




# State of Wisconsin


LEGISLATIVE REFERENCE BUREAU

## **RESEARCH APPENDIX -** **PLEASE DO NOT REMOVE FROM DRAFTING FILE**

Date Transfer Requested: 05/09/2008 (Per: RCT)




 Appendix B ... Part 18 of 18

 The 2007 drafting file for LRBA1729

has been copied/added to the drafting file for

**2007 LRB-4367**

(Ap8 SB-1)

 The attached 2007 draft was incorporated into the new 2007 draft listed above. For research purposes, this cover sheet and the attached drafting file were copied, and added, as a appendix, to the new 2007 drafting file. If introduced this section will be scanned and added, as a separate appendix, to the electronic drafting file folder.



# State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

## **RESEARCH APPENDIX -** **PLEASE DO NOT REMOVE FROM DRAFTING FILE**

Date Transfer Requested: 05/09/2008 (Per: RCT)

### **☞ Compile Draft – Appendix Q**

- A ☞ The 2007 drafting file for LRBa1595
- B ☞ The 2007 drafting file for LRBa1694
- C ☞ The 2007 drafting file for LRBa1696
- D ☞ The 2007 drafting file for LRBa1697
- E ☞ The 2007 drafting file for LRBa1698
- F ☞ The 2007 drafting file for LRBa1699
- G ☞ The 2007 drafting file for LRBa1700
- H ☞ The 2007 drafting file for LRBa1701
- I ☞ The 2007 drafting file for LRBa1702
- J ☞ The 2007 drafting file for LRBa1703
- K ☞ The 2007 drafting file for LRBa1704
- L ☞ The 2007 drafting file for LRBa1705
- M ☞ The 2007 drafting file for LRBa1706
- N ☞ The 2007 drafting file for LRBa1707
- O ☞ The 2007 drafting file for LRBa1708
- P ☞ The 2007 drafting file for LRBa1709
- Q ☞ The 2007 drafting file for LRBa1727

**2007 LRBa1727** has been copied/added to the drafting file for

**LRB a1729** Superamendment used to create

LRB-4360 ( ) & LRB-4367 (Ap8 SB-1)

**2007 DRAFTING REQUEST**

**Assembly Amendment (AA-SB523)**

Received: 04/28/2008

Received By: btradewe

Wanted: Soon

Identical to LRB:

For: Scott Gunderson (608) 266-3363

By/Representing: John Stolzenberg

This file may be shown to any legislator: NO

Drafter: btradewe

May Contact: Leg. Council

Addl. Drafters:

Subject: Environment - water quality

Extra Copies:

Submit via email: YES

Requester's email: Rep.Gunderson@legis.wisconsin.gov

Carbon copy (CC:) to: John.Stolzenberg@legis.wisconsin.gov  
Mark.Patronsky@legis.wisconsin.gov

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**Pre Topic:**

No specific pre topic given

---

**Topic:**

Elimnate the word diversion from ss. 30.18 and 293.65

---

**Instructions:**

See topic

---

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P1	btradewe 04/29/2008	csicilia 04/30/2008	jfrantze 04/30/2008	_____	sbasford 04/30/2008		
	btradewe 05/02/2008	kfollett 05/02/2008		_____			
/P2			nmatzke 05/02/2008	_____	mbarman 05/02/2008		

***LRBa1727***

05/02/2008 12:02:39 PM

Page 2

FE Sent For:

**<END>**

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Mark.Patronskey@legis.wisconsin.gov

---

**Pre Topic:**

No specific pre topic given

---

**Topic:**

Elimnate the word diversion from s. 30.18

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**Instructions:**

See topic

---

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P1	btradewe 04/29/2008	csicilia 04/30/2008	jfrantze 04/30/2008	_____	sbasford 04/30/2008		

FE Sent For:

1P21-f  
5/2

nwn  
5/2

nwn/  
5/2

<END>

**2007 DRAFTING REQUEST**

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Received: **04/28/2008**

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**Mark.Patronskey@legis.wisconsin.gov**

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**Pre Topic:**

No specific pre topic given

---

**Topic:**

Elimnate the word diversion from s. 30.18

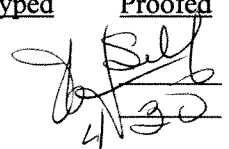
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**Instructions:**

See topic

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**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P1	btradewe	PI cjs 4/30/08					

FE Sent For:

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STATE OF WISCONSIN - LEGISLATIVE REFERENCE BUREAU

LRB

Research (608-266-0341)

Library (608-266-7040)

Legal (608-266-3561)

LRB

Intent of this amendment is to make terminology  
in current statute consistent with that in the  
compact without making any changes to the  
substance of current law.

pet

**Tradewell, Becky**

---

**From:** Stolzenberg, John  
**Sent:** Tuesday, April 29, 2008 9:06 AM  
**To:** Tradewell, Becky  
**Subject:** RE: 30.18

Becky,

I agree that substituting "withdraw" or "withdrawal" for "divert" or "diversion" throughout s. 30.18 doesn't work well. How about using "withdraw" or "withdrawal" where the context is taking the water from a body of water and "transfer" where the context is moving the water between locations in a canal, pipe, etc.? Also, it appears that "diversion" could be deleted between "proposed" and "canal" in s. 30.18 (3) (a) 2.

This treatment would conform to the use of "diversion" and "divert" in the compact and its implementing statutes as a transfer of water from or between basins.

John

---

**From:** Tradewell, Becky  
**Sent:** Monday, April 28, 2008 1:57 PM  
**To:** Stolzenberg, John  
**Subject:** 30.18

John,

I've been working on the amendment dealing with s. 30.18, replacing "divert" with "withdraw", "diversion" with "withdrawal", and "diverted" with "withdrawn", but I am not sure that this works well throughout the statute. It seems that diverting includes the concept of moving the water to where it will be used and that withdrawing really does not. In particular, look at s. 30.18 (3) (a) 1. and 2. and (7) and especially references to canals and "works."

Any thoughts?

Becky





State of Wisconsin  
2007 - 2008 LEGISLATURE

Wed (4/3) a.m.

LRBa1727/P1  
RCT:.....

