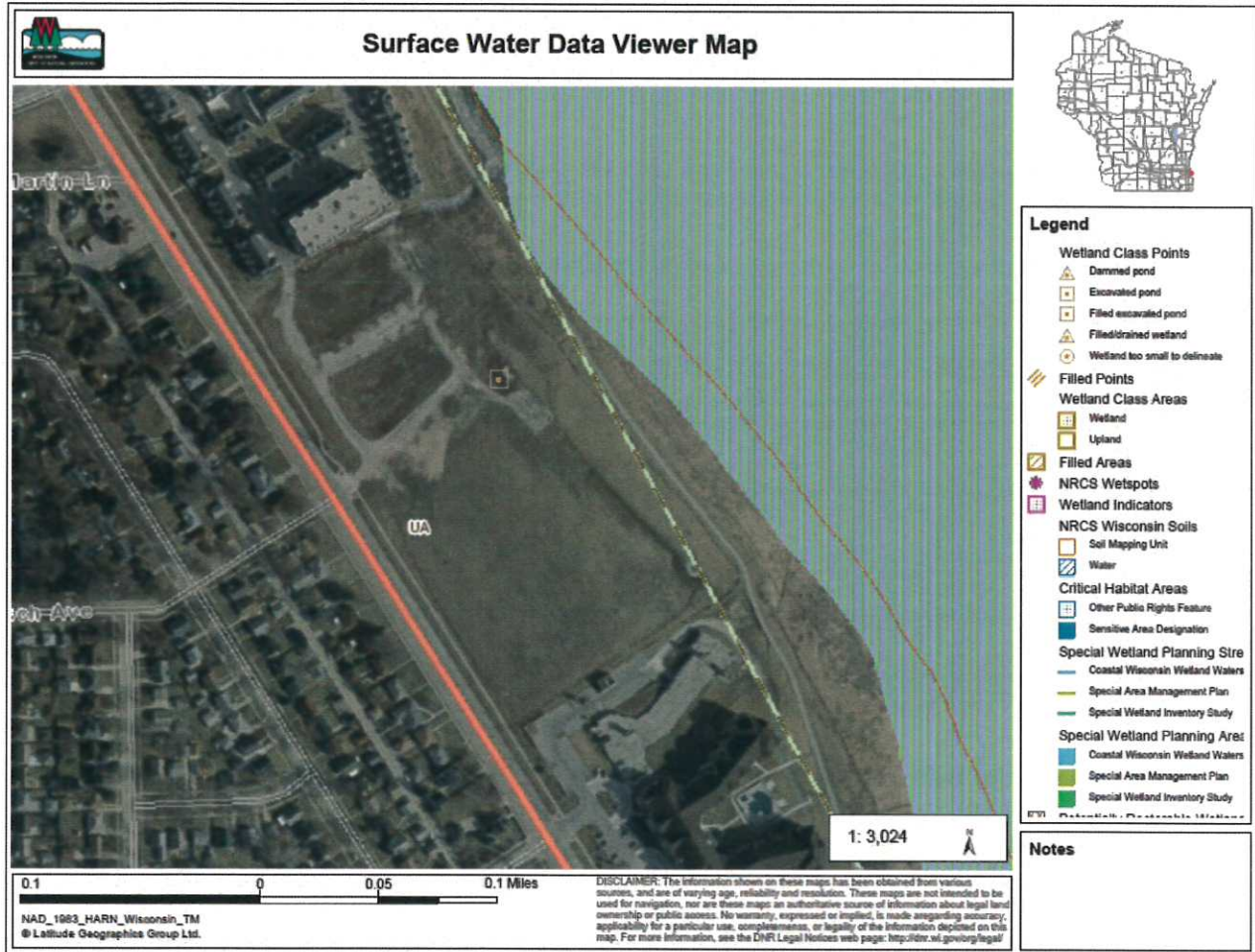


Figure 2 - 2015 WDNR Surface Water Data Viewer Map

Bear Development engaged an assured wetland delineator to complete a wetland delineation for the Subject Parcel. The delineation identified 4 wetlands, consisting of a total area of 23,765 square feet. The assured wetland delineator’s report clearly states that the identified wetlands are a result of prior construction activities and that “normal circumstances are not present because the area was excavated for a basement” or “sediment trap”.

