



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**



**Testimony on Special Session Senate and Assembly Bill 24
Amber Meyer Smith, Director of Government Relations
October 26, 2011**

Clean Wisconsin is the largest statewide environmental organization, and was founded as Wisconsin's Environmental Decade with thousands of members across the state. We have been focused on clean air, clean energy and clean water issues in Wisconsin for 41 years.

Clean Wisconsin opposes Special Session Senate/Assembly Bill 24 as it is currently written. This bill makes a number of changes to Wisconsin's permit process that will prioritize polluters over people and undo important environmental protections that keep our air clean, and our water safe to drink and recreate in.

Wisconsin's air and water resources are vital to our economic health. There is no doubt that our tourism economy heavily relies on the uniquely beautiful natural resources of our state. But stewardship of the environment is also important for agriculture, industry, recreation and our quality of life. Our economic well-being requires that we preserve our resources.

We have appreciated that legislators from both parties have said they don't want to roll back environmental standards, but rather simply streamline the process. Unfortunately, this bill does roll back environmental standards by eliminating meaningful permit review, creating a disincentive to submit complete and accurate information as part of a permit application, and imposing default approvals without restrictions. Environmental standards mean nothing if they can't be enforced or thoroughly reviewed, especially with a greatly-reduced workforce at DNR.

Clean Wisconsin is especially concerned about the following provisions of SS SB/AB 24:

- Default approvals of Ch. 30 permits (dredging or placement of structures in waterways like bridges, culverts, and crossings) which make DNR little more than a rubber stamp.
 - Gives DNR 30 days to review Ch. 30 permits (dredging or placement of structures in waterways like bridges, culverts, and crossings) after which they are automatically approved at a time when budgets and staff are being slashed at DNR. Environmental standards mean nothing if they can't be enforced.
 - Limits DNR's ability to request information on which they make permit decisions.
 - DNR gets only one opportunity to request additional information from an applicant.
 - DNR is not allowed to deny a permit because the information provided is incomplete.
 - The clock on DNR review does not stop if the applicant is providing bad information.
- Substantially reduces public input into permits
 - Gives DNR the authority to deny a request for public hearing unless there is "significant public interest."
 - Gives DNR authority to issue more general permits (with less rigorous environmental review than an individual permit) without any public review.
 - Eliminates most newspaper notices and puts them online.
- Undermines the recent Lake Beulah Supreme Court decision on groundwater protections

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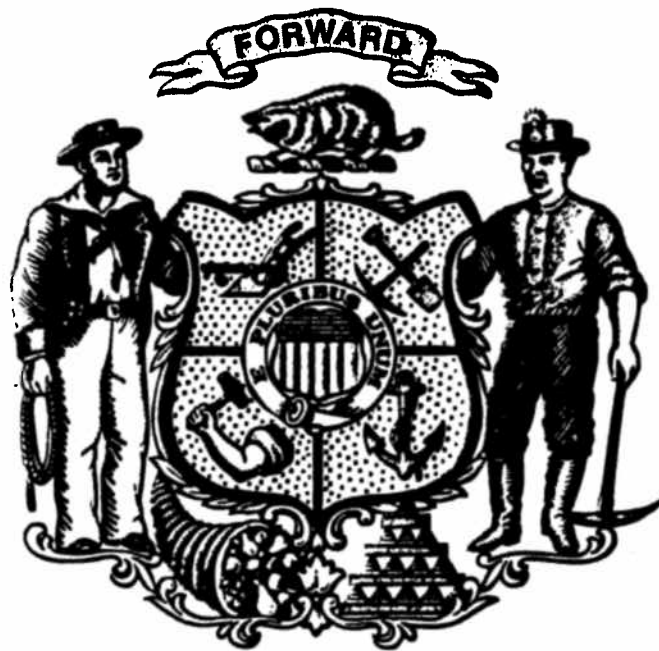


Formerly Wisconsin's Environmental Decade

- The Court issued a unanimous decision in July that DNR has the authority to consider a high capacity well's impact to surface waters.
- This bill gives automatic approval of high capacity well permits if they are not completed in an time period to be set by rule. The bill further limits conditions that DNR could place on a high-capacity well permit, and limits the time that NR would have to undertake rigorous environmental review of these projects that have huge impacts on neighboring wells, water levels, and drinking water contamination
- Groundwater supplies are major issue for Wisconsin - we have rivers drying up because of over-pumping, and competing uses like drinking water, agriculture and industry.
- Providing automatic approvals for high-capacity wells permits is a solution in search of a problem. DNR has never had an issue with not meeting the current 65 day timeline afforded in rule unless it is a very large project requiring more intense environmental impact analysis.
- Ends required air quality modeling – violating the federal Clean Air Act
 - Buried in this bill that otherwise deals mostly with water permits is a provision that removes the requirement that industry sources model their air quality impacts. Modeling is required to show the impact that an industry source will have on local air quality because of the serious health impacts air pollutants pose.
- Implications for mining
 - Provides much quicker approval to a mine through default approvals that must be issued within very short deadlines under this bill, and without providing adequate time for comprehensive consideration of a mining projects full impact. Default approvals of waterways permits, prospecting permits and high-capacity well permits will provide big advantages for getting a mining operation permitted.
 - Limits the use of Areas of Significant Natural Resource Interest (ASNRI) designations that protect special waterways, especially in northern Wisconsin.
 - If a mine needs a pellet processing facility or energy generating facility on site, they will no longer need to model the air quality impacts in order to obtain an air permit.

Our air and water resources are our way of life in Wisconsin. Our natural resources are our economic backbone and our legacy. Changes to these permits are something that requires debate and thorough review, not a bill to be introduced and passed within a couple of weeks. While there may be some parts of DNR's water regulatory program that could be fixed, this bill goes far beyond that. Clean Wisconsin always has and continues to be interested in finding the right balance in a cooperative manner.

I urge the committee to look carefully at these provisions and at what their long term, statewide impacts will be for natural resources protection. Thank you for your consideration.



There had to be a good reason for me to leave home today and travel to an overheated, crowded public hearing. Home for me is a wildlife sanctuary which in October glows with the beauty of golden Tamaracks. At breakfast this morning, wild turkeys came into our yard to drink from the moving water. Green frogs are still leaping in and out of the pond, not yet ready to go deep for winter.

We moved to rural Pickett 30 years ago and made the decision to create a refuge for wildlife on those 50 acres that became our home. A rich preserve of plants and animals now surrounds us. Seasonal beauty and the magic of birdsong move in and out of open windows. Those Tamaracks and the hardwoods we planted 30 years ago are among my exceptional resources. Likewise the raptors, sandhill cranes, and Eastern Grey treefrogs whose singing wake up the Spring crocus.

I'd much rather be home, gathering seeds from the prairie, but who will be the voice for wildlife and wetlands when regulations that protect them are weakened?

I am opposed to this Special Session bill that would endanger finite aquifers, watersheds, and our groundwater for immediate economic gain.

As bills are proposed and laws are written here at the Capitol, we are the ones who will be living the consequences of these laws. In rural communities around the state, we've experienced the loss of local control with

the Livestock Siting Law – and the results have been devastating. Toxic air emissions from factory farms now threaten the health of our communities. High-capacity wells are drying up treasured trout streams and lakes in Central Wisconsin.

I am, therefore, opposed to any bill that seeks to erode local control – that gives statutory approval to rob the people of their water – its purity and quantity.

Public participation in matters of consequence affecting the beauty of our landscape, our mental and physical health, and water that sustains all life is at the core of social justice.

I urge you to exercise your integrity and not compromise legislation for the purpose of speeding up policies that deserve serious and thoughtful deliberation.

