



---

# LOREN OLDENBURG

STATE REPRESENTATIVE • 96<sup>th</sup> ASSEMBLY DISTRICT

## Assembly Bill 701

Relating to: a general permit for hydrologic restoration projects and creating a hydrologic restoration and management advisory council.

**Assembly Committee on Environment**

**January 16, 2020**

Good Morning, Chairman Kitchens & committee members. I want to thank you for your willingness to hear Assembly Bill 701.

The Assembly district that I represent is the 96<sup>th</sup>, which consists of Crawford County, most of Vernon County, and about half of Monroe County. The rural 96<sup>th</sup> district is in the heart of the Coulee Region and is home to farms, businesses both big and small, and communities with enthusiasm for their heritage.

In about the middle of my district is the Village of Coon Valley. Coon Valley is the home of over 700 people, several small businesses, and a national landmark. The Village is close to the center of the 90,000 acre *Coon Creek Watershed*, the nation's first watershed project. Unfortunately, the Village has always experienced devastating floods that date all the way back to at least 1921, the watershed project was started in 1933. Old photographs from after the completion of the Coon Creek Watershed Project show that the conservation tactics put in place in the early 1930's helped with the flow of water and the management of soil, these natural, solution based tactics are what we need to continue implementing in areas like Coon Valley.

Although the 96<sup>th</sup> district as a whole is arguably the most beautiful district in the state, valley communities like Coon Valley, Chaseburg, Leon, Ontario, Hillsboro, La Farge, Viola, Readstown, and Gays Mills have been experiencing what are known as 100 and even 500 year floods on almost a yearly basis. Creating an easier way for permitting conservation tactics similar to those used in the 1930's to be used in wetland restoration today, is exactly what Assembly Bill 701 aims to do.

I firmly believe that Assembly Bill 701 is the start of a solution to the devastating floods Wisconsinites are facing. This bill requires the Department of Natural Resources (DNR) to issue a general permit that authorizes wetland, stream and floodplain restoration. The goal of this bill is that the streamlined permitting process will help with the health of the wetlands across the state. Currently the DNR can permit a person wishing to restore a wetland, but that activity must



---

# LOREN OLDENBURG

STATE REPRESENTATIVE • 96<sup>th</sup> ASSEMBLY DISTRICT

also be sponsored by a federal agency. AB 701 would allow for the DNR to administer certain individual permits. The permit that is issued under this bill will be good for five years, or until the wetland restoration project is completed. The new general permit created under Assembly Bill 701 would be in place over any other permit or approval that has been previously needed for any state navigable water law, water quality law, or wetland law. Decreasing the amount of bureaucratic and citizen interaction that is needed in order to receive this wetland restoration general permit should help with the ease of the permitting process, and increase the number of wetland restoration projects that are able to be completed. The final thing that this bill does is allow for the creation of a Hydrologic Restoration and Management Advisory Council. This council will provide recommendations and generally assist the DNR with the implementation of the new general permit.

We can all agree that flooding is bad for communities and making a permitting process with a state agency easier is a good thing, but you may be wondering what the positive impacts of wetland restoration are on our invaluable resources like land and water. Projects that will be approved under this permit will return our wetlands to their natural state. By allowing wetlands to return to their natural state they can improve water quality, reduce runoff, reduce the peak of floods, increase storage at the top of a watershed, and allow floodplains to function properly.

Assembly Bill 701 promotes a holistic approach to wetland restoration and was drafted with the support of the Wisconsin Wetlands Association and the DNR. This bill will reduce the paperwork and fees associated with applying for previous hydrologic restoration permits. Wetland restoration is a solution oriented approach where we can use the land to fix the problems we are facing.





# JIM STEINEKE

MAJORITY LEADER

STATE REPRESENTATIVE • 5<sup>th</sup> ASSEMBLY DISTRICT

(608) 266-2401  
Toll-Free: (888) 534-0005  
Rep.Steineke@legis.wi.gov

P.O. Box 8953  
Madison, WI 53708-8953

## **Testimony on Assembly Bill 701 – a general permit for hydrologic restoration projects and creating a hydrologic restoration and management advisory council.**

*Assembly Committee on Environment*

*Thursday, January 16, 2020*

Chairman Kitchens and members,

The consequences of flooding events around Wisconsin have cost our state in a number of ways. Not just in the form of financial loss, but also in the loss of property, homes and in some cases an individual's livelihood.

Knowing that hydrological restorative work can help mitigate, and in some instances actually prevent these major flooding events from occurring, I along with a handful of my colleagues set out to review the process taken to do some of this restorative work. Simply put, if there are individuals or groups that are looking to do good restorative work to help improve the hydrology or flow of water in an area, who is the government to stand in the way?

This streamlined mentality is the concept behind Assembly Bill 701.

AB 701 would establish a general permit through the Department of Natural Resources to help expedite the timeline for restoration projects that result in a net benefit to hydrological connections, conditions or functions. Projects of these sorts might aim to do things like: improve water quality, slow runoff, increase soil resilience, reduce flood peaks, or restore surface and groundwater interactions.

By reducing the red tape on the front end of these restorative projects, groups and individuals applying for these permits will be better able to focus their time and efforts on the task at hand and spend less time jumping over administrative hurdles.

Understanding that this new permit is likely to inspire an increase in the number of restorative projects taking place around the state, the bill also would establish an advisory council to help examine and highlight best practices – helping to ensure that lessons learned in one part of the state can be applied and utilized in communities throughout Wisconsin.

In closing, I'd like to thank the co-sponsors of this bill for their support and for the support we have received from a number of stakeholders in the development of this legislation. I believe that this bill will greatly help those looking to improve our state's hydrology and will inspire a number of restorative projects across Wisconsin.

**ROBERT L. COWLES**Wisconsin State Senator  
2nd Senate District**Testimony on 2019 Assembly Bill 701**

Senator Robert Cowles

Assembly Committee on Environment – January 16, 2020

Thank you, Chairman Kitchens and committee members, for holding a hearing and allowing me to testify on 2019 Assembly Bill 701. This bill would require the DNR, in consultation with the Hydrologic Restoration and Management Advisory Council created by this bill, to establish a hydrologic restoration general permit.

As flooding becomes more common, many Wisconsin residents are searching for ways to decrease the number of flooding events and lessen the damage to homes, businesses, and farms. The search for these solutions has caused hydrologic restoration projects to peak the interest of conservation groups, property owners, local government leaders, farmers, and environmental consulting firms.

While the Department of Natural Resources (DNR) has two general permits to streamline wetland restoration projects, they do not have a hydrologic restoration general permit (GP) that goes beyond the boundaries of a wetland that would allow local, community, and nonprofit actors to execute comprehensive landscape solutions. Additionally, the current permit offerings are not sufficient enough to address the increasing strength of precipitation events our state has been experiencing. Encouraging each watershed to be addressed in a more holistic manner will better prepare our communities and our state for future flooding events.