The isolated nature of the small wetland areas and their location on the Subject Parcel created a practical impossibility to avoid the wetlands for the proposed multi-family residential development. The financial model for the development of the Subject Parcel necessitated retaining the proposed design to achieve the \$60,000,000 tax increment.



Figure 3 - 2015 Delineated Wetlands

While the wetlands were created by construction activity, the site had been dormant since 2005. WDNR determined that the sediment traps (Wetlands 3 & 4) were exempt because they were temporary stormwater/water quality management installations. WDNR also determined that the manmade partial basement depressions (Wetlands 1 & 2) were isolated wetlands under WDNR jurisdiction.



Figure 4 - 2015 Delineated Wetland 1



Figure 5 - 2015 Delineated Wetland 2

- In 2016, Thomson Companies, as the owner of the Subject Parcel, and after consultation with WDNR applied to WDNR for a wetland individual permit to fill manmade Wetlands 1 & 2 for a total 0.36 acres. The Individual Permit was ultimately granted in early 2016 contingent on the purchase of Wetland Mitigation Credits for 0.52 acres at a cost of \$32,240.

Impacts of the Current Wetland Law & Regulation:

- Delayed increase of tax increment to the existing and fledgling City of St. Francis Tax Incremental District which ultimately leads to a delay in tax revenue to the constituents of the City of St. Francis.
- Over a one (1) year delay in obtaining development approvals that were contingent on the resolution of the impacts of the manmade wetlands and issuance of a WDNR Individual Permit.
- Additional fees for the professional services of an assured wetland delineator that was necessary to expedite the evaluation of the manmade wetlands and application for a WDNR Individual Permit.
- An in lieu fee payment.

In summary, this property never had a wetland history of hydric soils, wetland vegetation, or hydrology prior to the earth moving activities and installation of underground utilities necessary to expand the Kimball Hill Homes condominium development. It was farmland along the shores of Lake Michigan. Similar to many other developments of its time, site construction ceased due to the recession leaving a partially completed development and the manmade features which over time developed wetland features.

Although I believe that WDNR Staff was sympathetic to the site's history and chronology, the WDNR Staff had no means to consider the basement excavations anything other than an isolated wetland. But for man's intervention on the Subject Property, no wetlands would have ever existed and regulation by WDNR would not have been required.

Testimony in Support of Assembly Bill 547:

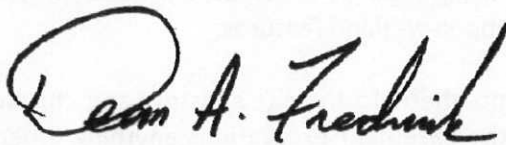
- The creations of the "artificial wetland" definition would have:
 - Enabled WDNR Staff to make an "artificial wetland" determination for all of the wetlands delineated on the Subject Parcel.
 - Allowed for the continued development of the Subject Parcel without lengthy delays associated with the WDNR individual permit application processing and permit issuance.
 - Expedited the addition of \$60,000,000 of tax increment to City of St. Francis, both to the existing tax incremental district and City's base valuation.
 - Avoided the delay in the determination of the "in lieu fee" and the purchase of Mitigation Credits.
 - Eliminated the payment of tens of thousands of dollars for professional service fees associated with the individual permit application processing and permit issuance.

The old adage, "Time is Money" is accurate as it correlates to delays for new and continued development. Construction material costs increase. Labor costs increase. Interest carry costs increase. Just as importantly, taxing authorities are also effected when delays defer the increase of tax increment.