95

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION  
ASSEMBLY AMENDMENT ,  
TO 2007 SENATE BILL 523

bill list  
SAV  
K-10/05 v

1 At the locations indicated, amend the bill, as shown by senate substitute  
2 amendment 1, as follows:

3 1. Page 3, line 25: after that line insert:

4 "SECTION 2b. 30.18 (title) and (2) of the statutes are amended to read:

5 30.18 (title) ~~Diversions~~ Withdrawal of water from lakes and streams. (2)

6 PERMIT REQUIRED. (a) *Streams*. No person may ~~divert~~ withdraw water from a stream  
7 in this state without an individual permit under this section if the ~~diversion~~  
8 withdrawal meets either of the following conditions:

9 1. The ~~diversion~~ withdrawal is for the purpose of maintaining or restoring the  
10 normal level of a navigable lake or the normal flow of a navigable stream, regardless  
11 of whether the navigable lake or navigable stream is located within the watershed  
12 of the stream from which the water is ~~diverted~~ withdrawn.

1           2. The ~~diversion~~ withdrawal is for the purpose of agriculture or irrigation.

2           (b) *Streams or lakes*. No person, except a person required to obtain an approval  
3 under s. 281.41, may ~~divert~~ withdraw water from any lake or stream in this state  
4 without an individual permit under this section if the ~~diversion~~ withdrawal will  
5 result in a water loss averaging 2,000,000 gallons per day in any 30-day period above  
6 the person's authorized base level of water loss.

History: 1979 c. 221; 1985 a. 60; 1987 a. 374; 1995 a. 227; 2003 a. 118.

7           **SECTION 2e.** 30.18 (3) (a) 1. to 3. of the statutes are amended to read:

8           30.18 (3) (a) 1. Except as provided in par. (b), an applicant for a permit required  
9 under sub. (2) (a) shall file the application with the department setting forth the  
10 name and post-office address of the applicant, the name of the stream from which  
11 the water will be ~~diverted~~ withdrawn, the point in the stream from which it is  
12 proposed to ~~divert~~ withdraw the water, the name of the lake or stream or the location  
13 and riparian status of the land to which the water is to be ~~diverted~~ transferred, the  
14 location and description of the canal, tunnel or pipes and other works through which  
15 the water is to be ~~diverted~~ withdrawn and transferred, the amount of water to be  
16 ~~diverted~~ withdrawn, the periods of time when it is proposed to ~~divert~~ withdraw such  
17 water, the time required for the completion of the canal and other structures  
18 necessary for the completed project and, if required by the department, 4 copies of  
19 plans showing cross sections and profiles for any canal, tunnel, pipes or other  
20 ~~diversion~~ works for withdrawing and transferring the water and any dam and  
21 control works at the point of ~~diversion~~ withdrawal and at the point of discharge.

22           2. For a ~~diversion~~ withdrawal under sub. (2) (a) 1., a map or maps shall  
23 accompany the application with a scale of not less than one inch per 2,000 feet,  
24 showing the land topography and the probable course of the proposed ~~diversion~~ canal

1 and other works, and the ownership of all lands upon which will be located the canal,  
2 tunnel, pipes and all other works for the completed project.

3 3. For a ~~diversion~~ withdrawal under sub. (2) (a) 2., the application shall include  
4 written statements of consent to the ~~diversion~~ withdrawal from all riparian owners  
5 who are making beneficial use of the water proposed to be ~~diverted~~ withdrawn.

6 **History:** 1979 c. 221; 1985 a. 60; 1987 a. 374; 1995 a. 227; 2003 a. 118.

6 **SECTION 2h.** 30.18 (3) (b) of the statutes is amended to read:

7 30.18 (3) (b) *Application; streams or lakes.* An application for a permit required  
8 under sub. (2) (b) shall be submitted in the form required under s. 281.35 (5) (a). If  
9 the ~~diversion~~ withdrawal also meets either condition specified under sub. (2) (a), the  
10 application shall also comply with par. (a).

11 **History:** 1979 c. 221; 1985 a. 60; 1987 a. 374; 1995 a. 227; 2003 a. 118.

11 **SECTION 2j.** 30.18 (4) (a) of the statutes is amended to read:

12 30.18 (4) (a) Upon receipt of a complete application, the department shall  
13 follow the notice and hearing procedures under s. 30.208 (3) to (5). In addition to  
14 providing notice as required under s. 30.208 (3) to (5), the department shall mail a  
15 copy of the notice to every person upon whose land any part of the canal or any other  
16 structure will be located, to the clerk of the next town downstream, to the clerk of any  
17 village or city in which the lake or stream is located and which is adjacent to any  
18 municipality in which the ~~diversion~~ withdrawal will take place and to each person  
19 specified in s. 281.35 (5) (b) or (6) (f), if applicable.

20 **History:** 1979 c. 221; 1985 a. 60; 1987 a. 374; 1995 a. 227; 2003 a. 118.

20 **SECTION 2L.** 30.18 (5) (a) 1. and 2. of the statutes are amended to read:

21 30.18 (5) (a) 1. That the proposed ~~diversion~~ withdrawal will not injure any  
22 public rights in navigable waters.

**History:** 1979 c. 221; 1985 a. 60; 1987 a. 374; 1995 a. 227; 2003 a. 118.

1           2. That the water to be ~~diverted~~ withdrawn is surplus water, or if it is not  
2 surplus water, that all riparians who may be adversely affected by the ~~diversion~~  
3 withdrawal have consented to the proposed ~~diversion~~ withdrawal.

History: 1979 c. 221; 1985 a. 60; 1987 a. 374; 1995 a. 227; 2003 a. 118.

4           **SECTION 2p.** 30.18 (6) (a) of the statutes is amended to read:

5           30.18 (6) (a) *Contents of permit.* The department shall specify on each permit  
6 issued under this section the quantity of water that may be ~~diverted~~ withdrawn and  
7 the times during which water may be ~~diverted~~ withdrawn. In addition, if the permit  
8 is one which is required under sub. (2) (b), the permit shall comply with s. 281.35 (6).

History: 1979 c. 221; 1985 a. 60; 1987 a. 374; 1995 a. 227; 2003 a. 118.

9           **SECTION 2r.** 30.18 (6m) (a) 1. and 2. of the statutes are amended to read:

10           30.18 (6m) (a) 1. That the water being ~~diverted~~ withdrawn is no longer surplus  
11 water, except that the department may allow the ~~diversion~~ withdrawal to continue  
12 if all riparians adversely affected by the ~~diversion~~ withdrawal continue to consent  
13 to it.

History: 1979 c. 221; 1985 a. 60; 1987 a. 374; 1995 a. 227; 2003 a. 118.

14           2. If the ~~diversion~~ withdrawal is from a stream designated by the department  
15 as a trout stream, that the revocation is desirable for conservation purposes.

History: 1979 c. 221; 1985 a. 60; 1987 a. 374; 1995 a. 227; 2003 a. 118.

