



Mary Lazich

President
Wisconsin State Senate

Senate Committee on Natural Resources and Energy
Senate Bill 660
February 11, 2016

Thank you Chair Cowles for scheduling Senate Bill 660 (SB 660) a public hearing, and thank you committee members for attention to SB 660. Under specific conditions, SB 660 allows waterfront property owners to remove 50 cubic yards of silt from the bed of an inland navigable water without a permit from the Department of Natural Resources.

Currently, many riverfront property owners, including those in the Fox River-Tichigan Lake waterway are unable to enjoy the natural resource right outside their back door. A buildup of silt prevents residents from enjoying the outdoors as small crafts including canoes and kayaks are unable to navigate the waterway.

SB 660 allows property owners to remove silt buildup from a man-made impoundment, only if the silt was deposited after the waterway was affected by the impoundment. Under SB 660, the removal must occur within the property owner's riparian zone, and the removal allows the property owner to navigate from the shoreline of their property to the line of navigation.

Under the guidance of the Department of Natural Resource's best management practices for silt removal, waterfront property owners will aid in the restoration of navigable waterways to their unspoiled state.

I ask the committee approve SB 660. Thank you for your attention.



DAVID CRAIG

STATE REPRESENTATIVE

CHAIRMAN, ASSEMBLY COMMITTEE ON FINANCIAL INSTITUTIONS

Senate Committee on Natural Resources and Energy Public Hearing, 11 February 2016
Senate Bill 660
Representative David Craig, 83rd Assembly District

Chairman Cowles and Committee Members,

Thank you for hearing testimony on Senate Bill 660,

Since first being elected I have had numerous conversations with citizens in the 83rd Assembly District, which made clear the need to reform State provisions related to dredging. Many residents, particularly in the Waterford area, are unable to utilize their waterfront property due to state provisions making them stuck in the muck. This bill will help address the numerous concerns of constituents in the area by allowing riparian owners to remove 50 cubic yards of unconsolidated sediment (silt) in man-made impoundments, only if the removed sediment was deposited after the navigable water was affected by the impoundment. This legislation will help riparian owners restore these important natural resources to their pristine state while enabling the Department of Natural Resources to dictate best management practices for the removal of this silt to ensure it is undertaken in a responsible manner.

Again, I appreciate your hearing of this bill today and I look forward to answering any questions you may have.



WISCONSIN LAKES

We Speak for Lakes!

4513 Vernon Blvd., Suite 101, Madison WI 53705

608.661.4313 ~ 608.661.4314 fax

info@wisconsinlakes.org

TESTIMONY TO SENATE COMMITTEE ON NATURAL RESOURCES & ENERGY IN OPPOSITION TO 2015 AB 660

Presented by Michael Engleson, Executive Director

February 11, 2016

Thank you for the opportunity to testify today in opposition to AB660.

My name is Michael Engleson, Executive Director of Wisconsin Lakes, a statewide non-profit conservation organization of waterfront property owners, businesses, lake associations, lake districts, and individuals who care about the health and safety of Wisconsin's lakes. We represent roughly 300 lake organizations, who in turn have over 80,000 members.

Waterfront property owners, especially those that have typically had access to the navigational or deep portions of their lake from their pier, have a reasonable expectation that they will have the opportunity to maintain that access through dredging, except in the relatively rare cases where the dredging would cause undue harm to the lake or harm the interest of other riparians on the waterbody. That's true whether the lake is an impoundment, part of a natural riverine system, or simply a natural lake. But Wisconsin Lakes' members understand that they are dredging through navigable waters, waters owned by the state, and that the state has the obligation to see that what is done in those waters does not damage them.

