



(FORM UPDATED: 08/11/2010)

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

2005-06

(session year)

Senate

(Assembly, Senate or Joint)

**Committee on Natural Resources and
Transportation...**

COMMITTEE NOTICES ...

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

INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

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

Senate

Record of Committee Proceedings

Committee on Natural Resources and Transportation

Senate Bill 469

Relating to: the conveyance of certain submerged lands to Brown County.

By Senator Hansen; cosponsored by Representatives Krawczyk, McCormick and Van Roy.

December 07, 2005 Referred to Committee on Natural Resources and Transportation.

February 15, 2006 **PUBLIC HEARING HELD**

Present: (5) Senators Kedzie, Stepp, Kapanke, Wirch and Breske.
Absent: (0) None.

Appearances For

- Dave Hansen — State Senator, 30th Senate District
- George Boronow, Green Bay — WI Department of Natural Resources

Appearances Against

- None.

Appearances for Information Only

- Charles Lurscheid, Green Bay — Brown County

Registrations For

- Judy Krawczyk — State Representative, 88th Assembly District

Registrations Against

- None.

February 15, 2006 **EXECUTIVE SESSION HELD**

Present: (5) Senators Kedzie, Stepp, Kapanke, Wirch and Breske.
Absent: (0) None.

Moved by Senator Breske, seconded by Senator Wirch that **Senate Bill 469** be recommended for passage.

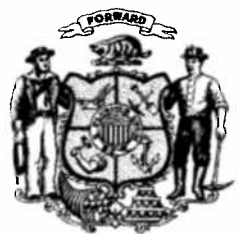
Ayes: (5) Senators Kedzie, Stepp, Kapanke, Wirch and Breske.
Noes: (0) None.

PASSAGE RECOMMENDED, Ayes 5, Noes 0

Dan Johnson
Committee Clerk



WISCONSIN STATE LEGISLATURE



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PORT AND SOLID WASTE DIRECTOR

CAT ISLAND RESTORATION PROJECT
QUESTION AND ANSWER

- Q. What is the "Cat Island Restoration Project"?
- A. In 1988, the Lower Green Bay/Fox River Remedial Action Plan Workgroup recommended restoring the Cat Island Chain, in the lower Bay of Green Bay. The project is intended to restore the island chain to its approximate configuration prior to being washed out by storms in the 1970's. In 1996 Brown County expressed interest in the project. In 1999 Brown County reaffirmed an interest in the project.
- Q. Why restore the Cat Island Chain?
- A. Wildlife habitat loss on the Bay of Green Bay is a critical factor in the health of the Lower Bay ecosystem. The Cat Island Chain historically protected a large expanse of shallow Bay waters and wetlands that served as fish and wildlife habitat. A restored Cat Island Chain will provide habitat for shorebirds, waterfowl, colonial nesting birds, amphibians and reptiles. Areas of submerged and emergent vegetation will be protected from destructive wave action and the island(s) terrestrial plants may take root.
- Q. How would the Island Chain be restored?
- A. The project is being approached as a partnership effort. The U.S. Army Corps of Engineers (USACE) would restore the Islands from outer Bay of Green Bay navigational dredge materials and armoring stone. It would pay for 75% of the cost. This project would be done according to Section 204 of the 1992 U.S. Water Resources Development Act (WRDA) that authorizes cost shared ecosystem restoration projects.
- Georgia Pacific Corporation has designated \$800,000 of its share of the Fox River's Natural Resources Damage Assessment to help pay for the local sponsor's portion of initial island construction costs.
- Q. Aren't navigational harbor dredge materials contaminated with PCBs?
- A. Outer harbor dredge materials considered for project use range from uncontaminated to those that are slightly contaminated with PCBs but less so than existing Cat Island area sediments.
- Q. Who will be the local sponsor?
- A. Brown County was approached by the RAP's Biota and Habitat Workgroup and has agreed to explore the responsibilities of local sponsorship. The USACE has completed the Feasibility Study Phase of the project. Brown County has agreed to sponsor the Project through the next Plans and Specifications Phase.

Q. Who will pay the local cost share?

A. A 25% local cost share commitment is due upon finishing the Plans and Specs Phase. The Biota and Habitat Workgroup coordinating the project, is actively seeking financial sponsors to pay the project's local cost share. The end of the Plans and Specs Phase, and with that the need to begin paying the local cost share, is expected in 2006.

Q. How much will the project cost?

A. The project plans on restoring Island # 3, the westernmost Island of the Cat Island Chain. The project is estimated to cost \$6.7 million (\$5.9M federal and \$854,000 local cost share). Future projects to complete the Island chain will involve restoring Islands #1 and #2 at a total estimated cost of \$25 million.

Q. What permits and approvals will be needed?

A. Brown County will have to agree to the responsibilities of being the local sponsor. The State of Wisconsin must approve of a Lakebed Grant to Brown County for the Islands and the Wisconsin Department of Natural Resources will need to grant other permits and 401 Water Quality Certification prior to construction.