Just as important as the "artificial wetland" designation, Assembly Bill 547 also positively addresses the "in lieu fee" subprogram. The availability of wetland mitigation is an important tool for both the State of Wisconsin and for land developers. We are innately sensitive to the preservation of quality wetlands; however, there are many examples where low quality wetlands could be enhanced through either on site mitigation or through purchases in offsite wetland mitigation developments/banks. This bill as proposed by requiring the "in lieu fee" to be expended will provide an urgency for the creation of compensatory wetlands and the enhancement for other outdoor activities.

Assembly Bill 547 will provide a positive fiscal impact for not only the State of Wisconsin, but, also for the business community by providing the WDNR Staff clear definition and destination for wetlands, by forcing the expenditure of "in lieu fees", and by providing the governor the ability to submit to EPA for authority to administer individual and general permit programs for fill permits associated with the navigable waters of the State. For all of these reasons, I strongly encourage passage of Assembly Bill 547.

Thank you for your consideration.

A handwritten signature in black ink that reads "Dean A. Fredrick". The signature is written in a cursive style with a large, looping initial "D".



**WISCONSIN
LAKES**

WISCONSIN LAKES

We Speak for Lakes!

716 Lois Dr / Sun Prairie WI 53590
608.661.4313
info@wisconsinlakes.org

December 21, 2017

TESTIMONY TO THE SENATE COMMITTEE ON NATURAL RESOURCES AND ENERGY AND THE ASSEMBLY COMMITTEE ON REGULATORY LICENSING REFORM ON AB547/SB600

Thank you for the opportunity to testify today on AB547 and SB600. My name is Michael Engleson, Executive Director of Wisconsin Lakes. Wisconsin Lakes is a statewide non-profit conservation organization of waterfront property owners, lake users, lake associations, and lake districts who in turn represent over 80,000 citizens and property owners. For 25 years, Wisconsin Lakes has advocated for the conservation, protection, and restoration of Wisconsin's lake resources.

I am testifying today to register Wisconsin Lakes's opposition to this bill.

Wisconsin Lakes's members understand the important role that wetlands, including the "isolated" wetlands impacted by this bill, play for Wisconsin's water and natural communities. As I am sure many others will point out today more eloquently, these wetlands serve an important role as flood protection, wildlife habitat, filters for polluted runoff, and can hold unforeseen connections to groundwater.

In addition, many of our members enjoy the benefits these wetlands provide. They hunt for waterfowl and other wildlife in them. They birdwatch. They fish the trout streams that rise from them. And in some cases, they benefit because the water that eventually reaches their lake is cleaner, because those wetlands captured and filtered, as is their role, runoff that would otherwise degrade the water quality of their lake.

The legislature should not turn its back on Wisconsin's long history of protecting both federal and the "non-federal" wetlands impacted by this bill. Retaining a reasonable system of permitting like we have currently does not prohibit development in the state, but it is a crucial piece in preventing costly damage from occurring in the first place. It's a smart balancing of protection and development over the long run, and needs to be preserved.

That is not to say that our wetland regulatory system is perfect, or without cause for some revision. Wisconsin Lakes is not opposed to a conversation regarding ways to improve that system. Unfortunately, the bill at hand goes too far in tipping the scale, with results that likely will cause unneeded harms.

Wisconsin Lakes is a statewide non-profit conservation organization of waterfront property owners, lake users, lake associations, and lake districts who in turn represent over 80,000 citizens and property owners. For over 20 years, Wisconsin Lakes has been a powerful bipartisan advocate for the conservation, protection, and restoration of Wisconsin's lake resources.



CERTIFIED MAIL--RETURN RECEIPT REQUESTED

July 10, 2015

20

Duerst Farms
7313 Schaller Road
Verona, WI 53593

Dear Duerst Farms:

The Dane County Farm Service Agency (FSA) has submitted to the Natural Resources Conservation Service (NRCS) a request for Highly Erodible Land (HEL) and Wetland Conservation (WC) Certification (Form AD-1026) for Farm 21030, Tract 813 located in Dane County, Wisconsin. You have indicated on the AD-1026, a request to conduct one or more of the following activities:

- Clean/maintain waterway and add tile.

