

☛ 11hr_AC-NR_ab0010(Ja1)_pt01



☛ January 2011 Special Session Assembly Bill 10

(FORM UPDATED: 08/11/2010)

WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

2011-12

(session year)

Assembly

(Assembly, Senate or Joint)

Committee on Natural Resources...

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**

* Contents organized for archiving by: Stefanie Rose (LRB) (August 2013)

Assembly

Record of Committee Proceedings

Committee on Natural Resources

January 2011 Special Session Assembly Bill 10

Relating to: an exemption from water quality standards for wetlands and from certain other regulatory provisions concerning water quality and surface water use that apply to a wetland area in Brown County; and review of certain changes to shoreland, wetland, and floodplain zoning ordinances that apply to a wetland area in Brown County.

By Committee on Assembly Organization, by request of Governor Scott Walker.

January 24, 2011 Referred to Committee on Natural Resources.

January 26, 2011 **PUBLIC HEARING HELD**

Present: (13) Representatives Mursau, Rivard, Williams, Kleefisch, Nerison, J. Ott, Severson, Steineke, Tiffany, Molepske Jr, Danou, Milroy and Hulsey.

Absent: (2) Representatives Mason and Clark.

Excused: (0) None.

Appearances For

- Paul Kent, Madison — John Bergstrom

Appearances Against

- Erin O'Brien, Madison — Wisconsin Wetlands Association
- Carl Sinderbrand, Madison — Wisconsin Wetlands Association
- George Meyer, Madison — Wisconsin Wildlife Federation
- George Meyer, Madison — Ducks Unlimited
- Don Hammes — Wisconsin Wildlife Federation
- Jennifer Giegerich, Madison — Wisconsin League of Conservation Voters
- Stefi Harris, Mount Horeb — Western Dane Coalition for Smart Growth and Environment
- Arnold Harris, Mount Horeb — Western Dane Coalition for Smart Growth and Environment
- Lori Grant, Madison — River Alliance of Wisconsin
- Kim Right, Madison — Midwest Environmental Advocates
- Shahla Werner, Madison — Sierra Club
- Richard Reinke, Madison

Appearances for Information Only

- Bruce Baker — Wisconsin Department of Natural Resources

Registrations For

- None.

Registrations Against

- Terese Berceau, Madison — Representative, 76th Assembly District
- Casey Eggelston, Madison — The Nature Conservancy
- Amber Meyer Smith — Clean Wisconsin
- Cheryl Nenn, Milwaukee — The Milwaukee River Keeper
- Mary Linton, Fort Atkinson
- Marsha Cannon, Madison
- Peter Cannon, Madison
- Michael Vickerman, Madison
- Amelia Williams, Cross Plains
- Frank Iltis, Madison
- Amy Ihlenfeldt, Madison
- Ricardo Jomarron, Madison

Registrations for Information Only

- None.

January 27, 2011

EXECUTIVE SESSION HELD

Present: (15) Representatives Mursau, Rivard, Williams, Kleefisch, Nerison, J. Ott, Severson, Steineke, Tiffany, Mason, Molepske Jr, Danou, Clark, Milroy and Hulsey.

Absent: (0) None.

Excused: (0) None.

Moved by Representative Steineke, seconded by Representative Severson that **Assembly Amendment 4** be recommended for adoption.

Ayes: (15) Representatives Mursau, Rivard, Williams, Kleefisch, Nerison, J. Ott, Severson, Steineke, Tiffany, Mason, Molepske Jr, Danou, Clark, Milroy and Hulsey.

Noes: (0) None.

ASSEMBLY AMENDMENT 4 ADOPTION RECOMMENDED,
Ayes 15, Noes 0

Moved by Representative Hulsey, seconded by Representative Danou that **Assembly Amendment 1** be recommended for adoption.

- Ayes: (6) Representatives Mason, Molepske Jr, Danou, Clark, Milroy and Hulsey.
Noes: (9) Representatives Mursau, Rivard, Williams, Kleefisch, Nerison, J. Ott, Severson, Steineke and Tiffany.

ASSEMBLY AMENDMENT 1 ADOPTION NOT RECOMMENDED, Ayes 6, Noes 9

Moved by Representative Molepske Jr, seconded by Representative Clark that **Assembly Amendment 2** be recommended for adoption.

- Ayes: (6) Representatives Mason, Molepske Jr, Danou, Clark, Milroy and Hulsey.
Noes: (9) Representatives Mursau, Rivard, Williams, Kleefisch, Nerison, J. Ott, Severson, Steineke and Tiffany.

ASSEMBLY AMENDMENT 2 ADOPTION NOT RECOMMENDED, Ayes 6, Noes 9

Moved by Representative Molepske Jr, seconded by Representative Danou that **Oral amendment** be recommended for Oral amendment by Representative Danou requiring all patrons of business operating on affected property receive a free fishing license from the State of Wisconsin.

- Ayes: (4) Representatives Molepske Jr, Danou, Clark and Hulsey.
Noes: (11) Representatives Mursau, Rivard, Williams, Kleefisch, Nerison, J. Ott, Severson, Steineke, Tiffany, Mason and Milroy.

ORAL AMENDMENT BY REPRESENTATIVE DANOU REQUIRING ALL PATRONS OF BUSINESS OPERATING ON AFFECTED PROPERTY RECEIVE A FREE FISHING LICENSE FROM THE STATE OF WISCONSIN NOT RECOMMENDED, Ayes 4, Noes 11

Moved by Representative Molepske Jr, seconded by Representative Danou that **Assembly Amendment 5** be recommended for adoption.

- Ayes: (6) Representatives Mason, Molepske Jr, Danou, Clark, Milroy and Hulsey.
Noes: (9) Representatives Mursau, Rivard, Williams, Kleefisch, Nerison, J. Ott, Severson, Steineke and Tiffany.

ASSEMBLY AMENDMENT 5 ADOPTION NOT RECOMMENDED, Ayes 6, Noes 9

Moved by Representative Kleefisch, seconded by Representative Steineke that **January 2011 Special Session Assembly Bill 10** be recommended for passage as amended.

- Ayes: (9) Representatives Mursau, Rivard, Williams, Kleefisch, Nerison, J. Ott, Severson, Steineke and Tiffany.
Noes: (6) Representatives Mason, Molepske Jr, Danou, Clark, Milroy and Hulsey.

PASSAGE AS AMENDED RECOMMENDED, Ayes 9, Noes 6



Tim Gary
Committee Clerk

Vote Record Committee on Natural Resources

Date: January 27, 2011

Moved by: Hulsey Seconded by: Danou

AB SS AB 10 SB _____ Clearinghouse Rule _____
 AJR _____ SJR _____ Appointment _____
 AR _____ SR _____ Other _____

A/S Amdt 1
 A/S Amdt _____ to A/S Amdt _____
 A/S Sub Amdt _____
 A/S Amdt _____ to A/S Sub Amdt _____
 A/S Amdt _____ to A/S Amdt _____ to A/S Sub Amdt _____

Be recommended for:
 Passage Adoption Confirmation Concurrence Indefinite Postponement
 Introduction Rejection Tabling Nonconcurrence

<u>Committee Member</u>	<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
Representative Jeffrey Mursau, Chair	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Roger Rivard	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Mary Williams	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Joel Kleefisch	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Lee Nerison	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Jim Ott	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Erik Severson	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Jim Steineke	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Thomas Tiffany	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Cory Mason	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Louis Molepske Jr	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Chris Danou	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Fred Clark	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Nick Milroy	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Brett Hulsey	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Totals:	<u>6</u>	<u>1</u>	_____	_____