16           **SECTION 2u.** 30.18 (6m) (b) of the statutes is amended to read:

17           30.18 (6m) (b) The department may revoke any permit issued under sub. (5)  
18 (a), which is not subject to sub. (2) (b), if it finds that the ~~diversion~~ withdrawal is  
19 detrimental to the stream from which the water is ~~diverted~~ withdrawn.

History: 1979 c. 221; 1985 a. 60; 1987 a. 374; 1995 a. 227; 2003 a. 118.

20           **SECTION 2y.** 30.18 (7) of the statutes is amended to read:

21           30.18 (7) PREREQUISITES TO PROJECT CONSTRUCTION. After an application under  
22 this section has been filed with the department, the applicant may enter any land  
23 through which it is proposed to ~~divert~~ withdraw or transfer the water for the

1 purposes of making any surveys required for drafting the plans for the project, but  
2 no work shall be commenced on the canal, headworks or other structures necessary  
3 for the project until the plans for the same have been approved by the department.  
4 Any person having received a permit required under sub. (2) (a) may construct upon  
5 the land of another the canal and other works authorized by the permit after the  
6 damage which will be sustained by the owner or owners of such land has been  
7 satisfied, or has been determined as provided for in ch. 32, and after the final sum  
8 so determined and all costs have been paid to the persons entitled thereto or to the  
9 clerk of the circuit court on their account.”.

10 History: 1979 c. 221; 1985 a. 60; 1987 a. 374; 1995 a. 227; 2003 a. 118.

(END)

**Tradewell, Becky**

---

**From:** Stolzenberg, John  
**Sent:** Wednesday, April 30, 2008 10:50 AM  
**To:** Tradewell, Becky; Patronsky, Mark  
**Subject:** FW: Reconciling use of "diversion" in the Statutes

---

**From:** Hammer, Charles R - DNR [mailto:Charles.Hammer@Wisconsin.gov]  
**Sent:** Wednesday, April 30, 2008 10:08 AM  
**To:** Stolzenberg, John  
**Cc:** Pfeiffer, Shaili M - DNR; Ohm, Judith M - DNR; Henderson, Patrick W - DOA; Ambs, Todd L - DNR  
**Subject:** RE: Reconciling use of "diversion" in the Statutes

John,

I forwarded your email to Mel Vollbrecht, who is in today. I also have a call into her, so I think we'll be able to get back to you regarding the amendments to s. 30.18.

I looked over the mining statute. I agree with your assessment that the language that appears there tracks that of s. 30.18. And, because of my background working for the mining program, I am comfortable giving you the message that if the s. 30.18 amendments are okay, you can make comparable changes to the mining law.

Charles R. Hammer  
Staff Attorney  
Bureau of Legal Services  
Wisconsin Department of Natural Resources

Phone: (608) 266-0911  
Fax: (608) 266-6983  
Email: Charles.Hammer@wi.gov

---

**From:** Stolzenberg, John [mailto:John.Stolzenberg@legis.wisconsin.gov]  
**Sent:** Wed 4/30/2008 9:13 AM  
**To:** Hammer, Charles R - DNR  
**Subject:** FW: Reconciling use of "diversion" in the Statutes

Chuck,

Here's the draft amendment on changing s 30.18 and the text of s. 293.65 that we just discussed.

John

<<07a1727P1.pdf>>

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John Stolzenberg,  
Legislative Council  
266-2988

04/30/2008

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**From:** Stolzenberg, John  
**Sent:** Tuesday, April 29, 2008 5:25 PM  
**To:** Chuck Ledin; Pfeiffer, Shaili M - DNR  
**Cc:** Tradewell, Becky; Patronsky, Mark  
**Subject:** Reconciling use of "diversion" in the Statutes

Chuck and Shaili,

As you and other DNR staff consider the merits of amending s. 30.18 to replace the terms "diversion" and "diverts" with "withdrawal" or "transfer," etc., please also consider if s. 293.65 (1) and (2), Stats., in the mining law should receive a similar treatment.

Thanks.

John

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John Stolzenberg  
Legislative Council  
266-2988

**293.65 Diversion of surface waters; withdrawal of groundwater; damage claims. (1) SCOPE.** This section governs the withdrawal or diversion of groundwaters or surface waters by persons engaged in prospecting or mining. Discharges of waters are subject to ch. 283, construction of necessary dams or other structures is subject to chs. 30 and 31 and construction of wells is subject to ch. 280, to the extent applicable.

**(2) DIVERSION OF SURFACE WATER; PERMIT REQUIRED.** (a) Any person intending to divert surface waters for prospecting or mining shall apply to the department for a permit. The forms and procedures used under s. 30.18 apply to the extent practicable.

(b) The department, upon receipt of an application for a permit, shall determine the minimum stream flow or lake level necessary to protect public rights, the minimum flow or level necessary to protect the rights of affected riparians, the point downstream beyond which riparian rights are not likely to be injured by the proposed diversion and the amount of surplus water, as defined in s. 30.01 (6d), if any, at the point of the proposed diversion.

(c) At the hearing on the permit application, the department shall take testimony on:

1. The public rights in the lake or stream and the related environment which may be injured by the proposed diversion;
2. The public benefits provided by increased employment, economic activity and tax revenues from the mining operation;
3. The direct and indirect social and economic costs and benefits of the proposed mining operation;
4. Whether the proposed withdrawal will consume nonsurplus

04/30/2008

4/30 3:40 p.m.

John - waiting to hear from  
Mary Ellen Vollbrecht

Richards - Lauterstacker letter  
re: WRPA



water;

5. The rights of competing users of such water resources; and

6. Any other issues identified by the department as relevant to the decision of whether to issue or deny a permit.

(d) Within 30 days after hearing, the department shall issue or deny a permit. The following standards shall govern the decision of the department:

1. If injury to public rights exceeds the public benefits generated by the mining, the permit shall be denied.

2. If the proposed diversion will consume nonsurplus waters, and will unreasonably injure rights of riparians identified by par.

(b) who are beneficially using such waters, the permit shall be denied unless a permit is granted under par. (e) or all such riparians consent to the proposed diversion.

3. In all other cases the permit shall be granted.

(e) The department may require modification of a proposed diversion so as to avoid injury to public or riparian rights, and as modified, may grant the permit.

(f) Water diverted in accordance with a permit issued under this subsection may be used on nonriparian property.

(g) The department shall maintain continuing jurisdiction over water withdrawal made according to permits issued under this subsection and may modify such permits to prevent undue injury to riparians who gave consent under par. (d) 2. at the time of issuance of the permit.

