



# JOE SANFELIPPO

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February 10, 2016

## Testimony on AB 653

Chairman Nerison and committee members, thank you for allowing me to testify on AB 653.

Drainage ditches have been around in Wisconsin for long as farming. Drainage Districts were formed by neighboring farmers and communities to maintain the ditches and ensure they are cared for properly.

We introduced this legislation at the request of our local municipalities and drainage district board members, as well as members of the farming community.

AB 653 will increase local input and update the laws for drainage districts to make it less burdensome on our state's agriculture community while maintaining the highest standards for protecting the environment.

The bill creates a new exemption to the requirement for maintenance dredging conducted by a drainage district in one of the district's ditches. The bill creates a number of conditions applicable to this exemption, including conditions related to compliance with other applicable laws, safe and appropriate handling of dredged material, control of the spread of invasive species, impacts to certain types of wetlands, and seasonal restrictions, among others.

AB 653 provides that if a drainage district has been "inactive" for three or more years, the county circuit court may transfer its authority to make appointments to the drainage board to the county board, with county board approval.

This bill codifies in statute provision similar to those in the current administrative code administered by DATCP, where certain requirements apply to the use of land abutting a drainage district ditch.

Ab 653 requires the chief executive of the city or village or his or her designee to be a member of the county drainage board for drainage districts located at least in part within a city or village after a drainage districts expands into a municipality. Those members would only have voting rights on issues relating to a district located at least partially in the city or village that the member represents.

This bill prohibits the creation or expansion of a drainage district that includes property within a city or village unless the governing body of the city or village approves. This prohibition applies to a town if the town operates a municipal utility that manages storm water or has entered into a maintenance agreement with the drainage district that is proposing to expand. In addition, the bill prohibits expansion of a drainage district into a different county.



Under the bill, the requirements related to the transfer of part of a drainage district to a municipality are altered to make sure that the municipality and the district are in agreement about ongoing responsibilities for maintenance and repair of district infrastructure. This concern was brought to our attention by drainage district members who wanted certainty that ditches would be properly cared for.

We have worked on gathering input on this bill for 2 long years from individuals who know the cleanout process firsthand; the DNR, DATCP, WI Cranberry Growers Assoc., the WI Potato and Vegetable Growers Assoc., League of WI Municipalities and members of the WI Association of Drainage District Boards, the WI Legislative Council and the WI Legislative Reference Bureau (LRB).

All those non-governmental groups have registered their support for the proposal, including the Wisconsin Realtors Association, NAIOP Wisconsin (commercial realtors) and the Wisconsin Farm Bureau Federation.

Thank you again for allowing me the opportunity to testify on AB 653. I'm happy to answer any questions you may have.



# Van H. Wanggaard

Wisconsin State Senator

February 10, 2016

## Testimony on Assembly Bill 653

Thank you Chairman Nerison and members of the Committee on Agriculture for considering Assembly Bill 653 (AB 653) today. This bill seeks to resolve issues that have arisen with the current drainage district structure in my district. The Wind Lake Canal has not been dredged in over 50 years and I authored this legislation to help expedite the process of maintaining ditches.

Current law has numerous statutes regulating the oversight, permitting process, membership, transfer and operation of drainage districts, some of which are burdensome to follow. For example, the Department of Agriculture, Trade, and Consumer Protection (DATCP) generally regulates drainage ditches, but the Department of Natural Resources (DNR) is responsible for issuing the necessary permits to dredge and maintain them. There is also nothing that mandates that any of the spots on the drainage district boards be filled by local officials who would ultimately be affected by the actions the boards take.

AB 653 resolves these issues by establishing necessary guidelines on drainage districts that strike a balance between protecting local control and providing the agriculture community with an efficient service that is so essential to their operations.

The bill creates an exemption from DNR permit requirements to dredge and maintain the ditches in the drainage districts provided they meet reasonable criteria. Farm fields are often considered wetlands because of their historical significance which makes placement of waste materials difficult. Under the bill, drainage districts would not have to acquire a drain maintenance permit by DNR to remove material if board is authorized to remove it under a DNR general permit.

The bill also strengthens local control by transferring certain powers and responsibilities of drainage districts to their respective governing body. Chief executives, or their designee, of a village or city that the district is in, even if only partially, must be a member of the drainage board. Additionally, the governing body that would be effected by the creation or the expansion of a district must sign off, and expansion of a district into a different county is prohibited. Municipalities can also petition a drainage board to transfer all or part of a district to them provided they agree on maintenance terms, and the boards must notify affected municipalities of upcoming action or meetings on the district.

Drainage districts play an important role in our agriculture community and it is vital that we create a process for maintaining ditches that is fair to local governments, constituents, and farmers alike. The Wisconsin Farm Bureau Federation, Wisconsin Potato Vegetable Growers Association, Wisconsin Realtors Association, and the Wisconsin State Cranberry Growers Association support AB 653 and I encourage you to do so as well.

Serving Racine and Kenosha Counties - Senate District 21



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***Testimony on AB 653: Presented by Erin O'Brien, February 10<sup>th</sup>, 2016***

Wisconsin Wetlands Association (WWA) is a statewide non-profit organization dedicated to the protection, restoration, and enjoyment of Wisconsin's wetlands.