Motion Carried Motion Failed

Vote Record Committee on Natural Resources

Date: January 27, 2011

Moved by: Molepske Seconded by: Clark

AB SS AB 10 SB _____ Clearinghouse Rule _____
 AJR _____ SJR _____ Appointment _____
 AR _____ SR _____ Other _____

A/S Amdt 2
 A/S Amdt _____ to A/S Amdt _____
 A/S Sub Amdt _____
 A/S Amdt _____ to A/S Sub Amdt _____
 A/S Amdt _____ to A/S Amdt _____ to A/S Sub Amdt _____

Be recommended for:
 Passage Adoption Confirmation Concurrence Indefinite Postponement
 Introduction Rejection Tabling Nonconcurrence

<u>Committee Member</u>	<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
Representative Jeffrey Mursau, Chair	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Roger Rivard	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Mary Williams	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Joel Kleefisch	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Lee Nerison	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Jim Ott	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Erik Severson	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Jim Steineke	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Thomas Tiffany	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Cory Mason	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Louis Molepske Jr	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Chris Danou	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Fred Clark	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Nick Milroy	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Brett Hulsey	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Totals:	<u>6</u>	<u>9</u>	_____	_____

Motion Carried Motion Failed

Vote Record Committee on Natural Resources

Date: January 27, 2011

Moved by: Molepske Seconded by: Danou

AB SS AB 10 SB _____ Clearinghouse Rule _____
 AJR _____ SJR _____ Appointment _____
 AR _____ SR _____ Other _____

A/S Amdt 3
 A/S Amdt _____ to A/S Amdt _____
 A/S Sub Amdt _____
 A/S Amdt _____ to A/S Sub Amdt _____
 A/S Amdt _____ to A/S Amdt _____ to A/S Sub Amdt _____

- Be recommended for:
- Passage Adoption Confirmation Concurrence Indefinite Postponement
 - Introduction Rejection Tabling Nonconcurrence

<u>Committee Member</u>	<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
Representative Jeffrey Mursau, Chair	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Roger Rivard	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Mary Williams	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Joel Kleefisch	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Lee Nerison	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Jim Ott	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Erik Severson	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Jim Steineke	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Thomas Tiffany	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Cory Mason	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Louis Molepske Jr	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Chris Danou	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Fred Clark	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Nick Milroy	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Brett Hulsey	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Totals: 6 9 _____ _____

Motion Carried Motion Failed

Vote Record Committee on Natural Resources

Date: January 27, 2011

Moved by: Molepske Seconded by: Danou

AB SS AB 10 _____ SB _____ Clearinghouse Rule _____
 AJR _____ SJR _____ Appointment _____
 AR _____ SR _____ Other _____

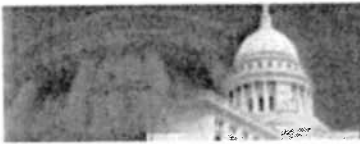
A/S Amdt 5 _____
 A/S Amdt _____ to A/S Amdt _____
 A/S Sub Amdt _____
 A/S Amdt _____ to A/S Sub Amdt _____
 A/S Amdt _____ to A/S Amdt _____ to A/S Sub Amdt _____

- Be recommended for:
- Passage Adoption Confirmation Concurrence Indefinite Postponement
 - Introduction Rejection Tabling Nonconcurrence

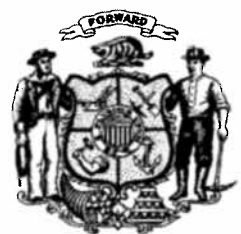
<u>Committee Member</u>	<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
Representative Jeffrey Mursau, Chair	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Roger Rivard	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Mary Williams	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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Representative Lee Nerison	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Jim Ott	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Erik Severson	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Jim Steineke	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Thomas Tiffany	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Cory Mason	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Louis Molepske Jr	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Chris Danou	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Fred Clark	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Nick Milroy	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Brett Hulsey	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Totals: 4 1 _____ _____

Motion Carried Motion Failed



WISCONSIN STATE LEGISLATURE



Hulsey, Brett

From: "Brand, Jon C - DNR"

Sent: Friday, July 02, 2010 8:41 AM

To: "Baker, Bruce J - DNR"; "Rasmussen, Russell A - DNR"; "Kazmierczak, Ronald - DNR"

Cc: "Stoll, Richard C - DNR"; "Lehmann Kerler, Liesa K - DNR"; "Brand, Jon C - DNR"

Subject: Comments/Recommendations for Bergstrom Corp. Wetland WQC IP-NE-2010-5-01621

The following are my comments/recommendations pertaining to the application for wetland water quality certification.

At this time based on my review, which included comments and a recommendation from Dick Nikolai - wildlife biologist I question whether the proposed project meets the required standards in NR 103.

Granting WQC for this project may set a precedent for future Department review of similar development associated with potential wetlands impact. Based on awareness of this decision, it may become increasingly difficult to maintain the integrity of the wetland program.

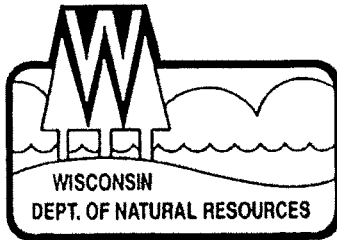
The latest revised proposal states that 1.65 acres of wetland would be impacted/filled.

These are comments/reservations regarding the proposed project.

- The applicant has identified 11.39 acres of upland on the property that has the potential for development. There is adequate acreage/square footage for a large size commercial development.
- The wetland functional value is considered to be high. The wetland type had largely been identified to be "sedge meadow". Comments from Dick Nikolai express the value of this wetland. Placement of fill in 1.65 acres of this wetland would have a significant adverse impact on this wetlands functional value.
- There appears to be an alternative that meets the applicants criteria for location. The criteria stated in the application is that the business be located adjacent to, and have direct access to a U.S. highway exit. The location at STH 29 and USH 41 meets the location and size criteria. It is my understanding that this property is available.

Jon Brand
Water Management Specialist
Green Bay Basin
(920) 662-5466





State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Jim Doyle, Governor
Matthew J. Frank, Secretary
Ronald W. Kazmierczak, Regional Director

Northeast Region Headquarters
2984 Shawano Ave., P.O. Box 10448
Green Bay, Wisconsin 54307-0448
Telephone 920-662-5100
FAX 920-662-5413
TTY Access via relay - 711

July 15, 2010

IP-NE-2010-5-01621

Bergstrom Corporation
John Bergstrom
150 N. Green Bay Road
Neenah, WI 54956

CORRECTED VERSION
Replaces July 14, 2010 Version

Dear Mr. Bergstrom:

The Department has completed review of your proposal for a commercial development and wetland enhancement project in the Village of Ashwaubenon, Brown County. Enclosed is a State Water Quality Certification, which approves your project and lists the conditions which must be followed. Please read your certification carefully so that you are fully aware of what is expected of you.

As a condition of the State Water Quality Certification, state law requires that you:

- Publish the enclosed certification as a Class I Notice, at your expense, in the Green Bay Press Gazette.
- Obtain, and send to me at the above address, an affidavit of publication from the newspaper to provide proof of publication.

This Water Quality Certification decision becomes final 30 days after the date of publication, unless an objection is filed and a hearing is requested. We will contact you only if a hearing is requested.

If you have any questions, please call me at (608) 266-1902.

Sincerely,

Bruce Baker
Water Division Administrator

cc: Ginny Plumeau, Cedarburg Science
Heather Patti, RA Smith
Jon Brand, DNR-Green Bay
Cheryl Bougie, DNR-Green Bay
Linda Kurtz, U.S. Army Corps of Engineers
Steve Birr, Village of Ashwaubenon

Notice of Water Quality Certification
Docket # IP-NE-2010-5-01621

John Bergstrom, 150 N. Green Bay Road, Neenah, WI 54956, has filed an application with the Wisconsin Department of Natural Resources for water quality certification under Section 281.36, Wisconsin Statutes, Section 281.15, Wisconsin Statutes, and Chapter NR 299, Wisconsin Administrative Code.