(h) Hearings on applications for diversion permits under this subsection shall be preceded by mailed notice to all parties or affected persons and by publication in the affected area of a class 2 notice, under ch. 985. Hearings may be conducted as part of a hearing on an application for a mining permit under s. 293.37.

(i) If a hearing on the application for a permit is conducted as a part of a hearing under s. 293.43, the notice and hearing provisions in that section supersede the notice and hearing provisions of this subsection.

**(3) WITHDRAWAL OF GROUNDWATER; DEWATERING; PERMIT**

**REQUIREMENTS.** (a) An approval under s. 281.34 is required to withdraw groundwater or to dewater mines if the capacity and rate of withdrawal of all wells involved in the withdrawal of groundwater or the dewatering of mines exceeds 100,000 gallons each day. A permit under s. 283.31 is required to discharge pollutants resulting from the dewatering of mines.

(b) The department may not issue an approval under s. 281.34 if the withdrawal of groundwater for prospecting or mining purposes or the dewatering of mines will result in the unreasonable detriment of public or private water supplies or the unreasonable detriment of public rights in the waters of the state. No withdrawal of groundwater or dewatering of mines may be made to the unreasonable detriment of public or private water supplies or the unreasonable detriment of public rights in the waters of the state.

**(4) DAMAGE CLAIMS.** (a) As used in this subsection, "person" does not include a town, village or city.

(b) A person claiming damage to the quantity or quality of his or her private water supply caused by prospecting or mining may file a complaint with the department and, if there is a need for an immediate alternative source of water, with the town, village or city where the private water supply is located. The department shall conduct an investigation and if the department concludes that there is reason to believe that the prospecting or mining is interrelated to the condition giving rise to the complaint, it shall schedule a hearing.

(c) The town, village or city within which is located the private water supply which is the subject of the complaint shall, upon request, supply necessary amounts of water to replace that water formerly obtained from the damaged private supply. Responsibility to supply water shall commence at the time the complaint is filed and shall end at the time the decision of the department made at the conclusion of the hearing is implemented.

(d) If the department concludes after the hearing that prospecting or mining is the principal cause of the damage to the private water supply, it shall issue an order to the operator requiring the provision of water to the person found to be damaged in a like quantity and quality to that previously obtained by the person and for a period of time that the water supply, if undamaged, would be expected to provide a beneficial use, requiring reimbursement to the town, village or city for the cost of supplying water under par.

(c), if any, and requiring the payment of compensation for any damages unreasonably inflicted on the person as a result of damage to his or her water supply. The department shall order the payment of full compensatory damages up to \$75,000 per claimant.

The department shall issue its written findings and order within 60 days after the close of the hearing. Any judgment awarded in a subsequent action for damages to a private water supply caused by prospecting or mining shall be reduced by any award of compensatory damages previously made under this subsection for the same injury and paid by the operator. The dollar amount under this paragraph shall be changed annually according to the method under s. 70.375 (6). Pending the final decision on any appeal from an order issued under this paragraph, the operator shall provide water as ordered by the department. The existence of the relief under this section is not a bar to any other statutory or common law remedy for damages.

(e) If the department concludes after the hearing that prospecting or mining is not the cause of any damage, reimbursement to the town, village or city for the costs of supplying water under par.

(c), if any, is the responsibility of the person who filed the complaint.

(f) Failure of an operator to comply with an order under par.

(d) is grounds for suspension or revocation of a prospecting or mining permit.

(g) This subsection applies to any claim for damages to a private water supply occurring after June 3, 1978.

**(5) COSTS REIMBURSED.** (a) Costs incurred by a town, village or city in monitoring the effects of prospecting or mining on surface

surface

water and groundwater resources, in providing water to persons claiming damage to private water supplies under sub. (4) (c), or in retaining legal counsel or technical consultants to represent and assist the town, village or city appearing at the hearing under sub. (4) (b) are reimbursable through the investment and local impact fund under s. 15.435.

(b) Any costs paid to a town, village or city through the investment and local impact fund under par. (a) shall be reimbursed to the fund by the town, village or city if the town, village or city receives funds from any other source for the costs incurred under par. (a).

(c) If an order under sub. (4) (d) requiring the operator to provide water or to reimburse the town, village or city for the cost of supplying water is appealed and is not upheld, the court shall order the cost incurred by the operator in providing water or in reimbursing the town, village or city pending the final decision to be reimbursed from the investment and local impact fund under s. 15.435.

**History:** 1977 c. 420; 1979 c. 221; 1981 c. 86 ss. 38 to 54, 64; Stats. 1981 s.

144.855; 1985 a. 60 s. 24; 1987 a. 374; 1993 a. 16; 1995 a. 227 s. 783; Stats. 1995

s. 293.65; 2003 a. 310.

## **Tradewell, Becky**

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**From:** Henderson, Patrick W - DNR [Patrick.Henderson@wisconsin.gov]  
**Sent:** Friday, May 02, 2008 9:16 AM  
**To:** Stolzenberg, John; Tradewell, Becky  
**Cc:** Bruhn, Mike; Kuhn, Jamie  
**Subject:** Compact "Clean up" amendment

Hi John,

I wanted to get back to you on the clean up amendment for 30.18 and the mining statute that you talked to Chuck Hammer about. As you can see from the email traffic below we don't see any reason to be concerned with changing "diversion" with "withdrawal". Let me know if you have any questions.

Thanks  
Pat

-----Original Message-----  
**From:** Vollbrecht, Mary E - DNR  
**Sent:** Thursday, May 01, 2008 11:02 AM  
**To:** Ledin, Charles R - DNR  
**Cc:** Henderson, Patrick W - DNR; Ambs, Todd L - DNR  
**Subject:** Re: Statutory revisions because of the compact

This language is fine - I've reviewed this and talked with Mike Cain.

----- Original Message -----  
**From:** Ledin, Charles R - DNR  
**To:** Vollbrecht, Mary E - DNR  
**Cc:** Henderson, Patrick W - DNR  
**Sent:** Tue Apr 29 16:18:43 2008  
**Subject:** FW: Statutory revisions because of the compact

Hi Mel I need your old job expertise Becky Tradewell and John Stolzenberg are doing a search of existing statutory language to see if they can make existing language consistent with word usage in the proposed Compact implementation statute and as you can see from Chuck Hammer's note below he thinks diversion can be replaced by withdrawal, John and Becky thought replacing is good because diversion has a significant meaning in the compact law---but he suggested checking with you to see it that would cause a problem. If ok please let Pat know asap as the rest of us do not see any issue with the change in words thanks  
chuck

---

**From:** Hammer, Charles R - DNR  
**Sent:** Tuesday, April 29, 2008 1:39 PM  
**To:** Ledin, Charles R - DNR; Ohm, Judith M - DNR  
**Subject:** RE: Statutory revisions because of the compact

I have a couple of reactions. First, s. 30.18 is the one provision that would have come to mind, had it not been mentioned by them. In looking at that section, my reading is that the word "withhdrawal" can replace "diversion". However, before we sign off on a change to that statute, it would seem best to check in with the program that administers it to 1) see if they know something we don't, and 2) make sure they don't hear about a revision after-the-fact. The two people I would have gone to with this question 6 months ago are Michael Cain and Mel Vollbrecht. I don't know who is the contact now, but if an answer is needed quickly, the safest bet would be Mel.