WWA is testifying today for information only. As a statewide, wetlands conservation organization, we believe there is a great need, and opportunity, to restore wetlands on working landscapes so that water is available to farmers when and where it is needed.

We also recognize and respect that where wetland drainage is in place, agricultural landowners and the drainage boards who serve them need to be able to maintain existing drainage infrastructure without undue regulatory burden. At the same time, our hope is that these activities can be carried out in a way that is sensitive to the surrounding wetland resources, and in compliance with all state and federal laws and policies.

AB 653 contains two provisions related to the discharge of spoils from drainage ditch maintenance to wetlands. The first (Section 1, Item 7) exempts discharge of drainage spoils to wetlands from Chapter 30 requirements except for discharges to a small list of sensitive wetland types. The second (Section 21) clarifies that exemptions for discharges to wetlands do not apply if the activity supports a change in land use.

I'm appearing here today to encourage the bill's authors to consult with the Wisconsin offices of the U.S. Army Corps of Engineers, and the U.S. Department of Agriculture's Natural Resources Conservation Service to clarify whether/how the proposed wetland provisions comply with the federal Clean Water Act and the Conservation Compliance Provisions of the Federal Farm Bill, respectively.

We are concerned that, if enacted, some activities conducted under this proposal could result in unintended violations of federal laws. Potential outcomes could be fines, restoration orders, or in the worst case scenario loss of eligibility for subsidized crop insurance or disaster assistance payments. It is not clear to me if the burdens associated with any violations would fall to the agricultural landowners, the drainage board, or the drainage contractor who completes the work.

I do not believe it is the intention of the authors or supporters of this bill to work around Clean Water Act or Farm Bill requirements, but felt it was important to appear today to caution the committee that additional work may be needed to either bring these proposed policies into cross compliance with federal policies or enact education or notification measures to ensure these other policies are known or understood.

I've pasted contact information for the relevant federal agencies below and provided background information on the relevant Clean Water Act and Farm Bill policies to the Committee Clerk for e-mail distribution.

Thank you for your consideration of these comments.

*Questions on this testimony should be directed to WWA Policy Director, Erin O'Brien at 608-250-9971.*

***Suggested contacts for federal consultation:***

Jimmy Bramblett  
State Conservationist  
U.S. Department of Agriculture  
Natural Resources Conservation Service  
8030 Excelsior Drive, Suite 200  
Madison, WI 53717-2906  
Phone (608) 662-4422 x 203  
jimmy.bramblett@wi.usda.gov

Rebecca Graser  
WI State Program Manager  
U.S. Army Corps of Engineers  
250 N. Sunnyslope Road, Suite 296  
Brookfield, Wisconsin 53005  
(262) 641-5498, extension 5728  
Rebecca.M.Graser@usace.army.mil

2015 Assembly Bill 653 and Senate Bill 572

February 10, 2016

Comments by Leonard Massie, a member of the Dane County Drainage Board.

Assembly Bill 653 and Senate Bill 572 provide an exemption for Drainage Boards and Districts from the Department of Natural Resources (DNR) permit requirements when doing maintenance on District ditches if a number of conditions exist for the maintenance work being done. This is a step in the right direction, but does not address other DNR permit requirements, such as those found in NR216.

The bill should say that Drainage Boards and Drainage Districts operating under Chapter 88, Wisconsin Statutes and ATCP 48 are exempt from all State and local government permit requirements when maintaining and repairing drainage district ditches and other district facilities. Issues, such as invasive species, should be brought to the attention of the State Drainage Engineer and staff at the Department of Agriculture (DATCP). After appropriate discussion and fact finding, changes can be made in ATCP 48.

Drainage Districts are special use districts that were established to provide an outlet (ditch) for on-farm drainage systems to remove excess water from the root zone of agricultural crops. Drainage District plans (boundary, location of the ditches, ditch profiles and cross-sections) are recorded and known. An assessment of benefits to the landowners has been made. An assessment for costs for work done in and for the district is made based on the benefits received. The landowner with the greatest benefit pays the largest portion of the costs.

Drainage Boards have the responsibility of maintaining the district facilities and the benefits received by the landowners in the drainage district. Over time, expansion of cities and villages has resulted in a portion of their area being in a drainage district. Sanitary treatment plants have been located on drainage district ditches. Increases in storm water from urban areas into drainage district ditches has flooded out the on-farm drainage systems and resulted in the loss of crops. Problems and conflicts do occur which usually result in a loss of benefits in the agricultural portion of the district.

Now, specific comments on the proposed Senate Bill 572.

Section 1. 30.20(1g) (d) of the Statutes:

My impression is that the Drainage Board and District must decide that the maintenance project meets the conditions described to get the permit exemption? The Board will have to document the situation for the record supporting the decision to do the ditch maintenance work and hold a hearing so all members of the drainage district know what is going to happen. The Dane County Drainage Board does a fact-finding effort on which to base its decision that can be defended if a lawsuit occurs.

This is a very important change to the current often long and involved permit process.

The proposed conditions may be contrary to our understanding of how maintenance was to be done in the past. Many of the Dane County Drainage District ditches have a berm (spoil pile from the original construction) along one or both sides of the ditch. When doing cleanouts in the past, we have placed the spoil on top of the existing berms because that is not wetland – it is high and dry. The new conditions for placement of cleanout material may not match up with existing site conditions. One wonders if the author(S) of the conditions actually know what exists in the field.