Assembly Bill 701 requires the DNR to issue a GP that authorizes wetland, stream, and floodplain restoration and management activities that will result in a net benefit to hydrologic connections, conditions, and functions. Projects authorized shall be designed to return hydrology to a natural and self-regulating condition in order to:

- Improve water quality;
- Slow the flow of runoff;
- Increase soil resilience;
- Reduce flood peaks;
- Increase flood resilience;
- Increase upper watershed storage;
- Restore surface and groundwater interactions;
- Increase base flow, and;
- Increase groundwater infiltration.

The DNR may develop and has indicated their intent to create a quantification tool to determine if an activity will meet the standards highlighted above when issuing a GP. Several conditions are statutorily placed on the permit, including those that ensure projects will not injure the public's rights or the rights of any riparian owner, and certain other conditions may be developed by the Department.

Permits authorized under this legislation would reduce the regulatory complexity for the good actors looking to complete these voluntary projects. Encompassing all of the necessary statutory provisions, the single GP would be issued in lieu of multiple other permits or approvals. This one-stop shop reduces uncertainty for applicants by eliminating some of the paperwork and financial burden currently required.



Assembly Bill 701 also creates a Hydrologic Restoration and Management Advisory Council with members of local governments and relevant state and federal agencies, tribal communities, and academic, nongovernmental and private sector partners. The Council will provide input to the Department on the new GP, other policies and programs related to hydrologic restoration, ways to increase intergovernmental cooperation, and more.

This legislation was amended in the Senate Committee process and has been introduced in the Assembly as well. Senate Amendment 1 and Assembly Amendment 1 addresses a concern raised by Trout Unlimited on potential impacts to trout fisheries. By removing the required approval of certain low-risk dams on page 4, lines 17 to 20, we can ensure that the DNR will work with stakeholders in the GP design process to allow certain projects, like ditch-plugs and waterbody-adjacent earthen embankments, are allowed, while projects that could impede aquatic wildlife's movement are given a higher level of scrutiny. Assembly Amendment 1 will help to ensure that projects completed under this GP will result in positive, not negative, impacts to trout and other aquatic wildlife habitat.

While we've all heard of the flooding events in Southwest, Northern, and Southeastern Wisconsin, my district in Northeast Wisconsin also faces problems with flooding on the East River in Green Bay, Wolf River in Shiocton, and Duck Creek in Freedom. These communities have been looking for solutions for years, and sometimes decades to address their short and long-term concerns.

I'm here today to offer another alternative to addressing flooding concerns in the long-run for localities in the 2nd Senate District and throughout the state by simplifying the permitting process for hydrologic restoration projects that are a net benefit to waterbodies, watersheds, and communities.

Better preparation for flooding events today can help to save millions of dollars in damages and hardship for hundreds, if not thousands of residents, small businesses, and industry tomorrow. This legislation simply ensures that, as a state, we're promoting preparedness through conservation while still ensuring that each project is in property owners', our community's, and our environment's best interest.

Overall, creating a hydrologic restoration GP and establishing a venue for continuing discussions on flooding events will set our state on a course that will improve environmental quality and preserve and protect our community's infrastructure.

Assembly Bill 701 was drafted with the support of the Wisconsin Wetlands Association and in consultation with the Department of Natural Resources, and has already garnered the support of conservation groups including Ducks Unlimited and the Wisconsin Wildlife Federation, experts in the field including the Wisconsin Land and Water Conservation Association, local government organizations including the Towns, Municipalities and Counties, and the Wisconsin Realtors Association.

State of Wisconsin  
DEPARTMENT OF NATURAL RESOURCES  
101 S. Webster Street  
Box 7921  
Madison WI 53707-7921

Tony Evers, Governor  
Preston D. Cole, Secretary  
Telephone 608-266-2621  
Toll Free 1-888-936-7463  
TTY Access via relay - 711



## Assembly Committee on Environment

### *2019 Assembly Bill 701*

#### *Hydrologic Restoration and Management Advisory Council*

*January 16, 2020*

Good morning Chairman Kitchens and members of the Committee. My name is Mike Thompson, and I am the Waterways Bureau Director with the Wisconsin Department of Natural Resources. Thank you for the opportunity to provide testimony on Assembly Bill 701.

This bill highlights the great importance of applying the best science to restorations of wetlands, streams, and floodplains, especially in these times where we are seeing more frequent flooding and more extreme rain events.

The Department of Natural Resources is always happy to collaborate with experts and stakeholders on watershed management initiatives. The department would welcome the hydrologic restoration and management advisory council's technical input and recommendations regarding wetland, stream, and floodplain restoration and management activities that will result in a net improvement in hydrologic connections, conditions, and functions.

The new general permit can be another tool to assist statewide flood resiliency efforts and to promote the best science in wetland restoration efforts.

The department has discussed the language on Page 4, lines 17-20, with the authors and would concur with removing that language from the bill.

On behalf of the Waterways Bureau, I would like to thank you for your time today. I would be happy to answer any questions you may have.



## Wisconsin Wetlands Association Testimony on Assembly Bill 701

Presented on January 16, 2020 by

Erin O'Brien, Policy Programs Director

We are pleased to testify in support of Assembly Bill (AB) 701. The Wisconsin Wetlands Association is a non-partisan, science-based organization dedicated to the protection and restoration of wetlands throughout the state. We are grateful to the bill's authors for their leadership on this bill and for the opportunity to collaborate on its pro-active, solution-oriented provisions. We also thank the many, bi-partisan, co-sponsors for their interest in advancing wetland, stream, and floodplain restoration to help address today's urgent water management concerns.

To understand why hydrologic restoration is an important part of what's needed to reduce flooding, protect and improve water quality, and replenish groundwater supplies, we need to look at how our hydrologic landscape has changed and the effects of those alterations. We've prepared a short slide presentation to explain this.

*\*\* Slides presented and attached to written testimony with captions \*\**

Though repairing degraded hydrology is fundamentally important to addressing Wisconsin's water management concerns, many barriers exist. A result is that opportunities to restore healthy hydrology are not pursued or are largely overlooked.

We'd like to share our perspective on how AB 701 helps address these barriers.

### ***Hydrologic Restoration and Management Advisory Council***

The proposed Council creates an important forum to identify and help advance hydrologic restoration priorities across the state. While the bill directs WDNR to convene the Council, it correctly identifies that collaboration between multiple federal and state agencies, local governments, restoration practitioners, and other experts is needed to develop and help implement *shared* strategies to restore hydrology at a meaningful scale and where it is needed most.

An interagency, interdisciplinary approach is needed because many agencies, organizations, and private businesses, are engaged in water management work. At the state level alone, WDNR, DATCP, WisDOT, WEM, and DOA all run programs that seek to improve water management. But none have dedicated programs focused on hydrologic restoration and some may not yet have the capacity to identify and implement hydrologic restoration priorities. The Council will help them and other partners address these needs.



### ***General Permit for Hydrologic Restoration:***

The proposed General Permit for Hydrologic Restoration also addresses needs and creates opportunities. General Permits are a widely used tool to simplify the permit process for activities with minor adverse impacts or largely beneficial outcomes. What you may not know is that General Permits also drive what practices are most commonly implemented. We see this in both a development and restoration context.