Second, I agree with you that a list would be good, in case there is a citation out there that isn't coming to mind. The WisLaw software has a search program that works pretty well. Unfortunately, I don't have access to it from home, and was not planning on coming

in for a while.

So, Judy, can you give WisLaw a shot to see if there are any hits that we should think about (hoping that diversion isn't used in too many other contexts)?

Charles R. Hammer  
Staff Attorney  
Bureau of Legal Services  
Wisconsin Department of Natural Resources

Phone: (608) 266-0911  
Fax: (608) 266-6983  
Email: Charles.Hammer@wi.gov

---

From: Ledin, Charles R - DNR  
Sent: Tue 4/29/2008 12:13 PM  
To: Hammer, Charles R - DNR; Ohm, Judith M - DNR  
Subject: Statutory revisions because of the compact

Chuck and Judy John and Becky said they are doing a review of the statutes to find where "diversion" or interbasin transfer are used and are thinking to change all those wordings to be consistent with the new compact legislation definitions. The example they used is to go to 30.18 and change diversion to withdrawal or something like that and John wonders if there are any reasons or any specific statutes where making those changes would disrupt statutory intent or legal histories. My response would be well lets see the list but they asked if we had any specific cases of concern to identify before they do this... hence this  
email to you        thanks    cl



State of Wisconsin  
2007 - 2008 LEGISLATURE

LRBa1727/P1  
RCT:cjs:jf

P2  
J  
kf

Today

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION  
ASSEMBLY AMENDMENT ,  
TO 2007 SENATE BILL 523

1 At the locations indicated, amend the bill, as shown by senate substitute  
2 amendment 1, as follows:

3 1. Page 3, line 25: after that line insert:

4 "SECTION 2b. 30.18 (title) and (2) of the statutes are amended to read:

5 30.18 (title) Diversio n Withdrawal of water from lakes and streams. (2)

6 PERMIT REQUIRED. (a) *Streams*. No person may ~~divert~~ withdraw water from a stream  
7 in this state without an individual permit under this section if the ~~diversion~~  
8 withdrawal meets either of the following conditions:

9 1. The ~~diversion~~ withdrawal is for the purpose of maintaining or restoring the  
10 normal level of a navigable lake or the normal flow of a navigable stream, regardless  
11 of whether the navigable lake or navigable stream is located within the watershed  
12 of the stream from which the water is ~~diverted~~ withdrawn.

1           2. The ~~diversion~~ withdrawal is for the purpose of agriculture or irrigation.

2           (b) *Streams or lakes*. No person, except a person required to obtain an approval  
3 under s. 281.41, may ~~divert~~ withdraw water from any lake or stream in this state  
4 without an individual permit under this section if the ~~diversion~~ withdrawal will  
5 result in a water loss averaging 2,000,000 gallons per day in any 30-day period above  
6 the person's authorized base level of water loss.

7           **SECTION 2e.** 30.18 (3) (a) 1. to 3. of the statutes are amended to read:

8           30.18 (3) (a) 1. Except as provided in par. (b), an applicant for a permit required  
9 under sub. (2) (a) shall file the application with the department setting forth the  
10 name and post-office address of the applicant, the name of the stream from which  
11 the water will be ~~diverted~~ withdrawn, the point in the stream from which it is  
12 proposed to ~~divert~~ withdraw the water, the name of the lake or stream or the location  
13 and riparian status of the land to which the water is to be ~~diverted~~ transferred, the  
14 location and description of the canal, tunnel or pipes and other works through which  
15 the water is to be ~~diverted~~ withdrawn and transferred, the amount of water to be  
16 ~~diverted~~ withdrawn, the periods of time when it is proposed to ~~divert~~ withdraw such  
17 water, the time required for the completion of the canal and other structures  
18 necessary for the completed project and, if required by the department, 4 copies of  
19 plans showing cross sections and profiles for any canal, tunnel, pipes or other  
20 ~~diversion~~ works for withdrawing and transferring the water and any dam and  
21 control works at the point of ~~diversion~~ withdrawal and at the point of discharge.

22           2. For a ~~diversion~~ withdrawal under sub. (2) (a) 1., a map or maps shall  
23 accompany the application with a scale of not less than one inch per 2,000 feet,  
24 showing the land topography and the probable course of the proposed ~~diversion~~ canal

1 and other works, and the ownership of all lands upon which will be located the canal,  
2 tunnel, pipes and all other works for the completed project.

3 3. For a ~~diversion~~ withdrawal under sub. (2) (a) 2., the application shall include  
4 written statements of consent to the ~~diversion~~ withdrawal from all riparian owners  
5 who are making beneficial use of the water proposed to be ~~diverted~~ withdrawn.

6 **SECTION 2h.** 30.18 (3) (b) of the statutes is amended to read:

7 30.18 (3) (b) *Application; streams or lakes.* An application for a permit required  
8 under sub. (2) (b) shall be submitted in the form required under s. 281.35 (5) (a). If  
9 the ~~diversion~~ withdrawal also meets either condition specified under sub. (2) (a), the  
10 application shall also comply with par. (a).

11 **SECTION 2j.** 30.18 (4) (a) of the statutes is amended to read:

12 30.18 (4) (a) Upon receipt of a complete application, the department shall  
13 follow the notice and hearing procedures under s. 30.208 (3) to (5). In addition to  
14 providing notice as required under s. 30.208 (3) to (5), the department shall mail a  
15 copy of the notice to every person upon whose land any part of the canal or any other  
16 structure will be located, to the clerk of the next town downstream, to the clerk of any  
17 village or city in which the lake or stream is located and which is adjacent to any  
18 municipality in which the ~~diversion~~ withdrawal will take place and to each person  
19 specified in s. 281.35 (5) (b) or (6) (f), if applicable.

20 **SECTION 2L.** 30.18 (5) (a) 1. and 2. of the statutes are amended to read:

21 30.18 (5) (a) 1. That the proposed ~~diversion~~ withdrawal will not injure any  
22 public rights in navigable waters.