The issue of invasive species is a new one. Placing the responsibility for cleaning equipment on the District is simply stupid. Yes, the Drainage Board and District can put the conditions in a contract, but cannot be sure the equipment is properly cleaned before leaving the site. Put the responsibility on the contractor, not the Drainage District. Better yet, put appropriate language in ATCp 48.

What is the reason for not allowing cleanout work to occur for two months in the spring? I am guessing the reason is fish spawning, but doubt that drainage ditches in Dane County are great fisheries.

In summary, this section appears to codify an exemption from a DNR Chapter 30 permit for Drainage District maintenance when the listed conditions are present. This is a welcome improvement for Drainage District maintenance activity. This section does not exempt the Board and district from other DNR or local government permits.

#### Section 2. 88.075 Transfer of certain authority. (1)

Why is this section being created? I could understand the need if a Drainage Board is failing to carry out its responsibilities. This section uses the words, “inactive drainage district”, which is wrong.

Dane County has several drainage districts that have been inactive for many years. The Dane County Drainage Board knows where they are. The Board recognizes the problems associated with making them active are the costs associated with bringing them up to speed – known landowners, assessed benefits to the lands, and creating up-to-date plans. The costs could be tens of thousands of dollars. The Dane County Drainage Board will take the needed actions if the landowners in the inactive district want to become active. We don't shove the costs onto them if they don't want to spend the money.

Under this section, a Court appointed Drainage Board will be replaced by a County appointed Board. It is not clear that the Court appointed board ceases to exist. It would be more appropriate to have language that permits the Judge to terminate the current inactive board members appointments so a new board can be appointed.

#### Section 4. 88.17 (2h) (c)

Again, a section is being created that is simply not needed. Members of the Dane County Drainage Board have belonged to several farm related organizations over the years. The matter of membership in various organizations was and is not important. The need and focus of the vetting process has always been the knowledge and experience of the individual that will enable that person to be a good drainage board member. There is no need to list a bunch of Agricultural organizations as the source of possible members.

Section 5. 88.17 (2h) (d)

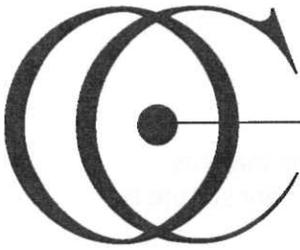
Again, a section is being created that is simply not needed. The Department of Agriculture, Trade and Consumer Protection could recommend an engineer for Board membership, but any competent engineer in drainage matters will decline. They will decline the opportunity because they would prefer to work for the Board on projects. They are far better paid as consultants.

Section 6. 88.17 (2r)

Really! Why? They have no knowledge of the requirements of Chapter 88 or ATCP 48 which are very different from the laws and rules they use to operate local government. Our experience has been that they do not want to become knowledgeable about the operation of a drainage district under Chapter 88 and ATCP 48. The Dane Drainage Board holds meetings and hearings to develop a factual basis for any action taken. The local officials are invited to provide information that can be part of the factual basis for decisions where part of the drainage district is within a village or city's boundary.

I appreciate the fact that local officials are involved in land use issues that may impact the drainage district ditches or be influenced by the drainage district ditches. The Dane County Drainage Board is actively trying to transfer management of the portion of a Dane County Drainage District in the City of Sun Prairie and the Village of DeForest.

The ability to transfer the management of a portion of a drainage District in a city or village will be enhanced by the proposed features of Section 3 that will enable district corridors to exist after a transfer has occurred. Being able to continue the drainage district corridors when developing an inter-government agreement between the Drainage Board and City or Village will help insure the municipality has access to do appropriate maintenance.



# OUTAGAMIE COUNTY

410 SOUTH WALNUT STREET, APPLETON, WI 54911-5936

ADMINISTRATION BUILDING

## DRAINAGE BOARD

DATE: February 9, 2016

TO: Members of the Assembly Committee on Agriculture

FROM: Outagamie County Drainage Board

SUBJECT: Assembly Bill 653 – relating to drainage districts and regulating removal of material from certain drainage districts

Currently Outagamie County has approximately 39,000 acres of land within 8 active drainage districts. Some of this acreage is located within cities and villages.

Our Drainage Board has several concerns pertaining to this proposed legislation. Following are some of our concerns:

1. Creating – Section 4. 88.17(2h)(c) – Naming specific organizations has the potential of excluding many qualified persons as members to the Board. We recommend leaving the organizations listed being generalized as professional agricultural organizations, engineering or local government bodies.
2. Creating – Section 6. 88.17 (2r) – Appointment of a chief executive of the city or village as a member of the Board. This person would only be there in the interest of the municipality and not in the best interest of the whole drainage district. How would this person be compensated? Who would fund the compensation? To charge the drainage district involved would not be fair to all property owners if this person is only there for representation of the city or village.
3. Creating – Section 7. 88.212(4) – Notifying the city, village or town of the board meetings. As a public entity, the Drainage Board meeting agenda, per open meeting law, should be posted 24 hours in advance of the meeting. Communication with the affected municipalities or individuals and the drainage board clerk is a simple solution to this issue and should not be included in the statutes.
4. Creating – Section 11. 88.785 Certain annexations prohibited. The proposed requires the town, village or city approve a resolution to annex. What if the city, village or town does not take action to approve or deny an annexation after proper notice? Can the annexation process continue without a resolution?
5. Creating – Section 17. 88.83(c) As proposed, if a municipality fails to complete work ordered under par (b), the district may complete the work and assess costs on the confirmed benefits to property subject to assessment at the time of transfer of jurisdiction. Does this mean the Drainage Board would have the jurisdiction to complete the work? Who would pay for this? If drainage district funds are available that were transferred to the municipality, the work completed should be paid from these funds.