Mining practices that are not regulated and enforced by strict environmental policies will result in rape of the land without conscience. Please exercise precaution as a basis for environmental policy and, thereby, prevent irreversible damage to the Earth's finite resources.

All natural resources deserve to be treated as exceptional and outstanding – because they are.

Elaine Swanson
W10732 Triangle Road
Pickett, WI 54964

A handwritten signature in black ink, appearing to read "Elaine Swanson", written in a cursive style.



**Testimony in Opposition of Special Session SB/AB 24
Chapter 30 -Water Law- Proposed Revisions
By: Thomas Thoresen - October 26, 2011**

Thank you -

Dear Co-Chairs Senator Kedzie and Representative Mursau and committee members. I am Thomas Thoresen and I have registered in opposition to SS SB 24 for multiple reasons. Let me alter Apollo 13's Jack Swigert's famous misquote of "Houston, we have a problem" to "Wisconsin, we have a problem". That problem is that democracy is under attack, people and our natural resources are under attack and jobs are under attack. Please, let me explain from my perspective why this bill exemplifies these attacks on Wisconsin and our natural resources.

Thank you.

I grew up in a Wisconsin that prided itself with clean, open government and that political corruption was something found south of the state line. I grew up in a family of hunters and fishers and my parents had a lannon stone quarry just west of Waukesha off of Hwy 59. We valued our land, water and natural resources. I witnessed while working in the Assembly from 1975 to 1979 how good, open government should work with both political parties working together towards solutions. I spent 26 years as a conservation warden sharing and caring in the protection of our natural resources with Wisconsin citizens who also care deeply that their resources are both preserved and wisely used.

Why do I feel this bill attacks democracy? Simply, it demonstrates another example of another "bomb" being dropped on Wisconsinites with little time to study the 40 page document or to widely seek diverse public input from experts or those effected. It appears this is another "special interests, donor driven" legislation. You have a much better chance of good legislation when you get diverse input in all phases of the legislation. This bill is an attack on democracy and our natural resources because it limits the citizen time frame for input and challenges to permits even though the project may adversely affect another property owner or the public's natural resources.

This bill is a bad bill because it makes a terrible natural resource protection situation worse. Let me explain. In 1994 DNR was authorized at I believe approx. 3400 full-time and a substantial number of limited term employees. This budget year according to the Legislative Fiscal Bureau, DNR is down to 2660 authorized FTE but there are currently 482 vacancies for an approx 18% vacancy rate. Think about it. DNR currently has 2178 employees which is down almost 33% from what it was providing in natural resource protection and enhancement 16 years ago. Specifically, lets look at the people who review and issue the chapter 30 permits- the water management specialists. DNR is authorized 33.8 positions but there are 10 vacancies. That means there is an approx 30 % vacancy rate. That means fewer people doing more work especially on permitting and less on compliance inspection. This is unfair to citizens because compliance inspection and enforcement assures permits are

complied with and natural resources are protected. Most citizens and businesses are good stewards of our natural resources. They should have a level playing field in which to compete. Short staffing programs ultimately hurts the resources and Wisconsin.

Numerous sections of the bill but especially Sections 36 through 43 of the bill may cause severe harm to fish and wildlife habitat. Who is monitoring the work? How does removal of DNR and citizens to protect "Areas of social natural resource interest" further protect natural resources? If fish spawning habitat is ruined, fishing declines, tourism declines and jobs and money are lost in Wisconsin. A healthy environment, good recreation and good jobs go hand in hand.

We, Wisconsinites, will have more water and pollution problems if you pass this legislation. The way it has been written and fast tracked attacks our democracy, it hurts our natural resources, especially fisheries and will negatively effect tourism and jobs in the long run.

Thank you.



**Thomas Thoresen, Fitchburg, WI
Board member Wisconsin League of Conservation Voters
Retired Deputy Chief Conservation Warden**





**BAD RIVER BAND OF LAKE SUPERIOR
TRIBE OF CHIPPEWA INDIANS**

CHIEF BLACKBIRD CENTER P.O. Box 39 • Odanah, Wisconsin 54861

**To: Senate Committee on Natural Resources and Environment
Assembly Natural Resources Committee**

**From: Mike Wiggins, Jr., Chairman,
Bad River Band of Lake Superior Chippewa Indians**

**Re: Opposition to September 2011 Special Session Assembly Bill 24 &
Senate Bill 24; and Position on Metallic Iron Mining Legislation**

Date: October 26, 2011

The Bad River Band of Lake Superior Chippewa Indians opposes September 2011 Special Session Assembly Bill 24, and Senate Bill 24, because these bills would be a first step toward weakening Wisconsin's current metallic mining laws, presumably to benefit Gogebic Taconite, LLC (GTAC). We, therefore, urge the Committee to vote against passage of these bills.

The mining-related provisions of SS AB 24, and SS SB 24, which we specifically oppose, would do the following:

I. Potential impacts on the regulation of mining or permitting a new mine in Wisconsin

1. Presumptive approval for the construction of any structures that would be required to be placed in or adjacent to navigable waters (including wetlands) such as bridges, culverts, crossings, or other structures required to operate a mine.
2. Limiting designations of "Areas of Special Natural Resource Interest" will ease the placement of any structure in navigable waters including wetlands necessary for the mine (wetland "fill" is not covered in this bill).
3. Pellet processing or energy generating facilities required for the mine will not need to model their air emissions to ensure compliance with air quality standards in order to obtain an air permit.
4. Timelines for presumptive approvals for all high-capacity wells or prospecting activities will be set by rule. DNR is currently given 65 days for high-capacity well approvals by rule unless environmental analysis is needed.

II. Effect on ASNRI designations

There have been some questions about what effect this bill would have on designating a water or wetland as an "Area of Special Natural Resource Interest" or

“ASNRI.” This bill, as stated above, limits the definition of “area of significant scientific value.” This is a term that is used to define what can be designated as ASNRI. Currently, NR 1.05 defines ASNRI to be:

1. A state natural area designated under ss.23.27-23.29, Stats.
2. A surface water identified as a trout stream by the department under s. NR 1.02(7)
3. A surface water identified as outstanding or exceptional resource water under s. 281.15, Stats.

The above three items remain unchanged in the LRB draft.

Areas with significant scientific value are also ASNRI and are currently defined under NR 1.05 as:

1. **Waters or portions of waters that contain endangered or threatened species or aquatic elements as defined and identified in the Wisconsin Natural Heritage Inventory.**
2. Wild rice waters as identified in a written agreement between the department and the Great Lakes Indian Fish and Wildlife Commission.
3. **Waters in areas identified in a special area management plan, abbreviated SAMP, approved by the U.S. Army Corps of Engineers, or special wetland inventory study, abbreviated SWIS, identified under NR 103.04.**
4. Waters in ecologically significant coastal wetlands along Lakes Michigan and Superior as identified in Publication #ER-002-00, Data Compilation and Assessment of Coastal Wetlands of Wisconsin’s Great Lakes, March 2000.
5. Federal or state, under ss. 30.26 and 30.27, Stats., designated wild or scenic rivers.

LRB 1446 removes the highlighted language shown above, and adds “[s]pecific portions of waters that are immediately adjacent to an area that contains critical habitat for endangered or threatened species and that directly affect that habitat.”