The project is located in the In the NW1/4 of Section 33, Township 24 North, Range 20 East, Village of Ashwaubenon, Brown County. The property is a 20.83 acre parcel located immediately south of Lombardi Avenue, between US Highway 41 and Argonne Street. The property consists of 11.49 acres of upland, and 9.34 acres of wetland. The wetlands are located within a Special Wetland Inventory Study area.

The applicant proposed a project which consists of commercial development and wetland enhancement. The proposed commercial development includes construction of an outdoor recreational sports retail building, parking area, access roads and stormwater bioretention facilities. The original application proposed 2.51 acres of wetland fill in conjunction with the commercial development; the modified project plan involves a maximum of 1.65 acres of wetland fill. The proposed wetland enhancement includes management/removal of invasive plant species, maintenance of wetland hydrology, construction of walking paths and wetland educational signs, and deed restrictions for the remaining approximately 7.69 acres of wetland on the subject property. The applicant also proposes to create or restore 4 acres of wetland on a separate property in the vicinity.

The Department has evaluated this proposal and determined that this activity will meet the standards found in Section NR 299.04, Wis. Admin. Code, and certification is granted.

If you would like to know more about this project, contact Jon Brand, 2984 Shawano Avenue, Green Bay, WI 54313-6727. Reasonable accommodation, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request.

CONDITIONS

1. The applicant shall notify the Wisconsin Department of Natural Resources of the intent to start the discharge at least five business days prior to the beginning of the discharge. Within 5 business days after the completion of the discharge, the applicant shall notify the Department of Natural Resources of the completion of the discharge.
2. The applicant shall allow the Wisconsin Department of Natural Resources reasonable entry and access to the discharge site to inspect the discharge for compliance with the certification and applicable laws.
3. The applicant is responsible for obtaining any permit or approval required by municipal zoning ordinances or by the Corps of Engineers before starting the project.
4. Authorization hereby granted by the Department is not transferable for any other project or property owner.

5. The applicant shall submit an updated Commercial Development project plan by September 1, 2010, for Department review and approval. The updated plan shall further minimize wetland fill in the northwest portion of the northern wetland.
6. The applicant shall submit a Wetland Enhancement project plan for the northern and southern wetlands by September 1, 2010, for Department review and approval. The plan shall include the following:
 - a. Invasive Species Management – a plan for removal of glossy buckthorn, reed canary grass and other identified invasive plant species, as well as long-term management to prevent introduction or reintroduction of invasive plant species.
 - b. Wetland Hydrology – an updated stormwater management plan and supporting hydrologic analysis that ensure that existing wetland hydrology and associated wetland characteristics are maintained post-construction.
 - c. Development Restriction – a plan describing how remaining wetland acres will be restricted from future development through conservation easement or deed restriction, and a timeline for completion.
 - d. Wetland Education – a plan to establish wetland educational signs and public viewing areas and walkways, and a timeline for completion.
 - e. Wetland Creation/Restoration – identification of the property and acreage where proposed wetland creation or restoration will occur, and a timeline for completion.
7. The applicant shall submit a status report showing progress on implementing the approved Wetland Enhancement project plan by December 31, 2010.
8. The applicant shall submit a final report showing completion of implementing the approved Wetland Enhancement project plan by December 31, 2011.

NOTICE OF APPEAL RIGHTS

If you believe that you have a right to challenge this decision, you should know that Wisconsin Statutes and administrative rules establish time periods within which requests to review Department decisions must be filed.

To request a contested case hearing pursuant to s. 227.42, Wis. Stats. and s. NR 299.05, Wis. Admin. Code, you have 30 days after the decision is mailed, or otherwise served by the Department, to serve a petition for hearing on the Secretary of the Department of Natural Resources, PO Box 7921, Madison, WI 53707-7921.

A request for a contested case hearing must follow the service requirements found in s. NR 2.03 and the form prescribed in s. NR 2.05(5), Wis. Admin. Code, and must include the following information:

1. A description of the Department's action or inaction which is the basis for the request;
2. The substantial interest of the petitioner which is injured in fact or threatened with injury by the Department's action or inaction;
3. Specific information explaining why the petitioner's interests are adversely affected by the Department's determination;
4. Evidence of a lack of legislative intent that this interest is not to be protected;
5. An explanation of how the injury to the petitioner is different in kind or degree from the injury to the general public caused by the Department's action or inaction;

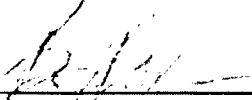
6. That there is a dispute of material fact, and what the disputed facts are;
7. The statute or administrative rule other than s. 227.42, Wis. Stats., which accords a right to a hearing;
8. Specific reasons why the proposed activity violates the standards under s. NR 299.04(1)(b), Wis. Admin. Code;
9. A statement that the petitioner will appear and present information supporting its objections in a contested case hearing.

This determination becomes final in accordance with the provisions of s. NR 299.05(7), Wis. Admin. Code, and is judicially reviewable when final. For judicial review of a decision pursuant to ss. 227.52 and 227.53, Wis. Stats., you have 30 days after the decision becomes final to file your petition with the appropriate circuit court and to serve the petition on the Secretary of the Department of Natural Resources. The petition must name the Department of Natural Resources as the respondent.

Reasonable accommodation, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request.

Dated at Madison, Wisconsin on July 15, 2010

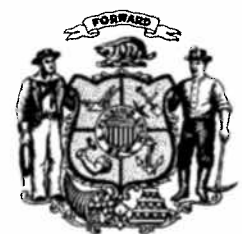
WISCONSIN DEPARTMENT OF NATURAL RESOURCES
For the Secretary



Bruce Baker
Water Division Administrator



WISCONSIN STATE LEGISLATURE



Gary, Tim

From: Baker, Bruce J - DNR [Bruce.Baker@Wisconsin.gov]
Sent: Wednesday, January 26, 2011 2:10 PM
To: Gary, Tim
Subject: FW: Argonne Retail Site - Stormwater Management
Attachments: SWMP narrative.pdf; SP001D60-site.pdf

From: Hitch, Christopher D. [mailto:Christopher.Hitch@rasmithnational.com]
Sent: Wednesday, January 26, 2011 12:14 PM
To: Lehmann Kerler, Liesa K - DNR; Baker, Bruce J - DNR
Cc: Patti, Heather; gplumeau@cedarburgscience.com
Subject: Argonne Retail Site - Stormwater Management

Liesa & Bruce,

I understand that you have requested an additional copy of the Stormwater Management Plan that was submitted with the Water Quality Certification application for this site. Attached is a PDF of the report narrative that describes the stormwater requirements, existing conditions, proposed conditions, water quality design, peak discharge design, overflow design and long-term maintenance. Also attached is a PDF of the Site Plan for your reference.

The proximity to Austin Straubel International Airport precludes the use of open water ponds at the site. Therefore the proposed approach to stormwater management for the site incorporates a series of best management practices acting together as a "treatment train" to achieve the desired water quality and peak discharge performance goals for the development. Site runoff will initially be directed toward bioretention areas for water quality purposes. The bioretention areas located adjacent to the building will treat roof water, and will have overflow standpipes and under drains that discharge upstream of the adjacent wetlands. The bioretention areas located within pavement will have overflow standpipes and under drains that connect downstream to an underground detention system. The underground detention system will provide storage and peak flow attenuation to control the release rate of stormwater runoff from the site to the adjacent municipal storm sewer.

