

**FIELD HEARING: WHEELING, IL: FLOODED OUT:
VANISHING ENVIRONMENTAL REVIEWS AND
THE SBA'S DISASTER LOAN PROGRAM**

HEARING
BEFORE THE
COMMITTEE ON SMALL BUSINESS
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FLOODED OUT: VANISHING ENVIRONMENTAL REVIEWS AND THE SBA'S DISASTER LOAN PROGRAM

FRIDAY, JULY 19, 2019

HOUSE OF REPRESENTATIVES,
COMMITTEE ON SMALL BUSINESS,
Washington, DC.

The Committee met, pursuant to call, at 10:30 a.m., at Wheeling Village Hall, 2 Community Blvd., Wheeling, IL, Hon. Brad Schneider presiding.

Present: Representative Schneider.

Mr. SCHNEIDER. The Committee will come to order.

Welcome. I want to thank everyone for joining us here this morning.

Let me first thank the House Small Business Committee and Chairwoman Nydia Velázquez for allowing us to host today's field hearing here in Wheeling.

I also want to thank the staff, the Committee staff, Melissa Jung and Naveen Parmar, who are in the corner, who are here today to help facilitate today's event.

As we sit here in Village Hall, let me thank the Village of Wheeling for graciously providing today's location and for the local elected officials, who are in the front row, who have joined us here today.

Can I ask the elected officials just to raise your hand? Thank you guys for joining us today.

And finally I want to take the prerogative of thanking my team. It is impossible to overstate the amount of hard work that went into making this event today possible, everything from arranging witnesses to logistics to making sure people know about the event. Clearly, by the audience we have today, they effectively got the word out, so thank you all for joining us as well.

I will say as far as logistics, yesterday O'Hare was kind of socked in because of the rains. More than 700 flights were cancelled; more were delayed. We can vouch for this because it affected every one of us, including staff. I got to fly into Milwaukee and drive down, but it did give me the chance to show the Committee staff where Foxconn is, where our district is, and they got to drive the length of the Des Plaines River. So again, thank you for that.

For everyone in attendance today here, I do want to share some background on how the proceedings are going to work. This is a formal hearing, a field hearing of the House Committee on Small Business. Due to that format, there is not an opportunity for ques-

tions or public comments from the audience. I thank everyone for your attendance and interest in the issue.

We do have in the back flyers, in the back of the room with instructions so that you can share your thoughts and concerns about the issues today. When we say back of the room, do we mean on the side? In the back of the room.

Field hearings play an important role in the work of our Committee. Traveling to Washington and testifying before Congress presents a lot of barriers and costs in time that can oftentimes prevent important voices from being heard. Field hearings like this serve to bring the work of the Committee closer to our districts and offer our communities The Opportunity (2:42Video 1) to share their views on issues that matter. They are relatively rare, so we are very fortunate to have this hearing here today.

One of the important local issues is the problem of flooding and the impact on our communities, on people, property, local governments, and of particular interest today, small business. As we will focus on today, the threat of floods has been compounded for our communities here in Illinois and in the 10th District by the massive Foxconn development just over the state line in Wisconsin. This project and its still unfulfilled promises of job creation will push through with great fanfare, including participation by President Trump in the groundbreaking.

But missing was any serious environmental review of the consequences of this project. The administration of former Wisconsin Governor Scott Walker dispensed with the extremely critical environmental review requirements in their haste to please foreign investors.

Foxconn is a local issue, but it is emblematic of a national problem of vanishing environmental enforcement exacerbating damaging impacts of climate change. We need to address this deficit not just to protect the affected communities but also to ensure the longevity of critical programs such as the Small Business Administration disaster recovery programs that are designed to help people who own, work at, and are served by local businesses.

Our communities along the Des Plaines and Fox River Watersheds have long faced flooding issues during significant rain events. Coupled with the effects of global climate change, which is increasing the frequency and intensity of extreme weather events, this threat is growing.

Since 2013, Lake County has experienced two 100-year floods, and six of our district's 10 largest storm events on record have occurred since 1994.

In July 2017, storms and flooding damaged more than 3,200 homes, resulting in a state of emergency declaration for the region and causing millions of dollars of damage to the community. Today we'll (4:50) Video 1) hear from a small business owner who dealt personally with the flooding.

Though the Federal Emergency Management Agency, FEMA, declined to declare a Federal emergency for the region, the Small Business Administration did declare an emergency, making local businesses eligible for disaster loans. For small businesses in the aftermath of a disaster, access to affordable credit can make the difference between remaining in business or closing their doors and

putting hard-working Americans out of work. In fact, FEMA estimates that 40 to 60 percent of businesses impacted by natural disasters never reopen their doors.

That is why one of the foremost priorities of this Committee is to ensure the Small Business Administration's Disaster Loan Program, which provides direct loans to help businesses, homeowners, and renters rebuild following a federally declared or certified disaster, is functioning efficiently and effectively and that it is prepared to meet the challenges of the future, and in particular climate change.

A key part of strengthening the foundation of the program is making sure new development does not make flooding worse. Yet, that is exactly the situation our communities face after important environmental considerations were cast aside in the Foxconn development. Environmental reviews are necessary to understand the potential impacts of a development, and they give the public and government officials the ability to make informed decisions prior to construction and the opportunity to mitigate adverse impacts. Unfortunately, environmental reviews are too often skipped for expediency or as leverage, and that has the potential to exacerbate flooding in places like the Des Plaines River Watershed.

When corners are cut on environmental reviews, our local communities pay the price. It puts strain on government programs and resources, and small businesses and homeowners that need vital assistance in the days after a disaster might not be able to access policies or programs enacted for their benefit.

This is the case we are facing in Lake County. Foxconn Technology, a Taiwanese electronics manufacturer, worked with former Wisconsin governor Scott Walker's administration on a proposed manufacturing development site outside Mt. Pleasant in the state's southeast corner. In order to entice the company to invest in the state, and based on the promise of up to 13,000 direct jobs in the region, Governor Walker and the Wisconsin state legislature passed the largest incentive package for a foreign company in U.S. history.

Included in the package were billions of dollars in public investment through tax breaks and government incentives. But the incentives also included waiving important environmental requirements related to water management and flooding, first by refusing to consider the 3.3 square mile Electronics and Information Technology Manufacturing Zone, the EITM Zone (7:40) Video 1, and associated development within the Des Plaines River Watershed, a major action that the state effectively waived the requirement for a state environmental impact statement.

Second, the Wisconsin legislature exempted the development from standard wetland permitting requirements, allowing Foxconn to discharge fill material into non-Federal wetlands. This affects and raises serious concerns about the area's ability to sufficiently absorb rainfall. Storm water that is not retained in local wetlands naturally runs downstream, and thus threatens to cause increased flooding here in Illinois.

As well, the state waived certifications on water quality. Several downstream communities in Lake County responded to the development by passing resolutions of disapproval on the Foxconn devel-

opment. The Lake County Board passed its own resolution of disapproval, and the Illinois state senate adopted a resolution urging Wisconsin to give more rigorous consideration to the environmental impact the Foxconn development would have.

Personally, I have written a letter to the new Wisconsin governor, Tony Evers, joined by my colleagues Dick Durbin and Tammy Duckworth, and Congresswoman Lauren Underwood, urging the governor to submit the development to thorough environmental review, especially aspects that threaten storm water management. In response to local concerns, the Lake County Storm Water Management Commission contracted an engineering report to evaluate the potential downstream impact the development could have on local communities.

The report raised significant concerns about Foxconn's treatment of wetlands and concluded that just the Phase 1 development would result in storm water and flood plain storage deficit of 30 million gallons. This means that the area around Foxconn will be less able to absorb the deluge, like we saw in 2017, with rainfall running downstream rather than being contained locally. We will hear directly from the Commission on that report later in the hearing, and I thank Lake County for its leadership on this issue.

By exempting the Foxconn development from critical environmental review requirements, Wisconsin increased the likelihood of flooding along the Des Plaines River and passed the consequences downstream to our communities. Wisconsin taxpayers may be paying the price for the Walker Administration's exorbitant economic incentives, but it is Illinois residents and small businesses who will be under water, literally, due to our neighboring state's irresponsible decision to ignore environmental reviews, and Wisconsin's missteps will have a direct effect on Federal resources like the SBA Disaster Loan Program meant to help our community.

I look forward to exploring the importance of environmental reviews with our panelists today and the consequences of waiving them to expedite development.

On a final note, we invited the Secretary of the Wisconsin Department of Natural Resources, Preston Cole, as well as Dr. Lewis Woo, the chief negotiator for Foxconn, to testify at this hearing. Unfortunately, both declined.

Again, I want to thank our witnesses for being here today. I will just take a moment to explain how this hearing will work. I will introduce each of our witnesses. Each will be given 5 minutes approximately to make an opening statement that summarizes their written testimony. We will then have time for questions that I hope will help illuminate the concerns that I have mentioned so far.

I would like to now introduce our witnesses.

Our first witness is Mr. Mike Warner. Mike is the Executive Director of the Lake County Stormwater Management Commission, where he has worked since 1994. He started there as the Chief Engineer for four years and has served as Executive Director for 13 years. He has overseen several significant flooding events and has helped coordinate the country's response. I want to welcome Mr. Warner, as well as his daughter Charlotte.

Our second witness is Mr. Howard Learner, the Executive Director of the Environmental Law and Policy Center. Howard founded

ELPC in 1993, and the organization served as the preeminent Great Lakes environmental advocacy group. Prior to founding ELPC, he served as General Counsel to business and professional People for the Public Interest and practiced civil rights law focused on housing and economic issues. ELPC has seven offices throughout the Midwest, as well as an office in Washington, D.C., and advocates on a wide array of critical environmental issues.

Welcome, Mr. Learner.

Our final witness is Mr. John Durning. John is the owner of Pizzeria Deville in Libertyville, a local favorite. John opened his pizzeria in 2014 after more than a dozen years working at Wintrust as a Managing Director focused on commercial real estate. Since opening his small business, John has experienced several major flooding events that cost thousands of dollars in damages to equipment and his property.

Welcome, Mr. Durning.

Now I will let the witnesses make their opening statements, starting with Mr. Warner.