ASNRI wetlands are currently defined as “wetlands within the boundary of designated areas of special natural resource interest and those wetlands which are in proximity to or have a direct hydrologic connection to such areas.” NR 103.04. NR 103 (Water Quality Standards for Wetlands) has a broader definition of ASNRI than NR 1.05, and includes the following *additional* waters:

1. Lakes Michigan and Superior and the Mississippi River;

2. Unique and significant wetlands identified in special area management plans (SMAP), special wetland inventory studies (SWIS), advanced delineation and identification studies (ADID) and areas designated by the United States environmental protection agency under section 404(c), 33 USC 1344 (c);
3. Calcareous fens;
4. State parks, forests, trails and recreation areas;
5. State and federal fish and wildlife refuges and fish and management areas; and
6. State and federal designated wilderness areas (16 USC 1131 to 1135 and s. NR 1.415);

However, there is currently a much broader definition for ASNRI wetlands in the law. Currently NR 103 governs the definition of ASNRI for wetlands even for Chapter 30 permits. It is unclear whether the definition as proposed under this legislation would supplant the definition under NR 103 for Chapter 30 permits. In any case, this change does not affect water quality certifications for wetlands, which govern most wetland fills. According to DNR, wetland fills are not handled under Chapter 30, but are instead permitted under water quality certification.

Note also, that wetland alterations which are directly caused by operations on a metallic mineral prospecting site or mining site shall be regulated pursuant to specific mining standards under chs. NR 131 (prospecting) and 132 (mining), respectively. NR 132 lays out a framework for evaluating wetlands including their biological functions, watershed functions, hydrologic support functions, groundwater function, storm and flood water storage, shoreline protection, and other watershed functions. It is unclear whether NR 132 will exist under any proposed mining legislation yet to come.

III. Position on Metallic Iron Mining Legislation

It is our position that any potential iron mining legislation should be based on sound science and sound legal principles. We oppose the proposals that were included in LRB 2035, which was leaked to the public in early 2011, to streamline and weaken the DNR permitting process. While we do not believe the current law needs to be changed, any new proposals to change Wisconsin's metallic mining laws to address iron mining should include ten principles, which we have presented to the governor (although we also reserve the right to propose other provisions if mining legislation is actually introduced). The ten principles we proposed to the governor are:

1. THE DEFINITION OF IRON MINING SHOULD BE CLEARLY SET FORTH TO EXCLUDE ANY PROJECT PROPOSAL THAT HAS THE POTENTIAL TO CAUSE ACID MINE DRAINAGE.

2. THE COMPLETENESS OF IRON MINING PERMIT APPLICATIONS SHOULD BE CLEARLY DEFINED AND THE BURDEN OF PREPARING AND SUBMITTING A COMPLETE APPLICATION SHOULD BE ENTIRELY ON THE PERMIT APPLICANT.
3. THE PERMITTING TIME FRAME SHOULD BE REASONABLE, FLEXIBLE, AND CONSISTENT WITH FEDERAL AGENCY TIME FRAMES. IT SHOULD ALSO PROVIDE SUFFICIENT TIME FOR THE DNR, THE PUBLIC, FEDERAL AGENCIES, AND AFFECTED INDIAN TRIBES, TO FULLY REVIEW AND PARTICIPATE IN THE PERMITTING PROCESS.
4. EXISTING WETLAND PROTECTION STANDARDS SHOULD BE MAINTAINED AND THE FEDERAL/STATE PARTNERSHIP IN THE ENVIRONMENTAL REVIEW PROCESS UNDER STATE AND FEDERAL LAW SHOULD NOT BE JEOPARDIZED.
5. FEDERAL CLEAN WATER ACT IMPLEMENTATION BY THE DNR SHOULD BE CORRECTED AND NOT WEAKENED.
6. THERE SHOULD BE CONTESTED CASE HEARINGS TO ALLOW FULL PARTICIPATION BY INTERESTED PARTIES, INCLUDING INDIAN TRIBES.
7. THERE SHOULD BE NO PREEMPTION OF LOCAL CONTROL.
8. CITIZEN SUITS SHOULD BE MAINTAINED TO MAKE SURE PERMIT PROVISIONS AND LEGAL RESTRICTIONS ON NEW MINES WILL BE ENFORCED.
9. CONSULTATION WITH INDIAN TRIBES BY THE DNR SHOULD BE REQUIRED AS PART OF THE PERMITTING PROCESS.
10. INTERESTED PARTY FINANCING SHOULD BE PROVIDED FOR THE CONTESTED CASE HEARING PROCESS.

Thank you for your consideration.



BAD RIVER BAND OF LAKE SUPERIOR CHIPPEWA INDIANS

POSITION STATEMENT ON PROPOSED GTAC IRON MINE AND PROPOSED IRON MINING LEGISLATION IN WISCONSIN

September 2011

The position of the Bad River Band of the Lake Superior Chippewa Indians ("Band") on the proposed Gogebic Taconite LLC ("GTAC") iron mine in the Penokee Hills of Ashland and Iron Counties, and on proposed iron mining legislation in the State of Wisconsin, is as follows:

A. **THE BAND OPPOSES THE PROPOSED GTAC MINE AND ANY MINING IN THE PENOKEE HILLS.** The Band opposes development of the proposed GTAC taconite iron mine in the Penokee Hills of Ashland and Iron Counties in Wisconsin, because it is clear, based on available geologic and environmental information, that such a mine cannot be developed and operated using current mining technologies and practices without destroying the environmental quality, including the air, lands and forests, wetlands, streams, and rivers of the Bad River watershed, the Bad River Indian Reservation, and Lake Superior. The Bad River watershed is a pristine environmental resource, and the Band's way of life is highly dependent upon maintaining the health and integrity of the watershed. The proposed GTAC iron mine would destroy the Bad River watershed and the Band's way of life.

B. **THE BAND'S POSITION ON PROPOSED IRON MINING LEGISLATION.** Notwithstanding the Band's position on the proposed GTAC iron mine, the Band understands that Wisconsin Governor Scott Walker and some members of the Wisconsin Legislature are proposing to change Wisconsin's metallic mining laws to distinguish between ferrous or iron mining and other metallic sulfide mining, to shorten the state's permitting process, and otherwise change the permitting and regulatory process for new iron mines. As such, the Band views the process of changing state law as being distinct from the question of whether or not the proposed GTAC mine should be permitted. The Band's position on proposed iron mining legislation is that such legislation should be based on sound science and sound legal principles. The Band opposes the proposals that were included in LRB 2035, which was leaked to the public in early 2011, to streamline and weaken the Wisconsin Department of Natural Resources ("DNR") permitting process. With respect to any new proposals to change Wisconsin's metallic mining laws, the Band's position is that any such legislation should include the following principles and/or provisions, although the Band also reserves the right to propose other provisions if legislation is actually introduced:

1. **THE DEFINITION OF IRON MINING SHOULD BE CLEARLY SET FORTH TO EXCLUDE ANY PROJECT PROPOSAL THAT HAS THE POTENTIAL TO CAUSE ACID MINE DRAINAGE.** Regulatory requirements for any specific metallic mining proposal should be tailored to the actual characteristics of the proposed mine itself, including the nature of the overburden, the ore body, the ore processing operations, the disposal or storage of overburden, tailings, and other waste materials, and the ecology and geology of the site and surrounding environment. If iron mining is to be

treated differently than other metallic mining under any modification of existing law, the distinction or definition of iron mining must not be arbitrary. Thus, there must be a clear, unambiguous and science-based definition of iron mining that excludes from the provisions of any new law all mining proposals having any potential to cause acid-mine drainage based on the geological properties of the proposed mining site, regardless of the minerals that would be mined.

2. THE COMPLETENESS OF IRON MINING PERMIT APPLICATIONS SHOULD BE CLEARLY DEFINED. There must be a clear and comprehensive application completeness requirement, and a clear completeness determination process by the DNR. This is because the permitting time frame for any permit application is dependent on starting the review process with a complete permit application from the permit applicant. Such an application must have sufficient environmental and technical information for the DNR to conduct the review process, and the information provided must show that the proposed project will meet all applicable environmental standards and requirements. The burden of preparing and submitting a complete permit application must be entirely on the applicant and should never shift to the DNR or other interested parties.