Wisconsin has General Permits to cover stream and wetland restoration and management activities that enhance fish and wildlife habitat, but none yet focus on other hydrologic restoration goals.

Identifying a suite of hydrologic restoration practices that can be approved under a General Permit will help accelerate the types of wetland, stream, and floodplain restoration activities needed to improve hydrologic conditions, connections, and functions as described in our slides.

In addition to helping build demand for this type of restoration, it will help remedy unintended barriers created by existing statutes.

Finally, the proposed General Permit offers an opportunity to better align state and federal permit policies for hydrologic restoration work because the proposed GP is modeled after portions of Nationwide Permit 27. Further coordination with the Corps of Engineers will be needed to achieve the desired efficiencies.

Please note, while General Permits can simplify the review and approval process for applicants, they are by no means a blank check. The bill maintains all of the existing safeguards currently in effect to ensure General Permit eligible projects will not injure public rights or interests in navigable waters, adversely affect adjacent or downstream landowners, or harm aquatic resources. The bill also maintains all existing local authorities.

### ***Who will benefit from AB 701?***

As proposed, the bill enjoys support from a broad array of stakeholders. That's because the policy objectives and provisions of this bill will benefit:

- **Wisconsin communities** looking for cost effective strategies to help them reduce flood risks and damages, protect drinking water, prevent soil loss and erosion, and enhance fish and wildlife habitat.
- **Farmers and other private landowners** looking to implement voluntary practices to improve water management, soil conservation, and watershed health.
- **Restoration practitioners** looking to help landowners, municipalities and other clients implement upstream solutions to solve downstream problems.

- **Federal/state/local land and water program managers** charged with the difficult tasks of reducing flooding, improving water quality, and protecting people, private property, and public infrastructure from harm.

**Policy makers** will also have access to the council to help explore cost-effective ways to allocate the state's limited restoration resources in the most beneficial ways.

While many things are needed to promote and encourage a hydrologic approach to restoring Wisconsin's lands and waters, this bill represents a positive first step. Perhaps above all else, it elevates hydrologic restoration as an important water management tool to improve the connections, conditions, and functions of Wisconsin's waters.

We look forward to collaborating with you and others to help enact this important bill.

Sincerely,

Tracy Hames  
Executive Director

Erin O'Brien  
Policy Programs Director

# Hydrologic Restoration

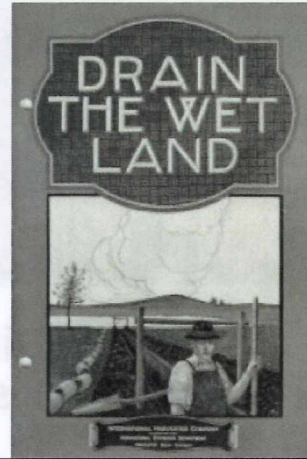
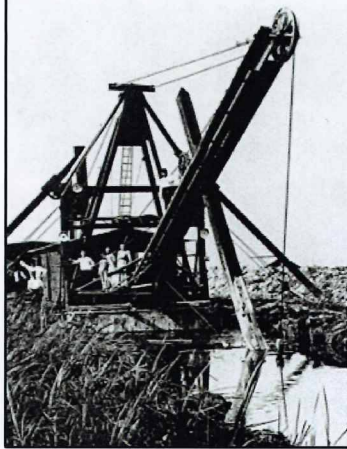
*Empowering communities to solve water problems*



**Wisconsin  
Wetlands**  
ASSOCIATION



## We've changed the way water flows across our landscapes in Wisconsin



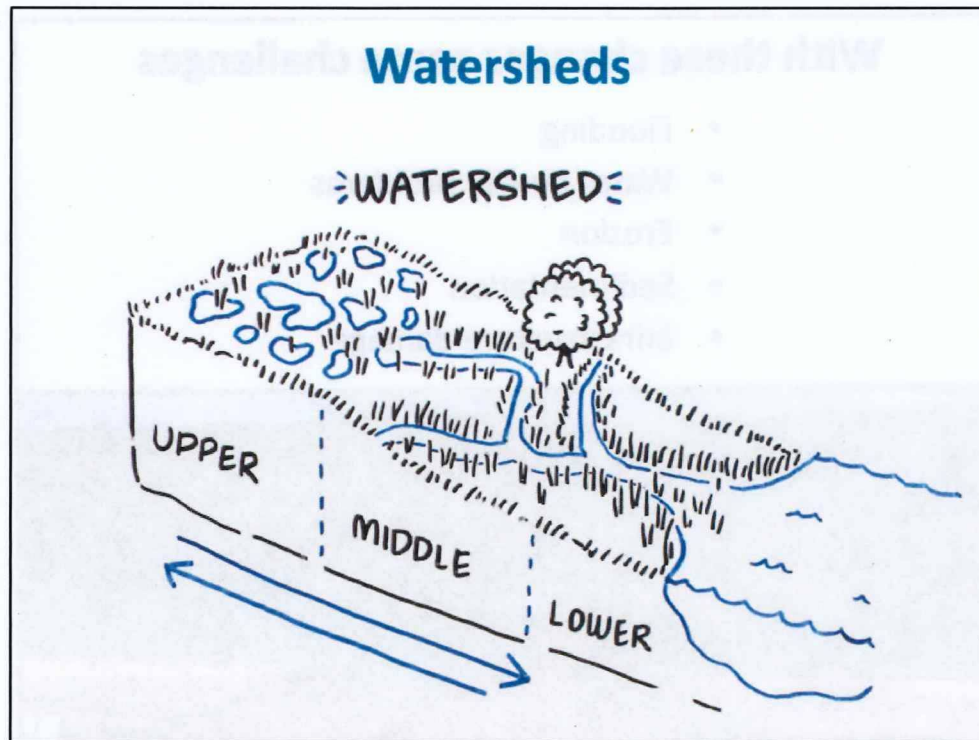
Historic practices such as urban development, agricultural drainage, roads and highways, and other actions have changed the ways water flows across Wisconsin's landscapes. Our modern landscape could not exist without this hydrologic alteration, but it comes with consequences.

## With these changes come challenges

- Flooding
- Water quality problems
- Erosion
- Sedimentation
- Infrastructure damage



These include flooding, water quality impairment, erosion, sedimentation, and infrastructure damage.



Let's look at why. In a healthy watershed, wetlands and other upper watershed areas capture rain and snowmelt, allowing water to soak into the ground or to be slowly released downstream. Middle watershed floodplains provide places for excess runoff to spread out and reduce their energy before slowly discharging clean water to a downstream lake or river. Because water flows downhill, upstream alterations have downstream consequences. So what does that look like?



## Challenges: Our communities are flooding



Catastrophic flooding is on the rise. We blame it on intense, localized rain events, but loss of upper watershed wetland and historic floodplain storage increases the damage from these storms.