Q. Who are the members of the Remedial Action Plan's Biota and Habitat Work Group?

A. Colette Charbonneau – US Fish and Wildlife Service; Linda Kurtz – US Corps of Engineers; Vicki Harris – UW Seagrass Institute; Bud Harris – UW-Green Bay (Retired); George Boronow – WI DNR; Chuck Larscheid – Brown County Port and Solid Waste.

Q. What are the steps and timeline of the Cat Island Restoration Project?

A. Island #3:

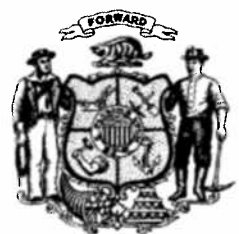
Brown County Letter of Intent	Fall 2000
Plans and Specifications	2006
WI Lakebed Grant Request	2006
Project Cooperation Agreement	2006
WI Water Quality Certification	2006
Construction Approval	2007
Construction	2008
Island #3 Begin Filling	2009

Q. What management concerns may restoration of the Islands create?

A. Long term maintenance cost of the armor stone. Establishment of exotic animal and plant species. Increased use by nuisance animal species. Recreational boating hazard.



WISCONSIN STATE LEGISLATURE



SB469
~~AB 868~~

**AN ACT RELATING TO CONVEYANCE OF A LAKEBED AREA
TO BROWN COUNTY**

REPORT BY THE DEPARTMENT OF NATURAL RESOURCES

Under Section 13.097, Wisconsin Statutes

Prepared by the Bureau of Fisheries Management and Habitat Protection

January, 2006

Report Requirement

Section 13.097, Wisconsin Statutes, requires the Department of Natural Resources to prepare a report to be attached to bills that convey lake bed areas. The content of the report is specified in S. 13.097, Wis. Stats. The report requires the Department to make judgments about whether or not the proposed grant and the uses specified in the grant are consistent with the public trust purposes required by the State Constitution. To compile this report, the Department relied on guidance from the Supreme Court contained in *Priewe v. Wis. S.L. & Imp. Co.*, 103 Wis. 537 (1899), *State v. PSC*, 261 Wis. 492 (1952), *Madison v. State*, 1 Wis. 2d 252 (1957), *State v. Trudeau*, 139 Wis. 2d 91 (1987) and other cases that outline the public trust doctrine.

Description of the Proposed Legislation

This bill grants to Brown County all rights and title to certain portions of lake bed in Green Bay commonly referred to as the Cat Island Chain area where islands historically existed that have since eroded away. The proposal allows the reconstruction of the Cat Island Chain. The reconstructed islands will be for public use and public purposes only.

Findings of the Department

- A. Location and description of the lake bed grant area
1. The grant area is a portion of Green Bay along the eastern boundary of the City of Green Bay and west of the Federal Navigation Channel in Green Bay located in Brown County.
 2. The grant involves portions of lakebed that were previously islands and associated littoral habitat used extensively by fish and wildlife for spawning, resting, rearing, nesting and foraging.

- B. Purposes of the proposed conveyance
 - 1. The conveyed lakebed area would allow the reconstruction of the islands utilizing dredged sediments from the federal navigation channel and subsequently armored with rock rip rap to prevent erosion. The islands would be for public use only.
- C. Use of the lakebed area subject to the proposed conveyance – The lakebed area in question has been previously used for navigation, fish and wildlife habitat and for public recreation purposes.
- D. Effect of the proposed conveyance on public trust purpose uses – This lakebed grant facilitates the re-establishment of valuable fish and wildlife habitat and increase diversity of public navigation opportunities on the restored islands and the restored near shore aquatic environments. This is compatible with the requirement for public control of lakebed grant areas.
- E. Potential of the grantee to manage the uses of the lakebed area
 - 1. Brown County has the capability to manage this lakebed grant area in conformance with the public trust doctrine.
 - 2. The grantee is a governmental unit.
 - 3. The grant prohibits the county from conveying the land to any person other than this state, a political subdivision of the state or a special purpose district of this state.

Conclusions of the Department

- A. Public trust uses – Opportunities for public trust uses would be increased.
- B. Public access – Public access opportunities would be increased.
- C. Purposes of proposed conveyance – The proposed legislation ensures that the conveyed lakebed area will continue to be used in compliance with the public trust doctrine.
- D. Management by the grantee – Brown County is capable of managing the grant in conformance with the public trust doctrine and is also required to cooperate with the Department of Natural Resources in the development and implementation of plans for the construction of the Cat Island Chain to ensure that the project purpose is successfully completed and to ensure that the water quality of Breen Bay is not adversely affected.
- E. Government control – The legislation contains sufficient provisions for continued government control of the lakebed grant area.
- F. Commercial uses – No commercial uses are proposed or authorized by the proposed lakebed grant.
- G. Consistency with the public trust doctrine – The proposed lakebed grant is consistent with the public trust doctrine.