The riparian members of Wisconsin Lakes also reasonably expect to be protected from harms caused by the action of their neighbors, including from dredging projects gone wrong. That's why allowing dredging without any permit whatsoever is simply a bad idea. Dredging is not a simple project, akin to scooping the scum out of the bottom of the bathtub. Dredging in the wrong place can destroy habitat and upset the nearshore lake ecosystem. It can spread aquatic invasive species, or stir up contaminants suspended in the sediment. Without needing to meet the qualifications of a permit, it's much more likely that the dredging will be done by inexperienced and untrained contractors, or possibly the landowner him or herself, increasing the chance that improperly cleaned equipment might introduce invasives from another lake. Unpermitted dredging is much more likely to cause harm to navigable waters than projects that have some level of oversight.

And often the impact of a poorly done dredge is not going to be felt by the dredger, but by other property owners on the lake. Other riparians could end up with the problem (and cost) of dealing with an invasive species that suddenly shows up on their shore, or with water quality problems from silt spreading around the lake. And that inevitably leads to conflicts between property owners, which eventually end up being resolved in court. Bad dredging will lead to litigation.

Continuing the existing permit requirement not only allows DNR to provide some oversight to make the project safe and conducted with best management practices, it also serves as a vehicle to educate the applicant on why dredging is a more complicated process than one might at first think. It allows the Department to advise the riparian on ways that might make the project more lake friendly, or at

Wisconsin Lakes is a statewide nonprofit organization with nearly 1,000 members and contributors including individuals, businesses, and lake associations or districts representing more than 80,000 citizens. For over 20 years, Wisconsin Lakes has been a powerful bipartisan advocate for the conservation, protection and restoration of Wisconsin's lake resources.

least less likely to cause harm. Yes, it can be a burden, and sometimes the answers might not be the ones we want to hear – but for the sake of the lake, for the sake of other riparians, and frankly, for the sake of protecting your own property from the mistakes and negligence of others, permitting is a proactive form of management that the members of Wisconsin Lakes understand we need to accept.

This bill before us today would exempt dredging on an impoundment, within certain parameters, from needing a permit. Impoundments are of course created by a dam, of which there are 3,900 in the state, according to DNR's website. Even though not all 3900 of those lakes would have residential development that would qualify for a permit exemption under this bill, it still covers a significant number of waterbodies. And dredging in impoundments can be especially troublesome and deserving of extra care.

According to information from an appendix of DNR's "Wisconsin's DRAFT Water Monitoring Strategy 2015-2020" that discusses Wisconsin's water resources, 89% of all impoundments do not support fish consumption "[d]ue, in part, to the accumulation of sediment behind riverine structures and proclivity of pollutants ... to attach to sediment." Because what settles out in an impoundment is all the crud that floats downstream until bumping up against the dam, it is much more likely that the sediment being dredged in these lakes, even if it is limited to what was deposited after the dam was built, is more likely to be contaminated, and it's probably more likely no one knows what's in it, than in a natural lake. To allow unpermitted dredging in an impoundment would be a dangerous proposition, indeed.

The bill also limits dredging to the "unconsolidated sediment" that deposited after the dam was built. It seems likely that some of what gets dredged will not meet this limitation, because, without oversight, who will know what is being dredged? If the property has significant erosion to the lake, can that removed? With some dams dating back to early in the 20th century, determining whether fill is being removed or not likely requires an expert, and with this bill, the state doesn't even take a look.

Wisconsin Lakes concedes that the need for a quick, cost-effective permitting strategy for these sorts of nearshore-to-the-navigational line dredging projects might be something the state needs to look at, and we would certainly be willing to help in that effort. But in the interim there is too much risk of one riparian harming the interests of multiple other lake residents and users if dredging is allowed without a permit. We feel that the unique nature of each lake, even individual parts of a lake, deserve individual treatment, and that is best done via the individual permitting process, not through a general permit, and definitely not through no permitting whatsoever.

On behalf of the members of Wisconsin Lakes, I respectfully ask that the committee not advance SB660.