STATEMENTS OF MIKE WARNER, EXECUTIVE DIRECTOR, LAKE COUNTY STORMWATER MANAGEMENT COMMISSION, LIBERTYVILLE, IL; HOWARD LEARNER, EXECUTIVE DIRECTOR, ENVIRONMENTAL LAW AND POLICY CENTER, CHICAGO, IL; JOHN DURNING, OWNER, PIZZERIA DEVILLE, LIBERTYVILLE, IL

STATEMENT OF MIKE WARNER

Mr. WARNER. Thank you, Congressman Schneider, for arranging this hearing and the opportunity to comment regarding these important issues.

Lake County has seen record-setting flooding over the last three years. The July 2017 flood, which you mentioned, set record high water levels on all nine river gauges throughout the county that cost millions of dollars of damage and threatened the lives of many residents and visitors.

In 2018, the Des Plaines River gauge set a record by exceeding flood stage six times, which is more than triple the average. And in 2019, a new record rainfall was set for the month of May, and flood stage has been topped four times already this year.

The Illinois State Water Survey Research shows this trend of higher rainfall and corresponding flood events is continuing in the region. We recently released a study on the Upper Des Plaines Watershed. The study was done in response to Wisconsin's waiver of environmental regulations for development upstream within the Electronics Information Technology Manufacturing Zone and the impacts of that development to Lake County.

The study found significant deficiencies for mitigation of flood plain, storm water, and wetland impacts that is worsening the flood risk within the watershed. The study describes four main conclusions. The current flood plain study for the Des Plaines River in Wisconsin, both the flood plain mapping and flood flows, are grossly underestimating flood risk to existing and new businesses and residential buildings. The flood plain study methodology removed the largest storm event of record and does not include the most re-

cent six of the largest ten storm events, with the result being an underestimation of the flood plain.

The Wisconsin DNR provided similar comment on the Kinnickinnic flood plain study just to the north, and when updated the resulting flood plain, flow increased by up to 86 percent. A study quote states that higher flow results in higher flood profiles and an increase in the computed flood risk in the watershed.

Through the development process in Wisconsin, there is a deficit of stormwater storage created by filling existing natural depressions, too large of a retention pond release rate, and uncompensated flood plain fill. Lake County has similar landscape to Wisconsin, with a significant amount of natural depression storage. Whereas Lake County requires preservation of this natural storage, Wisconsin does not. Our estimate of the natural storage to be lost in the EITM zone is 156 acre feet. The detention pond release rate is double that of Lake County, which will further reduce surface runoff stored and allows more impervious cover per acre of development. Additionally, any fill in the flood plain does not require compensation because the Des Plaines River is not a defined flood storage district even though it meets the technical requirements to become one.

Wetlands are being lost within the Des Plaines Watershed in Wisconsin due to development. All Wisconsin Department of Transportation impacts are being mitigated outside the Des Plaines Watershed. That ignores Army Corps wetland regulatory criteria regarding mitigating in the same watershed as the impact site and the “no net loss” principle, as this is resulting in a significant net loss in the Des Plaines.

The private development wetland impacts have yet to be mitigated anywhere, and there is doubt that the mitigation fee assessed can compensate for the higher land value within this highly active development corridor, which further guarantees a net loss of wetland function in the Des Plaines River. There are hundreds more wetland acres at risk of loss in the Des Plaines.

And lastly, inadequate soil erosion and sediment control practices are being utilized by both WisDot and private developers. These unremedied violations of the Clean Water Act are choking waterways with sediment and contributing to non-attainment of EPA water quality standards. SMC performed independent inspections of the road work and development site and documented significant soil erosion occurring as late as yesterday, during yesterday’s storm event.

The Foxconn site also received an erosion violation citation from the Wisconsin DNR. The Des Plaines River at the state line is listed by the Illinois EPA as impaired for sedimentation and siltation due in part to land development activities.

With every acre of new impervious surface and shovelful of dirt, all four of the issues raised in our conclusions are resulting in an increased flood risk to businesses and homes, along with negative water quality impacts within the Des Plaines Watershed. It is critical that these concerns are addressed as soon as possible to compensate for future development that will occur.

Thank you for this opportunity to provide testimony.

Mr. SCHNEIDER. Thank you, and we will now go to Mr. Learner.

STATEMENT OF HOWARD LEARNER

Mr. LEARNER. Thank you, Representative Schneider, for the Committee's and your invitation to testify today. I will summarize my longer written testimony that will be submitted to the Committee. We appreciate your thoughtful attention to what is a serious problem and your focus on solutions to the problems.

Like many, the Environmental Law and Policy Center was very concerned when, under the Walker Administration, the State of Wisconsin rolled back necessary environmental protections and undercut what we view as essential environmental reviews in order to entice private development by a single party here, Foxconn.

The harmful impacts of the Foxconn development and the effects of vanishing environmental reviews are not limited to Wisconsin. Air pollution crosses state lines, and the impacts on water also affect Illinois and the other Great Lakes states as well. The Foxconn project could potentially increase flooding in the Des Plaines River Watershed in Illinois, and Foxconn's need for water has already led to a request to withdraw some to outside the Great Lakes Basin.

The purpose of environmental reviews, whether it is the National Environmental Policy Act or the Wisconsin Environmental Policy Act, is, first of all, to make sure that all the potentially harmful and adverse environmental impacts are fully considered by decision-makers before they have reached the ultimate decision; second, to conduct a rigorous and objective evaluation of all reasonable alternatives, including a no-action alternative; third, to fairly and fully consider what are called cumulative environmental impacts, so that decisionsmakers are not just looking at one project alone, but what are the effect of multiple activities, and that is important particularly in this case; and finally, engage meaningful public participation, along with some other factors.

When Wisconsin weakened its environmental protection laws and limited the environmental review for this project and others, that is unfortunate for Wisconsin residents and its environment and, also, for Illinois and our state's residents. These harmful impacts play out very significantly when it comes to the Foxconn development and the water and flooding issues here in Lake County. And, that, in turn, implicates the Small Business Administration's Disaster Loan Program.

Representative Schneider, you recently commented: "When corners are cut on environmental reviews, our local communities pay the price." I agree. Under Governor Walker's Administration in Wisconsin, in 2017, Wisconsin policymakers indeed cut corners when they eliminated or weakened meaningful environmental rules and reviews in several ways. Let me highlight three of the specific problems.

First, Wisconsin exempted this Foxconn project from the Wisconsin Environmental Policy Act's requirement that an Environmental Impact Statement be prepared for a major project like this that clearly has major environmental impacts.

Second, the Wisconsin legislation exempted this Foxconn project from state regulatory requirements that restrict the filling of wet-

lands and waterways. In effect, Foxconn can fill in wetlands without a permit. Wetlands, as others have pointed out, act as natural sponges. They prevent flooding, and it also provides valuable wildlife habitat.

Third, as you know, the United States Environmental Protection Agency weakened air quality protections in Racine County in southeast Wisconsin, in Kenosha, in a highly criticized decision that is now on appeal to the United States Court of Appeals for the D.C. Circuit, and the Environmental Law and Policy Center is a party in that case. That misguided decision has been the focus of newspaper articles and others that have asserted there was undue political influence on what should be, under the environmental protection laws, and especially under the Clean Air Act, technical scientific decisions. That, too, has an impact both on Wisconsin and on Illinois.

So, turning to the first point, the Wisconsin Environmental Protection Act requires an Environmental Impact Statement, and that is part of the process for the public to engage, to comment, and for alternatives and impacts to be fully and fairly considered. For Foxconn, that was avoided. The consequences are not confined to Wisconsin's boundaries when it comes to air pollution and water impacts, as Mr. Warner just testified.

Second, on the wetlands, Foxconn was exempted from the permitting process and instead pays into a wetlands fund. That is not sufficient, as the Chris Burke Engineering study for Lake County has explained. When wetlands are filled in, their absorption capacity is reduced and, in some cases, eliminated. If there is going to be a fund, the place to begin spending at least some of the funds is in the places that are affected, namely the Des Plaines River Watershed, both in Wisconsin and here in Illinois.

Finally, you noted in your earlier comments that all of this is exacerbated by climate change, and sadly indeed it is. The Environmental Law and Policy Center recently commissioned 18 leading Midwest university scientists to prepare a state-of-the-science report of the impacts of climate change on the Great Lakes region, and their findings are disturbing, chilling, and realistic.

The fact of the matter is that we are looking at much more extreme weather, according to the scientists and sound science, more intense rain storms. That is exactly the sort of stuff that leads to more flooding, and that needs to be taken into account by the Committee when it comes to the SBA's Disaster Loan Program.

There are solutions that we are advocating, but unfortunately we are looking at more extreme weather, more intense rain storms, and the real-world impact of that is more flooding. So when you look at what has been done on the Foxconn situation, other factors, like climate change, tend to make it worse rather than better.

So let me just wrap up with a couple of points. First of all, as the Foxconn experience underscores, Environmental Impact Statements and proper reviews serve an essential purpose, and they shouldn't be cast aside simply because a particular developer is insisting upon a very lucrative package in order to locate in a particular place. At the Environmental Law and Policy Center, we do believe the evidence shows job creation, economic growth, and environmental progress can be achieved together. That is a win-win-

win, and there are examples of that here in Illinois, in Wisconsin, and throughout the Midwest.

Second, choosing to exempt particular development projects from important regulations and oversight has consequences. Other people in other jurisdictions, such as here in Illinois can be harmed, and the recourse is difficult. That is the Foxconn situation here, with the potential flooding impacts it creates for Illinois.

Third, our environment is fragile. Changing air quality and water protections can affect the health and safety of thousands of people and indeed hundreds of thousands of people downwind, downstream, the people in Lake County, and businesses in Lake County, as I know you will hear in a couple of minutes. That, in turn, impairs the already stretched SBA Disaster Loan Program.

Thank you for convening this field hearing and for your consideration of my and the other witnesses' testimony today. We would be pleased to address any questions or suggestions you have.

Mr. SCHNEIDER. Thank you, and now we will go to Mr. Durning. John, thanks for joining us.

STATEMENT OF JOHN DURNING

Mr. DURNING. Thank you, Congressman, and the rest of the Committee, for having me in today and sharing our events during this flood.

