

DATE: February 10, 2009

TO: Paul Heinen - AD/8

FROM: Nancy Larson – NOR Superior

SUBJECT: Bill Analysis of SB 6

1. Description of Legislation:

The Wisconsin Legislature established the Wild Rivers Program in 1965 with the enactment of s. 30.26, Stats. The intent of the program is to “preserve some rivers in a free flowing condition and to protect them from development.” The program was developed to afford the people of Wisconsin an opportunity to enjoy natural streams, to attract out-of-state visitors and assure the well-being of the tourist industry. Currently, there are three Wild Rivers in Wisconsin: the Pike, Pine and Popple Rivers. The last time a river received the designation was in 1965.

Only the legislature may designate rivers as part of the state’s wild river system. The Department of Natural Resources (DNR) administers the system to preserve, protect, and enhance a river’s natural beauty and unique recreational value. To protect these rivers, Chapter NR 302, Wis. Admin. Code (NR 302), places restrictions on certain activities and structures along Wild Rivers. The intent is to protect and preserve public rights features, including maintenance of a natural condition, scenic beauty and rights incident to navigation.

This bill adds to the Wild River system a portion of the Brunswailer River and designates this portion as the “Martin Hanson Wild River.” Martin Hanson, one of Wisconsin’s most important environmental leaders of the last century, and who passed away in late 2008, campaigned for the designation of the Brunswailer River as a state Wild River. Senator Jauch and others introduced this legislation to honor Martin’s legacy and to recognize the wild quality of the Brunswailer. The segment proposed as a Wild River is approximately ten miles long and is within the Chequamegon – Nicolet National Forest in Ashland County. This segment of the river flows through public land within the National Forest boundaries, with the exception of some private lands around Beaver Dam Lake held by members of Martin Hanson’s family. Martin Hanson originally owned much of the land surrounding the river in the lower reaches of the proposed wild river segment. Through his donations, it is now public land.

Because the proposed wild river segment of the Brunswailer River is within the Chequamegon-Nicolet National Forest, and it touches very few private parcels, the designation is anticipated to have minor impact on management of the river and minor impact to riparian landowners. There is no state or county land along the river. In addition, the Brunswailer was added to the list of Outstanding Resource Waters (ORW) in Chapter NR 102, Wis. Admin. Code, in 2006. The ORW designation protects waters from future point source wastewater discharges and expands the definition of the river’s bank.

The proposed Wild River segment of the Brunswailer flows through Mineral Lake, which is a natural lake, and Beaver Dam Lake, which is impounded by a dam built in the 1930s by the Hanson family. The dam is now owned by the U.S. Forest Service. NR 302 specifies activities that are restricted in state wild rivers, including construction of piers and dams. Because of an existing Forest Service boat launch and piers on Mineral Lake, the existing dam creating Beaver Dam Lake, and a small number of private piers,

the legislation specifically addresses those features. The bill allows for the maintenance or replacement of existing piers and the boat landing, for the maintenance of the dam currently in place on the designated portion of the Brunsweler River, and for stream restoration activities if the dam is ever removed.

Below is a summary of requirements for Wild Rivers as outlined in NR 302, and provisions in the bill to address them for the Brunsweler Wild River segment, if applicable.

- No new piers can be placed on a Wild River. However, the bill contains language so that “any pier that is in place on the river [on the effective date of the designation] may be maintained or replaced. A replacement pier may have no more boat slips than did the original pier. A replacement pier shall either be limited to the dimensions of the original pier or the dimension requirements specified for piers in s. 30.12 (1g) (f), whichever dimensions result in a smaller square area for the pier and any accompanying platform.” This means that piers which presently exist, and comply with the size standards in Chapter 30, Stats., can be kept, repaired, and replaced at their existing dimensions. The law will not allow for new or additional piers to be placed where they did not exist before the designation.
- No new ponds within 400 feet.
- No grading on the bank of an area greater than 10,000 sq. feet.
- No bulkhead lines.
- No structures or deposits on the river.
- No new bridges except public highway bridges, foot bridges, or bridge access to residential dwellings where no other reasonable access options exist.
- Shore protection allowed by DNR permit if natural materials are used in areas of erosion caused by human disturbance.
- No new dams. The bill specifically states that the dam impounding Beaver Dam Lake may be maintained by the US Forest Service, its current owner. The DNR may permit dam abandonment.
- No channel changes. The bill states that channel restoration activities may be permitted if the dam impounding Beaver Dam Lake were to be removed.
- No removal of natural obstructions by DNR staff.
- Impact of utility corridors must be minimized

NR 302 also addresses impacts of Wild River designation on forestry activities. Designation as a state wild river would require maintenance of a 150-foot buffer, in which timber harvesting is prohibited on Department-managed lands. However, there is no state or Dept. managed land along the proposed wild river segment of the Brunsweler. The U.S. Forest Service has been included in discussions on the wild river proposal for the Brunsweler and they have not raised concerns. NR 302 specifies that the Department of Natural Resources will enter into a Memorandum of Understanding (MOU) with the U.S. Forest Service concerning the management of lands and waters in the wild rivers area, considering guidance provided by NR 302 and s. 30.26, Stats.

2. Legislative Action in the Previous Session: None

3. Policy/Administrative Effect:

This bill would add a segment of the Brunsweler River within the Chequamegon-Nicolet National Forest, to the list of state Wild Rivers in s. 30.26, Stats. This bill is not required by federal law and does not contradict federal law. The U.S. Forest Service has not indicated concerns about the designation. The Department would need to develop a MOU with the U.S. Forest Service. Implementation of NR 302, “Management of Wild Rivers” for the Brunsweler River would largely occur through the Lake Superior

basin water program of the Department's Northern Region.

4. Fiscal Effect:

During the first year of implementation, we would anticipate using existing staff to develop the Memorandum of Understanding and coordinate with the U.S. Forest Service, inventory existing piers, and provide public information, at an estimated cost of \$4811. In the long term, we would anticipate staff time needed to coordinate with the U.S. Forest Service, coordinate with planning committees and county and town boards as needed, evaluate Chapter 30 and 31 permit applications with regard to wild river requirements, and provide public information. The estimated annual cost is \$787.

5. Impact on other Bureaus:

There are no state lands involved with this designation. Kathryn Fitzgerald, Land Management Section Chief in Division of Land has been consulted during Department discussions with Senator Jauch's office concerning this legislation. The Lands Division would have a small advisory involvement. Local forestry staff would be consulted during development of the MOU with the U.S. Forest Service.

6. Information Impact: This bill would not impact DNR data systems.

7. Administrative Rules: NR 302 would not need to be revised as a result of this legislation.

8. Effective Date: Winter 2009

9. Land Use Impacts: This bill supports land use management appropriate to maintaining the wild character of the Brunsweiler River.

10. Recommendations: The Department should favor this bill. The language was developed in consultation with DNR legal staff, Watershed Bureau Section Chiefs, and Northern Region basin supervisors.

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Return the bill analysis to Paul Heinen within *seven days* with the approval signatures of:

APPROVED:

Director, Bureau of Watershed Management

Administrator, Division of Water

Joe Polasek, Director
Bureau of Management and Budget