3. THE PERMITTING TIME FRAME SHOULD BE REASONABLE, FLEXIBLE, AND CONSISTENT WITH FEDERAL AGENCY TIME FRAMES. Regardless of the duration of the permitting time frame, the mining permit application review process should be triggered only upon a determination of completeness by the DNR of a mining permit application. The permitting time frame should be reasonable for the applicant but, more importantly, it should provide sufficient time for the DNR, the public, federal agencies having jurisdiction or an interest in a proposed mining project, and interested Indian tribes to fully review and participate in the permitting process. The permitting process should take as much time as necessary to ensure protection of the environment and the rights of interested parties, including Indian tribes. Approval of a mining permit application should not be presumed. The permitting time frame should not be rigid because flexibility may be necessary to allow for extensions requested by an applicant or interested parties, depending on the size, scope, location, proposed operations and environmental considerations unique to any specific mining permit application. While generalized or estimated time frame goals may be appropriate to provide guidance for the DNR and permit applicants, such goals should be flexible and fully consistent with permitting procedures and requirements of federal agencies, including the U.S. Army Corps of Engineers ("USACE"), the U.S. Environmental Protection Agency ("USEPA"), and others, as well as neighboring states and Indian tribes.

4. WETLAND PROTECTION STANDARDS SHOULD BE MAINTAINED AND THE FEDERAL/STATE PARTNERSHIP IN THE ENVIRONMENTAL REVIEW PROCESS UNDER WEPA AND NEPA SHOULD NOT BE JEOPARDIZED. Wisconsin's current and long-standing wetland protection standards and provisions, including but not limited to the provisions relating to "area(s) of special natural resource interest" ("ASNRI wetlands"), under Wis. Stats. §§ 281.37(1)(a) and (a)13, as defined in Wis. Admin. Code § NR 103.04, should not be changed or weakened in any manner. In addition, the federal/state partnership between

the USACE and the State of Wisconsin in implementation of Section 404 of the federal Clean Water Act ("CWA"), Section 10 of the federal Rivers and Harbors Act, the National Environmental Protection Act ("NEPA"), and the Wisconsin Environmental Protection Act ("WEPA"), relative to review and approval of permits for work in waters and/or wetlands in Wisconsin, should not be jeopardized or weakened in any way. In a recent letter from Tamara E. Cameron, Regulatory Branch Chief of the St. Paul District of the USACE to Keith Gilkes, Chief of Staff to Wisconsin Governor Scott Walker, the USACE noted that it generally takes in excess of two (2) years to prepare a federal environmental impact statement ("EIS") under NEPA, and that separate, disconnected state and federal environmental review of any proposed mining project would be inefficient and counterproductive. (See Letter from Tamara E. Cameron, Regulatory Branch Chief, St. Paul District USACE to Keith Gilkes, Chief of Staff for Wisconsin Governor Scott Walker, of 8/1/11.)

5. FEDERAL CLEAN WATER ACT IMPLEMENTATION BY DNR SHOULD BE CORRECTED AND NOT WEAKENED. Implementation of the CWA's National Pollutant Discharge Elimination System ("NPDES") by the DNR, through administration of the DNR's Wisconsin Pollutant Discharge Elimination System ("WPDES"), as applied to all metallic mining permit applications, should be corrected and brought into compliance with USEPA requirements. In a July 18, 2011 letter from Susan Hedman, USEPA Region 5 Administrator, to DNR Secretary Cathy Stepp, numerous deficiencies in Wisconsin's WPDES program and water quality protection laws were noted. These deficiencies included the inadequacy of the DNR's authority to "ensure compliance with the applicable water quality requirements of all affected states," under 40 C.F.R. § 122.4(d) (including the Band's strict water quality standards which have been promulgated pursuant to the Band's "treatment as state" designation by the USEPA under the CWA). (See Letter & Enclosure from Susan Hedman, USEPA Region 5 Administrator, to Cathy Stepp, DNR Secretary, of 7/18/11.)

6. THERE SHOULD BE CONTESTED CASE HEARINGS TO ALLOW FULL PARTICIPATION BY INTERESTED PARTIES. Contested case hearings and full participation by interested parties, as provided for under Wisconsin's existing metallic mining laws, should be maintained for iron mining permit applications as well as all other metallic mining permit applications. Contested case hearings with full participation by interested parties are trial-like hearings on permit applications where the permit applicant and interested parties may call witnesses, including technical experts, to testify under oath subject to cross-examination by the administrative law judge ("ALJ"), as well as other parties and attorneys. Such hearings are very different than so-called "public hearings," in which permit applicants and interested parties and their witnesses are not required to testify under oath and are not subject to cross-examination. The requirement of presenting testimony under oath which is subject to cross-examination is a fundamental aspect of due process and the truth finding process in legal proceedings. Such requirements are important to prevent fraudulent or poorly documented mining permit applications. These procedures are highly important to ensure that all legal and technical standards under the law will actually be met by permit applicants.

7. THERE SHOULD BE NO PREEMPTION OF LOCAL CONTROL. Local and county land use controls over metallic mining projects, including town and

county zoning restrictions and other laws and regulations based on the police powers of towns and counties, should not be preempted by state law.

8. **CITIZEN SUITS SHOULD BE MAINTAINED.** The citizen suit provisions of Wisconsin's existing metallic mining law, under Wis. Stat. § 293.89, should be maintained and applied equally to iron mining projects. Similar citizen suit provisions are found in the federal CWA and the federal Clean Air Act. Citizen suits are suits that may be brought by interested citizens who have standing to sue to enforce environmental standards that are not being complied with by a project developer, a permit holder, or applicable regulatory agencies. Such provisions help ensure that permit standards will be complied with after a permit has been issued. These provisions hold permit holders and the regulatory agencies like the DNR accountable under the law.

9. **CONSULTATION WITH INDIAN TRIBES SHOULD BE REQUIRED.** In many parts of Wisconsin where iron and other metallic mineral deposits have been discovered, Indian tribes and Indian reservations would be adversely impacted if mining operations are approved. The adverse impacts would include pollution of air and water resources, destruction of fish and wildlife habitat, and loss of public lands which are currently open to off-reservation treaty rights for hunting, fishing, and gathering, as well as adverse cultural, economic, and social impacts. Under federal law the federal agencies have a trust relationship with Indian tribes and must, therefore, consult with and fully consider the impacts of their decisions on the tribes. Any change to Wisconsin's mining laws should include provisions to require the DNR to fully consult with and consider the potential impacts of mining projects on interested Indian tribes, in much the same manner as federal agencies are required to under federal law. This type of consultation between the DNR and interested Indian tribes is important for environmental, economic, legal, cultural, and social reasons, to ensure that principles of "environmental justice" are followed by the State of Wisconsin, and to prevent minority and low income Indian communities from being discriminated against and from being forced to bear undue adverse impacts from proposed mining projects.

10. **INTERESTED PARTY FINANCING SHOULD BE PROVIDED.** Some proponents of changing Wisconsin's mining laws to streamline the review process for iron mining permits have used the Wisconsin Public Service Commission's ("PSC") time frames for reviewing proposals for new electric generating plants and high voltage electric transmission lines as an example of how such time frames might be established. However, metallic mining activities involve excavation of minerals from below the ground surface, which is very different than the type of impacts associated with development of electric generating plants and high voltage transmission lines. Nonetheless, even the existing PSC review process for such projects provides for contested case hearings and intervention in the PSC review and hearing process by interested parties other than the applicant and the PSC staff. Moreover, such "intervenorors" have often been eligible to receive "intervenor financing" so they can fully participate in the hearing process by hiring attorneys and experts to testify and present technical information to the PSC. Such "intervenor financing" should also be provided for if there is any change to Wisconsin's metallic mining laws specific to iron mining.