On the night of July 11 and into July 12, 2017, the Lake County and Libertyville, Illinois area received approximately seven inches of rainfall, causing widespread flooding in the area and specifically at my restaurant, Pizzeria DeVille. The cause of the flooding from our research and understanding initially was that it was the result of a freak storm and a local municipal water and sewer system that was antiquated and unable to handle the deluge. Water entered through the sewer line and up through the basement bathroom drains at our place. Through follow-up meetings and discussions, the water/sewer system was only part of the issue, and apparently some of the issue is that the system has not kept up with the ever-expanding development of lot-filling McMansions and other heavy development along the Des Plaines River. While I am no expert on why it flooded, I can share its impact on me and my business.

When the flood occurred, my family pizzeria was nearing its third anniversary. To that point I had not ever experienced any real flooding in my business. We had a mop sink back up a couple of times, but that was because of debris that we had left in the drain, no real consequences.

What we experienced on July 12, 2017 was four to six inches of black water tainted with human waste and grease from our grease trap floating around my basement kitchen, party room, and into all floor and near-floor equipment and products. I have submitted a video of what I walked into that morning, and I was literally heartbroken. I knew we would be shut down, at least in our basement and prep area, for a few days but didn't fully comprehend what a hassle this was going to be.

We acted fast and were able to engage a flood remediation company at a great price to get going on our flood mitigation. Our insurance company, Society Insurance, was also quick to respond. While we were able to get the space mostly cleaned up in two days,

my party room was shut down because we needed to remove and replace doors and drywall, among other things, and ensure the space was ready for food preparation. Everyone pitched in and got this done in a timely fashion and we were able to reopen for limited service on my main floor in a few days.

Then on August 28th, 2017, it happened again, albeit less water. We still needed to bring in another flood remediation company and pay another insurance deductible. As a small business with sales of about \$1,100,000 annually at the time, we lived and operated paycheck to paycheck. Having to absorb the loss of business, pay two insurance deductibles, and have to do so without 60 seats of our private party room and prep kitchen left me feeling helpless. When it happened again six weeks later, you can imagine my thoughts. Obviously, my insurance premiums went up as well. Staff retention was a challenge as we had to scale back for a bit, and nothing was quite right operationally for a few weeks as our mixer was down and we had to make our pizza dough two doors down at a neighboring restaurant. You can imagine how difficult my monthly loan payments to the SBA became during this period, though we never missed or were ever late with our payment.

However, the lasting effect of this is also debilitating as there has not been a major rainstorm since that I have not sat awake in bed or driven directly to the restaurant to see if it is happening again. We have seen a few more minor incidents and have come to learn that much of this is caused by an age and capacity issue within our municipal sewer system. Moreover, some of the capacity issues relate directly to new development in the area.

Our local municipality has been quick to act and address these issues as best they can, but this does little to ease my mind every time I see big storms on the radar. Many in our community were hit harder than my business, and my heart truly goes out to them. In fact, we subsequently did a fundraising effort for a family that lives near the Des Plaines River in the Vernon Hills/Mettawa area whose home was inundated by the floods.

Since that time, new development seems to be moving ahead full steam both up and down the river and around Libertyville and its surrounding towns. Having worked in residential and commercial real estate development in the past and now owning my own small business, I understand the many sides to this complex issue. With that said, I think for the good of all involved, including local businesses, homeowners and renters currently in place and those who would hope to live in new developments, it is imperative that local, state, and Federal officials figure out how to mitigate the larger issues of wetland protection, over-development and sprawl so that those of us who are left to live, work, and raise our families in the area can do so with confidence that the homes and businesses we have invested our life savings into are able to operate and thrive without the threat of catastrophic flooding that nearly eliminated my favorite place, Pizzeria DeVille.

Thank you again for letting me come in. I would just add, hearing the experts talk, it makes me more scared, not less, and so I sure hope we can get our arms around this.

Mr. SCHNEIDER. John, I couldn't agree more with all that you said, but in particular with the need to address this issue and not

just the issue of flooding in the Des Plaines River, which we are focused on today, and the ability to mitigate that, but focus on long-term climate change. I thank everyone for all that you guys do.

We will move now into the question and answer. Typically in a hearing, each member on the dais gets 5 minutes, and the Chairman gets the prerogative of taking more time. I am every member and the Chairman——

[Laughter.]

So I will ask all the questions.

John, I am going to start with you, and we will be a little bit informal. Thank you for sharing the impact on your business. How long were you down in 2017 from the time you had the flood overnight? How long were you out of——

Mr. DURNING. Well, fully down, we were down for a couple of days, because the upstairs wasn't really impacted. What that meant was we had to go through prepping in other restaurants and off site, and it really was quite taxing and expensive for our business to do those things. So we were able to open up partially within a couple of days. But fully, my party room was down for six weeks after that.

Mr. SCHNEIDER. Essentially (33:10) Video 1 One of the things that the national data shows (33:13) Video 1 is that businesses are down for a while. The full recovery can often cost not just tens but into the hundreds of thousands of dollars for a business, and it makes it a real challenge.

As Mike touched on, we had last year six above-flood-stage events. Over the course of the year, that was a record. This year, as of July 19th, we have had four already, on track for a record.

John, back to you. You touched on that every time there is a rainstorm you lie awake at night, and I appreciate that. We have that with our own home. But how does it affect your business decision-making when you think about the implications of the likelihood of another flood? Does it affect your decision-making at all?

Mr. DURNING. Absolutely. We have added new racks and new stanchions to put all of our mixing equipment and anything that really sits on the ground up above what the health department requires because we just don't want to go through that again and have to call the guy in Italy to send us a new mixer. It is expensive, it is time-consuming, and it hurts my consistency. So, yes, we have added equipment to address that, and the number of things that go through my head when I see a big storm, it runs the gamut.

Mr. SCHNEIDER. And you can just multiply that to every business in the area.

Mr. DURNING. Every business, so many of my neighbors, their personal items and personal effects in their homes. I mean, you know, like I said, I feel like we got out of it very easily compared to so many others in the community.

Mr. SCHNEIDER. And last question, then we will move to the next topic. Were you aware of the SBA loan program in 2017? Did you apply for a loan?

Mr. DURNING. I confess I was not aware of it, I did not apply, and the only comment I would make is that if it is going to be effective, it needs to be very quick to act.

Mr. SCHNEIDER. And we are working that.

Mike, let me turn to you. We talked about last year was a record at flood level, this year we are on track. But what is the history of flooding in the region, particularly over the last couple of decades?

Mr. WARNER. Since 1986, we have gotten a Federal disaster declaration seven times. Ironically, though, the 2017 flood that set the record, we did not get the Federal declaration, but Wisconsin, Kenosha County did, and it is based on population and the impacts. So unfortunately, I think we got about \$12 million of damage in 2017, and we needed to get to \$18 before we got that declaration.

The Des Plaines River has a long history of flooding. The severity and frequency of that has increased, unfortunately.

Mr. SCHNEIDER. Thank you. How have local communities responded? The river runs, obviously, from the Wisconsin border through all of Lake County, down through Cook County. How have local communities responded?

Mr. WARNER. There has been a significant investment over the years. The Stormwater Management Commission has purchased over 200 flood-prone properties county-wide, and over the next year-and-a-half we have planned another 30. About half of those planned are on the Des Plaines main stem. So we do recognize that because of the amount of water that is coming downstream, buyouts or elevations are really the only or the best tool, I would say, to mitigate the flooding of those homes.

Besides the removal of the homes, we have done a lot of work with regard to wetlands. So there is a private-sector wetland bank that just opened on Mill Creek, right at the Des Plaines River main stem, that is only three miles south of the Wisconsin border. There are 80 new acres of wetlands that are available there for sale, and the first credit release was sold exclusively to IDOT and the tollway for impacts in the Des Plaines River Watershed. So our road agencies in Illinois are keeping to that Army Corps criteria of mitigating in the same watershed.

I would also like to mention the Forest Preserve District has purchased 8,500 acres of land that they have preserved and protected in the Des Plaines Watershed, and they have also done a significant amount of wetland restoration. They did a 1,200-acre restoration at Rollins Savannah. They are planning another 1,000-acre restoration on the Des Plaines at the Dutch Gap Canal preserve right at the Wisconsin border. And they also did a 300-acre restoration at the Pine Dunes Preserve, and that was in conjunction with the tollway wetland impacts at O'Hare Airport.

So we are—there are hundreds and literally thousands of acres of wetlands that we are preserving, protecting, and restoring along the Des Plaines corridor. So it is tough to see all that advancement and then kind of have to see a couple of steps backward that is happening upstream.

Mr. SCHNEIDER. I will come back to it later, but part of it is during the assessment, the environmental impact studies, tell us

what the impact will be so we can make the adjustments and maintain it. Thank you.

I want to just emphasize a point. We are talking about the Des Plaines River Basin because we are talking about Foxconn, but this affects the Fox River in our community as well. We have the mayor of Fox Lake here. So it is not just the Des Plaines River. It affects our entire community, so thank you (5:43) Video 2.

Howard, when we are talking about climate change in general, we are talking about global climate change, and we see the effects all over the world, not just here, and it is a global issue. But there are local effects. What are the effects of climate change here in the local region?

Mr. LEARNER. This is exactly why the Environmental Law and Policy Center reached out to 18 leading scientists at the University of Illinois, Northwestern, Michigan, Michigan State, University of Wisconsin, Ohio State, the Big 10, and Canadian scientists. The Great Lakes is bi-national.

Sorry, I am old school. Rutgers and Maryland, that is not really the Big 10.

[Laughter.]

Mr. SCHNEIDER. It is the coast to coast conference.

Mr. LEARNER. What they have put together this March was a state-of-the-science report on the impacts of climate change on the Great Lakes, and the fact is you are quite right, Congressman, global climate change is global. It is across the planet. Its impacts are felt everywhere, and pollution that comes from Indiana or carbon pollution from Indonesia has largely the same effect on the atmosphere.

But the effects are felt differently in different areas. One of the commonalities according to the scientists is the increased intensity of rainstorms. Not only are we going to have more extreme weather events, more tornados, hurricanes, and more flooding, but the intensity of the storms will be more.

So when we look at issues involving flooding in Lake County, exacerbated perhaps by the Foxconn development, that comes at a time when the best scientists in our region are telling us we are going to see more rainstorms with more water and more intensity. So this is taking an already challenging problem and making a bad problem worse when it comes to the real world, on the ground, on the water, in the businesses, in the communities, regarding the impacts of climate change, and here the Foxconn development.