6. Amendment - Section 18. 88.83 (3) The amendment removes the definition of the majority required to sign the petition and does not clarify the "required number". The current statute is clear and fair to all property owners creating a majority rule.

Outagamie County has and continues to work with local municipalities on drainage district issues. We have, and currently are, dealing with issues that were created within drainage districts by municipalities who operate a storm water municipal utility which approved residential and industrial developments without regard to adjoining properties outside of their storm water utility jurisdiction. The result being wetlands not being allowed to drain or are being over-loaded with water runoff from these developments and woodlands being destroyed due to excessive water flowing into them and not being able to drain naturally. The solution to drainage from developments is not a retention pond as many storm utilities use.

The Outagamie County Drainage Board agrees Chapter 88 needs to be revised but not in the "piece meal" way as being proposed. We are in agreement with several of the proposed permitting changes. We request your committee refer this bill to the Department of Agriculture, Trade and Consumer Protection department, Wisconsin Drainage District Association and the Wisconsin Drainage District Boards allowing them to review the proposals and recommend the changes that would be most advantageous to protecting the agricultural land in Wisconsin.

Respectfully submitted,

Al Kramer, Jr., President  
Outagamie County Drainage Board

**Before the Assembly Committee on Agriculture**

**Testimony of Paul G. Kent  
On behalf of the Racine County Board of Drainage Commissioners  
Re: AB 653**

**February 10, 2016**

My name is Paul Kent and I am an attorney here today on behalf of the Racine County Board of Drainage Commissioners. The Board currently has five districts under its jurisdiction. There are approximately 5982 parcels of land within the five districts. With me today is Tom Halter a property owner within one of those districts. AB 653 is an attempt to accommodate municipal concerns about the interaction between drainage districts and incorporated local governments and to clarify DNR regulation over maintenance of District drains. We are here in support of AB 653.

**1. Maintenance Dredging Exemption**

The bill creates an exemption from the DNR permitting requirements for maintenance dredging of drainage ditches provided that 10 specific requirements are met. This will streamline the current permitting process but still provide protections for the environment. These sections were reviewed with DNR and changes were made in response to comments.

**2. Clarification of wetland exemptions.**

The bill clarifies the scope of the current wetland exemption that exists under federal and state law for drainage district maintenance. It provides that the fill may not bring a wetland into a *land use* for which it was not previously subject. Thus, if the area was wetland before and remains a wetland, even if a slightly different type, after fill was placed the fill would be allowed. Similarly if the area was a farm field before and remained a farm field after that would be allowed.

**3. Appointment for Inactive Districts**

Earlier drafts would have allowed the court to transfer all jurisdiction to the county board at any time upon approval of the county board. The current bill provides that if a drainage district has been inactive for 3 years or more only the authority to make appointments may transfer from the court to the county board.

#### **4. Appointment of Commissioners.**

The bill provides a list of local organizations including farming organizations that can make recommendations to the court for appointments to the board. DATCP is also authorized to make recommendations. In addition, if the District includes areas within an incorporated municipality, the city or village may appoint an additional board member who can only vote on matters relating to drainage within the corporate limits of the city or village.

#### **5. Maintenance of District Corridors**

The bill incorporates key provisions of ATCP 48.24 with respect to the establishment and maintenance of district corridors. It specifically provides that municipalities may not restrict or imposed other conditions related to the maintenance of district corridors or ditches.

#### **6. Annexation by Districts Limited.**

This was a municipal request. The bill provides that no lands in incorporated areas may be annexed into a district without the approval of the city or village. Town approval is required for annexation only if the Town has a municipal stormwater utility or has entered into an agreement with the district.

#### **7. Transfer of District Areas to Municipalities.**

This is another municipal request. This provision allows the transfer of drainage jurisdiction to a municipality. If the area is less than the entire district the municipality must enter into an agreement with the district to: (i) ensure access to corridors, (ii) to maintain and repair any former district drain and (iii) if the municipality fails to maintain and repair the drain, the district may do so and assess the municipality.