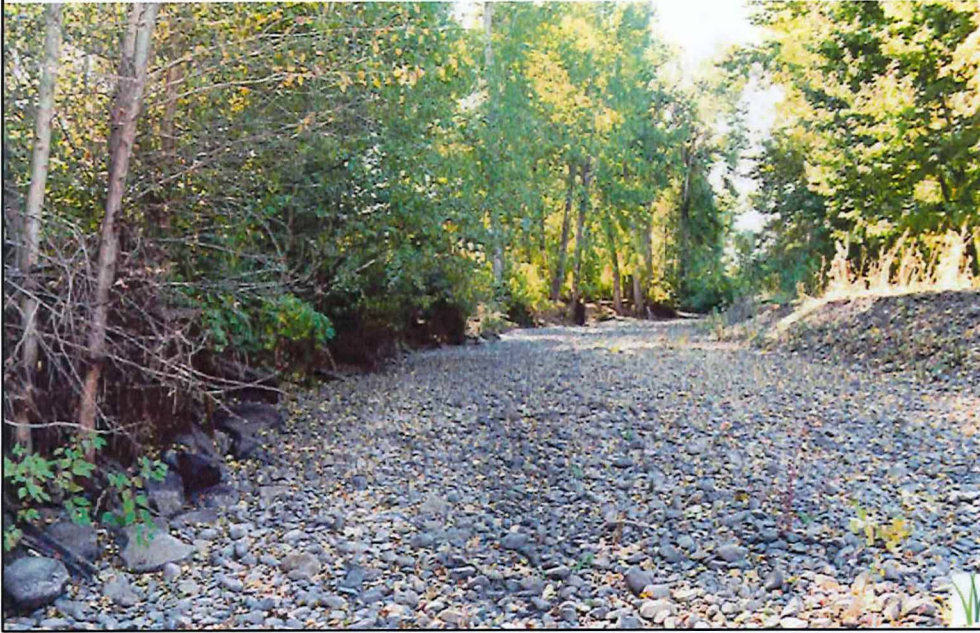
## Water Quality/Erosion



Our rivers are running dirty. The river on the left has healthy upper watershed conditions and a connected floodplain. In an adjacent watershed, the river on the right does not. Note the sediment-laden water and eroded banks. We see these degraded conditions all across the state.



## Some are drying up



Ironically, loss of upper watershed and floodplain storage increases flooding, but then dries our systems out. It's similar to pouring water out of a bucket. You can pour it out quickly, using up all of your available water all at once, or you can pour it out slowly, allowing the water to last longer. Watersheds work the same way.



## Large-scale damage results



The extreme result of watershed alteration is shown in this photo from the 1930's in Coon Valley, Wisconsin. It's nearly impossible to repair damage this extensive.

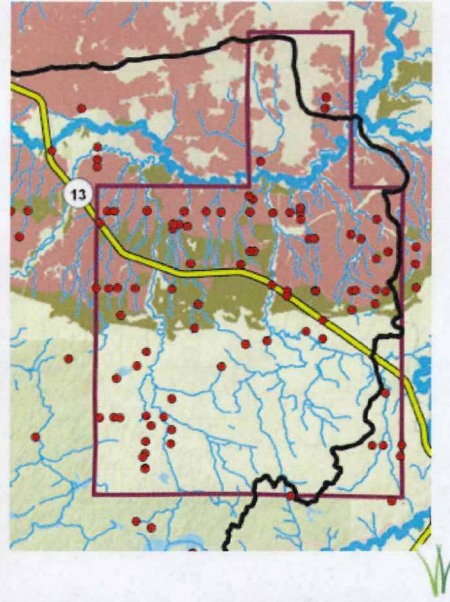
**Today, large-scale damage is still on the rise**



Look around today, and we see many examples where Wisconsin's watersheds are unraveling. The need to address these situations is urgent.

## Our communities are suffering

- *Town of Ashland, July 2016*
- *Extensive road damage*



The ecological costs are severe, but the economic costs can be staggering. The map on the right shows how one overnight rain event washed out nearly all of the culverts in the Town of Ashland in 2016. The costs to rebuild can be crippling to local governments.



## How do we turn this around?

### **Hydrologic Restoration**

#### **Look at:**

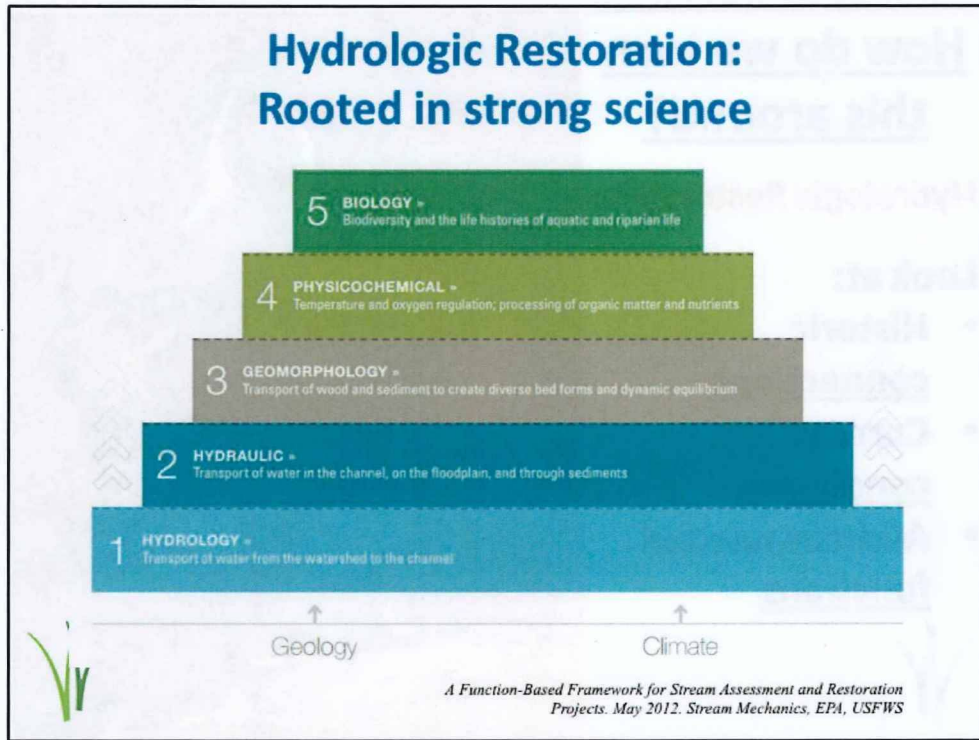
- **Historic connections,**
- **Current conditions,**
- **Address needed functions**



So how do we turn this around? We work to restore healthy hydrology.