Mr. SCHNEIDER. Just to put an exclamation point on that issue, two years ago we saw Hurricane Harvey, 50 inches of rain in one location. Houston is still recovering. The 2017 flood here in Lake County, we had seven inches of rain here overnight. That is what caused much of the flooding in the community. And to add insult to injury, you watched the river flooding, and communities like Fox Lake, like Gurney, like Wheeling, just having recovered from a torrential rainstorm and the flood effects of that, watched the rivers rise over the next several days as more water came down. So I think that intensity, we are seeing it consistently across the nation.

Mr. LEARNER. Here is what you can deal with; here is what you can't. There are certain things in terms of global climate change

here in Lake County, here in your district, Representative Schneider, you can't make a big difference on. But what you can do is, recognizing those changes in weather patterns, is to determine what steps can be taken to help mitigate the impacts on flooding, as you are describing, what steps can be taken to adapt to some of what we know is coming? That is where the Foxconn issue comes in. If you know that global climate change is going to lead to more torrential rainstorms and flooding, as you are describing, then let's do everything that we can at the local level, at the county level, at the district level, to try to avoid making bad problems worse. Let's try to mitigate those problems. Let's try to adapt around it, and let's not do things in terms of waiving environmental regulations as Wisconsin did under Governor Walker for the Foxconn development, to take what we know to be problematic and make it worse.

Mr. SCHNEIDER. So that may be a good transition, Mike, locally. What steps can our local communities take to mitigate the damaging effects of these increased frequency and intensity of storms? How do state and local governments' compliance with environmental reviews affect that?

Mr. WARNER. Well, the state water survey did just release in March new rainfall analysis for Illinois, and it shows exactly what we have been talking about today, that the rainfall amounts and intensities of the storms are increasing, and it is a trend. So it doesn't stop here, so to speak. They are showing that our rainfall amount for the, so to speak, 100-year storm is increasing up to 45 percent.

It is ironic, though, since it is the Illinois water survey, that their study stopped at the Wisconsin boundary. But there is interest from NOAA to pick up their study criteria and apply it on a more regional basis, because we know that that rainfall isn't going to stop at the state boundary.

As far as the environmental impacts, I think that if there were proper reviews that were done, I think just the opposite of what happened during that review process. Typically they look at avoidance and minimization of wetland impacts, and I think that is probably a preconceived understanding as to why they waived those regulations, because they wanted to just basically fill all the wetlands that were there and create this development corridor, and that is what has happened. So there is no mitigation that has been done for all the wetlands that have been filled to date within the same river corridor. It is pretty impactful.

I would also comment that the amount of depressional storage that is lost—so the landscape up in Wisconsin is very similar to Illinois where the landscape was kind of dotted with these depressional wetland pockets before, now it is a hard surface all the way across, a flat, hard surface, and all that rainfall is just going to wash right off and come downstream.

Mr. SCHNEIDER. Thank you. That lays out what we are doing here. But as you said, there is a process that should have been followed.

Howard, I will shift to you. What is the purpose of NEPA, the National Environmental Policy Act, and other environmental safeguards? How is it supposed to work?

Mr. LEARNER. Let me talk and address your question with regard to NEPA, and then with regard to specific permitting; for example, what the Army Corps of Engineers does in terms of wetlands.

NEPA is designed to influence decisions and the decision-making process by requiring the decision-makers to conduct a thorough environmental review before decisions are made, not afterwards in order to post hoc justify a decision already made. The purpose is to make sure that the decision-makers who are involved consider all the relevant environmental factors, including the adverse impacts.

Second, rigorously explore and objectively evaluate the alternatives and other actions that can be taken.

Third, look at the cumulative impacts of multiple projects, because one project may create a problem, but when there are several projects in combination, it becomes a much larger problem, to the decision-makers have to look at the whole, not just the separate parts in a segmented way.

And then finally, engage the public, because as you are conducting this hearing today, decision-makers learn from the public. It is a good exchange of ideas.

That is the purpose of the National Environmental Policy Act, and it likewise is the purpose, with some tweaks, of what the Wisconsin Environmental Policy Act provides. So when that process is circumvented, or in this case eliminated, the benefits of that advanced environmental review process in which the impacts can really be fully considered get truncated.

Some of that may get done anyway. Somebody may say, well, we looked at some things, but not with the thoroughness, the rigor, the thoughtfulness that NEPA, the National Environmental Policy Act, review process requires.

Likewise when it comes to wetlands permitting, there is a set of rules and standards that apply under Wisconsin state law that generally apply under Federal law as well, and that is designed to really look at, when you are filling wetlands: do you have to do it, is there any other reasonable alternative; or if you have to do it, then what do you have to do in order to fully offset, replace, and remedy what you have done?

When you circumvent, that can avoid, if you will, wetlands acting as a sponge, soaking up water. By and large, if you fill wetlands, that means water has to go somewhere downstream, and downstream here is northern Illinois.

Mr. SCHNEIDER. If I can summarize, I am thinking of my background in business. It is assessment, it is analysis, and then it is decision-making.

Mr. LEARNER. That is right. You don't put the cart before the horse, to use a more street term on it.

Mr. SCHNEIDER. The metaphor I was going to use is instead of ready, aim, fire, it seems like we did ready, fire, aim.

Mr. LEARNER. That would be another good way of putting it, yes.

Mr. SCHNEIDER. You can miss it.

Mike, at a local level, how do we understand the importance of following the policy rather than the other way around, the consid-

eration for water displacement for large developments like the manufacturing hub we see in Wisconsin, or transportation infrastructure we see with roads up north but also through our own communities? Why is it so important to have that understanding?

Mr. WARNER. I would say that our knowledge of wetlands and the functions that they provide have grown over the past few decades to the point where it is a matter of business now, at least in Illinois, that it is understood that if you impact a wetland in this area, in Lake County, Cook County, in an area that is under the regulations of the Army Corps Chicago District, that you are going to have to mitigate for those.

So that has driven the private sector mitigation banking community, to the point where we have been able to recapture all of those wetlands that are impacted, within the same watershed as where they are impacted. So I think that is one of the things, one of the big items that is missing in this equation, and possibly a solution is the way the Wisconsin banking instrument is set up and their mitigation policy is—

Mr. SCHNEIDER. Let me pause you for a second just to make sure, this is for me as much (17:24) Video 2 as for everyone else here. When we are talking about the banking instrument, it is not like the bank where we cash a check. We are talking about the ability to bank land that will provide wetlands. Is that what you are talking about?

Mr. WARNER. Correct, yes. I should explain that. So the way wetlands are impacted and then filled and credited in other locations is there will be a landowner that creates a huge wetland restoration area, and they can actually sell those credits to someone that impacts them in another location in the watershed.

What we are recommending to Wisconsin is that they consider the Des Plaines as its own watershed. Right now they have it grouped in with another watershed so that if you impact in the Des Plaines, you can mitigate for it somewhere else, and that is exactly what Wisconsin DOT did when they created all the new roadways up there. They took jurisdiction over the local roadways where in some cases there is a two-lane country road and they are expanding them to a six-lane road section with pathways on both sides, so essentially almost a seven-lane road section. So it is a huge increase in impervious surface.

All of that wetland, all of those streams that were filled are banked or replaced, so to speak, outside the Des Plaines Watershed. So all of that benefit that we had of that wetland to absorb any of that surface water is now gone. That is really the local impact in a different way of how it has looked across the border here in Illinois.

Mr. SCHNEIDER. So in very simple terms, we have talked about increased frequency and intensity of storms. We have more water coming from the sky. By filling in land, reducing the impressions, by covering land, making it more impervious, that water volume coming down and going up does fall on the ground. It all has to go somewhere. I will ask the obvious question: Where does it go?

Mr. WARNER. It is going into the Wisconsin floodplain and then the Illinois floodplain.

Mr. SCHNEIDER. Which is here.

Mr. WARNER. Right, which is right next door, just down the street from here. That is one of our biggest—another comment was it is not just harming Lake County and Cook County downstream in the Des Plaines, but they are really putting more businesses and homes at risk in Wisconsin as well, because their floodplain definition up there is very small and very underestimated, in our analysis.

Mr. SCHNEIDER. I am going to go to Howard, and then John in a second.

Foxconn is a big development. It is huge. You touched on cumulative, a lot of small developments can add up to a big development. But with a development like the Foxconn facility, how should NEPA restrictions apply, and how do we extend that? What should happen in a situation like that?

Mr. LEARNER. The cumulative impacts standard under NEPA, the National Environmental Policy Act, requires the decision-makers to not look at the impacts of one project in isolation, albeit a big project in this case, Foxconn, but look at it in the context of other surrounding developments and other activities.

So, for example, on the air quality side where the region is teetering on being a non-attainment area for ozone, which it has been in the past, when you add the Foxconn development, a bad problem gets worse.

Now, it is not just Foxconn itself. You have to look at the cumulative impacts not just of Foxconn but of other projects that are proposed going forward that both add air pollution problems; or, in the particular case you are raising, also affect wetlands, also affect flooding, also affect downstream communities when it comes to water flowing here in the Des Plaines River Watershed and the Fox River as well. That is what NEPA requires.

Mr. SCHNEIDER. So that is the requirement. It is not necessarily what happened.

So, John, I turn to you. You talked in your testimony about development going on around our communities. On the one hand, that is good. As a small business, you want more people to buy your pizza. On the other hand, you look to the skies with every rainstorm and say, literally, can I weather this storm?

As we are talking about all this, what goes through your head? As you are thinking about planning for your business, I would love to get your take at this point in the conversation.

Mr. DURNING. I can't help but think, as I listen, I was just thinking about this, this whole river and pushing the problem down the river is an amazing allegory for so many things impacting our country right now, and time really is that river, and all the problems are getting pushed down to our kids.

For me, forget about Pizzeria DeVille and anything uptown and anything else I am involved in. We need to fix this for our kids. That is why we need to get in front of this and do something meaningful for our children. That is my only takeaway from this, and I appreciate you letting me voice my opinion.

Mr. SCHNEIDER. Thank you. I appreciate that.

Let me go back to Foxconn. We talked a little bit about what should have happened. You may have assessed this, Foxconn's gen-

eral track record for abiding by environmental regulations, where it is here or—they are a global company.