## **DNR Permits that may be required for Dredging Projects**

### **General Information Regarding DNR Water Permits**

<http://dnr.wi.gov/permits/water/>

### **Storm Water Permit- Pete Wood 262-884-2360**

<http://dnr.wi.gov/topic/stormwater/construction/> (covers dewatering necessary to complete the work, berming/stockpiling greater than 1 acre, and certain routine maintenance activities- see NR 216 spreadsheet)

### **Wetland Identification Program & Wetland Confirmation Service: Neil Molstad 262-574-2115**

<http://dnr.wi.gov/topic/wetlands/identification.html>

### **Wetland Disturbance Individual Permit (IP): Elaine Johnson 262-574-2136**

<http://dnr.wi.gov/topic/Waterways/construction/wetlands.html> (covers wetland disturbance)

### **Wetland Mitigation: Pam Schense 608-266-9266**

<http://dnr.wi.gov/topic/wetlands/mitigation/> (required for IP wetland disturbance permits)

### **Solid Waste: Bizhan Sheikholeslami 262-574-2143**

<http://dnr.wi.gov/topic/Waste/Solid.html>

### **Wisconsin Pollutant Discharge Elimination System (WPDES): Susan Eichelkraut 414-263-8682**

(dewatering of the dredge materials)

<http://dnr.wi.gov/topic/wastewater/permits.html>

### **Racine County**

<http://racineco.com/planningdevelopment/index.aspx>

### **Kenosha County**

<http://www.co.kenosha.wi.us/>

# **DNR Program Checklist for Dredging Projects in Racine and Kenosha Counties**

- Applicants must determine the applicability of requirements under each of the following DNR programs in relation to their dredging project.
- Pre-application discussions with DNR Program staff are required to determine the information that must be provided with an application.
- There may be additional compliance requirements from local or federal authorities, and it is the applicant's responsibility to determine and satisfy such requirements.

## **1. Waterways & Wetlands Protection Program:**

Program Specialist-Elaine Johnson (262) 574-2136, [Elaine.Johnson@wisconsin.gov](mailto:Elaine.Johnson@wisconsin.gov)

Program Supervisor-Michelle Scott (262) 574-2122, [Michelle.Scott@wisconsin.gov](mailto:Michelle.Scott@wisconsin.gov)

## **2. Fisheries Program:**

Program Specialist-Luke Roffler (262) 822-8164, [Luke.Roffler@wisconsin.gov](mailto:Luke.Roffler@wisconsin.gov)

Program Supervisor- Sue Beyler (262) 594-6218, [Susan.Beyler@wisconsin.gov](mailto:Susan.Beyler@wisconsin.gov)

Program Supervisor Great Lakes Brad Eggold (414) 382-7921, [Bradley.Eggold@wisconsin.gov](mailto:Bradley.Eggold@wisconsin.gov)

## **3. Wastewater Program (WPDES permits):**

Program Specialist- Theera Ratarasarn (414) 263-8650, [Theera.Ratarasarn@wisconsin.gov](mailto:Theera.Ratarasarn@wisconsin.gov)

Program Specialist- Susan Eichelkraut (414) 263-8682, [Susan.Eichelkraut@wisconsin.gov](mailto:Susan.Eichelkraut@wisconsin.gov)

Program Specialist- Timothy Thompson (414) 263-8525, [Timothy.Thompson@wisconsin.gov](mailto:Timothy.Thompson@wisconsin.gov)

Program Supervisor- Vacant

## **4. Water Resources Program and Sediments Program (NR 347-Sediment Sampling):**

Program Specialist- Craig Helker (262) 884-2357, [Craig.Helker@wisconsin.gov](mailto:Craig.Helker@wisconsin.gov)

Program Supervisor- Rob McLennan (920) 424-7894, [Robin.Mclennan@wisconsin.gov](mailto:Robin.Mclennan@wisconsin.gov)

## **5. Runoff Management - Storm water Program:**

Program Specialist- Pete Wood (262) 884-2360, [Peter.Wood@wisconsin.gov](mailto:Peter.Wood@wisconsin.gov)

Program Supervisor- Ben Benninghoff (414) 263-8576, [Benjamin.Benninghoff@wisconsin.gov](mailto:Benjamin.Benninghoff@wisconsin.gov)

## **6. Drinking Water & Groundwater Program:**

Private Water Supply Specialist- Rick Engelfried (262) 884-2361, [William.Engelfried@wisconsin.gov](mailto:William.Engelfried@wisconsin.gov)

Program Supervisor- Jessie Jensen (414) 263-8774, [Jessie.Jensen@wisconsin.gov](mailto:Jessie.Jensen@wisconsin.gov)

## **7. Waste & Materials Management Program (Solid Waste Disposal):**

Program Specialist- Bizhan Sheikholeslami (262) 574-2143, [Bizhan.Sheikholeslami@wisconsin.gov](mailto:Bizhan.Sheikholeslami@wisconsin.gov)

Program Supervisor- Cynthia Moore (414) 263-8694, [Cynthia.Moore@wisconsin.gov](mailto:Cynthia.Moore@wisconsin.gov)

## SEQUENCE OF WORK PLAN CHECKLIST

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- **Sequencing of Construction:** Include a detailed description of the planned step-by-step events that will take place during construction including (if applicable):
  - Construction Staging Activities
  - Mobilization of Equipment
  - Clearing and Grubbing
  - Erosion control measures
  - Demolition
  - Material installation
  - Channel construction
  - Revegetation processes
  - Seeding and mulching/matting
  - Maintenance
  
- **Project schedule:** Include:
  - Description of work
  - Anticipated start and finish date for each activity
  - Installation and removal dates for erosion controls, dewatering, and materials management

## MATERIALS MANAGEMENT PLAN CHECKLIST

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- **Access Point Locations:**
  - List the locations that will be used to gain access to the work site
  - Include a plan view of all access points
  