On 7/8/2015, Robert Weihrouch from the Natural Resources Conservation Service (NRCS) Dane field office finalized the enclosed is the NRCS-CPA-026E "Highly Erodible Land and Wetland Conservation Determination" and aerial photo. **No wetlands were found.** This determination has been conducted for the purpose of implementing the Wetland Compliance (WC) provisions of the Food Security Act of 1985, as amended (7 CFR Part 12, Subpart C). A copy of this information has been sent to FSA. Based on this determination, you may conduct the following activities:

- Request to clean/maintain waterway and add tile as outlined on attached map is approved.

Certified wetland determination/delineations are conducted for the purpose of implementing the wetland conservation provisions of the Food Security Act of 1985. This determination/delineation may not be valid for identifying the extent of the U.S. Army Corps of Engineers (USACE) Clean Water Act jurisdiction for this site. If you intend to conduct any activity that constitutes a discharge of dredged or fill material into wetlands or other waters, you should request a jurisdictional determination from the local office of the USACE prior to starting the work. Manipulation of any wetland, stream channel, shoreland, or floodplain area may require US Army Corps of Engineers, WI Department of Natural Resources and/or county zoning permits. It is your responsibility to obtain any necessary permits from the following:

- | | | |
|----------------------------------|--------------|----------------|
| →US Army Corps of Engineers | Simone Kolb | (262) 717-9539 |
| *Department of Natural Resources | Wendy Peich | (608) 275-3481 |
| Dane County Zoning | Hans Hilbert | (608) 266-4993 |
| Dane County Land Conservation | Urban Staff | (608) 224-3730 |