I hope that this information is helpful at this time. Please review the attached documents and let me know if I can provide any further assistance.

Thank you,

Christopher D. Hitch, P.E.
Project Manager
262-317-3268
262-781-8466 fax

R.A. Smith National, Inc.
16745 West Bluemound Road, Suite 200, Brookfield, WI 53005-5938

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1/26/2011

Storm Water Management Plan for
Argonne Street Retail Site
Ashwaubenon, Wisconsin

RASN Project No. 3100011

June 10, 2010

Storm Water Management Plan for

Argonne Street Retail Site

Ashwaubenon, Wisconsin

Prepared by

Paul McIlheran, P.E.
Senior Project Engineer
Clif Poynter, P.E.
Project Manager

R.A. Smith National, Inc.
16745 W. Bluemound Road, Suite 200
Brookfield, WI 53005-5938

INTRODUCTION

The proposed Argonne Street Retail Site is located in the Village of Ashwaubenon, Brown County, Wisconsin. This site is located on the south side of Lombardi Avenue (CTH 'VK'), between USH-41 and Argonne Street.

STORMWATER REQUIREMENTS

Under Village of Ashwaubenon Municipal Code and WDNR NR 151, the site must meet several requirements regarding water quality, peak discharge, and infiltration.

- For water quality in a new development, the total suspended solids must be reduced by 80% on an average annual basis to the maximum extent practicable.
- For peak discharge, the post-development 2-year storm event runoff rate must be reduced to the pre-development 2-year storm event runoff rate.
- The infiltration requirement is to infiltrate such that the post-development infiltration volume shall be at least 60% of the predevelopment infiltration volume.

Due to the proximity of the site to the Austin Straubel International Airport, open water ponds are not allowed on this site.

EXISTING CONDITIONS

The proposed site is approximately 20.83 acres. Although the site is undeveloped, parts of the site have been previously disturbed by the placement of clay fill. Undisturbed parts of the site are wooded or have scrub brush.

Native soils include poorly drained Wauseon fine sandy loam, Allendale loamy fine sand, Shawano loamy fine sand, and Markey muck, classified as soil type D, C, A, and D, respectively, by USDA. The water table appears to be at the surface of the native soil seasonally, and the native soils were saturated at the time of the soil testing in November 2009. See Appendix A for the soil boring report and Appendix B for USDA soil information.

Wetlands have been located on the site. See Appendix C for the site survey. Wetland locations also appear on the plans.

The existing fill on the site drains both to the north and south wetlands, before entering municipal storm sewer in Argonne Street. The existing runoff from the site was calculated to be 14.42 CFS. For calculations details, see:

- Table 1 for the composite curve number detail
- Appendix D for the hydrology model
- Existing Conditions Exhibit (EX-1) for hydrologic modeling data

Table 1: Existing Site: Composite Curve Number

Area ID	Cover	Soil type	CN	Area (acres)
A	Woods	A	30	0.4
B	Brush	D	73	3.2
C	Brush	D	73	0.1
D	Brush	D	73	0.3
E	Open space	C	74	10.8
F	Woods	C	70	0.9
G	Woods	D	77	5.1
Total			74	20.83

PROPOSED CONDITIONS

The proposed development consists of a retail building and parking lot. The parking lot will be drained to bioretention areas that in turn drain to an underground detention system. The underground detention will drain to existing storm sewer in the adjacent street. The bioretention areas will have standpipes that will direct runoff in excess of the 2-year storm event runoff to adjacent wetlands.

Bioretention with underdrains were chosen, even though infiltration is not expected, as a way to provide water quality without a water quality pond. Underground retention is required to meet the peak flow matching requirement.

WATER QUALITY DESIGN

Stormwater Water Quality for this project will be accomplished by the use of bio-retention basins. SLAMM modeling has been prepared for this project in accordance with the requirements of NR 151. Total Suspended Solid removal after controls is in excess of 80%. Please see the included water quality appendix for these calculations and results.

PEAK DISCHARGE DESIGN

An underground detention system provides detention to attenuate the site 2-year, 24 hour storm event runoff to a rate less than the existing runoff rate.

The system is designed to collect filtered water at the bottom of the bioretention areas with underdrains that lead to underground piping. The underground piping will collect runoff and slowly release the water to the adjacent municipal storm sewer.

The underground collection system consists of 1800 lineal feet of 5-foot diameter pipe, tied together with a header pipe that leads to the control manhole. The control manhole has a plate with a 9-inch diameter orifice. As water is released it first flows through the orifice, and then ultimately over the plate, which acts as a weir. The construction plans have further system details.

In the proposed condition, most of the site is tributary to the proposed detention, but some areas are not. To evaluate the total site runoff, the hydrographs for the areas tributary to the detention were routed through the detention system. The outflow detention hydrograph was then combined with the hydrographs of the areas not tributary to the pond, to calculate a total release rate from the site.

The existing runoff from the site for the 2-year, 24 hour event was calculated to be 14.42 CFS, and the runoff from the proposed site is calculated to be 13.25 CFS, so the detention design exceeds the peak discharge attenuation requirement.

For calculations details, see:

- Table 2 for the composite curve number detail
- Appendix E for the hydrology model
- Proposed Conditions Exhibit (EX-2) for hydrologic modeling data

Table 2: Proposed Site: Composite Curve Number

Area ID	Cover	Soil type	CN	Area (acres)
A	building	C	98	3
B	parking lot tributary to detention	C	98	6.69
C	pervious tributary to detention	C	74	1.37
D	pavement area not tributary to detention	C	98	0.45
E	brush: north undisturbed area	D	77	1.8
F	woods: south undisturbed area	C	70	0.9
G	woods: south undisturbed area	D	77	5.1
H	grass area not tributary to basins	C	74	1.52
Total				20.83

OVERFLOW DESIGN

The bioretention systems were designed such that flows produced by storms greater than the 2-year, 24 hour storm are released through a standpipe, and directed to adjacent wetlands, so as to not overtax the bioretention basins.

The overflow standpipes were set just above the maximum high water for the 2-year storm events in each basin. Basin D, the west basin, was also designed with an overflow weir for this purpose.

INFILTRATION DESIGN

This site is exempt from infiltration requirements based on the soil borings presented in Appendix A. The borings show the presence of a high water table.

CONCLUSION

The storm water management plan for this project satisfies the requirements of State code NR 151 and the requirements of the Village of Ashwaubenon with respect to storm water quality standards and 2-year storm detention requirements. The site is exempt from infiltration due to high groundwater.

MAINTENANCE PLAN

I. Post storm event inspection:

Inspect the following every spring and fall and after every major rainstorm:

1. **Debris cleanup:** The facilities shall be inspected and all debris shall be collected and disposed of appropriately. The goal of this cleanup process is to remove all materials that may contribute to clogging and thus reduce functionality of the bioretention areas.
2. **Erosion repair and sediment removal:** Eroded areas shall be promptly repaired using low-impact earth moving techniques commensurate with the scale of the repair task. Any bare soil areas shall be revegetated according to the original design specifications.

II. Annual Inspection:

Inspect the following in spring:

1. **General Inspection:** Inspect bioretention areas for settling, cracking, erosion, and condition of overflow structure. Make repairs as necessary.
2. **Confirm functionality of the bioretention areas:** Inspect to see if the bioretention areas are draining within the design time limits. If they are not draining within the design drain times, engineered soils capacity must be enhanced (using deep tilling, re-grading, replanting, or other methodologies). The bioretention vegetation shall be visually inspected, to ensure healthy growth. Poor plant growth or growth of invasive species shall be assumed to be associated with reduced filtration capacity, and trigger the need for maintenance.
3. **Clean Accumulated Sediment:** Accumulated sediment shall be removed from bioretention areas. Any damaged vegetation shall be repaired.