Mr. LEARNER. I think, Congressman, you are aware that there has been a fair amount of media criticism on Foxconn, really in two principal respects: first, Foxconn's environmental performance record; and second, concerns that Foxconn promises a palace and they come back with a bungalow.

We have already seen in Wisconsin that when the deal was cut with Governor Walker's administration, Foxconn was asserting, and President Trump was reflecting, many thousands of jobs that would supposedly be created, particular types of video screens that would be made, a lot of manufacturing jobs and so forth. If I understand what is going on presently in Wisconsin with regard to Foxconn, the company is not living up to the promise when it comes to actual performance. Some of the incentives they didn't receive at the end of 2018 because they hadn't delivered on the number of promised jobs. Apparently, Foxconn is now talking about a relatively different facility, more technical jobs than manufacturing jobs, less jobs, and so forth.

I was not in the middle of the negotiations with what exactly did Foxconn promise in detail, the documents, and is Foxconn living up to the spirit or the letter of the commitments that were made. Suffice it to say, there is a fair amount of skepticism and concern over whether Foxconn is delivering on what it promised; and second, on its environmental performance and reputation.

Certain companies, as you know, develop a track record of strong environmental performance, and when they are dealing with the public and they are dealing with decision-makers, they stand on their track record and they deliver on that performance. Others don't quite have that reputation.

Mr. SCHNEIDER. But there were a lot of promises made—this is for both Howard and Mike—a lot of promises made and questions about how now are they being delivered. But in return for those promises, there were shortcuts, waivers, all kinds of things. What decisions, what shortcuts, what was done that is going to have an impact on environmental—or have environmental consequences going forward? Do you have any insights on that?

Mr. LEARNER. I think that is what I was summarizing in my testimony. The written testimony goes into far more detail. I didn't think you wanted that much this morning; the 20-minute version as opposed to the 5-minute version. The Committee has the more detailed testimony.

But to tick it off in very rapid fashion, number one, Foxconn apparently requested, and the Walker Administration agreed, to waive environmental review under the Wisconsin Environmental Policy Act, and that is the conversation we just had about why you should have those sorts of reviews in advance, and why do you, as you put it, ready and aim before you fire.

Second, the various state permitting requirements, when it comes to wetlands as part of the negotiations between Foxconn and Governor Walker's administration, were truncated—that is probably a polite word—at the very least, truncated.

Then finally, there have been a lot of concerns raised on how the U.S. EPA did its ozone non-attainment evaluation and certain

changes that were made in which FOIA requests showed that certain politicians, in effect, overrode the science technical staff recommendations, and that at least has some linkage, it appears, to Foxconn as well from the added pollution that would come from the plant.

So those are three examples. There are others, as well.

Mr. SCHNEIDER. Mike, these were decisions, shortcuts that were made, like the county decision to study assessing the likely consequences that might follow.

So, a two-part question. Can you summarize again—I know you talked about it in your opening statement—the conclusions from that study? But also I would welcome your opinion, and anyone else, Howard, of had the proper steps been taken in authorizing the Foxconn project, would the outcomes, would the projections of the study have been different?

Mr. WARNER. Absolutely. Again, going back to the stormwater storage aspect, the wetlands aspect, and the floodplain issue, we believe that if those processes had been followed, more mitigation would have occurred to offset the increases in surface water. So really, that is what our study focused on, was what kind of flows are we going to see coming downstream from Wisconsin, and how are those going to be increased as development progresses in Wisconsin.

So there was a mention that there is a cumulative effect and Foxconn isn't the only development that is occurring upstream. They are a very large one, though, and they do have an effect all on their own. But if you combine that with what is happening in the development pattern that is occurring, what we are estimating right now is that the 100-year flood is going to be where the 500-year flood is right now.

That is a rough estimation, but our numbers have been verified by an independent computer model that we have run on those numbers as well. I don't know if I can say it is a good thing, but at least we know where the 500-year flood is at within Lake County, so it is a mapped larger floodplain. But it is significantly higher, and there is more flow, and it is something to be concerned about.

As far as one of the waivers that Foxconn was given, they were immediately allowed to fill all their wetlands. We have mentioned that. But they were told they had to mitigate at a 2-to-1 ratio. So they filled in 17 acres of wetlands, and the intent is, and we hope it comes to fruition, that they do mitigate 34 acres somewhere. There is no mitigation that has been done at all for those fills as of now, and we don't think that the fee assessed will really allow them to mitigate a full 34 acres.

So right now they are just paper wetlands. They have paid into the fund. They are on paper.

Mr. SCHNEIDER. Are those effective at collecting water?

[Laughter.]

Mr. WARNER. No, not much. Only what you spill on them. So we are missing that resource that has been impacted.

Mr. SCHNEIDER. So I just want to, again, confirm my understanding. The 100-year flood doesn't mean that you are going to have this flood once every 100 years. What it means is you have

basically a 1 percent chance each year of having a flood at that level. Is that fair?

Mr. WARNER. That is correct.

Mr. SCHNEIDER. So saying that the 500-year flood is now at the level of the 100-year flood, it means that a flood that had a .2 percent probability of occurring in any given year is now five times more likely to occur.

Mr. WARNER. That is exactly right.

Mr. SCHNEIDER. So it is not, oh, we had a horrible flood last year, we won't have another one like this again for 100 years. We could have one like this, or five times worse, this year, at a greater percentage.

Mr. WARNER. Correct.

Mr. SCHNEIDER. And that is the impact. Again, not being lied about, the less capacity the land has to absorb that or to hold that, to retain that upstream from us, means those of us downstream are going to have the impact of that and have to absorb the water we get in our own rainstorms, but also the water that rains on our neighbors as well.

Mr. LEARNER. I might sharpen the point just a little bit.

Mr. SCHNEIDER. Please.

Mr. LEARNER. First of all, the prior assumptions of what is an area with a 100-year flood possibility, a 100-year floodplain, is sort of antiquated at this point. What we are finding in Illinois and around the Midwest, and everywhere, is that those assessments made on the basis of prior weather patterns, for all the reasons we have just discussed with regard to climate change, show far more flooding occurring within short periods of time than one would expect in a true 100-year floodplain.

Unfortunately, the Trump Administration actually cut the budget for the evaluations to be done of remapping what floodplains actually are: whether it is a 20-year or 10-year or 50-year or 100-year floodplain. But the old assumptions of something being a 100-year floodplain in many cases are up for question under the new weather patterns.

Second, as Mike put it in addressing your question, it is akin to going to a slot machine. If you happen to pull down the arm and get three cherries and you get a jackpot, that has no predictive value on whether the next time you pull that will be the 1 in 1,000, or whether you will go another 999 and you still won't even get to 1,000. Any year is a prediction, and any year can be 1 in 100, or can be 2 in 100.

On the other hand, when you start seeing 3 in 100 within a relatively short period of time, that tells you that the assumption that this is a 100-year floodplain is probably no longer valid.

Mr. SCHNEIDER. Extending that to floods, I will make the observation—I mentioned Hurricane Harvey. Three of the five most devastating hurricanes on record in the United States occurred in 2017.

Mr. LEARNER. That is correct.

Mr. SCHNEIDER. So that is, I think, the emphasis, that we are seeing increased frequency and intensity in our storms.

So, Howard, Wisconsin, by failing to categorize the Foxconn development as a major action, it allowed the development to effec-

tively skirt the need for an Environmental Impact Study (1:05) Video 3.

My question to you is in your view, do you believe (1:07) Video 3 Foxconn should be required to have an Environmental Impact Statement, and can you walk us through the process that would follow from that?

Mr. LEARNER. We believe that, yes, Foxconn should have been required to do an Environmental Impact Statement, or that an Environmental Impact Statement, to be more precise, should have been done by the Federal and state decision-makers with regard to the Foxconn development. It is a little bit more complicated today because, in effect, the purpose, as we have been discussing, of the environmental review process is to analyze and examine before you make the decision rather than make the decision and try to somehow fit it in. So it is sort of an interesting question today of if there were to be an Environmental Impact Statement required, how do you go back and seriously reexamine?

That said, doing a careful environmental review, albeit late, would be a very positive action here.

Mr. SCHNEIDER. Thank you.

I am going to wrap up. I have one last question, but I will say this. What we are hearing is an egregious example of shortcuts and skirting responsibilities with Foxconn. As I said in my opening remarks, that is not unique to Foxconn, but this is something that is happening here.

Our purpose is, in effect, to discuss the impact and the importance of the SBA Disaster Loan Program in that context, because as this Administration has cut funding for doing environmental studies, as it has cut funding for NOAA to understand weather patterns—I mean, we have seen egregious cuts of funds, and even where Congress has intervened and said, no, you are not cutting those funds, an effort to diminish the capacity of the agencies to do the work they have to do.

I will start with you, Howard, but I would like to get everyone's view. Howard, Mike, and John, I will give you the last word on this.

How important is the SBA Disaster Recovery Program? It seems to me—I will show you my bias and call the question. I guess it is a leading question. I am not a lawyer, so I can do this.

[Laughter.]

Mr. SCHNEIDER. It seems that it is going to be increasingly important because businesses are facing a greater probability, an increasing risk not just of a chance of a flood but the significance of a flood.

Howard?

Mr. LEARNER. You have to look at it, I think, Congressman, in the following way. The SBA Disaster Loan Program is now more essential than ever, both for it to be well funded and for the funds to be deployed in a thoughtful, effective manner. For all the reasons we have been discussing, we are looking at flooding issues and others becoming worse rather than better, and because of climate change, the reliance upon what used to be viewed as a 100-year floodplain in many instances is going to experience more flooding than that might indicate.

Of course, the best solution is better planning at the front end so that to the extent that we can have an influence on mitigating, adapting, and avoiding flooding, we are therefore reducing the demands upon the SBA program.

So in the case, for example, of global climate change, we should do what we can to mitigate climate change, but we are certainly going to see some impacts of it. But what we can really do is, in situations like the Foxconn situation, is really think about how in advance do you mitigate the impact of, say, the Foxconn development by having good environmental review processes, by having good permitting processes so you reduce the amount of flooding, and by other such actions. And if you do that, then you are reducing some of the pressure on the SBA Disaster Loan Program.