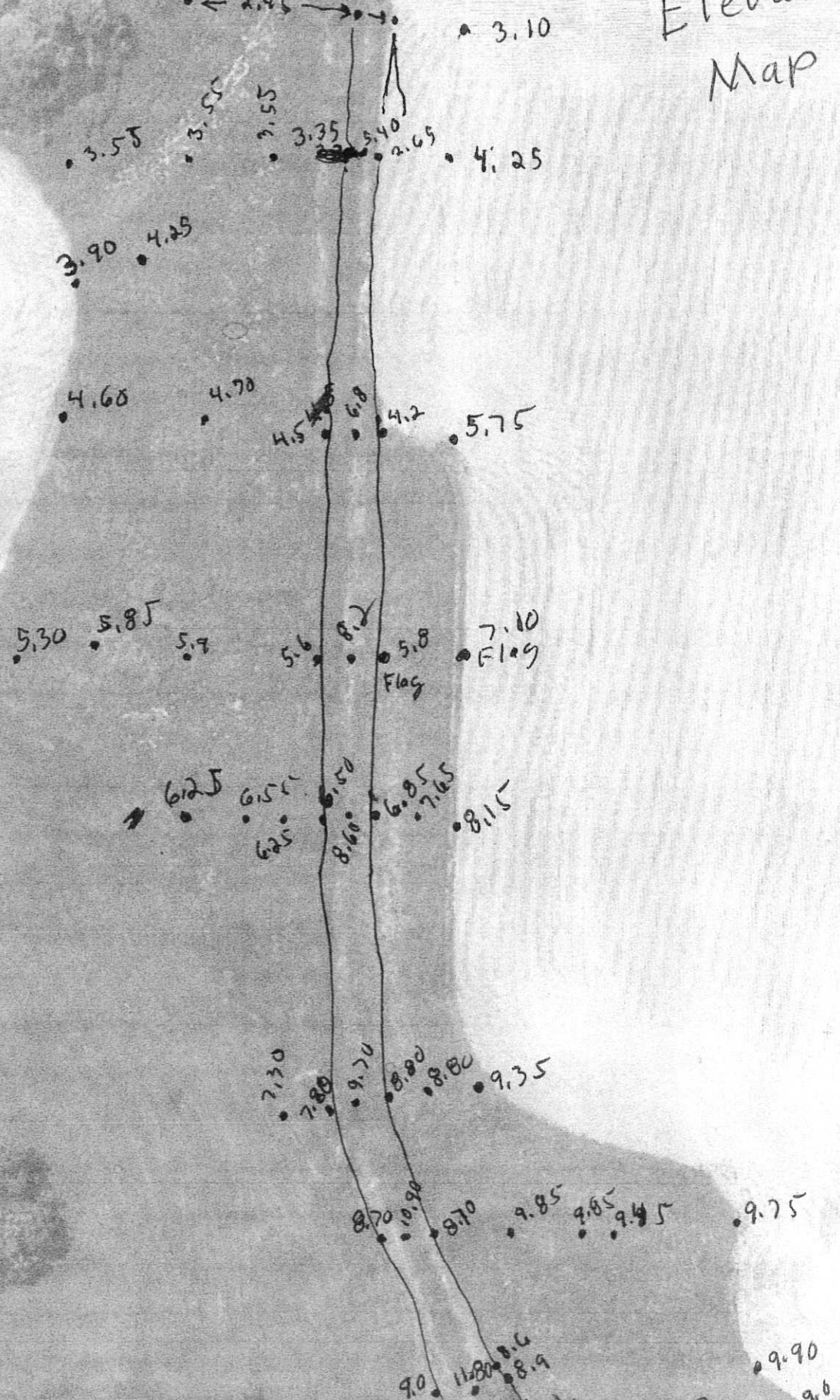
902-662-5452

The wetland conservation provisions of the Food Security Act of 1985 prohibit USDA program participants from converting wetlands to agricultural use on or after December 23, 1985. A converted wetland is defined as a wetland that has been drained, dredged, filled, leveled, or otherwise manipulated (including the removal of woody vegetation or any activity that results in impairing or reducing the flow or circulation of water) for the purpose or to have the effect of making possible the production of an agricultural commodity (7 CFR §12.2). If a person converted wetlands from December 23, 1985 – November 28, 1990, they are only eligible for program benefits if no annually tilled commodity crops are grown on these areas. Persons who convert wetlands after November 28, 1990 are ineligible for USDA program benefits, until the converted wetlands are restored or mitigated to their original functions and values.