BAD RIVER BAND OF LAKE SUPERIOR TRIBE OF CHIPPEWA INDIANS

CHIEF BLACKBIRD CENTER

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A Brief Bad River History by D.J. Jackson

The Bad River Band Of Lake Superior Tribe of Chippewa Indians is located on a 125,000+ acre reservation in Northern Wisconsin on the south shore of Lake Superior (known by the tribe as Gichi Gami) in Ashland and Iron Counties. Territory ceded by the tribe to the U.S. government includes the upper one third of what is now the State of Wisconsin.



The tribe has over 7,000 members, the majority living off the reservation; about 1,500 live on the reservation in one of four main communities. These are New Odanah, Diaperville, Birch Hill and Frank's Field plus others at scattered sites and the Beartrap Creek area. The reservation is over 90% wild land, kept in its natural state whenever possible by the tribe. The land base plus almost 200 acres on Madeline Island was set aside for the Bad River Band (then known as the Lapointe Band) in the treaty of 1854. This treaty was finalized on September 30, 1854 at Lapointe on Madeline Island, longtime capital and cultural/religious center of the Ojibwe AKA Chippewa Nation. The

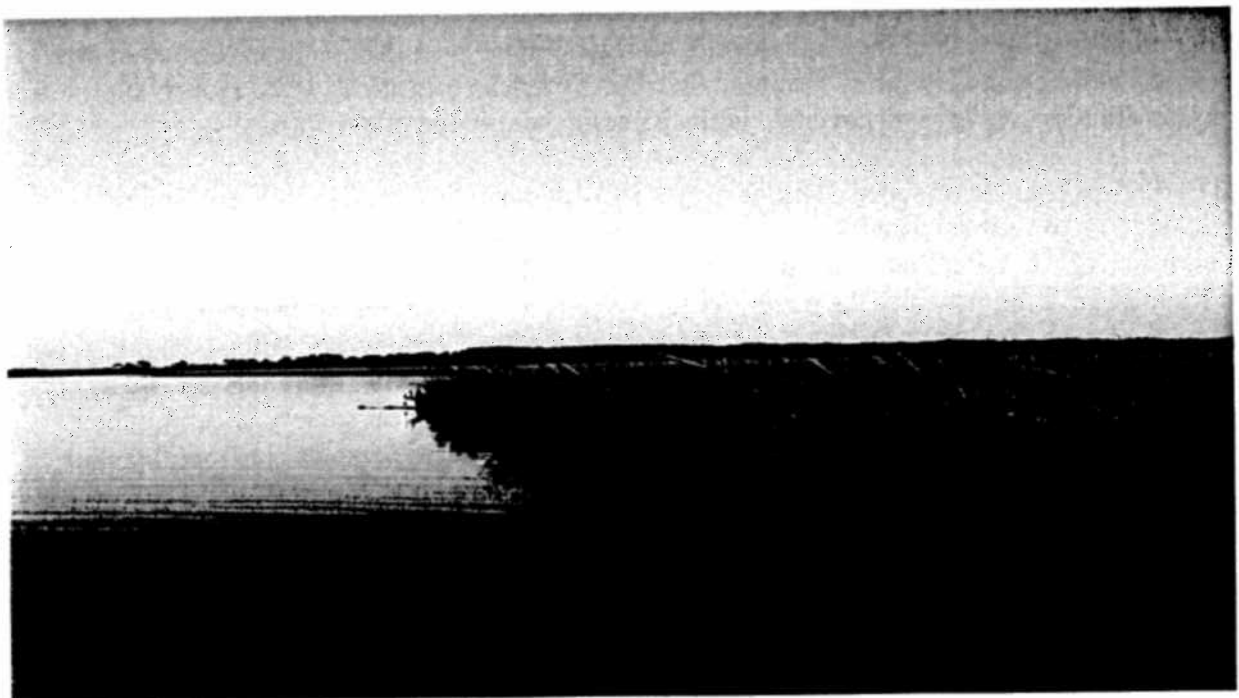
meaning of the word Ojibwe is unclear at this point: some would translate it as "he who writes", referring to the fact that the people kept some of their records written on birchbark scrolls in a pictographic writing system they had developed. The Ojibwe people have been located in this area since well before Columbus stumbled onto the Americas; historically, the French explorers Radisson and Groseilliers "discovered" Ojibwe people here in the mid-1600's.

The Bad River Band is one of six Ojibwe bands in Wisconsin that are federally recognized tribes, and one of four set aside reservation treaty lands in the Treaty of 1854. These four are Bad River, Red Cliff, Lac Du Flambeau and Lac Courte Oreilles; the other two bands are St. Croix and Mole Lake. Linguistically the band is listed as being of the Algonkian language stock; the native language is known as Ojibwe Anishinaabemowin. The Chippewa or Ojibwe Nation is one of the three largest native nations in North America. Ojibwe people are culturally known as semi-nomadic hunters, fishermen and gatherers. They are a patrilineal society, meaning their clan or "dodem" membership is passed down through the father. A person's clan membership originally denoted what function in society the family and individual would fulfill. The primary clans surviving here are the Crane, Loon, Eagle, Bear, Marten, Lynx, Bullhead, Sucker and Turtle. The original religious society is known as Midewiwin or Grand Medicine Lodge.



In modern times people may belong to the Midewiwin, one or more of the Big Drum societies, or a Christian Sect, primarily Catholic and Methodist. The Ojibwe people traveled from the east coast St. Lawrence River area west around the great lakes to their present locations over a considerable period of time. **Legend tells of a search for a place where food grows on the water; that food is Wild Rice and is located in most of the Ojibwe country today. Odanah**

(meaning village) was originally located at the confluence of the Bad and White Rivers. The area was originally known as "Gete Gititaaning" meaning "at the old garden". This area is rich in topsoil due to the flooding of the rivers; this is where the people used to plant their gardens and return in the fall to harvest. The Kakagon Slough area contains most of the Wild Rice beds the tribe harvests from annually; this is one of the largest pristine freshwater wetland estuaries in the Midwest. The entire reservation is located in a bowl that is surrounded by highlands on three sides; the continental divide is south of the reservation so the rivers here flow north. The location in this bowl with its proximity to Lake Superior provides natural protection from cold, snow and summer heat. The weather is warmer during most of the winter, cooler in summer and this area gets less snow than the surrounding areas. The woodlands are mixed cutover lands having been clear-cut of pine between 1850 and 1920; they support many species of game animals and furbearers.



The primary game animals are: deer, bear, rabbit, ruffed grouse, ducks and geese. The primary furbearers are: muskrat, beaver, mink, marten, raccoon, fox and fisher. There are a few moose and wolves on the reservation but these are highly protected due to their rarity. The rivers are rimmed with Maple trees which originally provided much Maple Sugar for tribal harvesters. Today there are only about a half dozen to a dozen families who still harvest the Maple Sugar, usually in the form of Maple Syrup for home use, sale or trade. **The rivers also provide spawning areas for the many species of fish in the area. The primary species are walleye and northern**



pike, sucker, trout/salmon, burbot, bass and sturgeon. Although most people include fish in their diet there are only a few commercial fishermen on the reservation. Most are subsistence fishermen: they take only what they need to feed their families; they do not sell fish for profit. Each year the tribal Natural Resources Department nets walleyes, hatches the eggs and returns many millions of fry and fingerlings to the Kakagon and Bad Rivers. They have also hatched fish for other entities to further enhance northern Wisconsin's Walleye resource.