Table of Contents – Appendices

Existing Conditions Data Exhibit (EX-1)
Proposed Conditions Data Exhibit (EX-2)

Appendix A – Soil Boring Report
Appendix B – Soils Map
Appendix C – Site Survey
Appendix D – Existing Conditions Hydrology Model
Appendix E – Stormwater Quality Calculations
Appendix F – Proposed Conditions Hydrology Model

**APPENDIX A:
Soil Boring Report**

APPENDIX B:
SOILS MAP

APPENDIX C:
Site Survey

APPENDIX D:
Existing Conditions Hydrology Model

APPENDIX E:
Water Quality Calculations

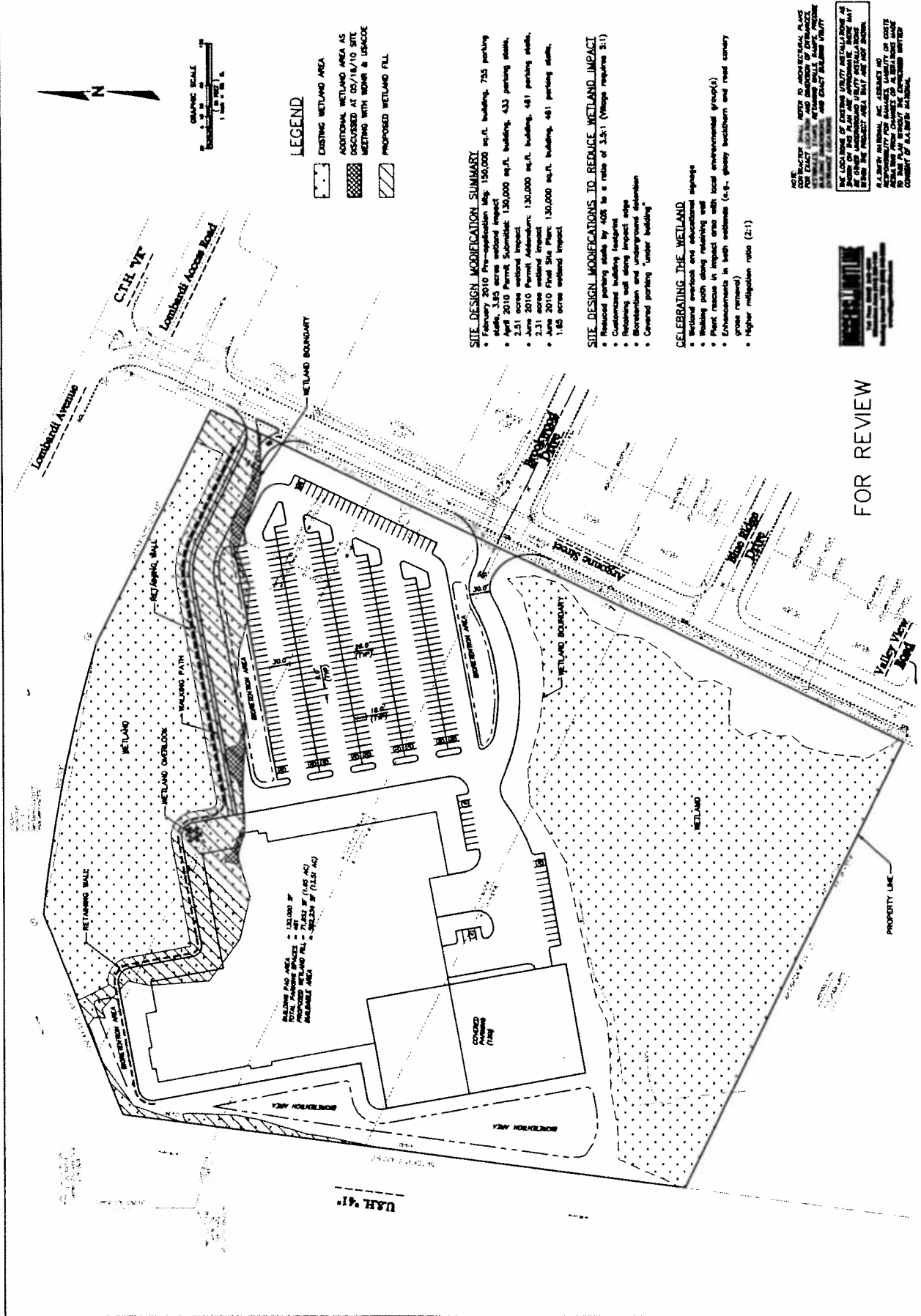
APPENDIX F:
Proposed Conditions Hydrology Model

DATE	DESCRIPTION
06/20/10	ISSUE NO. 01
06/20/10	ISSUE NO. 02
06/20/10	ISSUE NO. 03
06/20/10	ISSUE NO. 04
06/20/10	ISSUE NO. 05
06/20/10	ISSUE NO. 06
06/20/10	ISSUE NO. 07
06/20/10	ISSUE NO. 08
06/20/10	ISSUE NO. 09
06/20/10	ISSUE NO. 10

R.A. Smith National
Beyond Surveying and Engineering
 1015 N. Exchange Road, Suite 100, Ashwaubon, WI 53004
 PHONE: 262.781.1100 FAX: 262.781.1101
 WWW: www.rahsmith.com

SITE PLAN
 ASHWAUBON, WI
 ARGONNE STREET RETAIL SITE

CONTRACT NO.	6
DATE	06/10/10
SCALE	1" = 60'
PROJECT NAME	ARGONNE STREET RETAIL SITE
CLIENT	ARGONNE STREET RETAIL SITE
DESIGNED BY	R.A. SMITH NATIONAL
CHECKED BY	CHN
DATE	06/20/10
PROJECT NO.	06-001



C1.0





WISCONSIN LEGISLATURE

P.O. BOX 8952 · MADISON, WI 53708

January 26, 2011

John L. Morris, Founder
Jim Hagale President & CEO
Bass Pro Shops, Inc
2500 East Kearney Street
Springfield, MO 65898

Dear Mr. Morris & Mr. Hagale:

As outdoor enthusiasts and anglers, we are writing to express our concerns about Special Session Assembly Bill 10, a bill to bypass Wisconsin's wetland conservation laws to build a Bass Pro Shop on wetlands in the municipality of Ashwaubenon, located in Brown County, Wisconsin, according to newspaper reports, see Milwaukee Journal Sentinel article:
<http://www.jsonline.com/news/wisconsin/113465594.html>

As you know, wetlands are vital for bass and other fish species to spawn, rear their young and grow their populations. Without wetlands, there are no fish.

After hearing more than three hours of Assembly Natural Resources Committee testimony on this matter, we believe that your company and the developer, Mr. Bergstrom, can reach a compromise that meets your needs but also protects our state's wetland laws and its fish population.

As conservationists, we want to work with you and the Wisconsin Wetlands Association, Wildlife Federation, and other conservation groups to create good jobs and protect key bass habitat like wetlands.

Please contact Rep. Brett Hulsey's office immediately to set up a meeting to discuss this matter at 608-266-7521.

Sincerely,

Rep. Louis Molepske
Rep. Chris Danou
Rep. Brett Hulsey
Rep. Nick Milroy

Cc: Martin MacDonald
John Bergstrom
Paul Kent





**Oppose Special Session Assembly Bill 10:
Undermining Wisconsin's Wetland Protections
Statement of Jennifer Giegerich
Wisconsin League of Conservation Voters
January 26, 2011**

Good morning. I am Jennifer Giegerich, Legislative Director for Wisconsin League of Conservation Voters. Thank you, Chairman Mursau and members of the committee, for allowing me to testify today.