23 2. That the water to be ~~diverted~~ withdrawn is surplus water, or if it is not  
24 surplus water, that all riparians who may be adversely affected by the ~~diversion~~  
25 withdrawal have consented to the proposed ~~diversion~~ withdrawal.



1           **SECTION 2p.** 30.18 (6) (a) of the statutes is amended to read:

2           30.18 (6) (a) *Contents of permit.* The department shall specify on each permit  
3 issued under this section the quantity of water that may be ~~diverted~~ withdrawn and  
4 the times during which water may be ~~diverted~~ withdrawn. In addition, if the permit  
5 is one which is required under sub. (2) (b), the permit shall comply with s. 281.35 (6).

6           **SECTION 2r.** 30.18 (6m) (a) 1. and 2. of the statutes are amended to read:

7           30.18 (6m) (a) 1. That the water being ~~diverted~~ withdrawn is no longer surplus  
8 water, except that the department may allow the ~~diversion~~ withdrawal to continue  
9 if all riparians adversely affected by the ~~diversion~~ withdrawal continue to consent  
10 to it.

11           2. If the ~~diversion~~ withdrawal is from a stream designated by the department  
12 as a trout stream, that the revocation is desirable for conservation purposes.

13           **SECTION 2u.** 30.18 (6m) (b) of the statutes is amended to read:

14           30.18 (6m) (b) The department may revoke any permit issued under sub. (5)  
15 (a), which is not subject to sub. (2) (b), if it finds that the ~~diversion~~ withdrawal is  
16 detrimental to the stream from which the water is ~~diverted~~ withdrawn.

17           **SECTION 2y.** 30.18 (7) of the statutes is amended to read:

18           30.18 (7) PREREQUISITES TO PROJECT CONSTRUCTION. After an application under  
19 this section has been filed with the department, the applicant may enter any land  
20 through which it is proposed to ~~divert~~ withdraw or transfer the water for the  
21 purposes of making any surveys required for drafting the plans for the project, but  
22 no work shall be commenced on the canal, headworks or other structures necessary  
23 for the project until the plans for the same have been approved by the department.  
24 Any person having received a permit required under sub. (2) (a) may construct upon  
25 the land of another the canal and other works authorized by the permit after the

1 damage which will be sustained by the owner or owners of such land has been  
2 satisfied, or has been determined as provided for in ch. 32, and after the final sum  
3 so determined and all costs have been paid to the persons entitled thereto or to the  
4 clerk of the circuit court on their account.”

Insert →  
5

(END)

2007-2008 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRBa1727/P2ins  
RCT:.....

Insert

1. Page 144, line 2: after that line insert:

"SECTION 38d. 293.65 (title), (1), (2) (title), (a), and (b) of the statutes are amended to read:

~~X~~ 293.65 (title) ~~Diversion~~ Withdrawal of surface waters; withdrawal of groundwater; damage claims. (1) SCOPE. This section governs the withdrawal or ~~diversion~~ of groundwaters or surface waters by persons engaged in prospecting or mining. Discharges of waters are subject to ch. 283, construction of necessary dams or other structures is subject to chs. 30 and 31 and construction of wells is subject to ch. 280, to the extent applicable.

History: 1977 c. 420; 1979 c. 221; 1981 c. 86 ss. 38 to 54, 64; Stats. 1981 s. 144.855; 1985 a. 60 s. 24; 1987 a. 374; 1993 a. 16; 1995 a. 227 s. 783; Stats. 1995 s. 293.65; 2003 a. 310.

(2) (title) ~~DIVERSION~~ WITHDRAWAL OF SURFACE WATER; PERMIT REQUIRED. (a) Any person intending to ~~divert~~ withdraw surface waters for prospecting or mining shall apply to the department for a permit. The forms and procedures used under s. 30.18 apply to the extent practicable.

History: 1977 c. 420; 1979 c. 221; 1981 c. 86 ss. 38 to 54, 64; Stats. 1981 s. 144.855; 1985 a. 60 s. 24; 1987 a. 374; 1993 a. 16; 1995 a. 227 s. 783; Stats. 1995 s. 293.65; 2003 a. 310.

(b) The department, upon receipt of an application for a permit, shall determine the minimum stream flow or lake level necessary to protect public rights, the minimum flow or level necessary to protect the rights of affected riparians, the point downstream beyond which riparian rights are not likely to be injured by the proposed ~~diversion~~ withdrawal and the amount of surplus water, as defined in s. 30.01 (6d), if any, at the point of the proposed ~~diversion~~ withdrawal.

History: 1977 c. 420; 1979 c. 221; 1981 c. 86 ss. 38 to 54, 64; Stats. 1981 s. 144.855; 1985 a. 60 s. 24; 1987 a. 374; 1993 a. 16; 1995 a. 227 s. 783; Stats. 1995 s. 293.65; 2003 a. 310.

SECTION 38e. 293.65 (2) (c) 1. of the statutes is amended to read:

293.65 (2) (c) 1. The public rights in the lake or stream and the related environment which may be injured by the proposed ~~diversion~~ withdrawal;

**History:** 1977 c. 420; 1979 c. 221; 1981 c. 86 ss. 38 to 54, 64; Stats. 1981 s. 144.855; 1985 a. 60 s. 24; 1987 a. 374; 1993 a. 16; 1995 a. 227 s. 783; Stats. 1995 s. 293.65; 2003 a. 310.

**SECTION 38f.** 293.65 (2) (d) 2. of the statutes is amended to read:

293.65 (2) (d) 2. If the proposed ~~diversion~~ withdrawal will consume nonsurplus waters, and will unreasonably injure rights of riparians identified by par. (b) who are beneficially using such waters, the permit shall be denied unless a permit is granted under par. (e) or all such riparians consent to the proposed ~~diversion~~ withdrawal.

**History:** 1977 c. 420; 1979 c. 221; 1981 c. 86 ss. 38 to 54, 64; Stats. 1981 s. 144.855; 1985 a. 60 s. 24; 1987 a. 374; 1993 a. 16; 1995 a. 227 s. 783; Stats. 1995 s. 293.65; 2003 a. 310.

**SECTION 38g.** 293.65 (2) (e) of the statutes is amended to read:

293.65 (2) (e) The department may require modification of a proposed ~~diversion~~ withdrawal so as to avoid injury to public or riparian rights, and as modified, may grant the permit.