The primary employer is tribal government, either in administration of social programs or for profit enterprises like the casino gaming operations. The tribal government was originally the chiefs council which was made up of hereditary chiefs and head men from each clan. They made decisions for the tribe on a consensus basis.

Today the governing board is the tribal council which is made up of seven elected at large officials: Tribal Chairman, Vice Chairman, Secretary, Treasurer, two Senior Council Members and one Junior Council

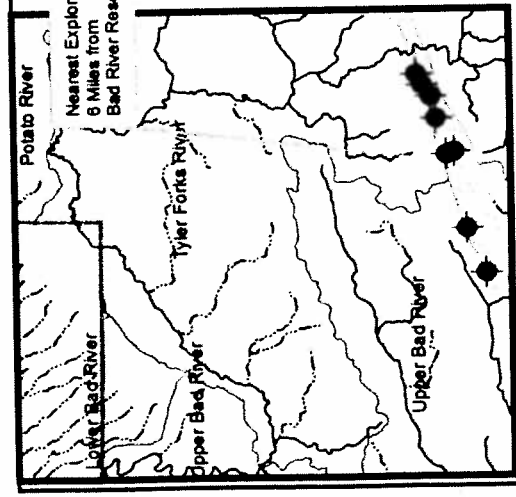
Member. The tribal council form of government has been in effect since shortly after the passage of the Indian Reorganization Act of 1934. They serve as the policy/law making body for the tribe and decisions are made on a majority basis. The chairman also functions as the chief executive officer of the tribal administration, which administers government contracts and for profit enterprises. The administration is divided into departments which are managed by professional tribal administrators. Wisconsin is what is known as a Public Law 280 State, which gives criminal jurisdiction on Indian Reservations (except the Menominee) to the state. Civil jurisdiction such as hunting/fishing/gathering laws is a function of the tribe. The tribal court system oversees civil cases while criminal cases are overseen by state courts and enforced by state/county police officers. The majority of children attend public schools in nearby Ashland

with a few in private or parochial schools. The tribe has a preschool Headstart program for three to five year olds. Health care is provided by the Bad River Health Clinic for reservation residents. This includes a part time doctor, full time family nurse practitioner, pharmacist and several nurses.



Source: The Bad River Band of Lake Superior Chippewa Tribe website, www.badriver-nsn.gov.
Photos courtesy of Great Lakes Fish and Wildlife

Bad River Reservation, Bad River Watershed, and the Penokee Mountain Ore Body

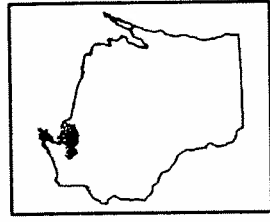
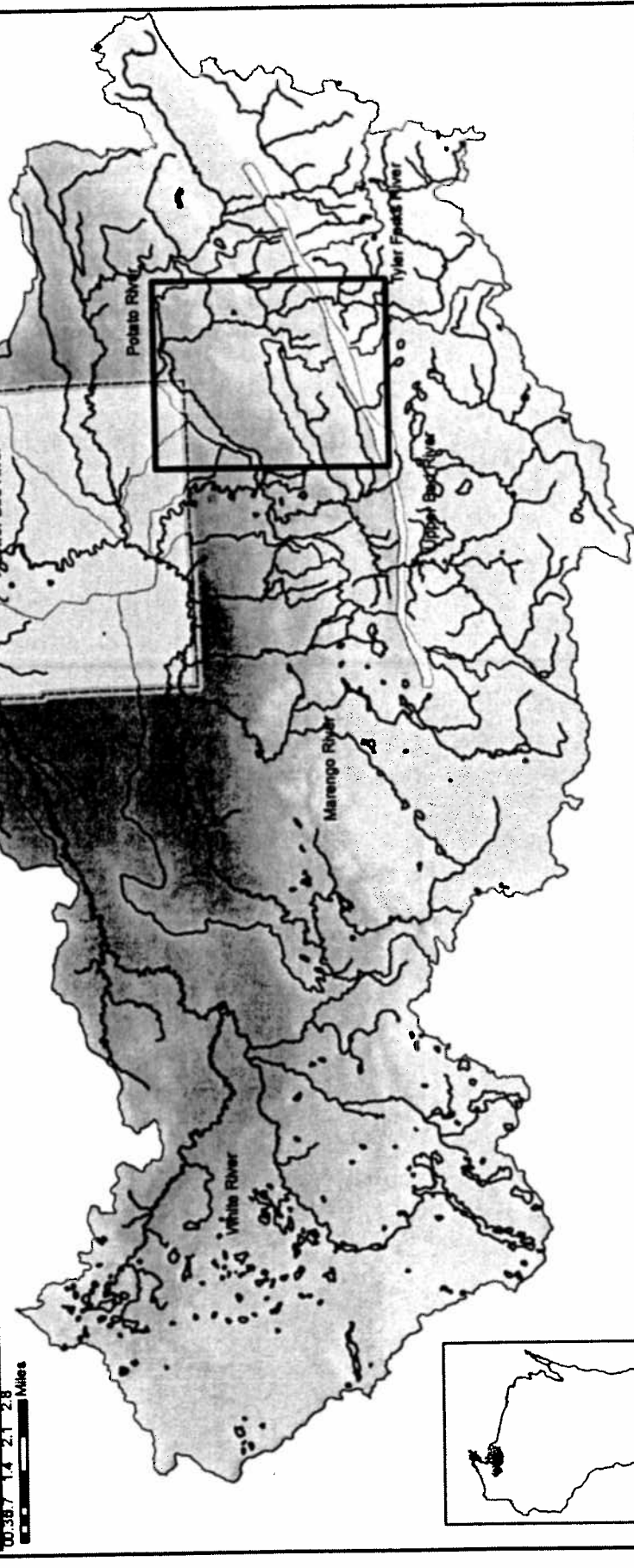


Legend

- Major Waterways
- Bad River Coastal Wetlands/Sloughs
- Bad River Reservation
- Penokee Ore Deposit
- Bad River Watershed
- Exploration Drill Sites



Lake Superior

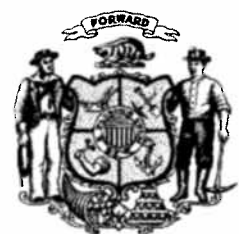


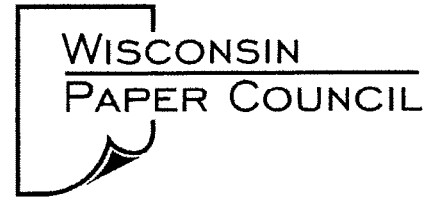
Map Created: 06/08/2011
Bad River Natural Resources Dept.





WISCONSIN STATE LEGISLATURE





October 26, 2011

To: Assembly Committee on Natural Resources
Senate Committee on Natural Resources

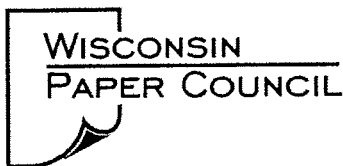
From: Edward J. Wilusz, VP Government Relations

Subject: Special Session Assembly Bill 24 & Special Session Senate Bill 24

We want to make you aware of an issue that is somewhat time sensitive and ask that you consider amending Special Session Assembly Bill 24 and Special Session Senate Bill 24 to include language to address this situation.