- **Haul Routes:** Indicate how and where hauled materials will be routed, including:
  - Inbound materials
  - Outbound materials
  - Clean fill materials
  - Contaminated materials
  - Others
  - Alternate locations if necessary
  - Include a haul route diagram indicating haul route locations
  
- **Stockpile Areas:** Provide a plan view diagram indicating stockpile area locations. Please list and describe:
  - Material to be stockpiled
  - Location where material will be stockpiled on-site
  - Measures to protect stockpiled areas if applicable
  
- **Equipment Staging Areas:**
  - Where equipment will be stored on-site

Include a plan view of equipment storage areas on-site  
On-site use and placement  
Spill control and kits on-site

- **Field Screening Protocol for Contaminant Testing:** If contaminated materials (i.e. soil) are encountered on-site, indicate:
  - How will the materials be screened
  - Where will the materials be tested
  - What protocols will be followed
  - How work will be impacted
  - Notify WDNR and Solid Waste of contaminated material encountered on-site.
  
- **Estimated Types, Concentrations and Volumes of Contaminated Materials:**  
If contaminated materials are known to exist on-site, list and describe:
  - The type of contaminant
  - Where the contaminant is located on-site
  - Medium in which the contaminant is located (i.e. soil, water, etc.)
  - The estimated concentration of the contaminant
  - The estimated volume of the contaminant
  
- **Excavation Methods:** List and describe:
  - What materials will be excavated
  - Where the excavated materials are located
  - How the materials will be excavated and removed
  - How the excavated materials will be exported from site
  - Where the excavated materials will be exported to
  
- **Contaminated Materials Management Protocol**  
(Will obtain from DNR)
  
- **Methods for Dewatering of Excavated Materials:** If free water is found present in excavated materials, list and describe:
  - What methods will be used to correct the situation (i.e. how will water be removed)
  - Where these methods will take place on-site
  
- **Estimated Volumes of In-channel and Upland Excavated Materials**
  - Total Volume of Excavated Materials (cubic yards)
  - Excavation from bed and bank of waterway
  - Excavation from wetland
  - Excavation from areas outside of waterway and wetlands
  
- **Estimated Volumes and Location of Re-used In-Channel and Upland Excavated Materials**
  - Reuse of Dredged Materials
  - Total Volume of Reused Dredged Materials (cubic yards)
  - Purpose of Dredged Materials Reuse (i.e. grading, trench backfill, etc.)
  - Location of Reuse - Indicate on project plans or provide off-site address, property owner's approval and site map drawn to scale

Reuse of Upland Materials

Total Volume of Reused Upland Materials (cubic yards)

Purpose of Upland Material Reuse

Location of Reuse- Indicate on project plans or provide off-site address, property owner's approval and site map drawn to scale

□ **Off-site Disposal Plans for Contaminated Materials and Non-contaminated Materials**

Disposal of Dredged Materials

Total Volume of Disposed Materials (cubic yards)

Disposal Site Location

Type of Disposal Site (i.e. confined disposal facility, landfill, etc.)

Disposal Site Information

Site name

Site address

Disposal of Upland Materials

Total Volume of Disposed Upland Materials (cubic yards)

Disposal Site Locations

Type of Disposal Site (i.e. confined disposal facility, landfill, etc.)

Disposal Site Information

Site Name

Site address

Solid Waste Program Approvals

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**EROSION CONTROL PLAN CHECKLIST**

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- **Erosion Control Methods and Materials:** Describe the types of erosion control methods that will be used during project construction to protect disturbed areas. Include (where applicable):

Soil and slope stabilization

Seeding and mulching

Matting, tracking pads, inlet filters, silt fences, drainage swales, sedimentation basins, stockpile protection

Dewatering-related erosion control

Channel protection

Outfall protection

Any other appropriate erosion control measures

Details and typical section drawings of all the erosion control methods utilized.

- **Erosion Control Measure Site Plan:** Include a site plan view and typical drawings illustrating:

Construction site boundary

Location of all erosion control measures

Location of stockpiled soil

Vehicle and equipment access sites

Areas of disturbance

- Drainage area configuration
- Surface water diversion measures
- Pre- and post-construction drainage patterns
- Methods of collecting, transporting, and dispersing storm water flow
- Existing Topography
- Existing floodplains and wetlands
- Location of trees and unique vegetation

- **Sequence of Erosion Control Measures:** List and give a detailed description of the sequence of erosion control measures that will occur (i.e. placed, relocated, and replaced) during all phases of construction including:

- Clearing and Grubbing
- Concrete removal
- Material installation
- Channel construction
- Revegetation processes
- Seeding and mulching/matting
- Maintenance

Note the erosion control sequence to be followed for each event of the project.