So, do what you can at the front end to reduce the pressure on the program. Second, realistically recognize that there are going to be far more demands on the program, and that the program needs full and adequate funding, and that it needs the ability to respond to the very changing situations that climate change is bringing upon us.

Mr. SCHNEIDER. Excellent.

Mike?

Mr. WARNER. I would agree 100 percent that the loan program is essential, and I would say, consistent with our other comments with regard to FEMA disaster assistance programs, I am not aware exactly how SBA takes into account environmental justice areas. So the circumstance that is happening within economically disadvantaged areas is that if they do get impacted by flood, FEMA will come in and at the Federal level will require a cost match typically to do mitigation in those areas. Our comments have been consistent that in economically disadvantaged areas, either that cost match should go away or there should be some type of forgiveness program so they can actually rebuild those areas and not have to come up with a local match that is unattainable.

Similarly, on the small business loan situation, if you are in economically disadvantaged areas, there may be more difficulty in being able to pay back those loans and actually recover in those areas.

So those are the comments that we have made as Congress has looked at the flood disaster assistance, redoing those programs, and we would make a similar comment with regard to SBA. It is a critical program, but in order to make sure everybody is whole and to actually recover in those economically disadvantaged areas, some indication or some consideration of that should take place.

Mr. SCHNEIDER. Great. I appreciate that.

John, give me your last word.

Mr. DURNING. Yes, sir. I think that is actually a great lead-in, because having spent a lot of time in banking, I think the availability of SBA emergency money is critical, but only if it is hand-in-hand with addressing what causes these problems.

When I opened my restaurant, I wasn't able to cut any corners. I had to do exactly what the municipalities told me. I installed state-of-the-art plumbing equipment that was brand new and was going to take care of this problem, and yet I suffer the consequences because someone upstream who is bigger and stronger

and mightier didn't have to do any of that stuff. So I think it goes hand in hand.

My million-dollar-plus business isn't equipped to be a debt servicing machine. It is just not. I have an SBA loan. I am not real fired up about taking on more debt because I have a family I have to take care of as well. I think it is critical that it is available. It is going to happen more. But we need to go fix some of the other stuff, too.

Mr. SCHNEIDER. Absolutely.

Well, with that, let me say thank you again to our witnesses for sharing your perspectives during today's hearing.

Mr. Warner, I would like to thank you for explaining the threat of flooding in our district and how Foxconn development is poised to make the situation worse. Thank you.

Mr. Learner, thank you for illuminating the permitting process of the Foxconn project and laying out the shortcuts taken in environmental review in order to push this development through.

And finally, thank you, John Durning, for sharing your perspective as a small business owner dealing with flooding. Your situation is the one that the SBA Disaster Loan Program was created to help, specifically your situation. We need to ensure that environmental reviews are done so that the program is not over-stretched, and we also need to perform outreach so that businesses like yours and others who are dealing with the consequences of flooding know that we have these resources available to help.

While there are dozens of hearings each week in Congress while it is in session, field hearings like this are much, much rarer. It is significant that we are bringing the intention of the House Small Business Committee to our district to focus on the issue of flooding and how the waived environmental reviews of the Foxconn project are making flooding in our communities worse.

Powerful interests, including as high as the White House, align to support the Foxconn project, but that does not mean the impact on the environment for our communities can be discounted or ignored. We have a right to speak out and ensure the interests of our district are taken into consideration through the environmental review process. More broadly, we need to address this problem of waived environmental reviews to ensure the downstream communities do not fall victim to this reckless development, and that the tools we have created to help, like the SBA Disaster Loan Program, can continue serving our communities.

Finally, I want to thank the Committee and my team for their assistance in facilitating this hearing and helping to bring the voices of our community to the United States Congress.

Observing that when I am in Washington I get 5 minutes to ask a question, I will also say for the record that I like this format where I get to ask all the questions.

[Laughter.]

I would ask unanimous consent that members have 5 legislative days to submit statements and supporting materials for the record.

Without objection, it is so ordered.

And if there is no further business to come before the Committee, we are adjourned.

Thank you very much.

[Applause.]

[Whereupon, at 11:48 a.m., the Committee was adjourned.]

APPENDIX

U.S. House of Representatives – Committee on Small Business
July 19, 2019 Field Hearing

Flooded Out: Vanishing Environmental Reviews and the SBA's Disaster Loan Program

Mike Warner, CFM, PE
Executive Director
Lake County Stormwater Management Commission

- 1) Thank you for inviting me today and the opportunity to comment on public record regarding these important issues. I am Mike Warner, Director of the Lake County, Illinois, Stormwater Management Commission. Lake County has seen record setting increases in flooding over the last three years; the July 2017 flood set record high water levels on all nine river gages throughout the County, caused millions of dollars of damage and threatened the lives of many residents and visitors. In 2018, the Des Plaines River gage set a record by exceeding flood stage 6 times, which is more than triple the average, and in 2019, a new record rainfall was set for the month of May and flood stage has been topped 4 times already this year. The Illinois State Water Survey research shows this trend of higher rainfall and corresponding flood events is continuing in the region.
- 2) We recently released an impact study for public comment on the Upper Des Plaines River Watershed. The study was undertaken in response to the State of Wisconsin's waiver of environmental regulations for development within the Electronics and Information Technology Manufacturing Zone and the potential impacts of upstream development in Wisconsin to Lake County. The study conclusions found significant deficiencies for mitigation of floodplain, stormwater and wetland impacts within and outside the EITM zone that is worsening flooding impacts within the watershed. ([See Appendix A, B](#))
- 3) The study describes four main conclusions:
 - A. In the current Flood Insurance Study for the Upper Des Plaines River in Wisconsin, both the floodplain boundary mapping and published flood flows are grossly underestimating flood risk. This deficiency is creating an increased flood damage risk to existing and new businesses and residential buildings, within this watershed's 'actual' floodplain.

Discussion: The Southeastern Wisconsin Regional Planning Commission (SEWRPC) is the agency that developed the floodplain study for the Des Plaines river. The methodology SEWRPC utilizes includes a statistical analysis of storm events, to predict floodplain flows and elevations. Our analysis found the storm event record was modified to remove the largest storm event, and doesn't include the most recent 6 of largest 10 storms of record. These omissions result in a significantly underestimated floodplain boundary, which is being further encroached and filled by new development. This underestimation will result in more businesses and homes being placed in the 'actual' floodplain, an allowance of 'actual' floodplain fill, and increased flood related damages in the future. Current Wisconsin floodplain flow has a deficiency of 45% measured at the border of Illinois, and with future development buildout and increasing rainfall trends, we estimate that deficiency to double to over 90%. The Wisconsin Department of Natural Resources provided the exact same type of comments to SEWRPC on a floodplain study just to the north, which in that case was adjusted and updated resulting in increases of floodplain flows ranging from 17% to 86%. The following is an excerpt from the Kinnickinnic Watershed Study *"In 2013, SEWRPC submitted the hydrologic analysis to the WDNR for review and approval. WDNR responded in January 2014 and requested that additional work be completed to extend the historical simulation period to include major flooding events that occurred in 2008, 2009 and 2010."* *"The overall impact of the updated floodplain mapping project was a*

significant increase in the computed peak flows for the one-percent event. The higher flows result in higher flood profiles and an increase in the computed flood risk in the watershed.” (See Appendix C)

- B. Through the development process in Wisconsin upstream of us, there is a deficit of stormwater storage being created by filling existing natural depressions, too large of a detention pond release rate, and uncompensated floodplain fill.

Discussion: Our study findings show the deficit at approximately 55,000 gallons of storage for every acre of land developed, when compared to Lake County standards. Unmitigated runoff from Wisconsin will increase flood damages to businesses and homes. Lake County is unique within Illinois in that it has more of a ‘Wisconsin’ glacial topography with a significant amount of natural depressional storage existing in the landscape. Ironically Lake County requires preservation of this natural depressional storage feature, while Wisconsin development sites are not required to compensate for natural storage. Our estimate of the depressional storage being lost in Des Plaines portion of the EITM Zone is approximately 156 acre-feet. The detention pond release rate is double that of Lake County, significantly reducing the surface runoff stored, which subsequently allows more impervious cover per acre of development. Additionally, the loss of floodplain storage does not require compensation because the Des Plaines River is not a Wisconsin established ‘Flood Storage District’ – *even though it meets the technical requirements to become one.* “[WDNR] will notify all municipalities that have flood storage areas [in the floodplain] and then provide separate Flood Storage District (FSD) maps that **must** be adopted into the floodplain zoning ordinance.” See Appendix D

- C. Wetlands are being lost within the Des Plaines River Watershed in Wisconsin due to development. Improper allowances are being utilized for wetland fill impacts for expanding roadways by the Wisconsin Department of Transportation. All of WisDot impacts are being mitigated outside of the Des Plaines watershed, which abrogates two Army Corps wetland regulatory tenets regarding 1 - mitigating in the same watershed as the impact site and 2 - the ‘no net loss’ principle, as this practice is resulting in a significant ‘net loss’ in the Des Plaines River watershed (See Appendix E). The private development wetland impacts have yet to be mitigated anywhere, and there is doubt the mitigation fee assessed, can compensate for the higher land value within this highly active development corridor, guaranteeing a loss of wetland function locally.

Discussion: Wetlands are a critical surface water resource, providing water quality, flood control and habitat functions. Over 38 acres of wetlands impacted by roadway expansions and EITM Zone development within the Des Plaines watershed have been filled without any mitigation in the watershed. Wisconsin DOT filled over 21 acres of wetlands during the I-94 improvements and mitigation for those are being provided outside of the Des Plaines River basin. The Mitigation for the 17+ acres of wetland impacted for Foxconn Phase 1 and the local roads within the EITM Zone is occurring through the Wisconsin Wetland Conservation Trust in-lieu fee program. The mitigation is proposed within the Upper Illinois River Basin, which includes the Des Plaines River and Fox River Watersheds. If the credits are created in the Fox River Watershed, the end result is net loss of wetlands within the Des Plaines Watershed, up to a total of more than 38 acres. We believe this mitigation practice has been ongoing which would result in higher numbers of wetland acreage lost in the Des Plaines Watershed, and will continue to research that information. There are also hundreds of wetland acres either in the future development area of the EITM Zone and within the Des Plaines

Watershed that can be anticipated to be impacted and potentially lost through the development process.

