



State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

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Testimony of the Department of Natural Resources regarding SB 557

Senate Committee on Environment March 16, 2010

Thank you Senator Miller for all you have done on wetlands protection in Wisconsin, and specifically for your work in developing this bill. We support Senate Bill 557. This bill will help people determine if wetlands are present before they buy or build, and early wetland identification is key to successfully protect our state's wetland resources. This bill proposes two mechanisms to help people identify wetlands early – a wetland/lakes/streams notification requirement, and a wetland identification program.

We support the wetland notification requirement on local building permits as outlined in the bill. It is a simple mechanism that informs applicants of their responsibility to comply with state and federal laws involving construction near or on wetlands, lakes or rivers and the consequences of not complying. We anticipate it will be easy for local communities to implement through their building permits, and the notification can also direct people to DNR's new *Locating Wetlands* web pages, which provide additional resources landowners can use to determine if a property contains wetlands, and information about applicable wetland laws.

The proposed wetland identification program provides the public with an optional fee-based service where DNR staff will conduct map reviews, on-site wetland identification, and on-site confirmation of wetland boundaries determined by a 3rd party. The proposed program is modeled after an existing program available in the state of Michigan, and we support a wetland identification program for Wisconsin.

Since the last time this bill was considered a few years ago, several things have changed relative to our work with wetlands in Wisconsin. As a result, we do have a few concerns and hope to work with you to address them:

1. The revenue will not support the program costs. Our fiscal analysis anticipates that the revenue generated from fees under this bill will only cover about half of program implementation costs.
 - We don't anticipate many requests for map reviews (Tier 1), which may decrease the total fee revenues this program would generate. Since this bill was originally introduced in the 2007 legislative session, DNR has developed a number of web-based mapping tools that are now available on the internet at no cost. Digital wetland inventory maps and new wetland indicator maps are now accessible on DNR's website, and anyone can view these two map layers and determine for themselves if wetlands are likely present on a property.

- We anticipate some demand for on-site wetland identification (Tier 2), by individuals or groups who are planning projects and want to avoid wetlands.
 - We expect a substantial interest in on-site confirmations of 3rd party wetland determinations (Tier 3) by both developers and individual landowners. However, it is uncertain how many requests DNR will actually receive for our fee service since the U.S. Army Corps of Engineers currently provides this service at no cost.
2. The number of staff may not be enough to meet the demand and timelines unless staffing is increased and/or processing timelines are extended.
- We expect to receive 500 requests for on-site wetland determinations (Tier 2 and Tier 3) annually if this program is created. However, our analysis shows that the staffing level provided by the bill would be able to handle less than 400 requests each year.
 - Since on-site inspections must be conducted during the growing season, we expect to receive the majority of requests from late spring through early fall. The seasonal nature of this work will make it difficult for the staff to meet the 30-day timeline provided in this bill. For comparison, our neighbors in Michigan use up to six contract positions to conduct the work, with no required timelines, and their processing time is typically 60 days.
3. Successful program implementation depends on an MOA with the U.S. Army Corps of Engineers.
- Initial feedback we've received from the Army Corps is that a Memorandum of Agreement is more appropriate for the Tier 3 confirmation of a wetland boundary determined by a 3rd party. Since the Army Corps has concurrent jurisdiction over federal wetlands in Wisconsin, an MOA at this tier will provide the greatest certainty for individuals requesting a determination.

In closing, DNR supports both the local building permit notification provided in this bill, and a wetland identification program for Wisconsin. We share in your goal to help folks identify wetlands before they buy or build to protect Wisconsin citizens and our wetland resources. We will continue to work with you to develop a successful wetland identification program.