- **Off-site Diversion Methods**

- Identify existence and location of off-site contributions of water affecting project site
- Identify methods and location for controlling or diverting off-site water contributions

- **Computations:** The following computations should be submitted if applicable to the project:

- Designed erosion control measures
- Sediment trap efficiency
- Runoff volumes
- Contributing watershed area to each erosion control measure
- On-site watershed area
- Off-site watershed area
- Peak discharge and velocities
- Direction and destination of flows
- Ditch and Drainage easement sizing

- **Provisions for Inspection and Maintenance:** Document the provisions for:

- Regular inspection of all erosion control efforts
- Who will perform the inspections
- When will the inspections occur
- Any special circumstances initiating an inspection
- The regular maintenance of all erosion control efforts
- Who is responsible for the maintenance
- How often will the site be maintained
- Corrective action if site is not maintained according to provisions

## DEWATERING PLAN CHECKLIST

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- **Dewatering/Diversion of Flow:** Provide detailed plans for the dewatering / diversion of flow / removal of standing water, including:
  - Typical dewatering / diversion plans
  - Specifications for the dewatering / diversion of flow / removal of standing water
  - Methods to dewater / divert flow / treat water (if applicable)
  - How methods will be employed
  - Where methods will be employed
  - Capacities and capabilities
  
- **Downstream Impact Minimization:** List and describe:
  - Methods of minimizing downstream impacts during high flow conditions
  
- **Analysis of Possible System Overload Scenarios:** Provide the following information if the stream is overloaded:
  - Estimated volume of system overload (i.e. what rainfall overloads the system)
  - Estimated frequency of system overload (i.e. how often will the system be overloaded)
  - Actions taken if stream is to be overloaded
  
- **Impacts of System Overload on Construction Activities and Water Quality:** List and describe:
  - Anticipated number of lost work days
  - Possible water quality impacts
  - Methods of deterring adverse changes in water quality
  
- **Discharge Locations:** Indicate the following regarding the discharge of water:
  - Where the water be discharged to
  - How the water will be discharged
  - Provide a site map indicating discharge locations
  
- **Details of a Back-up System:** If a back-up system becomes necessary, indicate:
  - What type of back-up system will be used (include backup and standby equipment/power supply)
  - Conditions when the system will be needed
  - How the back-up system will be operated
  - Where the back-up system will be located
  
- **Contaminated Water:** List and describe what measures will be taken if contaminated water is found on-site including:
  - Methods of isolating the contaminated water
  - Methods of analyzing the contaminated water
  - Where the water will be tested
  - Methods of removing contaminated water from site
  - How contaminated water will be treated and/or disposed of
  
- **High Flow Plan:** When flooding is likely to occur, list and describe the following:
  - How the water be removed from the site
  - Methods of water removal (i.e. pumping)

- Methods of minimizing water contamination (i.e. treatment methods)
- Protocol for evacuating materials from the flood conveyance channel including:
  - List of materials that would require evacuation during high flow periods
  - How the materials will be evacuated from the flood conveyance channel
  - Where the materials will be temporarily placed
  - How the materials will be transported
  - Methods of protecting the materials
  - A site map indicating the location of temporary materials placement
- Protocol for evacuating machinery from the flood conveyance channel including:
  - Type of machinery that would require evacuation during high flow periods
  - How the machinery will be evacuated from the flood conveyance channel
  - Where the machinery will be temporarily placed on-site
  - A site map indicating possible locations of temporary machinery placement

## **WETLAND INFORMATION CHECKLIST**

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The following information is needed to complete any application for a project involving wetlands. Four categories of information are required:

- 1. Wetland Boundary Determination**
- 2. Proposed Wetland Impacts**
- 3. Practicable Alternatives Analysis**
- 4. Wetland Functional Assessment**

### **1. WETLAND BOUNDARY DETERMINATION**

- Surveyed Location or Map of wetland boundary** on a top view map of project site.
- Wetland Delineation Information**  
 If the boundary was delineated by DNR, Army Corps of Engineers or Southeast Regional Planning Commission staff, provide confirmation letter and supporting map or diagram  
 If the boundary was delineated by anyone else, provide all forms and information required by the January 1987 Technical Report Y-87-1 titled "Corps of Engineers Wetlands Delineation Manual", to document the supporting data, along with a supporting map or diagram.

### **2. PROPOSED WETLAND IMPACTS**

- Description of Wetland Fill project**, including:
  - Surface area of proposed fill (square feet and/or acres)
  - Depth of proposed fill (feet)
  - Location of proposed fill
  - Volume of proposed fill (cubic yards)
  - Material description and source of fill
- Description of Wetland Excavation project**, including:
  - Surface area of proposed excavation (square feet and/or acres)
  - Depth of proposed excavation (feet)

- Location of proposed excavation
- Volume of proposed excavation (cubic yards)
- Description of material to be removed
- Location of proposed disposal of excavated materials

### **3. PRACTICABLE ALTERNATIVES ANALYSIS**

- Description of overall basic project purpose** (e.g, commercial or residential development, wildlife enhancement, access to roads or water)
- List of alternatives that have been evaluated**, including but not limited to the following:
  - Constructing entirely on upland
  - Rearranging proposed facility(s) on the site
  - Reducing the size or number of facility(s) on the site
  - Alternative sites (include geographic scope of search for alternatives)
  - Construction methods to reduce wetland impacts
  - Proposed facility(s) not constructed
- Logistical reasons that alternatives are not practicable**
  - Description of the logistical difficulty(s)
  - Number and characterization of affected individuals or groups (e.g., occupant, employees)
  - Frequency of effect
  - Quantify how the degree of difficulty varies with each alternative analyzed
  - Assessment of alternative methods of overcoming logistical difficulties
- Engineering or technical reasons that alternatives are not practicable**
  - Identification of the source of methods or standards used (citations to literature or professional publications)
  - Calculations relevant to the application of the method or standard to the project
  - References to the methods or technical standards used in federal, state or local regulations (where they occur)
- Safety data or reasons that alternatives are not practicable**
  - A copy of an official written determination by a municipal governing body or the state transportation agency that a discharge into a non-federal wetland is necessary for public safety, including the basis for the determination
  - Description of safety hazard
  - Number and characterization of affected individuals or groups (e.g, school children, employees)
  - Nature of effect (e.g., death, injury, property damage)
  - Frequency of effect
  - Quantify how the degree of hazard varies with each alternative analyzed
  - Assessment of other methods of hazard reduction