Wisconsin League of Conservation Voters urges you to oppose Special Session Assembly Bill 10. SS AB 10 would create special exemptions to protections for wetlands in Brown County for the benefit of a single developer. No reasonable explanation has been offered as to why a sweeping bill that disregards science and reasonable legal process is needed in a special session. Special Session Assembly Bill 10 threatens water quality, our economy, and our democratic process not just in Brown County, but for the entire state of Wisconsin.

1. Special Session Assembly Bill 10 threatens water quality. Healthy wetlands slow down and filter runoff from storms and snowmelt, allowing sediment and other pollutants to settle out before reaching our lakes, rivers, streams, and drinking water aquifers. Wetlands also have the ability to absorb and transform nutrients and contaminants and help to prevent flooding. Randomly filling in wetlands can undermine the water quality and flood-control prevention of nearby rivers, lakes, and streams.

2. Special Session Assembly Bill 10 threatens our economy. Seventy-five percent of Wisconsin's wildlife species depend on wetlands for some portion of their life cycle, including important game species such as deer, bear, ducks, geese, pheasant, grouse, walleye, musky, bass, and northern pike. Communities that maintain healthy wetlands on public and private lands can realize a greater portion of the \$3.8 billion dollars in annual retail sales and the 72,000 jobs associated with Wisconsin's hunting and outdoor recreation economy.

3. Special Session Assembly Bill 10 threatens our democratic process. This bill is in response to a specific wetland permit that is currently before an administrative law judge and has not been resolved. Introducing this legislation at this time is creating a precedent that any time an entity – like a political donor - doesn't like the outcome of a decision at the agency level, they can by-pass all available remedies and ask the legislature to create an exception for them.

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133 S. Butler Street #320, Madison, WI 53703 • Tel. (608) 661-0845 • Fax (608) 661-0835
info@conservationvoters.org • www.conservationvoters.org

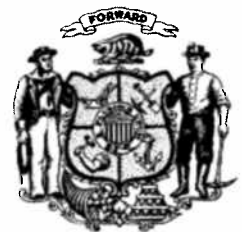
4. Special Session Assembly Bill 10 creates a precedent that threatens a fair and consistent regulatory environment. SS AB 10 creates a special exemption for Brown County, which could create a patchwork regulatory environment that is often cited as being unhelpful to attracting new business to Wisconsin. Geographic exceptions to state law should only be made where there is sound science to justify being held to a different standard. In this case, not only is there no scientific basis for treating Brown County wetlands differently, but the basis for this exemption appears to be political.

Finally, not only does this bill not ensure the long-term protection of our natural resources which are at the heart of a vibrant economy, but this bill also does not create jobs, which is the stated purpose of the Special Session. Therefore, we ask that you oppose Special Session Assembly Bill 10 and ensure that Wisconsin's wetlands are protected for future generations.

Thank you.



WISCONSIN STATE LEGISLATURE





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John Muir Chapter

Sierra Club - John Muir Chapter
222 South Hamilton Street, Suite 1, Madison, Wisconsin 53703-3201
Telephone: (608) 256-0565 Fax: (608) 256-4562
john.muir.chapter@sierraclub.org <http://wisconsin.sierraclub.org>

Oppose Special Session AB 10, Removes Wetland Protections, Before the Assembly Natural Resources Committee, 01/26/11, 9:30 AM, RM 412 E

Thank you for accepting our comments today. The Sierra Club – John Muir Chapter is comprised of 15,000 members and supporters of the nation's oldest, most influential grassroots environmental organization working to explore, enjoy, and protect wild areas throughout Wisconsin. The Sierra Club is here today to urge the members of the Assembly Natural Resources Committee to oppose Special Session AB 10.

We have several serious concerns about this proposal. If passed, it would circumvent an ongoing contested case and allow for the destruction of a Brown County wetland. Drafting legislation in order to appease a single developer is bad public policy, and in this case, it short-circuits the ability of a nonprofit group to raise legitimate concerns. Allowing the process to move forward might result in discovering a more suitable alternate location for this development that doesn't destroy wetlands or economic opportunities. After all, is the best location for serving outdoor-loving *Bass Pro* patrons really an unspoiled wetland? This bill sets a dangerous precedent that could encourage other developers to request special exceptions to other Wisconsin laws needed to protect natural resources, in the event that they don't fit in with their plans.

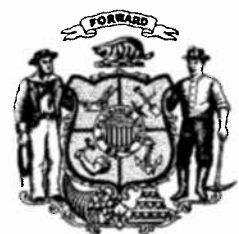
We are also concerned with any bill that reduces protections on isolated wetlands. After the Supreme Court gutted isolated wetlands protections in 2001, Wisconsin was proud to be one of the first states to respond with a bill that restored these valuable areas in our state. The bill to protect isolated wetlands was signed into law by Gov. McCallum after passing the legislature with strong bipartisan support. Legislators on both sides of the isle appreciated the critical, unique habitat and flood-reducing benefits that wetlands provide. Now Special Session AB 10 threatens to undermine the basic intent of this law.

The Sierra Club does not accept the idea that enhancing wetlands in other areas, as proposed in the current development, makes up for the permanent loss of this high-quality urban wetland. We also don't accept the idea that this bill was needed to reign in an agency. The DNR was simply carrying out its charge by allowing all stakeholders to have a voice and implement the laws on the books. Stakeholders include not only developers, but local residents, 130 Sierra Club members who have taken action on this issue over the past two days, and others who have taken an interest in wetlands protection. Passing a bill to prevent that from happening makes us much more concerned about the influence of money in politics than agency heavy-handedness.

For these reasons, we urge the members of this Committee and the Legislature to oppose Special Session AB 10. Thank you for considering our comments on this important matter.



WISCONSIN STATE LEGISLATURE



Midwest Environmental ADVOCATES

pro bono publico

Assembly Natural Resources Committee

January 26, 2011

Comments in Opposition to AB 10

Thank you Chairman Mursau and committee members for the opportunity to speak to you today about Assembly Bill 10. My name is Kim Wright and I'm the Executive Director of Midwest Environmental Advocates, a nonprofit environmental law center that provides legal and technical assistance to citizens willing to stand up for public rights in the environment.

Over half of the wetlands in Wisconsin have been lost to development and agricultural. Many of those losses occurred when we didn't know any better. Now, we're aware of the value of wetlands to our state. Wetlands are an integral component of the hydrologic cycle, serving both to reduce flooding through the retention of storm water and as areas where water is filtered of impurities before replenishing our precious groundwater. Wisconsin has been doing a good job to minimize the further loss of wetlands.

If the "particular wetland in Brown County" is filled will that be one too many? Will it be too many when we fill the next one, or the one after that?

The loss of even one of our remaining wetlands is too much. An equally unacceptable loss is that of the integrity of our system of government. How can we expect our fellow citizens to understand the importance of public service when the power of two Governors and now the Legislature is employed to benefit a single individual at the expense of the public's interest in the environment?

This disappointing story began when a clear legal standard was overridden by political connectedness. The final determination on granting a permit to fill the wetland in Brown County rose to the top of the DNR when frontline staff determined granting the permit wasn't within their legal authority, authority limited by science-based standards in the law. When a group of champions stood up for this wetland, they had every reason to believe they would be given their legal right to a hearing. Instead, legal process was subverted through intentional inaction.

