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Details:

(FORM UPDATED: 08/11/2010)

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

**2009-10**

(session year)

**Assembly**

(Assembly, Senate or Joint)

**Committee on ... Natural Resources  
(AC-NR)**

**COMMITTEE NOTICES ...**

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**
- Record of Comm. Proceedings ... **RCP**

**INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL**

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

**Assembly**

**Record of Committee Proceedings**

**Committee on Natural Resources**

**Assembly Bill 636**

Relating to: the use of metal detectors on certain land and in lakes and the removal of items found on that land or in those lakes.

By Representatives Hixson, Suder, Townsend, Van Akkeren, Ballweg and Hilgenberg; cosponsored by Senators Kreitlow, Holperin, Taylor and Schultz.

December 18, 2009 Referred to Committee on Natural Resources.

April 22, 2010 Failed to pass pursuant to Senate Joint Resolution 1.

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John Maycroft  
Committee Clerk





Date ?

## Ho-Chunk Nation Position Statement Regarding SB-432 and AB-636: Metal Detector Bills

**Introduction:** The Ho-Chunk Nation, a federally-recognized Indian tribe comprised of over 6,700 enrolled tribal members, once held title to over 10.5 million acres, most of which is present-day Wisconsin. The Ho-Chunk have occupied the Wisconsin area since time immemorial.

Burials, mounds, petroglyphs, caves, rock art, archaeological sites and historic districts are well-documented evidence of intense and consistent Ho-Chunk pre-historic and historic occupation in the state. Many Ho-Chunk campsites and village sites abut waterways and lakesides – many of which are presently owned by the Wisconsin Department of Natural Resources (WDNR). Thus, the Nation has a significant interest in historic preservation efforts on WDNR properties.

**Issue:** Wisconsin statutes are clear. Wisconsin statutes §44.30 states the public policy: “[t]he legislature finds that **the historic, architectural, archaeological and cultural heritage of the state is among the most important assets of the state and furthermore that the social, economic and physical development of contemporary society threatens to destroy the remaining vestiges of this heritage...**” Further, Wisconsin Statutes § 44.47 reserves the state the right to all field archaeology on state sites and §44.47(5) reserves the state the title to all objects recovered on state sites. In 2008, the WDNR posted a new policy limiting metal detector use on DNR land to recover personal items. Special interest groups including hobby “treasure hunters”, local and national metal detector recreational use organizations and metal detector manufacturers have expressed opposition to the WDNR policy as an infringement to their ability to observe recreational “rights” to metal detect on state lands. As a result, SB-432 and AB-636 is under consideration and authorizes metal detecting and digging on known and unknown historic sites located on WDNR properties. The legislation directly threatens the protection and preservation of historical, archaeological, traditional and cultural resources that lie in the expansive aboriginal and ancestral Ho-Chunk territory.

**Position Statement:** The Ho-Chunk Nation officially opposes SB-432 and AB-636 for the following reasons:

1. Prior to the 2008 WDNR policy, the WDNR observed an unenforceable and thus, inadequate policy to deter unbridled archaeology and looting of state lands for artifacts. The new policy is a step in the right direction to curb activities contrary to public policy and statute.
2. Protection of Ho-Chunk cultural resources, artifacts and potentially human remains should receive the same or better protection and enforcement as other state public resources (for example, consider the extensive protections provided to preserve the Karner Blue butterfly).
3. Culturally rich sites on public lands are held in the public trust and the state’s public policy is correct – their existence and preservation thereof is to benefit the many, not the special interests.
4. The bills are directly inconsistent with Wis. Stats. § 44.47 that limits active field archaeology to the state or under an authorized permit.
5. The bills, as written, are unenforceable and impractical for three reasons: (a) the language does not authorize the WDNR to implement any process for effectively limiting metal detecting on WDNR land, (b) the State’s budget does not and likely will not adequately support the necessary enforcement needed to minimize the destruction and looting of cultural resources, and (c) the language is internally inconsistent by exempting

“historically significant” sites from metal detector activities, as it prohibits the WDNR from denying permit applications where the exemption would be reviewed and applied - thus, exempting “historical sites” in the approval process is meaningless.

6. If the bills pass, the impact is completely adverse to the state’s interests as mentioned above and the Ho-Chunk Nation and its commitment to protect and preserve the cultural resources of the Nation. The legislation effectively sanctifies unlicensed, unbridled and unpermitted disturbance and destruction of cultural resources sacred to the Ho-Chunk Nation. Further, the legislation opens the door for looting and theft of Ho-Chunk cultural resources.

The Ho-Chunk Nation is willing to meet with state legislators or committees to further discuss our position and if need be, devise language that addresses our concerns. Please contact Thomas Springer at (608) 258-7130 or [tspringer@whdlaw.com](mailto:tspringer@whdlaw.com) for further information.