- D. Inadequate soil erosion and sediment control practices are being utilized by both WisDot and private developers in the Des Plaines River Watershed. These unremedied violations of the Clean Water Act, fill waterways with sediment and are contributing to non-attainment of EPA water quality standards.

Discussion: SMC has performed independent inspections of the roadwork and development site and documented significant soil erosion occurring. (See Appendix B). The large, mass graded construction area, coupled with insufficient soil erosion and sediment control measures have resulted in sediment being transported from the construction sites downstream as evidenced by an erosion control violation citation from the Wisconsin Department of Natural Resources (WDNR). The Des Plaines River just downstream of the state line is listed by the Illinois Environmental Protection Agency (IEPA) as impaired for Total Suspended Solids (TSS), sedimentation and siltation due in part, to land development activities. Sediment transport from construction sites in Wisconsin is contributing to Des Plaines river impairments in Illinois.

- 4) With every acre of new impervious surface and shovelful of dirt, all four of the issues raised in our conclusions are resulting in an increased flood risk to businesses and homes, aggravated flood damages and negative water quality impacts within the watershed. It is critical that these concerns are addressed as soon as possible, to compensate for future development that will occur.
- 5) Thank you for this opportunity to provide testimony.

APPENDIX A

EXECUTIVE
SUMMARY

STORMWATER MANAGEMENT COMMISSION



Christopher B. Burke Engineering, Ltd.

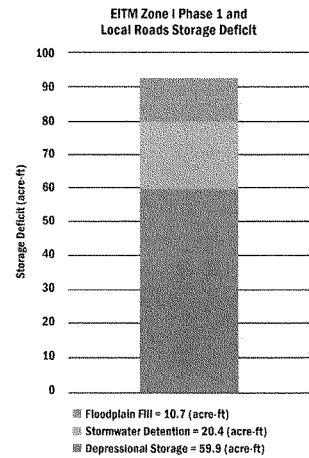
UPPER DES PLAINES RIVER IMPACT ANALYSIS

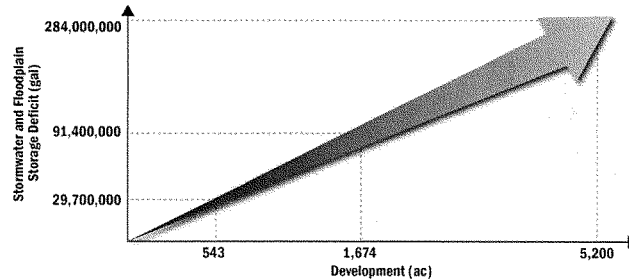
In July 2018, the Lake County Stormwater Management Commission (SMC) requested that Christopher B. Burke Engineering, Ltd. (CBBEL) complete a technical review of development related to the Electronics and Information Technology Manufacturing (EITM) Zone in Wisconsin, as it relates to the Des Plaines River Watershed. This development includes 3.3 square miles within the Des Plaines River Watershed, consisting of the Foxconn Development, local road improvements and reconstruction of Interstate 94. Included below are the main conclusions from the report, as well as recommendations related to each of those conclusions.

1. The current floodplain mapping of the Des Plaines River Watershed in Wisconsin underestimates the floodplain flows and elevations north of the Illinois-Wisconsin border. The floodplain mapping for the Watershed in Wisconsin is based on a 100-year (1% chance) flood flow that is significantly below historic flood events and the published flood flows in Illinois. The Wisconsin mapping is generated with historical rainfall data collected prior to 1994, which does not consider the five largest (and six of the largest 10) flood events on the Des Plaines River downstream in Illinois. The largest two recorded flood events have occurred in the past 14 years, both of which are larger than the 100-year (1% chance) flood event in the Wisconsin floodplain mapping.

Recommendation: To accurately manage the floodplains within the Des Plaines River Watershed, a comprehensive and collaborative floodplain mapping update should be completed by the FEMA Cooperating Technical Partners designated for each state (Wisconsin Department of Natural Resources and Illinois State Water Survey, with Illinois Department of Natural Resources consultation) that spans the state boundary and actively involves all stakeholders.

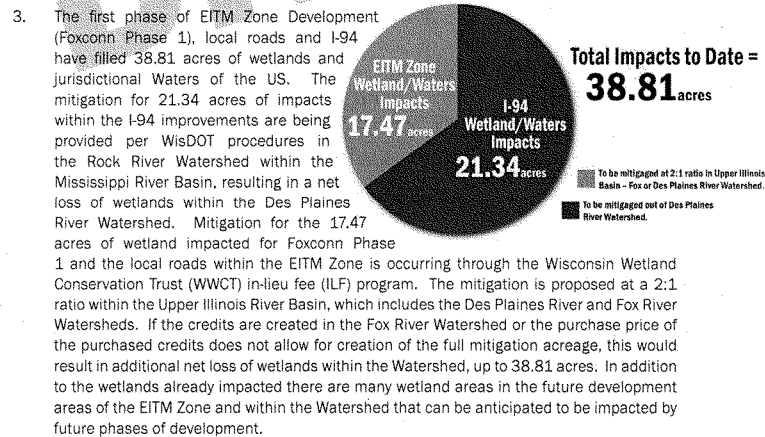
2. Development of this corridor in Wisconsin has resulted in a deficit of stormwater storage because stormwater detention in Wisconsin is based on a higher release rate and lower rainfall depth than Lake County, Illinois. Due to the undulating glacial topography, a significant amount of natural depressional storage exists in the landscape, but is not being preserved throughout development. Additionally, the loss of floodplain storage from development activities is underestimated due to the outdated floodplain mapping and does not require compensatory storage because the Des Plaines River is not within an established Flood Storage District – even though it meets the technical requirements to become one. These factors combine for a stormwater and floodplain storage deficit for the Foxconn Phase 1 development and local roadway projects in the EITM Zone of 91 acre-ft, which equates to a deficit of approximately 54,600 gallons of stormwater storage for every acre of land developed.





Given the scope of the currently proposed development, future land use mapping and development patterns in similar interstate highway corridors, the largely agricultural lands outside of the EITM Zone can reasonably be anticipated to follow similar development patterns. As the Foxconn Development, EITM Zone and commercial corridors develop, this deficit will grow and result in downstream impacts to the Watershed in Wisconsin and Illinois.

Recommendation: To stop this trend of stormwater storage deficit, the Des Plaines River Watershed should immediately be designated a Flood Storage District in Wisconsin and compensatory storage required for all fill within the floodplain on all projects. Existing depressional storage in the Watershed should be preserved or compensated for during land development and stormwater detention storage should be provided at a rate and volume equivalent to Lake County, IL.



Recommendation: To achieve the "no net loss" Watershed objective, mitigation for wetland impacts in the Des Plaines River Watershed should be replaced in the Watershed, including all impacts by WisDOT projects. Additionally, the WWCT ILF program wetland mitigation sites should also be chosen in the Watershed accordingly.

4. The large construction area, coupled with insufficient soil erosion and sediment control measures have resulted in sediment being transported from the construction sites downstream through the Des Plaines River as evidenced by a 2018 site inspection and citation from the Wisconsin Department of Natural Resources (WDNR). The Des Plaines River just downstream of the state line is listed by the Illinois Environmental Protection Agency (IEPA) as impaired for Total Suspended Solids (TSS), sedimentation and siltation due to land development activities. Sediment transport from construction sites in the headwaters of the Des Plaines River Watershed will exacerbate the impairments in downstream stream segments in Illinois.

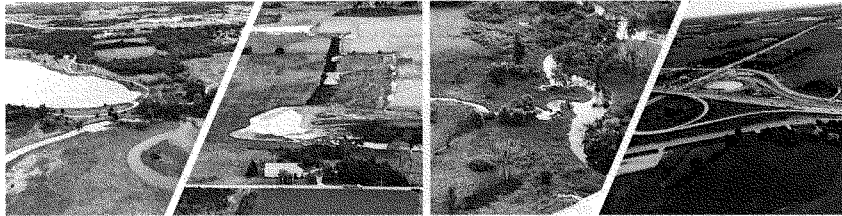
Recommendation: Further water quality degradation of the Des Plaines River can be prevented by requiring comprehensive soil erosion and sediment controls on all construction sites, implementing rigorous enforcement inspections to verify compliance, and issuing violations and utilizing available legal and financial tools as necessary to achieve compliance.

DRAFT

March 7, 2019

Appendix B

Wisconsin EITM Zone Upper Des Plaines River Impact Analysis – Opening of Public Comment



PRESENTATION OUTLINE

- Summary of Material Reviewed
- Description of EITM Zone and Des Plaines River Watershed
- Existing Site Conditions and Depressional Storage
- Stormwater Detention Analysis
- Floodplain and SEWRPC Study Review
- Soil Erosion and Sediment Control
- Wetlands and Waters
- Recommendations

COMMONLY USED TERMS

- Acre-ft: A measurement of water volume equivalent to 1 acre of land with 1 foot of water depth. 1 acre-foot = 326,000 gallons
- Cubic feet per Second (cfs): A volumetric flowrate measurement for water.
- 100-year storm event: A storm event with a 1% chance of occurring in any given year.
- SEWRPC: Southeastern Wisconsin Regional Planning Commission

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MATERIAL REVIEWED

- Stormwater Permit Application Material to Wisconsin DNR
 - Stormwater Modeling and Calculations
 - Engineering Plans
- Conference calls with Wisconsin DNR, SEWRPC, Mount Pleasant, WisDOT
- Site Inspections of Foxconn and Roadway Developments
- Mount Pleasant, Racine County and Kenosha County Landuse Plans
- Local, state and federal regulations for stormwater, floodplain and wetlands
- Racine and Kenosha County aerial topographic mapping
- Des Plaines River Watershed Floodplain Modeling and Mapping
- SEWRPC June 2018 Evaluation of Proposed Stormwater Quantity Management for the Des Plaines River Watershed Portion of the Proposed Foxconn Development
- WisDOT I-94 Roadway Widening Plans and Stormwater Calculations
- Local Road Widening Plans and Stormwater Calculations
- Wetland permitting information
 - EITM Zone Jurisdictional Determinations (partial)
 - EITM Zone wetland permitting and mitigation documents
 - I-94 Jurisdictional Determinations, mitigation documents and permits
 - Local Roads mitigation documents