- **Economic reasons that alternatives are not practicable** (supply all data listed in this section) *Data must include all phases of a project or all adjacent land in common ownership. Copies of source documents or supporting reference information must be provided.*
  - Total acreage of project
  - Month and year that project planning began
  - Property purchase date(s)
  - Property purchase price(s)
  - Zoning classification(s)
  - Description, dates and cost of infrastructure or improvements to the property
  - Total number of lots or parcels that have been or will be divided for commercial or residential uses
  - Number, size, sale date and price of any parcels previously sold or leased
  - Other indicators of financial return to date
  - Description of alternative development scenarios
  - Indicators of property value, including copies of offers to purchase, appraisal report (including scope and assumptions of appraisal, source and certification of appraiser), assessor's estimated market value, or price and property description for comparable real estate sales
  - Real estate tax data
  - Market studies (current market conditions and trends)
  - Construction cost estimates
  - Financing cost estimates
  - Comparable sales, leasing rates (for ultimate uses)
  - Calculation of projected amount or rate of return
  
- **Compensatory Mitigation:** If you've been advised that you qualify, and decide to propose compensatory mitigation as part of your project, you will be required to submit a Mitigation Plan. The plan must meet all the standards and guidelines, and be approved by the Department prior to issuance of any permit or approval. Please see the enclosed publication "*Guidelines for Wetland Compensatory Mitigation in Wisconsin*" for additional information.
  
- **Expert judgments:** For any expert judgment rendered on logistical, engineering/technical or economic data above, provide the name, education and training of each expert.

#### 4. **ASSESSMENT OF WETLAND FUNCTIONS**

- **Summarize the wetland's functional values:** Include information to describe the following functions or values of the wetland you propose to impact:
  - Floral diversity
  - Wildlife Habitat
  - Fisheries Habitat
  - Floodwater/Stormwater Storage
  - Water Quality Protection / Stormwater Filtration
  - Shoreline Protection
  - Groundwater
  - Aesthetics/Recreation/Education
  
- **Submit a Wetland Functional Assessment Report** using format and methods of Wisconsin Department of Natural Resources "Rapid Assessment Methodology for evaluating Wetland Functional Values", or other methodology approved in NR 103, Wisconsin Administrative Code.

Mr Chairman.

Thank you for allowing me speak today in support of this bill.

My Name is Tom Halter I am a third generation farmer in Racine county and I have been involved for the last 12 years obtaining 2 dredging permits on the same canal system in Racine County.

My goal in speaking here is to give you an overview of how the current procedures of obtaining permits and permission for a drainage district to clean and maintain their ditches is extremely difficult

Our private drainage district ditch (Wind Lake Canal) is the main channel for drainage for over 55,000 acres of farmland, residential property, commercial property, roads, sanitary districts, and the outlet for several area lakes. This watershed reaches from the Fox River in Rochester to as far north as New Berlin. Just like some roads in the area, this ditch was originally dug through low areas including now classified wetlands, but just like roads, this canal needs to have maintenance performed in order to protect all interested parties. This drainage ditch and all of its laterals were originally dug for farm drainage and now are required to provide drainage for all this development.

After 2.5 years of meetings, jumping through hoops, and providing all the information requested, the drainage district received the DNR permit in 2007 to clean phase one of this channel. For the next phase an environmental assessment (EA) and press release were completed in May of 2010 in preparing for approval of permitting phase 2 by the same DNR official. With the permitting responsibilities changing between 4 different DNR officials of which 2 also required the entire permit process to start completely over. Five years later we were granted the permit for phase 2. But not after hiring additional engineers, countless DNR meetings which some included DATCP officials present, numerous site and boat trips, and additional costs of over \$100,000 in obtaining this permit. Yes, I said 5 years later!

Another dredging permit process was pursued on a different ditch in 2014. Into that process for over a year, we then received a 14 page letter informing of additional permits that might be required, including an archeologists review, Wetland delineation, Wetland Disturbance Individual Permit, Wetland Mitigation, Wastewater permit, and other requirements including 8 pages of check lists. I have copies right here for your review. This is one of those hoops I was referring to earlier.

The need to protect our natural resources has never been in question. Districts need to be good stewards of the earth as work is being performed. But districts need to be allowed to perform needed maintenance on drainage ditches in order to also protect our communities. That is why we need an exemption from permitting. Our intentions of cleaning ditches are to provide benefits for all interested parties, not to harm the environment.

We need to be able to perform this work with common sense, reasonable and viable costs, and in a timely manner.

Thank You