The issue, in short, is the need to modify Wisconsin law to mirror federal EPA regulations regarding a three-year deferral that EPA provided on July 20 of this year for the regulation of biogenic carbon dioxide emissions under certain air permitting programs. Normal procedures for addressing this issue would eat up most of the three year deferral window, making it of little value in Wisconsin. The quickest way to remedy this situation is to pass legislation as quickly as possible. An issue paper explaining the issue in more detail is attached.

We understand that the special session legislation is complex, that we are not the only ones raising amendment issues, and that there is limited time to deal with the special session bills. We are prepared to address this issue through separate legislation, but wanted to make you aware of this situation in case you felt it was appropriate to address in the special session. Thank you for your consideration.



Issue Paper

Deferral for Biogenic CO₂ Emissions Under Air Permitting Programs

EPA regulates greenhouse gas emissions, including carbon dioxide (CO₂), under the Prevention of Significant Deterioration (PSD) and Title V permitting programs. EPA's Tailoring Rule was published on June 3, 2010, and regulates all sources of CO₂. On July 20, 2011, EPA published in the Federal Register a three-year deferral of the regulation of biogenic CO₂ emissions under these two programs. Biogenic emissions result from the burning of natural materials, like wood and other organic matter, and are considered to be carbon-neutral under most regulatory schemes around the world. The purpose of the EPA deferral is to study whether these emissions should be considered to be carbon-neutral in this country.

This deferral did not become automatically effective in all states. In SIP-approved states like Wisconsin (SIP stands for State Implementation Plan) the deferral will have limited legal effect until the state adopts a statutory or administrative rule change reflecting the EPA action, and EPA subsequently approves the Wisconsin change. The administrative rule option could take well over a year to complete and EPA approval could take many more months. Such a delay would eat up most of the three-year deferral period, making the deferral of little value in Wisconsin. However, a statutory change could be made during the fall floor period and the change could be submitted to EPA for approval by Thanksgiving. This would allow the deferral to be in place for most of the three-year period, making it more valuable to Wisconsin sources, including the forest products, agriculture, and biofuels industries.

The wording of the EPA deferral appears in 40 CFR 51.166(b)(48)(ii)(a) and 40 CFR 70.2(2) and reads:

"...prior to July 21, 2014, the mass of the greenhouse gas carbon dioxide shall not include carbon dioxide emissions resulting from the combustion or decomposition of non-fossilized and biodegradable organic material originating from plants, animals, or micro-organisms (including products, by-products, residues and waste from agriculture, forestry and related industries as well as the



This is for the Senate & Assembly Natural Resources Committees. I don't have addl. paper copies but I will forward this document to members along w/ Sierra Clubs testimony

Statement of Todd Ambs

Former WDNR Water Division Administrator (2003-2010)

and current President of the national conservation group River Network

Here I thought that the Republicans were opposed to high speed railroads?

Yet, I see that key members of the majority party in the State Legislature are moving with bullet train speed to rush through SS SB 24 and SS AB 24 under the guise of job creation in the Special Session of the Legislature that is supposed to be about getting Wisconsin's economy moving.

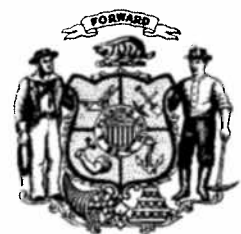
These bills will actually cost us jobs in Wisconsin by jeopardizing our top three industries in the state. Agriculture, timber products and especially our tourism industry depends on clean water and healthy natural resources. This legislation removes the public from the process, prevents the WDNR from being able to do its job of protecting our natural resources and actually violates the state Public Trust Doctrine that is part of our Constitution.

This proposal is a solution desperately seeking a problem. The solution does create myriad problems though. The problems include severely degraded waterways, depleted aquifers, and devastated fish habitat.

I truly regret that I am out of state tomorrow and will be unable to attend the joint hearing on this bill which is the most direct assault in years on the natural resources of Wisconsin.



WISCONSIN STATE LEGISLATURE



My name is Betty J Borchert I am from Oshkosh, Wisconsin. I live on Lake Winnebago and am a member of the Wisconsin wildlife Federation, Winnebago land conservation alliance (representing 22 clubs), Watertown conservation club, Winnebago conservation club, and the Van Dyne Conservation club.

I am an avid user of our lakes and streams in Wisconsin, and I opposed this bill that you are trying to push through. It is not only harmful to the streams and lakes as it is to our groundwater in all of the environment we ask you to reconsider this bill to protect what we have worked so hard to keep.

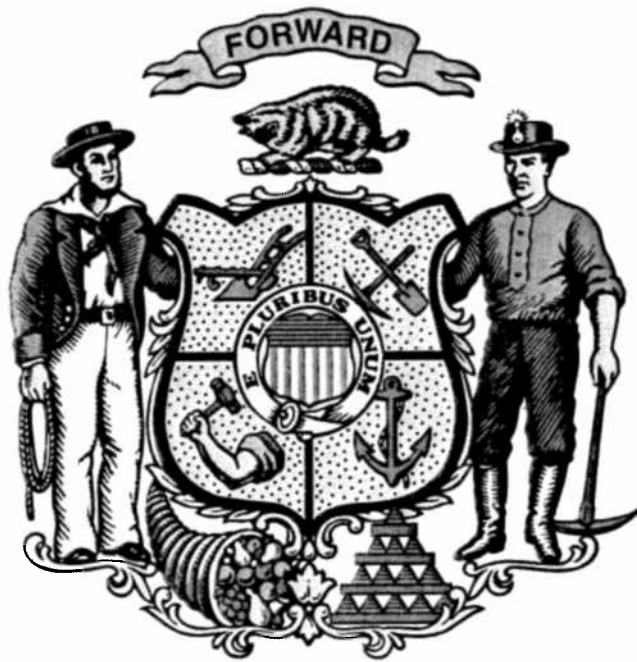
assembly Bill
24

Thank you : Betty J Borchert

7420-S- HWY 45
Oshkosh WI 54902

Phone 920-688-3122

Geo44@charter.net



Hello and thank you for the opportunity to speak.

My name is Mrs. Gina Cook. I am a native Wisconsinite, and I live in Harmony Township, Rock County, WI. I am here to encourage you to OPPOSE SB 24.

As a graduate student in the Nelson Institute for Environmental Studies at UW Madison, I am learning about natural resource management and the duties and challenges entailing that responsibility.

When I read SB 24, I was floored at the sweeping way in which this bill relaxes current standards for clean water and air protection, how it allows for expedited processing of permits in areas currently restricted or protected, and disenfranchises thousands of registered voters by excluding them from the final draft hearing of the permitting process.

The regulations that are in place won't prevent the proposed mine from getting established, instead they allow for investigations of the impacts on the surrounding environment and include involvement of the citizenry every step of the way. SB 24 would change that to a streamlined process that bypasses citizen involvement and sidesteps environmental impact reports. We need strong protections of our natural resources to ensure our states economic future.


The areas that will be impacted by the taconite mine rely on tourism dollars that stems from the pristine waters and diverse landscapes found in the Gogebic region. The mining and processing of taconite ore will destroy the natural landscape, and pollute air and water for a lot longer than 35 years-the expected life of the mine.

Also, if the DNR wants to use the term "Significant Public Interest" as a means to deny public hearings on permitting issues, they must first define the term before enacting it, otherwise it is subject to the whim of the persons dealing with the issue at the time-and no standard is set.

A show of people here-would those who are here to oppose SB 24 please stand-thank you. Now those of you who are also registered voters please stand or remain standing...

While you look into this crowd please consider this, I encourage you all to OPPOSE SB 24 when it comes across your desk.

Thank you for your time.

A handwritten signature in black ink that reads "Gina R. Cook". The signature is written in a cursive, flowing style.