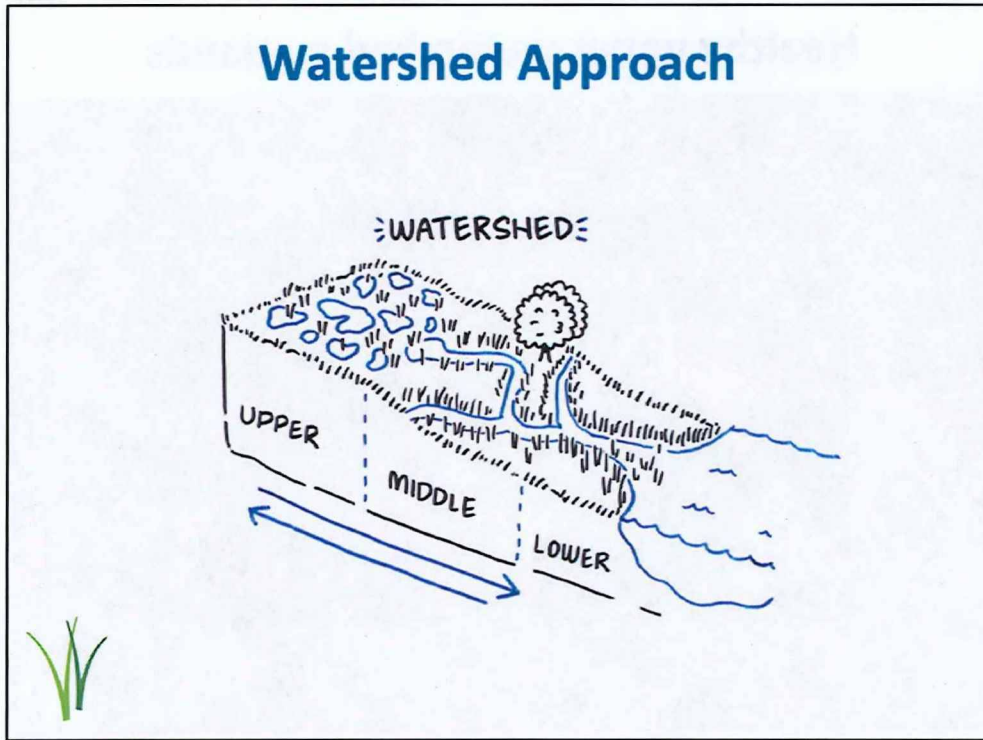
Hydrologic restoration simply means “fixing the water.” In hydrologic restoration we look at how water was connected in the past, how current conditions affect water movement, and what actions are available to restore natural, healthy conditions in a modern landscape.





Hydrologic restoration involves both science and practice. As shown here, healthy hydrology is the foundation. Without it we can't prevent floods, reduce erosion, or provide conditions suitable for fish and wildlife or human use. That's why our mantra is fix the water first!

## Watershed Approach



This means taking a watershed approach. We need to look upstream and restore the capacity of the land to capture and slow down the water. In other words, reestablishing upper watershed storage and floodplain connections can help solve downstream problems.

## Healthy upper watershed wetlands



Here's what we want. Healthy upper watershed wetlands that capture, store, and slowly release water.



## Healthy upper watersheds prevent erosion



And here's what we've got in many areas of the state. Uncontrolled runoff conditions that cut channels, create gullies, and drain wetlands.



## Healthy upper watersheds reduce runoff energy



Here's what we want. Low energy upper watershed channels that handle rain and snowmelt, even in steep landscapes.

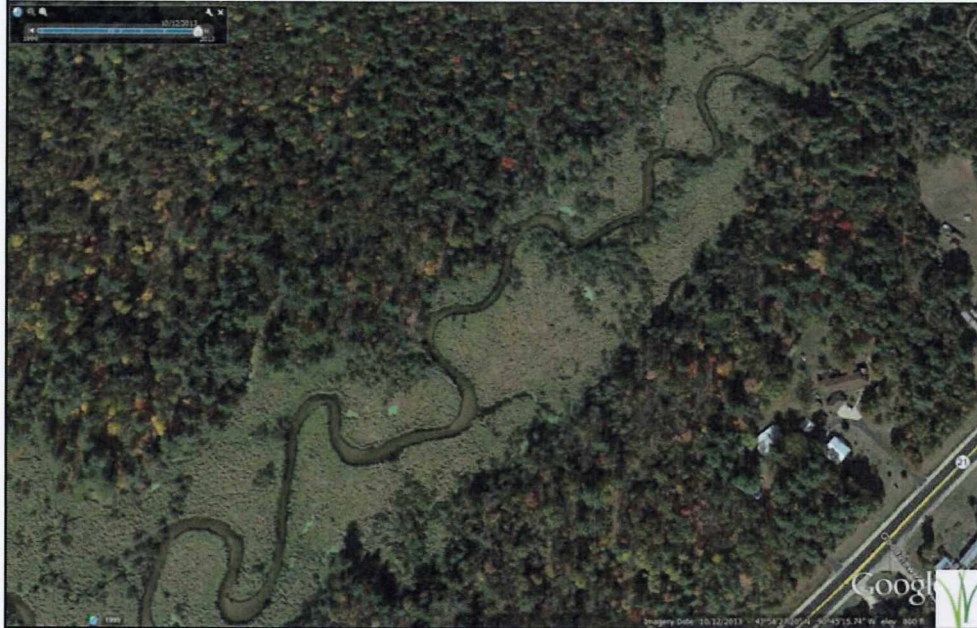
## Simple solutions – Arresting gully development



Here's what we've got. Farmers like cattleman Jack Kruzan, shown here, is losing pasture to gully erosion every time it rains. The gullies in his pasture act like drains, removing the water-holding capacity he needs for his land to produce green grass for his cattle. The resulting flashy runoff also contributes to roadway and culvert damage downstream. Simple stabilization of these gullies can allow Jack's pasture to once again capture runoff and snowmelt, producing greener grass and a healthier herd, reducing downstream road damage, and increasing the flood-resilience in this northern Wisconsin community.

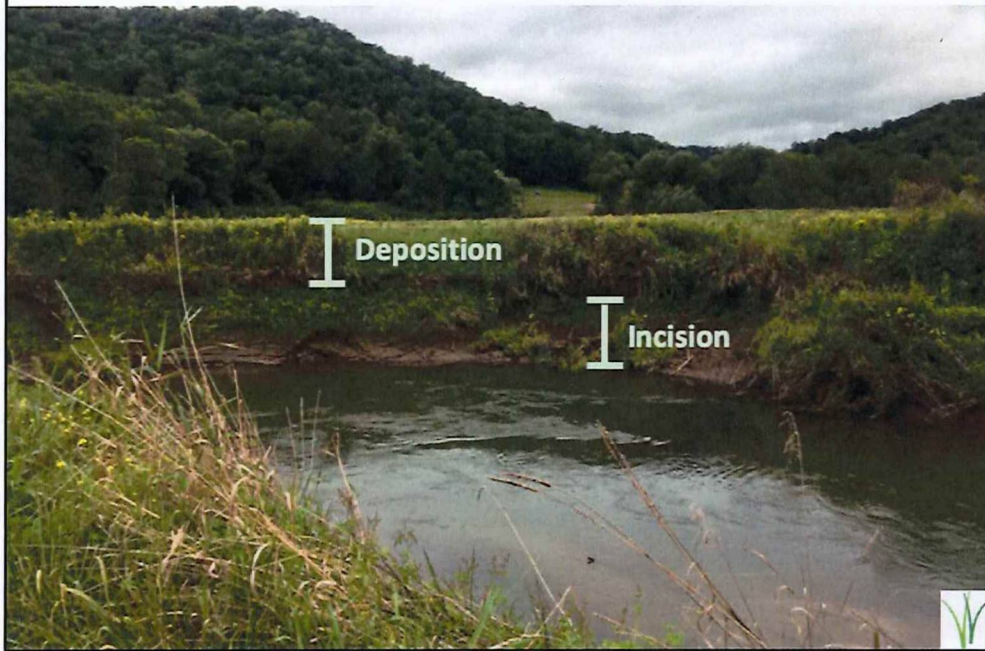


## Healthy floodplains reduce flood peaks



Here's what we want. Healthy, connected floodplains that allow floodwaters room to spread out, slow down, and soak back into the ground. The floodplain vegetation, wetlands and grasslands, further slow the flow of flood water and filter out the sediment, contaminants, and other gunk associated with high water. Healthy floodplains like this are all too rare in Wisconsin.