**History:** 1977 c. 420; 1979 c. 221; 1981 c. 86 ss. 38 to 54, 64; Stats. 1981 s. 144.855; 1985 a. 60 s. 24; 1987 a. 374; 1993 a. 16; 1995 a. 227 s. 783; Stats. 1995 s. 293.65; 2003 a. 310.

**SECTION 38h.** 293.65 (2) (f) of the statutes is amended to read:

293.65 (2) (f) Water ~~diverted~~ withdrawn in accordance with a permit issued under this subsection may be used on nonriparian property.

**History:** 1977 c. 420; 1979 c. 221; 1981 c. 86 ss. 38 to 54, 64; Stats. 1981 s. 144.855; 1985 a. 60 s. 24; 1987 a. 374; 1993 a. 16; 1995 a. 227 s. 783; Stats. 1995 s. 293.65; 2003 a. 310.

**SECTION 38i.** 293.65 (2) (h) of the statutes is amended to read:

293.65 (2) (h) Hearings on applications for ~~diversion~~ withdrawal permits under this subsection shall be preceded by mailed notice to all parties or affected persons and by publication in the affected area of a class 2 notice, under ch. 985. Hearings may be conducted as part of a hearing on an application for a mining permit under s. 293.37.”.

**History:** 1977 c. 420; 1979 c. 221; 1981 c. 86 ss. 38 to 54, 64; Stats. 1981 s. 144.855; 1985 a. 60 s. 24; 1987 a. 374; 1993 a. 16; 1995 a. 227 s. 783; Stats. 1995 s. 293.65; 2003 a. 310.



State of Wisconsin  
LEGISLATIVE REFERENCE BUREAU

**RESEARCH APPENDIX -**  
**PLEASE DO NOT REMOVE FROM DRAFTING FILE**

Date Transfer Requested: 05/09/2008 (Per: RCT)

**☛ Compile Draft – Appendix Q**

- |   |   |
|---|---|
| A = The 2002 drafting file for LRBa1595 | J = The 2002 drafting file for LRBa1701 |
| B = The 2002 drafting file for LRBa1694 | K = The 2002 drafting file for LRBa1704 |
| C = The 2002 drafting file for LRBa1696 | L = The 2002 drafting file for LRBa1705 |
| D = The 2002 drafting file for LRBa1697 | M = The 2002 drafting file for LRBa1706 |
| E = The 2002 drafting file for LRBa1698 | N = The 2002 drafting file for LRBa1707 |
| F = The 2002 drafting file for LRBa1699 | O = The 2002 drafting file for LRBa1708 |
| G = The 2002 drafting file for LRBa1700 | P = The 2002 drafting file for LRBa1709 |
| H = The 2002 drafting file for LRBa1701 | Q = The 2002 drafting file for LRBa1727 |
| I = The 2002 drafting file for LRBa1702 |   |

2007 LRBa1727 has been copied/added to the drafting file for

**LRB a1729** Superamendment used to create

LRB-4360 ( ) & LRB-4367 (Ap8 SB-1)



State of Wisconsin  
2007 - 2008 LEGISLATURE

LRBa1727/P2  
RCT:cjs&kjf:nnw

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION  
ASSEMBLY AMENDMENT ,  
TO 2007 SENATE BILL 523

1           At the locations indicated, amend the bill, as shown by senate substitute  
2 amendment 1, as follows:

3           **1.** Page 3, line 25: after that line insert:

4           “**SECTION 2b.** 30.18 (title) and (2) of the statutes are amended to read:

5           **30.18** (title) ~~Diversien~~ **Withdrawal** of water from lakes and streams. (2)  
6 PERMIT REQUIRED. (a) *Streams*. No person may ~~divert~~ withdraw water from a stream  
7 in this state without an individual permit under this section if the ~~diversien~~  
8 withdrawal meets either of the following conditions:

9           1. The ~~diversien~~ withdrawal is for the purpose of maintaining or restoring the  
10 normal level of a navigable lake or the normal flow of a navigable stream, regardless  
11 of whether the navigable lake or navigable stream is located within the watershed  
12 of the stream from which the water is ~~diverted~~ withdrawn.

1           2. The ~~diversion~~ withdrawal is for the purpose of agriculture or irrigation.

2           (b) *Streams or lakes.* No person, except a person required to obtain an approval  
3 under s. 281.41, may ~~divert~~ withdraw water from any lake or stream in this state  
4 without an individual permit under this section if the ~~diversion~~ withdrawal will  
5 result in a water loss averaging 2,000,000 gallons per day in any 30-day period above  
6 the person's authorized base level of water loss.

7           **SECTION 2e.** 30.18 (3) (a) 1. to 3. of the statutes are amended to read:

8           30.18 (3) (a) 1. Except as provided in par. (b), an applicant for a permit required  
9 under sub. (2) (a) shall file the application with the department setting forth the  
10 name and post-office address of the applicant, the name of the stream from which  
11 the water will be ~~diverted~~ withdrawn, the point in the stream from which it is  
12 proposed to ~~divert~~ withdraw the water, the name of the lake or stream or the location  
13 and riparian status of the land to which the water is to be ~~diverted~~ transferred, the  
14 location and description of the canal, tunnel or pipes and other works through which  
15 the water is to be ~~diverted~~ withdrawn and transferred, the amount of water to be  
16 ~~diverted~~ withdrawn, the periods of time when it is proposed to ~~divert~~ withdraw such  
17 water, the time required for the completion of the canal and other structures  
18 necessary for the completed project and, if required by the department, 4 copies of  
19 plans showing cross sections and profiles for any canal, tunnel, pipes or other  
20 ~~diversion~~ works for withdrawing and transferring the water and any dam and  
21 control works at the point of ~~diversion~~ withdrawal and at the point of discharge.

22           2. For a ~~diversion~~ withdrawal under sub. (2) (a) 1., a map or maps shall  
23 accompany the application with a scale of not less than one inch per 2,000 feet,  
24 showing the land topography and the probable course of the proposed ~~diversion~~ canal

1 and other works, and the ownership of all lands upon which will be located the canal,  
2 tunnel, pipes and all other works for the completed project.

3 3. For a ~~diversion~~ withdrawal under sub. (2) (a) 2., the application shall include  
4 written statements of consent to the ~~diversion~~ withdrawal from all riparian owners  
5 who are making beneficial use of the water proposed to be ~~diverted~~ withdrawn.

6 **SECTION 2h.** 30.18 (3) (b) of the statutes is amended to read:

7 30.18 (3) (b) *Application; streams or lakes.* An application for a permit required  
8 under sub. (2) (b) shall be submitted in the form required under s. 281.35 (5) (a). If  
9 the ~~diversion~~ withdrawal also meets either condition specified under sub. (2) (a), the  
10 application shall also comply with par. (a).