Waterford Waterway Management District
PO Box 416
Waterford Wisconsin, 53185
"Changing our World One Drop at a Time"

February 8, 2016

Senator Cowles,

The Waterford Waterway Management District (WWMD) was formed in 2003 under Wisconsin Statute Chapter 33.21 as a Public Inland Lake Protection and Rehabilitation District, for the Illinois Fox River from Marsh Road in the town of Waterford to the impoundment dam in the Village of Waterford. The resulting 1,100 acre body of water is comprised of the Fox River, Tichigan Lake and Buena Lake. Our purpose, as set by state statutes, is for the *"undertaking a program of lake protection and rehabilitation of a lake or parts thereof within the district"*.

One of our first priorities was to improve navigability by eliminating the sediment buildup. The DNR first required us to stop the inflow of sediment and contaminants into the waterway. A list of 12 projects was compiled. We attacked them and by 2009, we could finally say that those problems areas were under some control.

In 2009 we started working on a permit to dredge the main channels and to open up lanes from our riparian's piers to those main channels. Six years, 71 sediment samples, 385 sediment depth measurements and \$250,000 later has brought us to the cusp of a final submittal for a dredging permit. Our plan is to remove 500, 000 cubic yards of material from the impoundments bottom, roughly 3-5% of the silt that has been deposited. That is to only open the navigation channels, not to scrub the entire waterbody.

This bill is a key part of our efforts to open these navigation channels. Our project, estimated to cost about \$10 million dollars, goes from the pier head outwards 50 or 100 feet. This legislation provides a way to get to those new channels by allowing riparian owners an effective way to clear out the sediment along their shoreline or piers.

The law, as it stands now allows a property owner to remove by hand, (no pumps, no backhoes) 100 cubic feet of lake bottom, When the muck is 3 feet deep and the pear is 100 feet away from the channel, it would take someone 36 years to get their boat out. If someone wants to do more, a full permit requires a cost to take and test sediment samples, measure sediment depths, get the proper engineering, and to apply for the mired of other "permits" that could apply. In reality, the time could stretch to years. We know, we've been doing this for over 13 of them.

There are other concerns that greatly affect our waterway. The Waukesha Water Diversion could reduce flow through our area by 45% during the driest months. The continued flow of uncontrolled runoff from farm fields turn the water brown over large areas. High phosphorous inflows lead to algae blooms and huge growth of weeds.

Then there is an unreported economic impact to having a plugged up waterway. Researching property values in Racine County, and more specifically those around our waterway, riparian properties are assessed about 28% higher than comparable non-riparian properties. Where does that extra tax money go? It goes to everything else that taxes support. Everything but what made it possible to charge a higher tax rate in the first place, the water body in front of that property.

Our waterways generate incalculable revenues in taxes, private business, recreational enjoyment and habitat for fish, wildlife and waterfowl. The economic loss to the riparian property values will likely be on the order of \$75 million in our district alone should the water fill up with sediment. This loss will trigger even more losses in the form of business losses, job losses, tourist revenue losses, and so on. If the waterway rehabilitation isn't done, the economic loss to the area could exceed \$100 million.

As a final point, the State of Wisconsin declared the Illinois Fox River, a Scenic Urban Waterway. Chapter 30.275, states *"In order to afford the people of this state an opportunity to enjoy water-based recreational activities in close proximity to urban areas, to attract out-of-state visitors and to improve the status of the state's tourist industry, it is the intent of the legislature to improve some rivers and their watersheds. For this purpose a system of scenic urban waterways is established ... and shall receive special management as provided under this section."* The DNR was charged with this responsibility, but they lack the inclination, funding and legislative authority to do so.

We are working hard to be stewards of this waterway, and are taking the burden onto our shoulders to improve our investments our property and our ability to use the water recreationally.

We strongly urge the committee to move forward with this legislation, bringing a solution to years of accumulation problems. We appreciate your interest in reaching out to us.

Respectfully Submitted,



Paul Kling
Secretary
Waterford Waterway Management District