



DEVIN LEMAHIEU

STATE SENATOR

Assembly Committee on Energy and Utilities
Testimony on Assembly Bill 497
October 17, 2017

Chairman Kuglitsch and Members,

Thank you for hearing testimony on Assembly Bill 497, which provides consistency to the utility when seeking a wetland permit.

Under current law, the Department of Natural Resources (DNR) issues permits for the discharge of dredged material or fill into wetlands. Unlike other industries, utilities have specific standards that determine what type of permit they can operate under. Eligibility for the utility general permit must be at or below the following thresholds:

1. maximum fill area of 10,000 sq. ft.
2. construction mat use of no more than five (5) acres; and
3. forested wetland clearing may not exceed 10,000 sq. ft.

If one or more of the aforementioned limits are exceeded, the applicant must complete and comply with DNR's individual permit process and procedures, which include wetland mitigation requirements.

A utility is the only industry required to perform mitigation for points two and three, the removal of trees from wetlands and for the use of construction mats, used to protect wetlands. Assembly Bill 497 simply provides that the issuance of permits for utility projects are subject to the same standards and restrictions as other businesses.

Thanks for your time and consideration.



DAVID STEFFEN

STATE REPRESENTATIVE • 4TH ASSEMBLY DISTRICT

**Prepared Testimony by Rep. David Steffen before the
Assembly Committee on Energy and Utilities
Assembly Bill 497 re: Wetland mitigation requirements applicable to wetland individual
permits.
October 17, 2017**

Chair Kuglitsch and Committee Members,

Thank you for providing me the opportunity to testify in favor of Assembly Bill 497 relating to wetland mitigation requirements applicable to wetland individual permits. Assembly Bill 497 establishes a more uniform set of guidelines by which the Department of Natural Resources (DNR) issues permits for the discharge of dredged material or fill into wetlands. Under current law, the utility industry is held to a substantially higher standard during this permitting process, as compared to other businesses and landowners, and ultimately Wisconsin ratepayers are left footing the bill.

The guidelines for a General Permit, which does not entail wetland mitigation requirements, include: maximum fill area of 10,000 sq. ft., construction mat use of no more than five acres, and forested wetland clearing may not exceed 10,000 sq. ft. If General Permit requirements aren't met, an Individual Permit must be obtained and wetland mitigation is involved. Additionally, in 2011 WI Act 118 established the Utility General Permit, requiring the DNR to issue a general wetland permit for projects involving utility and highway maintenance and construction.

Unfortunately, 2011 Act 118 also added use of construction mats and vegetation management as contributing factors requiring wetland mitigation on utility projects, whereas previously, mitigation had only been required when permanent wetland fill exceeded the 10,000 sq. ft. threshold. This has resulted in increased mitigation costs, which are passed along to ratepayers. Unlike in most other industries, where only permanently impacted wetland is used to determine the total fill area, for utilities the permanently impacted wetland plus use of temporary vegetative mats is used to determine total fill area/wetland impacted. This method is an added strain on utilities and forces them into compensatory mitigation more quickly than other industries—which are held to a much more practical standard.

Assembly Bill 497 simply holds utilities and utility related projects to the same standard as other industries—meaning mitigation cannot be required unless more than 10,000 sq. ft. of permanent fill is required, which does not include temporary construction mats etc. in the calculation. AB 497 strikes the appropriate balance between protecting our wetlands and protecting our ratepayers.

Thank you for allowing me to testify in favor of AB 497. I encourage you to join me in supporting this important legislation.



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To: Wisconsin Legislature

**From: Bill Skewes, Executive Director
Wisconsin Utilities Association**

Re: Support for Wetlands Mitigation AB 497 – Testimony

Date: October 17, 2017

Good morning Mr. Chairman and members of the Committee. Thank you for bringing this bill up for a hearing and for the opportunity to testify. I also thank Rep. Steffen and Sen. LeMahieu for their leadership in addressing this important issue by authoring this legislation.

My name is Bill Skewes and I am the Executive Director of the Wisconsin Utilities Association (WUA), representing Wisconsin's investor-owned gas and electric energy providers. Joining me today are Matt McFarlane from Xcel Energy, Joan Kosisek from the American Transmission Company, and Chuck Thompson from Dairyland Power Cooperative. WUA and Dairyland support this bill and we urge you to do so as well.

The bill seeks to remedy an inequity in the application of a statute passed in 2011, WI Act 118, which created a **general permit** for routine utility construction and maintenance, for discharge into a wetland.

Under this bill, if the Department of Natural Resources issues a wetland individual permit to a public utility, DNR may not require mitigation unless the discharge authorized by the wetland individual permit will result in a permanent fill of more than 10,000 square feet of wetland.

Only wetland loss should trigger mitigation. Utilities should not be required to replace something that was never lost. Utilities do not object to mitigation above the threshold criteria, but below it, we should be held to the same standard as other applicants.

No other industry is held to this arbitrary standard and it is unfair and significantly more expensive for utilities to comply, the costs of which are passed on to customers. Thus, WUA seeks approval of this bill which will apply the same standards to utility applicants for general permits as any other industry.

WUA respectfully requests your support of this important legislation.