Gina R Cook
5343 Harmony Townhall Road
Harmony Township, WI 53546
grcook@wisc.edu



My name is Elizabeth David.

I am here to testify against provisions in this proposed legislation addressing permitting procedures and water pollution controls.

I am a PhD economist, who worked both for the University, where I retired as Adjunct Associate Professor, and for the DNR where I was the Resource Economist. Relevant to testimony today, at the UW, I was Project Director of the 2-year Lake Superior Project in the Institute for Environmental Studies (the Nelson Institute.) At the DNR, among other duties, I was the economist for the Environmental Impact Statement for the Exxon Crandon mine.

Lake Superior is special because it is big and deep. It has more water than all the other Great Lakes combined. However, it has one of the smallest drainage basins. There is very little water flowing into and out of the lake. Any pollution, as from the Reserve taconite mining in Silver Bay, Minnesota, will not be apparent for a long time because there is so much water to dilute it. However, because it takes 200 years or more for the water to be replaced – its “retention time” – if it once were polluted it would stay polluted for a long time. In contrast, pollution put into Lake Erie will be out of it in only 2 – 3 years.

We must be very careful of what is put into Lake Superior.

Mining is not an economic activity with which the state is very familiar. Staff at the DNR have not had to review a complicated mine application since the Exxon mine proposal in the 1980's. And none of the people now in the section that reviews mining projects participated in the Exxon proceedings; those people have all retired. Thus it is imperative that the current mining staff have sufficient time and flexibility to accurately review any mining and associated water discharge permit applications.

In the proposed legislation, the time restrictions for issuing permits, as well as the restriction that staff may ask only once for further information, would not allow an accurate review.

This legislative session is to address the creation of jobs. The proposed mine would create employment, but not for residents of Northern Wisconsin. Highly skilled mine equipment operators follow the mining activity all over the United States; it is they who would be employed. The economic impact on jobs for Northern Wisconsin residents would be a small increase in retail and housing construction employment now, and an abandoned area polluted, denuded and unattractive with attendant unemployment in the future.

Thank you.

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Middleton, WI 53562
(608) 238-2181
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**Joint Hearing of the Senate and Assembly
Natural Resources Committee
Special Session Bill 24
Testimony of Joel Haubrich, We Energies**

Mr. Chairmen, members of the committees, my name is Joel Haubrich and I am here on behalf of We Energies. We Energies is based in Milwaukee and serves more than 1.1 million electric customers in Wisconsin and Michigan's UP and more than 1 million natural gas customers throughout Wisconsin.

Providing utility services to our customers requires that a substantial amount of routine construction and maintenance be conducted on our electric and natural gas distribution network – approximately 45,000 miles of electric distribution lines and 20,000 miles of natural gas lines. Each year, over 1,000 projects are reviewed in detail for environmental impacts, and about 10-15% of these require some sort of environmental permit. I am testifying today to seek improvements to environmental permitting related to conducting this **routine** customer utility work.

Compliance with a variety of Natural Resource codes administered by the DNR add to the costs and time required to complete routine utility construction, maintenance, and service extensions. Applicable environmental regulations include requirements related to waterways, wetlands, shoreland zoning, storm water/erosion control, and endangered resources reviews. For each **individual** project, several permits may be required, both from DNR, and, in the case of shoreland zoning from local units of government. **What we are looking for is one consolidated means of regulatory approval routine utility projects.**

Overall we hope to create a solution that results in "practice over paper". Our goal is to pre-determine gas and electric operations procedures that meet all environmental requirements – and eliminate sometimes complicated and time-consuming individual permitting transactions. We think that this can be accomplished through a tried and true General Permit – or GP - approach that DNR has already implemented for other businesses. A utility-specific GP would be aimed at standardizing how work is done, thereby eliminating the permitting workload for both our own staff and for agency staff, and also eliminating project delays and extra costs that result in no additional environmental protection.

Permitting schedules and costs, which are passed directly to customers requesting service can vary dramatically. By having a patchwork of permitting and permitting

costs, a substantial burden is placed on a utility to plan and implement routine maintenance and extension projects, and can create delays in project schedules and costs to customers increased.

A single, consistent means of obtaining regulatory approvals is needed in order to simplify and expedite routine work and improve services to residential and business customers. At a minimum, a single, uniform, **utility general permit** needs to address all of the following regulatory programs and authorities:

- construction and maintenance of bridges and culverts in or over navigable waterways;
- construction and maintenance of miscellaneous structures in navigable waterways;
- grading on the bank of navigable waterways;
- dredging in navigable waterways;
- water quality certification for impacts to wetlands or navigable waterways;
- construction and maintenance of electric and gas services in shoreland areas covered by local shoreland zoning ordinances and requirements.

The WDNR has developed General Permits for several types of activities listed above and SSB 24 further streamlines the process. However, these traditional GPs often contain eligibility criteria that typical utility projects cannot meet. In many instances the type of routine work we do excludes us from a GP. In those instances, an individual permit ("IP") is required and it usually ends up containing the same substantive environmental protection requirements as the GP.

Moreover, county shoreland zoning ordinances vary from one county to the next, making it difficult for project scoping and for proceeding with efficient and timely project implementation. In addition, county shoreland zoning ordinances are often duplicative of, and in many cases more restrictive than DNR permits. Finally, county shoreland zoning ordinances may be more restrictive than the NR 115 "model ordinance", and counties are at different stages in adopting and implementing their shoreland zoning ordinances.

In August, the DNR granted a two year extension for counties to adopt or amend county shore land zoning ordinances. This recent action underscores the uncertainty and inconsistency that utilities are facing when having to obtain NR 115 approvals from the many individual counties where customer operations projects are located.

Potential solution:

We Energies requests that the authors amend the bill to allow for the development an alternative means of complying with all of the overlapping and sometimes duplicative permitting requirements that utilities encounter when conducting customer operations work. Specifically, create legislative authorization, along with a directive to DNR to create a **utility-specific General Permit (GP)**. Like other GP's, a utility GP would specify **Best Management Practices** that utilities must follow in order to assure the same level of environmental protection as under the existing permitting requirements.

Separate authorization is also needed to provide utility flexibility to satisfy any county shoreland zoning ordinance, either through terms of the GP, or through separate coverage.

We have crafted some language and will provide it to the committees. I also have some example of the types of projects and the added costs individual permitting causes.

Special Session bill 24 does a lot of good things. We hope you will consider one more good idea and add a utility general permit to the bill.

Thank you!

Proposed language

Proposed Utility General Permit Language

Wis. Stat. s. 30.206(x) is created to read:

(x) The department shall issue a general permit under chs. 30 and 31 to address potential impacts to navigable waterways and under chs. 281 and 283 to address potential impacts to wetlands to authorize construction and maintenance of projects by a public utility. The general permit shall establish eligibility standards appropriate to projects conducted by a public utility. Such eligibility standards may be different from, but no more stringent than, eligibility standards established by statute or rule for projects conducted by an entity not defined as a public utility.

Proposed Shoreland Zoning Coverage for Utility Projects

Create new section 59.692(8) to read as follows:

(8) Public Utility Construction and Maintenance in Shorelands, The construction and maintenance of electric, gas, telephone, water, and sewer transmission and distribution lines, and related facilities, by a public utility in the shoreland shall be deemed to satisfy the provisions of this section and any ordinance enacted under this section if:

(a) the department has issued a permit or approval authorizing the construction or maintenance under chapters 30 or 31 to address potential impacts to navigable waterways or under chapters 281 or 283 to address potential impacts to wetlands; or

(b) no department permit or approval identified in sub. (a) is required for the construction or maintenance, and the project is conducted in a manner that employs best management practices to infiltrate or otherwise control storm water runoff from any structures.