The former secretary of the DNR had 5 months in which to act on the Wisconsin Wetland Association's request for a contested case hearing over the granting of the permit. Failing to hear the complaint himself, or to refer the issue to an administrative law judge, secretary Frank punted it to his successor. Governor Walker himself then stepped in by asking this committee to pass a bill about a particular wetland in Brown County before the new DNR secretary had a chance to provide the Wisconsin Wetlands Association their legal right to be heard.

The saga of this wetland in Brown County got even murkier when the next, and perhaps last chance for the public to be heard was diminished by providing barely one day notice for this hearing. This great state is chock full of interested parties who value both our hard working wetlands and clean and open government—one day is not adequate notice for meaningful public participation.

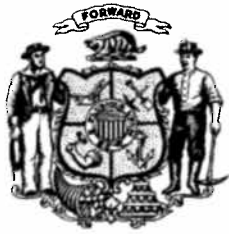
We hear a lot these days about nameless faceless bureaucrats and their abuse of power. It is less than a year ago that the public was told a citizen board appointed DNR secretary just didn't have the accountability of a secretary controlled by the Governor. Regrettably we're now being told the only safe way to protect the public from law abiding agency staff is to give the Governor unilateral authority over the rule making process as proposed in Assembly Bill 8, another Bill rushed to public hearing in this special session.

The fate of the natural world may not rest on the further degradation of a particular wetland in Brown County—confidence and trust in our government might.

Midwest Environmental Advocates, on behalf of all the courageous people willing to stand up to powerful interests to protect public rights in the environment, strongly opposes Assembly Bill 10.



WISCONSIN STATE LEGISLATURE



Gary, Tim

From: Baker, Bruce J - DNR [Bruce.Baker@Wisconsin.gov]
Sent: Thursday, January 27, 2011 10:01 AM
To: Rep.Mursau
Subject: RE: Molepske Amendments

That analysis is unnecessary because the stormwater design retains more water on the site than no project at all. The project will still need a stormwater permit from us before construction is started so that issue will be examined at that time. Flooding is not an issue that is examined in approving a wetlands fill. The info I gave you is based upon modeling the engineer did where they look at handling flows to prevent a variety of issues. Also, there is no statute that specifically requires building projects to get into the issues Brett was raising. They may do that in Dane County.

At this point the project as designed will prevent adverse environmental impact to the wetland. In fact, the wetlands will be protected from invasive and future development by the conservation easement. The only threat is to getting the project built because of the contested case hearing process.

From: Rep.Mursau [<mailto:Rep.Mursau@legis.wisconsin.gov>]
Sent: Thursday, January 27, 2011 9:33 AM
To: Baker, Bruce J - DNR
Subject: FW: Molepske Amendments
Importance: High

Bruce,

On LRB a336/1:

Has flood storage loss analysis already been conducted and is it included in the package you sent to us yesterday?

On LRB a366/1:

What would be the impact, positive or negative on the completion of the proposed project, if it continues to be subject to regulation as a wetland?

Tim Gary

Wisconsin State Assembly
Office of **Representative Jeff Mursau**
36th Assembly District, Research Assistant
Committee on Natural Resources, Clerk
Committee on Forestry, Clerk
PO Box 8952
Madison, WI 53708-8952
(608) 266-3780
[Sign Up for E-Updates](#)

From: Gary, Tim
Sent: Wednesday, January 26, 2011 5:18 PM
To: Agathen, Alisha; Augustyn, Jessie; Bahr, Dan; Battiato, Kate; Berken, Nathan; Childs, Nicole; Ehm, Katherine; Farnsworth, Kathy; Huesca, Beth; Junck, Linda; Keleher, Marylou; Konopacki, Larry; Letzing, Rachel; Lundgren, Doug; Michalak, Michelle; Mueller, Virginia; Rep.Clark; Rep.Danou; Rep.Hulsey; Rep.Kleefisch; Rep.Mason; Rep.Milroy; Rep.Molepske; Rep.Mursau; Rep.Nerison; Rep.OttJ; Rep.Rivard; Rep.Severson; Rep.Steineke; Rep.Tiffany; Rep.WilliamsM; Rude, Nels; Scholz, Andrew; Selkove, Vicky; Smith-Loomans, Sandra; Stafford, Beau; Tobias, Ben; Van de Bogert, Abigail; Van de Bogert2, Abigail; Zimmerman, Terri
Subject: FW: Molepske Amendments
Importance: High

Committee Members,

Please find attached to this email a copy of two amendments being introduced by Rep. Molepske for consideration tomorrow at the executive session.

Tim Gary

Wisconsin State Assembly
Office of **Representative Jeff Mursau**
36th Assembly District, Research Assistant
Committee on Natural Resources, Clerk
Committee on Forestry, Clerk
PO Box 8952
Madison, WI 53708-8952
(608) 266-3780
[Sign Up for E-Updates](#)

I am attaching my Flood Reduction & Taxpayer Protection amendment. Please feel free to contact me if you have any questions.

<< File: LRB a0336_1.pdf >>

Representative Brett Hulseley
Working for a Better Wisconsin
Serving the 77th District--Madison, Shorewood Hills and Middleton
3 North, State Capitol
P.O Box 8952
Madison, WI 53708
Phone; 608-266-7521
Email: Rep.Hulseley@legis.wisconsin.gov
Web:<http://hulseley.assembly.wi.gov>

From: Van de Bogert, Abigail
Sent: Wednesday, January 26, 2011 5:17 PM
To: Gary, Tim
Subject: Molepske Amendments

Hi Tim,

Here are Rep. Molepske's two amendments for tomorrow. Please call if you have any questions. Thank you!

<< File: LRBa0364-1.pdf >>

<< File: LRBa0366-1.pdf >>

Abby Van de Bogert
Office of Rep. Louis Molepske, Jr.
22 W, State Capitol
Madison, WI 53708
(608) 267-9649



John F. Bergstrom
Chairman and Chief Executive Officer

Bergstrom Corporation

February 2, 2011

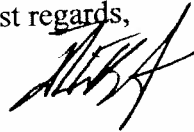
Mr. Bruce Baker
Deputy Div. Administrator, Water
Wisconsin Department of Natural Resources
101 South Webster Street, AD/8
Madison, WI 53703

Dear Bruce,

Thank you for your letter of January 28, 2011 in which you accepted my offer to abide by the terms and conditions of the water quality certification issued to me, in consideration for which the Department has offered to provide technical assistance to me in carrying out those obligations. It is my intent that this arrangement constitute a binding contractual agreement enforceable by law.

I look forward to working with you in moving forward on this project.

Best regards,



JFB.dmh

Post Office Box 777
150 North Green Bay Road
Neenah, Wisconsin 54956
920-722-1111
E-mail: jfb@bergstromauto.com

Date February 2, 2011

Natural Resources

Special Session Assembly Bill 10 – Brown County Wetland Rep. Mursau

Summary of Bill (*as amended*):

Special Session Assembly Bill 10 as amended

This bill creates a third exemption within State Statutes from water quality and surface water use standards for wetlands and closes an open review of certain changes to shoreland, wetland and floodplain zoning ordinances applying to a wetland located on the southeast corner of the intersection at US Hwy 41 at Lombardi Avenue in the village of Ashwaubenon in Brown County Wisconsin.

The property in question is 20 acres, 9 acres buildable as-is, 11 acres are wetland. The developer is proposing the filling and building upon 1.65 acres and improving the remaining 9.35 acres of wetland.

Fiscal Effect:

The fiscal estimate states no cost to local governments. For the potential loss of revenue to the State of Wisconsin, "It is difficult to provide a specific estimate of permit revenue loss that would result from the bill. The annual revenue loss would be contingent upon the number of wetland areas in Brown County that meet the specific criteria identified in the bill and would thus be exempt from applying for a permit."