## Healthy floodplains reduce erosion



Instead our floodplains are disconnected. These conditions cause disasters downstream as flashy, high-energy floodwaters wash out culverts, bridges, and roads.



## Simple Solutions – Floodplain reconnection



There are solutions. This photo, taken along Black Earth Creek near Mazomanie, shows a simple floodplain restoration. Before the restoration, the creek looked a lot like the previous Kickapoo River photo.

## Simple solutions – Floodplain reconnection

### Spillway Development





### Channel Narrowing



Examples of other simple techniques that take advantage of the natural ability of the landscape to manage water include spillways to direct flood flows into undeveloped areas, drain management, and efforts like those employed along the Little Plover River to re-establish healthy channel conditions, floodplain connections, and flows.

**How will SB631  
help encourage  
hydrologic  
restoration?**



Wisconsin Wetlands Association



## **Support for Assembly Bill 701**

### **Nicole Staskowski, Professional Wetland Scientist (PWS)**

Thank you members of the Assembly Committee on Natural Resources and Energy for providing us the opportunity to show support for AB 701. My name is Nicole Staskowski and I am a Botanist and Senior Consultant for Cardno in Wisconsin. I provide technical and project management oversight for ecological and regulatory projects. With more than 25 years of wetlands and natural resource experience throughout the Midwest, primarily in Wisconsin, but also Minnesota, Illinois, Indiana, and Michigan, I have worked with Federal, State and local agencies negotiating wetland, waterway, protected species and Section 106 requirements. Additionally, I develop, construct, maintain and monitor multi-year wetland mitigation projects (both through the wetland banking and In-Lieu Fee programs) and restoration projects with the US Army Corps of Engineers and Wisconsin DNR. The type of projects I lead include ecological restoration projects, natural area habitat assessments, botanical and rare species inventories, wetland delineations, mitigation design and implementation, and grant coordination. My clients include state and federal natural resource agencies, municipalities, public and private parks and conservation areas, utilities, developers and individual landowners.

On behalf of myself and consulting private-sector practitioners working throughout the State of Wisconsin, I am here in support of AB 701. I am entering into the record a letter that has been signed by practitioners throughout the state showing support for this bill. My comments offer additional points beyond the support provided in the letter.

This bill provides two important things: 1) a Hydrologic Restoration Advisory Council, and 2) a more streamlined pathway to advance hydrologic restoration projects.

To the first point, the Council is an opportunity to build a collaborative working group between the Wisconsin DNR and public and private-sector practitioners throughout the state who are implementing hydrologic restoration projects. The Council is an opportunity to collaborate on projects that restore valuable floodplains and prevent unnecessary flooding that damages infrastructure, projects that restore headwater wetlands to protect water quality downstream, projects that bring back valuable habitat to stream and wetland invertebrates, and all that depend on them, including sport fish. These hydrologic restoration projects are critical to provide benefits to entire systems that depend on one another and begin to heal landscape-scale hydrologic degradation that has become increasingly common statewide. The Council provides a collaborative forum to openly discuss solutions to hydrologic challenges as well as opportunities to advance policy to prioritize and incentivize hydrologic restoration across the landscape. Council members benefit from DNR staff who are knowledgeable about the review and approval of projects to ensure no environmental degradation as well as practitioners who understand the nuances of time in the field implementing restoration projects.

To the second point, AB 701 creates a general permit that provides a benefit to the landscape. General permits are created for those projects that are demonstrated to not cause undue harm to ecological systems, thus provide an avenue for more expedited consideration. This general permit offers a much more efficient permitting approach for those projects whose main objective is to prioritize hydrologic restoration. As private sector consultants our job is to steer our clients toward the most efficient and cost-effective manner to accomplish their restoration project. The timeframe and process of regulatory approvals plays a role in determining project plans. Furthermore, many funders of water, stream and wetland projects are looking for "shovel ready" projects to fund in tight time lines for funding application, permitting and construction. The potentially streamlined permit process for these watershed projects could be very helpful in attracting funding.

Ultimately, both the Council and general permit provided by AB 701 promote more wetland, stream and floodplain restoration on the landscape, which as natural resource practitioners, we fully support.

Assembly Committee on the Environment  
Attn: Representative Kitchens  
Room 312 North - State Capitol  
Madison, WI 53707

January 16, 2020

To: Members of the Assembly Committee on the Environment  
Re: Assembly Bill 701, relating to: a general permit for hydrologic restoration projects and creating a Hydrologic Restoration and Management Advisory Council

Dear Chair Kitchens and Assembly Committee members:

We would like to submit a written statement in favor of Assembly Bill 701, which creates a general permit for hydrologic restoration and a Hydrologic Restoration Advisory Council to advance restoration efforts in Wisconsin.

As practitioners and private sector environmental consultants, we work on behalf of our clients in all landscape settings whether wetland, upland, riparian, or forested. Our work can include designing, implementing, & monitoring restoration projects, delineating wetland boundaries, and assisting permitted development projects. We are familiar with the process of obtaining permits for all the work done in and near wetlands, streams, and other sensitive areas and we appreciate the work of specialists at the Wisconsin Department of Natural Resources who help craft and review the permits designed to protect and minimize damage to our water resources.

This bill does two very important things: It creates a Hydrologic Restoration Advisory Council and it creates an opportunity for a more streamlined pathway for private landowners and communities to restore health to their waters and landscapes. Now is the time for this action. Communities across the state are facing urgent water management challenges such as flooding, damage to infrastructure, and water quality concerns.

The Hydrologic Restoration Advisory Council created in AB 701 will convene professionals and practitioners with field experience to advance the science, help improve restoration policy & implementation, and make hydrologic restoration a priority in Wisconsin. It would be very valuable for practitioners like us to participate in this forum with the DNR as we jointly confront challenges with natural management techniques.

The general permit for hydrologic restoration created in AB 701 will provide an attractive avenue for restoration that is focused on improving the natural functions of upper watersheds wetlands, and non-urban floodplains. Whether working with local governments, developers, farmers, or recreational landowners, our job as consultants is to advise our clients on their restoration and management options. While we always try to steer them towards the most beneficial environmental outcomes, time and costs associated with the restoration work and regulatory approvals, also influence project plans. The proposed general permit process will

enable an efficient application and review process for an important but underutilized suite of restoration practices. This will help move landowners, local governments, and agencies forward in employing hydrologic restoration actions to address the ever-increasing water resource issues they are facing.