1.55 Bottom water way
Hidden River Rd

Elevation Map

Two Post
← 2.45 →

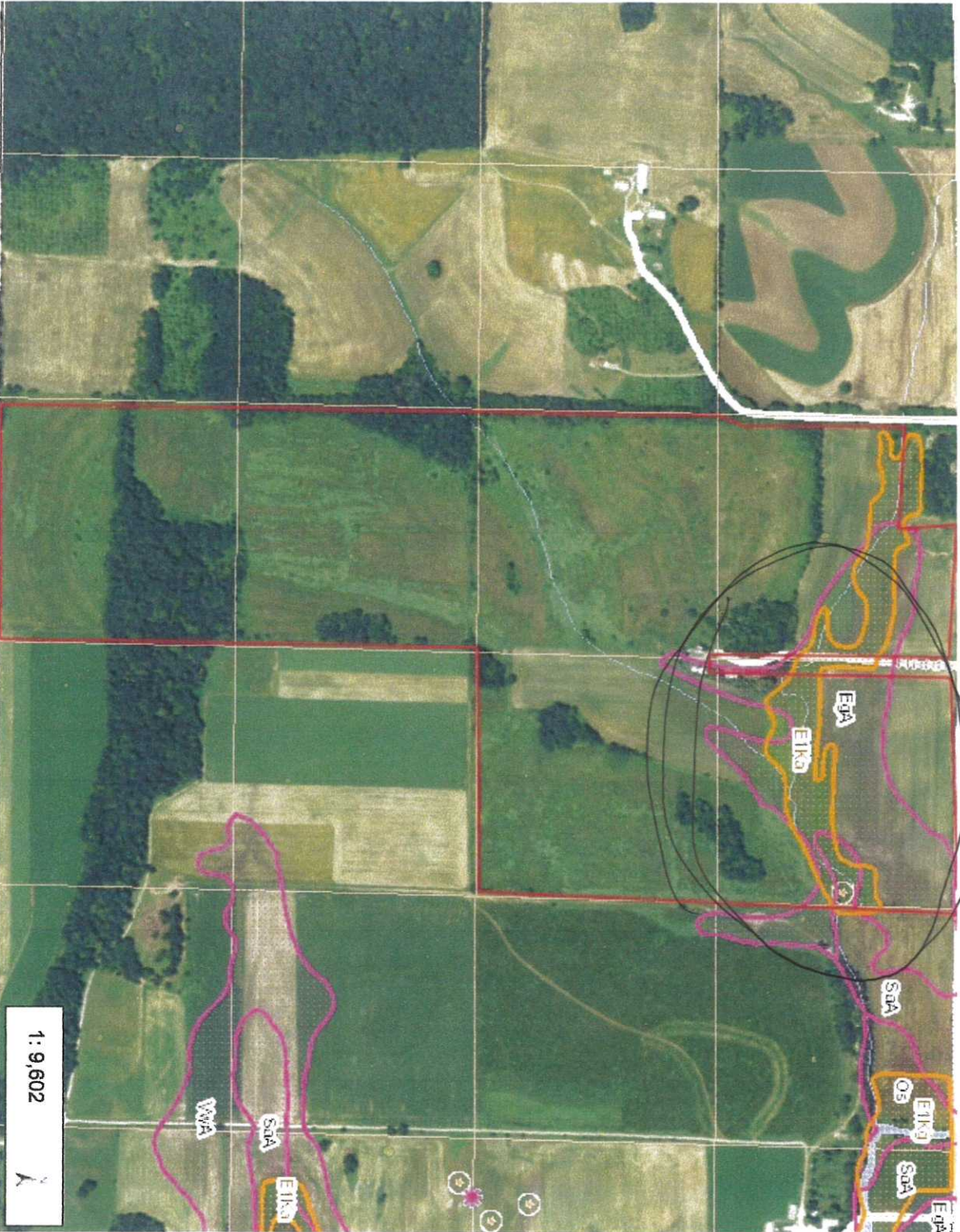


3

Z



Surface Water Data Viewer Map



1 : 9,602



Legend

- Wetland Class Points
 - Dammed pond
 - Excavated pond
 - Filled excavated pond
 - Filled/drainaged wetland
 - Wetland too small to delineate
- Filled Points
- Wetland Class Areas
 - Wetland
 - Upland
- Filled Areas
- * NRCS Wetspots
- Wetland Indicators
- Quarter-Quarter
- Rivers and Streams
- Open Water