Supporters Message:

- This proposed project will create at least 300 construction jobs and 150 permanent full time jobs at the same time Wisconsin needs jobs (current W U-6 real unemployment=15.2%)
- This is a low-quality, low-function wetland overrun with invasive species and the proposed project will transform the 9.35 acres non-built portion into high-quality wetland including a low-impact boardwalk and educational opportunities for citizens, students and visitors; a conservation-easement owned by the State will ensure long-term protection of unfilled and improved wetland
- The project achieved approvals from the DNR through a 1.5 year process as developer assented to 100% of DNR; a "contested case" hearing will delay the project and makes development unfeasible
- Negotiation with the objecting party (Wisconsin Wetlands Association) will never result in agreement on an economically/environmentally feasible/job-creating project or prevent other organizations from objecting to such negotiated terms, demonstrating the need for larger reforms to the "contested case" process; any legal challenges following passage of this bill are expected (by the developer) to be quickly dismissed and new job creation will not be slowed down
- Precedent is already established on this issue as State statute 281.165 was created to exempt properties in Dunn and Trempeleau counties in 1999 Act 9 (budget bill) with *bipartisan* support from both the Assembly and the Senate including pro-environment legislators; while legislative review is not the most ideal process, it is a legitimate course of action for all citizens to seek a redress of their government for individual citizens in support or opposition to any State action, including testimony from supporters and opponents of this project at the public hearing held 1/26/2011
- Recommendations were sought by DNR Central from two sources: A) staff Bureau of Watershed Management were in support; and B) local Green Bay field staff were in opposition. Both recommendations were received; the recommendation from the Bureau was accepted and the permit was issued
- The DNR and the developer have formalized their agreement to ensure completion of the conditions of the permit that will be nullified by the passage of this bill
- Flooding in Arcadia was not caused by the project at Ashley furniture and DNR has statistical data that proves it beyond a doubt; this project will *improve* storm water design better than no-project-at-all; flooding is never an issue considered by the State of Wisconsin when considering wetland fills, Dane county might, but WI does not (source: DNR)
- No one in State government *EVER KNEW* for sure who the tenant will be (BassPro, Cabellas, Gander Mountain, REI, et cetera); the developer remains confident an outdoor-activity-oriented and high-revenue tenant will be secured in a timely fashion
- The developer is an honorable man and so are the people he has donated money too; if opponents think pay-for-play is occurring, they should file a complaint to formalize it; this legislation is legal, legislative council has explained to opponents and legislators repeatedly

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SS AB 10 – Brown County Wetland (page 2) Assembly Committee on Organization

Supporters Message (continued):

- This project could create up to \$200 - \$300 million of economic activity from customers visiting the business, alone. This does not include economic activity expected for the surrounding community when adding in visitors using the enhanced wetlands and education facilities on the site

Opponents Arguments:

- Jobs are important, but not at wholesale sacrifice of Wisconsin environmental protections and circumventing established law and due process for all the citizens who own Wisconsin waters; the legislature needs more time to review this bill, this is too fast for good government, this is not the end of session, slow down and be careful
- This is not a low-quality wetland and it deserved better attention when the Hwy adjacent to it first went in, we should work to improve all of it, not just some of it
- The proposed project may be a fine one, but we won't know for sure until the developer demonstrates the overall purpose is well-defined and DNR has considered "practicable alternatives" for the property other than the proposed project; the developer has not yet demonstrated to us, and should in the "contested case hearing," it has evaluated moving the project elsewhere
- Going to the legislature for an exemption is unprecedented since the 2001 wetland law re-write and is an end-run around due process for the people of Wisconsin who collectively own Wisconsin waters and place management in trust with the State of Wisconsin
- Local DNR staff who know the details of this property said the wetland has high functional value and an alternative site is available at a US 41 exit north of this location at State Hwy 29; this staff was overruled by DNR Central office staff who do not know the property as well
- If this bill passes, several of the conditions of the DNR issued permit (currently in limbo) will not be required because the permit is no longer necessary
- This project has not been evaluated for how it will affect storm water flooding and impact its neighbors; in Arcadia, filling Ashley furniture's wetland resulted in massive flooding when rain hit the area
- The potential tenant backed out of the project, there is no need to move quickly anymore
- Green Bay is not Foxborough, Mass. and the population density in Wisconsin is not necessarily similar, even including surrounding state populations, to make a fair economic activity projections

Key Supporters:

Paul Kent, Madison – John Bergstrom; Wisconsin Independent Businesses Inc

Key Opponents:

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Erin O'Brien, Madison – Wisconsin Wetlands Association; George Meyer, Madison – Wisconsin Wildlife Federation; Jennifer Giegerich, Madison – Wisconsin League of Conservation Voters; Shahla Werner, Madison – Sierra Club

Committee Vote:

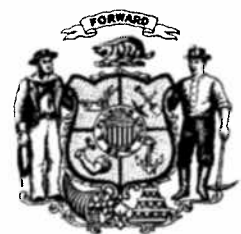
On January 27, 2011 the Assembly Committee on Natural Resources recommended passage of Special Session Assembly Bill 10, as amended, on a vote of 9-6. [GOP unanimously aye; DEM unanimously nay]

Staff Author of Bill Summary

Tim Gary; Office of Rep. Jeff Mursau (6-3780)



WISCONSIN STATE LEGISLATURE



Wisconsin Wildlife Federation

Chairman Mursau, Members of the Assembly Natural Resources Committee. My name is Don Hammes from Middleton, Wisconsin. I am a member of the Board of Directors and Chairman of the Wetlands Committee of the Wisconsin Wildlife Federation. The Federation is comprised of 160 hunting, fishing, trapping and forestry groups located throughout Wisconsin including several conservation organizations in Brown County. Thank you for the opportunity to testify here today on Assembly Bill 10, which exempts certain wetlands from wetland protection regulations in Brown County. Our testimony is in opposition to the bill because of the adverse effect the proposal will have on fish and wildlife habitat in Brown County.

Assembly Bill 10 was drafted for the purposes of allowing the placement of fill in 1.65 acres of wetlands near the intersection of Highway 41 and Lombardi Avenue in Ashwaubenon, Wisconsin. However, AB 10 as drafted will have far greater impact on wetlands in the county because it would remove from DNR wetlands jurisdiction any wetland less than 3 acres in size if a municipality zones the property business and adopts a TIF District for the property. There are well over 1000 acres of such wetlands, three acres or less in size in Brown County that could be subject to development. The bill as drafted would apply to "isolated" non-federal wetlands and also to federally-regulated wetlands that includes wetlands adjacent to or in lakes and streams in the county. As drafted, the bill would also exempt such wetlands from Chapter 30 jurisdiction which would allow a developer to fill in up to three acres of wetlands in navigable streams and lakes in the county. The bill as drafted would have a substantial adverse impact on fish and wildlife habitat including habitat used for migratory waterfowl.

The Federation is also concerned that the bill exempting many wetlands from wetland, lake and stream protection in Brown County would serve as a model and precedent for removing protection from wetlands, streams and lakes in other counties. This would obviously greatly expand the potential for wetland loss in the state.

The Wisconsin Wildlife Federation has been authorized to indicate that the following organizations all join in this testimony and oppose AB 10: **the Wisconsin Waterfowl Association, the La Crosse County Conservation Alliance, the Dane County Conservation League, the Green Bay Duck Hunters Association, the Brown County Conservation Alliance, the Green Bay Area Great Lakes Sports Fishermen, the Clean Water Action Council and the Wisconsin Trappers Association.**

On behalf of the Federation and the listed groups, thank you for the opportunity to testify before the Assembly Natural Resources Committee.

Submitted by:
Don Hammes
Wisconsin Wildlife Federation
January 26, 2011