We appreciate the opportunity to share our support for AB 701 with the Assembly Committee on the Environment.

Sincerely,

Nicole Staskowski, *PWS, Senior Project Ecologist/Practice Lead, Principal – Botany, Wetlands Ecology (Cardno)*

Dan Salas, *Senior Ecologist, ESA (Cardno)*

Scott Taylor, *Assured Wetland Delineator, Owner (Taylor Conservation LLC)*

Robert Montgomery, *PE, D.WRE (Montgomery Associates Resource Solutions LLC-Emmons & Olivier Resources, Inc)*

Steve Gaffield, *PhD, PE, CFM (Montgomery Associates Resource Solutions LLC-Emmons & Olivier Resources, Inc)*

Alice L. Thompson, *PWS, Owner, Thompson & Associates Wetland Services, LLC*

Jon Guntow, *Principal Wetland Scientist (Stantec)*

Joshua Sulman, *MS PWS, Environmental Scientist (Stantec)*

Travis Stuck, *PWS (Davel Engineering and Environmental)*

Chad M Fradette, *EP (Evergreen Consultants LLC)*

Vince Mosca, *Senior Ecologist (Hey and Associates, Inc.)*

Tina Myers, *PWS, Ecologist/Project Manager (raSmith)*

Theran Stautz, *PWS, Ecologist/Project Manager (raSmith)*

Charles Newling, *PWS, CWB, CWD (Wetland Science Applications, Inc)*





RE: AB 701, Relating to hydrologic restoration

Position: Support

January 16, 2020

Mr. Chairman and members of the committee,

My name is Nels Swenson, I'm the Public Policy Chairman for Wisconsin Ducks Unlimited. I'm also a Board of Directors member serving as a Regional Vice President. I'm here representing Wisconsin DU's 35,000 members who proudly support wetlands conservation.

Ducks Unlimited's mission statement is to conserve, restore and manage wetlands and associated habitats for North America's waterfowl. These habitats also benefit other wildlife and people.

For many years wetlands were looked upon mainly from a habitat perspective. More recently, additional economic impacts have been assigned to wetlands associated with recreational opportunities, clean water, carbon sequestration, and flood abatement.

Assembly Bill 701 will help communities manage water through the ability to obtain permitting to strategically restore quality wetlands on the landscape. Wetlands can absorb higher than normal water flows and release this water at a slower rate, thus reducing damages associated with the energy of fast-moving flood waters.

We at Ducks Unlimited support this effort to improve the permitting process for wetland restorations with the goal of enhanced water management and thank the bill sponsors for all their hard work crafting this legislation.

Thank you.



January 16, 2020

**RE: Wisconsin TU testimony on AB 701 regarding Hydrologic Restoration Projects**

**Members of the Assembly Committee on Environment:**

My name is Mike Kuhr, I live in Monona, where I'm a husband, father, small business owner, and volunteer for Wisconsin Trout Unlimited. I'm currently serving as our State Council Chair. Trout Unlimited is our Nation's leading cold water conservation organization. Here in Wisconsin, we're home to over 5,200 members and 21 local chapters dedicated to ensuring future generations' access to cold, clean, fishable water.

Our members value the recreational opportunities that Wisconsin's woods and waters provide. We understand that wetlands and healthy watersheds are vital to these pursuits. We take a watershed approach to stream restoration: protecting the headwaters, and reconnecting them to areas we restore downstream.

Wisconsin Trout Unlimited is supportive of AB 701 and its companion, SB631. We are in favor of the creation of a hydrologic and restoration management and advisory council. We are also supportive of efforts to make these types of restoration projects less burdensome from a regulatory standpoint. Our organization shares many of the same goals that are stated in the bill: improve water quality, reduce runoff and soil loss, increase groundwater infiltration, improve connectivity, and increase flood resiliency.

Wisconsin TU recognizes the importance of functioning wetlands on our landscape. We're one of the founding organizations of the Sportsmen For Wetlands Coalition. Many of our coalition members, some of which are here today, have already expressed their support for AB 731. We are here to do the same. We would however like to draw your attention to Section 3 on Page 4 (lines 17-20) of the bill which would authorize approval for certain low-risk dams under a General Permit.

*The Wisconsin Council of Trout Unlimited ("WITU") is a 501(c) 3 non-profit organization which consists of approximately 5,200 volunteer members in 21 chapters in Wisconsin working to ensure that future generations have access to cold, clean, fishable water. Last year, WITU and its Chapters reported over 50,800 volunteer hours, working on 83 conservation projects, 91 youth education events, and operating 3 veterans service programs at the VA hospitals in Milwaukee, Madison, and Green Bay.*



We believe that new impediments to free flowing water should be given greater scrutiny than a General Permit allows for. By definition, a low risk dam doesn't pose a direct threat to life, health, or property, but they do have the potential to undermine the health of our watersheds. Many small dams block fish passage, preventing fish from reaching critical spawning habitat upstream. Others create shallow pools behind the dam which can warm water temperatures and exacerbate flooding issues during high water events.

We would like to thank Senator Cowles and the Senate Committee on Natural Resources and Energy for amending their version of the bill and removing the low risk dams language. We would urge this Committee to do the same.

We'd like to thank the bills authors and cosponsors for your work in finding solutions to make hydrologic restoration projects a priority in our State. We believe AB 701 will have a positive impact on our watersheds, our fish and wildlife, and our communities.

Thank you for your time and for your commitment to public service.

Sincerely,

Mike Kuhr  
Wisconsin Trout Unlimited  
State Council Chair  
[mikek.trout@yahoo.com](mailto:mikek.trout@yahoo.com)  
(414) 588-4281

*The Wisconsin Council of Trout Unlimited ("WITU") is a 501(c) 3 non-profit organization which consists of approximately 5,200 volunteer members in 21 chapters in Wisconsin working to ensure that future generations have access to cold, clean, fishable water. Last year, WITU and its Chapters reported over 50,800 volunteer hours, working on 83 conservation projects, 91 youth education events, and operating 3 veterans service programs at the VA hospitals in Milwaukee, Madison, and Green Bay.*



January 16, 2020

Public hearing of the Wisconsin Assembly Committee on Environment  
Assembly Bill 701: General Permit for Hydrologic Restoration Projects  
Outline of hearing testimony by Robert J Montgomery, PE

Strongly in favor of AB701

The hydrology of most watersheds in Wisconsin has been substantially altered, exacerbating flooding, diminishing groundwater recharge and stream base flow supply, and degrading aquatic habitat. We all live in a hydrologic neighborhood, and our neighborhood has in many locations been substantially degraded.

Projects such as reconnecting floodplain areas to adjacent streams and rivers and restoring groundwater hydrology can generally be permitted. However, the existing permit process focuses on specific location by location potential impacts and does not explicitly recognize the value of the overall hydrologic restoration to watershed function.

The general permit authorized in this bill identifies that the State of Wisconsin values projects that restore hydrology for many beneficial results and recognizes that net positive value of the overall project may be more important than specific location by location impacts.