11 **SECTION 2j.** 30.18 (4) (a) of the statutes is amended to read:

12 30.18 (4) (a) Upon receipt of a complete application, the department shall  
13 follow the notice and hearing procedures under s. 30.208 (3) to (5). In addition to  
14 providing notice as required under s. 30.208 (3) to (5), the department shall mail a  
15 copy of the notice to every person upon whose land any part of the canal or any other  
16 structure will be located, to the clerk of the next town downstream, to the clerk of any  
17 village or city in which the lake or stream is located and which is adjacent to any  
18 municipality in which the ~~diversion~~ withdrawal will take place and to each person  
19 specified in s. 281.35 (5) (b) or (6) (f), if applicable.

20 **SECTION 2L.** 30.18 (5) (a) 1. and 2. of the statutes are amended to read:

21 30.18 (5) (a) 1. That the proposed ~~diversion~~ withdrawal will not injure any  
22 public rights in navigable waters.

23 2. That the water to be ~~diverted~~ withdrawn is surplus water, or if it is not  
24 surplus water, that all riparians who may be adversely affected by the ~~diversion~~  
25 withdrawal have consented to the proposed ~~diversion~~ withdrawal.



1           **SECTION 2p.** 30.18 (6) (a) of the statutes is amended to read:

2           30.18 (6) (a) *Contents of permit.* The department shall specify on each permit  
3 issued under this section the quantity of water that may be ~~diverted~~ withdrawn and  
4 the times during which water may be ~~diverted~~ withdrawn. In addition, if the permit  
5 is one which is required under sub. (2) (b), the permit shall comply with s. 281.35 (6).

6           **SECTION 2r.** 30.18 (6m) (a) 1. and 2. of the statutes are amended to read:

7           30.18 (6m) (a) 1. That the water being ~~diverted~~ withdrawn is no longer surplus  
8 water, except that the department may allow the ~~diversion~~ withdrawal to continue  
9 if all riparians adversely affected by the ~~diversion~~ withdrawal continue to consent  
10 to it.

11           2. If the ~~diversion~~ withdrawal is from a stream designated by the department  
12 as a trout stream, that the revocation is desirable for conservation purposes.

13           **SECTION 2u.** 30.18 (6m) (b) of the statutes is amended to read:

14           30.18 (6m) (b) The department may revoke any permit issued under sub. (5)  
15 (a), which is not subject to sub. (2) (b), if it finds that the ~~diversion~~ withdrawal is  
16 detrimental to the stream from which the water is ~~diverted~~ withdrawn.

17           **SECTION 2y.** 30.18 (7) of the statutes is amended to read:

18           30.18 (7) PREREQUISITES TO PROJECT CONSTRUCTION. After an application under  
19 this section has been filed with the department, the applicant may enter any land  
20 through which it is proposed to ~~divert~~ withdraw or transfer the water for the  
21 purposes of making any surveys required for drafting the plans for the project, but  
22 no work shall be commenced on the canal, headworks or other structures necessary  
23 for the project until the plans for the same have been approved by the department.  
24 Any person having received a permit required under sub. (2) (a) may construct upon  
25 the land of another the canal and other works authorized by the permit after the

1 damage which will be sustained by the owner or owners of such land has been  
2 satisfied, or has been determined as provided for in ch. 32, and after the final sum  
3 so determined and all costs have been paid to the persons entitled thereto or to the  
4 clerk of the circuit court on their account.”.

5 **2.** Page 144, line 2: after that line insert:

6 “**SECTION 38d.** 293.65 (title), (1), (2) (title), (a), and (b) of the statutes are  
7 amended to read:

8 **293.65 (title) Diversion Withdrawal of surface waters; withdrawal of**  
9 **groundwater; damage claims.** (1) SCOPE. This section governs the withdrawal  
10 ~~or diversion~~ of groundwaters or surface waters by persons engaged in prospecting or  
11 mining. Discharges of waters are subject to ch. 283, construction of necessary dams  
12 or other structures is subject to chs. 30 and 31 and construction of wells is subject to  
13 ch. 280, to the extent applicable.

14 (2) (title) ~~DIVERSION~~ WITHDRAWAL OF SURFACE WATER; PERMIT REQUIRED. (a) Any  
15 person intending to ~~divert~~ withdraw surface waters for prospecting or mining shall  
16 apply to the department for a permit. The forms and procedures used under s. 30.18  
17 apply to the extent practicable.

18 (b) The department, upon receipt of an application for a permit, shall determine  
19 the minimum stream flow or lake level necessary to protect public rights, the  
20 minimum flow or level necessary to protect the rights of affected riparians, the point  
21 downstream beyond which riparian rights are not likely to be injured by the proposed  
22 ~~diversion~~ withdrawal and the amount of surplus water, as defined in s. 30.01 (6d),  
23 if any, at the point of the proposed ~~diversion~~ withdrawal.

24 **SECTION 38e.** 293.65 (2) (c) 1. of the statutes is amended to read:

1           293.65 (2) (c) 1. The public rights in the lake or stream and the related  
2 environment which may be injured by the proposed ~~diversion~~ withdrawal;

3           **SECTION 38f.** 293.65 (2) (d) 2. of the statutes is amended to read:

4           293.65 (2) (d) 2. If the proposed ~~diversion~~ withdrawal will consume nonsurplus  
5 waters, and will unreasonably injure rights of riparians identified by par. (b) who are  
6 beneficially using such waters, the permit shall be denied unless a permit is granted  
7 under par. (e) or all such riparians consent to the proposed ~~diversion~~ withdrawal.

8           **SECTION 38g.** 293.65 (2) (e) of the statutes is amended to read:

9           293.65 (2) (e) The department may require modification of a proposed ~~diversion~~  
10 withdrawal so as to avoid injury to public or riparian rights, and as modified, may  
11 grant the permit.

12           **SECTION 38h.** 293.65 (2) (f) of the statutes is amended to read:

13           293.65 (2) (f) Water ~~diverted~~ withdrawn in accordance with a permit issued  
14 under this subsection may be used on nonriparian property.

15           **SECTION 38i.** 293.65 (2) (h) of the statutes is amended to read:

16           293.65 (2) (h) Hearings on applications for ~~diversion~~ withdrawal permits under  
17 this subsection shall be preceded by mailed notice to all parties or affected persons  
18 and by publication in the affected area of a class 2 notice, under ch. 985. Hearings  
19 may be conducted as part of a hearing on an application for a mining permit under  
20 s. 293.37.”.

21

(END)