Notes

T6N R8E Sec 32
Dane County

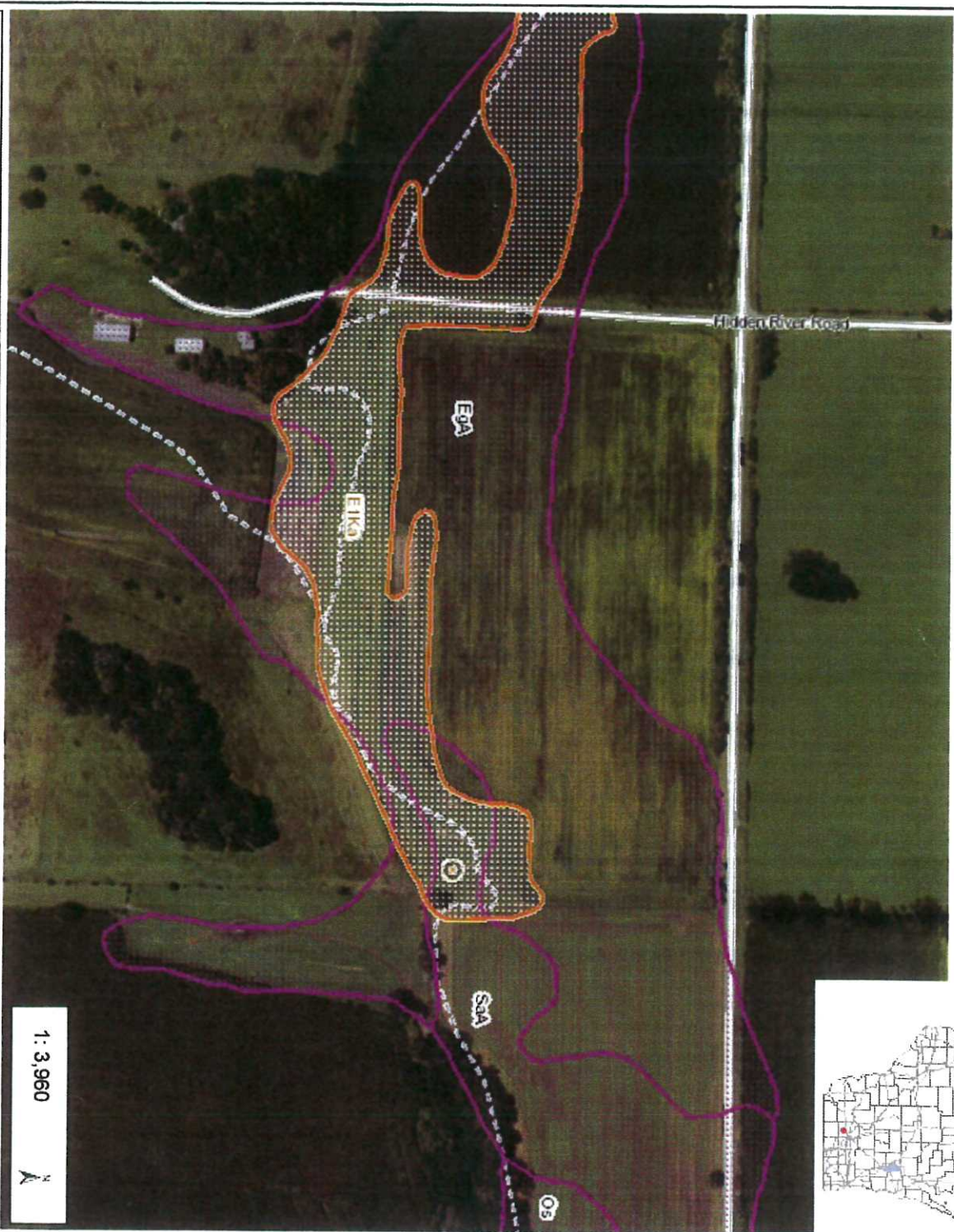
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NAD_1983_HARN_Wisconsin_TM
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Tom Duerst Surface Water Data Viewer Map



1: 3,960

0.1
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0.06
0.1 Miles
NAD_1983_HARN_Wisconsin_TM
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Legend

- Wetland Class Points
 - Dammed pond
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 - Wetland
 - Upland
- Filled Areas
- NRCS Wetspots
- Wetland Indicators
- Municipality
- State Boundaries
- County Boundaries
- Major Roads
 - Interstate Highway
 - State Highway
 - US Highway
- County and Local Roads
 - County HWY
 - Local Road
- Railroads
- Tribal Lands
- Rivers and Streams
- Intermittent Streams
- Lakes and Open water

*E1K1 ← Abandoned
reservoir is wet
Emergent Wet Meadow*

Notes



Wetland Map

2015
uerst Farms
ption: T6N R8E Sec 32

Farm 21030
Tract 813

Agency: NRCS
County: Dane
Map by: Kristen LaBlanc



-  NW
-  PC