As the General Permit language is crafted, I expect that it will incorporate coordination among the variety of Chapter 30, Chapter 31 and other program objectives, under the umbrella of recognizing the value of hydrologic restoration.

The bill also creates a Hydrologic Restoration and Management Advisory Council, which will be very valuable in helping craft the details of the General Permit, and in identifying technical and regulatory procedures in continuing watershed restoration work.

Please contact me at 608-839-6207 or [rmontgomery@eorinc.com](mailto:rmontgomery@eorinc.com) with any questions.

MARS-EOR



Robert J Montgomery, PE, D.WRE  
Principal Water Resources Engineer

Public Hearing for AB 701 Hydrologic Restoration  
Martin Melchior

Thank you \_\_\_\_\_

My name is Marty Melchior, I am a principal and part owner of a national river restoration design firm with a local office here in Madison. I have been fully invested in the world of river and floodplain restoration for 25 years, having designed over 300 river restoration projects in 20 states. Since 1983, my company, Inter-Fluve, has completed over 2,500 projects in the U.S..

I would like to talk for a few minutes about the importance of hydrologic restoration and the positive benefits of this bill. As has been demonstrated here today, we have a long history of abusing rivers, with hydrologic impacts including ditching, tiling, levee construction, dams, floodplain filling, and the increase in impervious cover associated with urbanization. All of these impacts have led to declines in water quality, groundwater depletion and increased flooding. On the plus side, although the damage is extensive, we can efficiently reverse course through restoration. Over the past few decades, the number of river and floodplain restoration projects in the US has grown exponentially, and the opportunities continue to mount <sup>1,2</sup>.

The types of projects my colleagues and I work on include natural channel restoration, dam removal, headwater stream restoration, riverine wetland restoration, and floodplain reconnection. There is ample evidence that public and private investments *driven* by federal and state regulations stimulate economic output and employment in restoration related industries, contributing growth and jobs to state economies in the short term, as well as long-term value and cost savings <sup>3,4,5,6</sup>. Massachusetts and Oregon recently reported between 12 and 24 jobs created per million dollars spent on river and estuary restoration <sup>7,8</sup>. In 2013, NOAA reported that coastal river and estuary projects created between 20 and 32 jobs per million dollars spent. Compare these number to military spending at just 8 jobs per million dollars spent, coal mining and road construction projects at just 7 jobs, and oil and natural gas at a mere 5 jobs <sup>8,9</sup>.

We live in a state where tourism, much of it associated with lakes and rivers, is the third largest industry behind agriculture and forestry, generating some \$13 billion dollars per year in revenue. Wisconsin is second only to Florida in the number of out of state angler days. Clearly, restoration of our watersheds must be a high priority, and anything we can do to make that process more efficient is worthy of consideration.

The development of a Technical Council for hydrologic restoration is particularly exciting to me. On a federal level and in Massachusetts, New Hampshire, Wisconsin, Oregon and Washington, I and my colleagues have participated in drafting standards of practice, developing rules, and streamlining state and federal permitting processes for river restoration. In part due to these collaborative processes, river and floodplain restoration is thriving in these states, and communities are benefiting. Examples I would give would include the City of Milwaukee, where MMSD has driven floodplain reclamation and the restoration of formerly concrete lined river channels. Their leadership is serving as a basis for restoration of the LA River in California. Counties like Ashland and Bayfield County are promoting headwater wetland and stream restoration to reduce flood damage in areas hit hard by recent flooding.

Public Hearing for AB 701 Hydrologic Restoration  
Martin Melchior

The Oneida Tribe in Green Bay has shown that a headwaters approach to restoration can lead to significant water quality improvements watershed wide. And, as a state, Wisconsin is second only to Pennsylvania in the number of dam removals, with over 300 defunct dams removed.

Because our cities are typically located at the mouths of rivers, we tend to do watershed restoration backwards, focusing on the downstream areas along big rivers and ignoring the headwaters. Because of the dendritic nature of streams, the health of the many ephemeral stream channels in the headwaters ultimately dictates water quality, flooding and sediment impacts lower down. This bill can help promote the approach of starting upstream and working down. The General Permit will be useful for encouraging an efficient review process for the smaller upper watershed work that is more straightforward, less expensive, and very much needed.

As stated, the opportunities for hydrologic restoration are numerous, yet the field of hydrologic restoration is relatively new. The Council will help to promote much needed education and training among both the public and professional population. I am currently working with stakeholders and state staff on developing standards of practice for river assessment, river restoration and floodplain restoration around the state. The forum created by the Council will complement all of these ongoing efforts.

In conclusion, I'd just like to say that I have been doing this type of work for a long time. In that time, I have witnessed the many benefits of hydrologic restoration. These are win-win projects that benefit not just one person, corporation or community, they benefit everyone that lives and works in those watersheds. I fully support this bill, and urge you to do the same.

Thank you,  
Marty Melchior  
Principal, Inter-Fluve  
[mmelchior@interfluve.com](mailto:mmelchior@interfluve.com)  
608-354-8260

**Citations:**

1. Bernhardt, E. S., M. A. Palmer, J. D. Allan, and the National River Restoration Science Synthesis Working Group (2005), Restoration of U.S. rivers: A national synthesis, *Science*, 308, 636– 637.
2. Palmer, M. A., D. D. Hart, J. D. Allan, E. Bernhardt, and the National River Restoration Science Synthesis Working Group (2003), Bridging engineering, ecological, and geomorphic science to enhance riverine restoration: Local and national efforts, in *Proceedings, National Symposium on Urban and Rural Stream Protection and Restoration*, EWRI World Water and Environmental Congress, Philadelphia, PA, pp. 1– 9, Am. Soc. Of Civ. Eng., Reston, Va.

Public Hearing for AB 701 Hydrologic Restoration  
Martin Melchior

3. A. Ghermandi et al., "Values of Natural and Human-made Wetlands: A Meta-analysis," *Water Resources Research* 46, no. 12 (December 2010)
4. P.E.T. Edwards, A.E. Sutton-Grier, and G.E. Coyle, "Investing in Nature: Restoring Coastal Habitat: Blue Infrastructure and Green Job Creation," *Marine Policy* no. 38 (2013): 66-7.
5. Todd K. BenDor et al., "Defining and Evaluating the Ecological Restoration Economy," *Restoration Ecology* 23, no. 3 (2015): 209-19.
6. Todd K. BenDor et al., "Estimating the Size and Impact of the Ecological Restoration Economy," *PLoS ONE* 10, no. 6 (2015): <http://journals.plos.org/plosone/article?id=10.1371/journal.pone.0128339>.
7. Industrial Economics Inc. 2012. *The economic impact of ecological restoration in Massachusetts: Summary Report for the Massachusetts Department of Fish and Game Division of Ecological Restoration* March 2012, Boston, MA.
8. Nelsen-Pincus, M., and C. Moseley, 2010. *Economic and employment impacts of forest and watershed restoration in Oregon*. Working Paper Number 24, Report for the Institute for a sustainable environment, University of Oregon.
9. NOAA 2013, Report on the US Estuary Program (see graphic excerpt below)