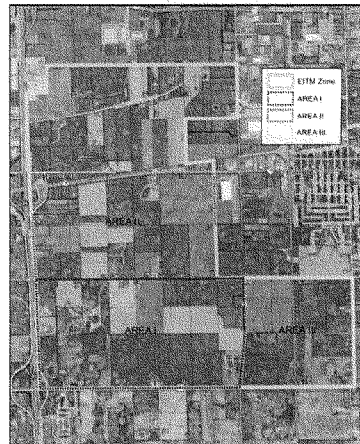
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3

ELECTRONICS AND INFORMATION TECHNOLOGY MANUFACTURING (EITM) ZONE

- 2017 Wisconsin Act 58
Exemptions Include:
 - State Environmental Impact Statement (EIS)
 - Department of Natural Resources (DNR) Wetland Permitting
 - Allows for fill of wetlands in EITM Zone
 - 2:1 fee-in-lieu mitigation required
 - Water Quality Certification waived
 - DNR Permitting for Stream Activities
 - Construction of Bridges and Culverts
 - Waived Restrictions for Placement of Fill in Navigable Streams
 - Enlargement of Waterways and Bank Protection
 - Straightening of Waterways



Wisconsin DNR EITM Zone Exhibit
Total EITM Zone Size = 4,088 acres

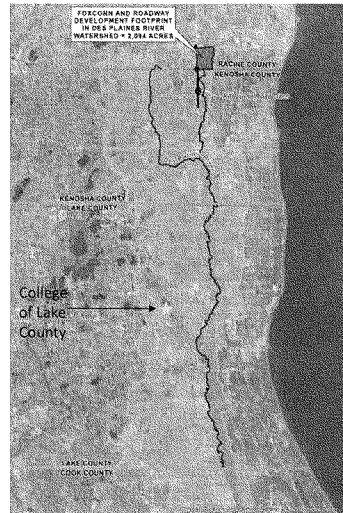
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LOCATION OF EITM ZONE & DES PLAINES RIVER WATERSHED

- EITM Zone and Related Development within Des Plaines River Watershed = 3.3 mi² (2,094 acres)
- Kilbourn Road Ditch Subwatershed ≈ 24 mi² (15,360 acres)
- Des Plaines River Watershed in Wisconsin ≈ 125 mi² (80,000 acres)
- Des Plaines River Watershed in Lake County ≈ 200 mi² (128,000 acres)



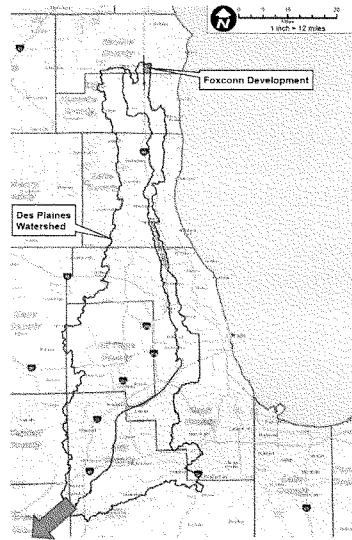
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DES PLAINES RIVER WATERSHED

- Watersheds and water flow do not conform to political boundaries
- Downstream Counties:
 - Lake County
 - Cook County
 - DuPage County
 - Will County
- Total Drainage Area at Confluence with Kankakee River = 2,111 mi² (1,351,000 acres)



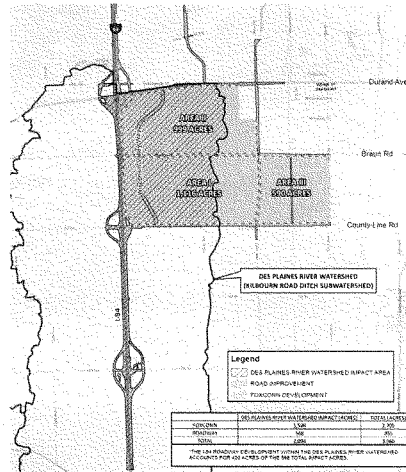
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EITM ZONE AND SUPPORTING DEVELOPMENT

- EITM Zone and Supporting Development within Des Plaines River Watershed = 2,094 acres (3.3 mi²)
 - EITM Zone Areas I and II (1,526 acres)
 - Local Roadway Improvements (148 acres)
 - Temporary WisDOT Jurisdiction
 - Right of Ways ≥ 200 ft wide
 - Expansion to 6 vehicle lane roadways
 - County Highway 11 (Durand)
 - Braun Road
 - County Highway KR (County Line Rd)
 - New Roadways – 4 vehicle lanes
 - Wisconsin Valley Way
 - I-94 Improvements (420 acres)
 - Addition of lanes
 - Frontage Road expansions
 - Bridge expansions
 - 6.7 linear miles of improvements



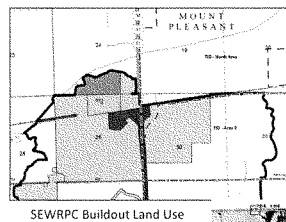
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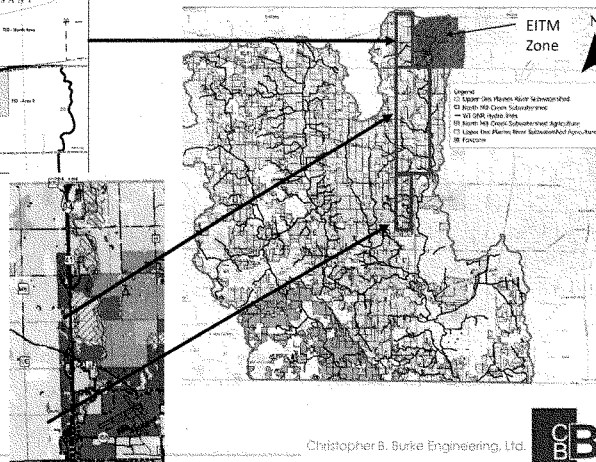
POTENTIAL DEVELOPMENT CORRIDOR

Des Plaines River Watershed = 57% agricultural (44,873 acres)
 Kilbourn Road Ditch Subwatershed = 63% agricultural (9,537 acres)



Total additional development potential within 1/4 mile of I-94 ≈ 5.5 mi² (3,520 acres)

Kenosha County 2035 Land Use Plan Map



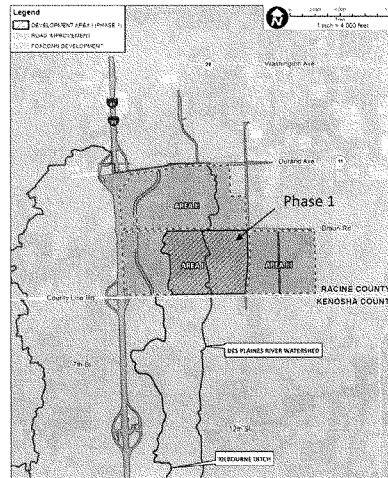
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REVIEW OF FOXCONN DEVELOPMENT MATERIAL

- Areas currently under construction
- Phase 1 within Area I
 - Size = 816 acres
 - Lake Michigan Watershed = 421 acres
 - Des Plaines Watershed = 395 acres
 - 2 Proposed detention basins
 - Avoids floodplain
 - 13.17 acres of wetland impact
- Local Roadway Improvements
 - Des Plaines River Watershed = 148 acres
 - Multiple detention basins
 - Kilbourn Road Ditch – 3 waterway crossings
 - 4.30 acres of wetland/waters impact
- I-94 Improvements
 - Des Plaines River Watershed = 420 acres
 - Multiple detention basins
 - 21.34 acres wetlands/waters impacts



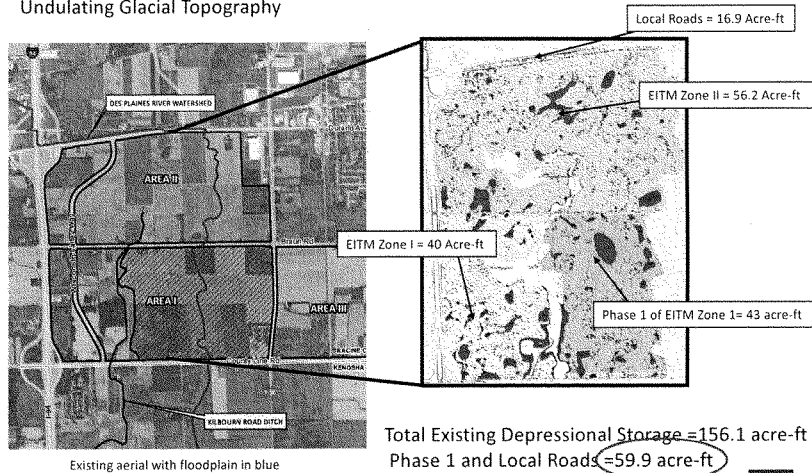
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9

EXISTING DEPRESSIONAL STORAGE AREAS

Undulating Glacial Topography



Existing aerial with floodplain in blue

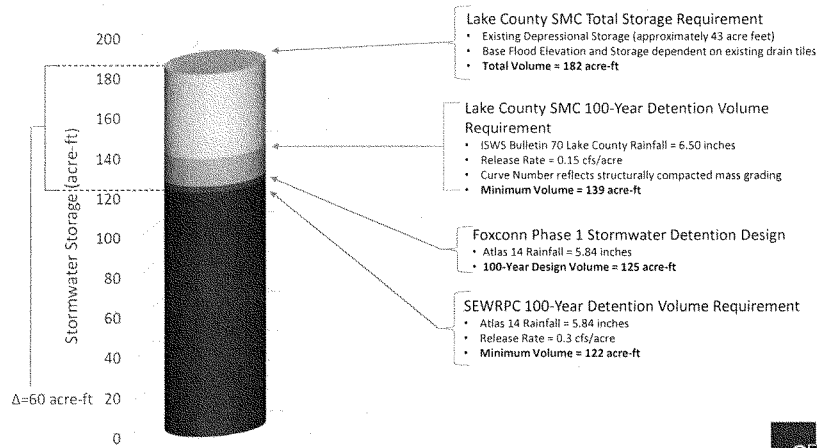
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STORMWATER DETENTION AND DEPRESSIONAL STORAGE ANALYSIS

Foxconn Phase 1 Area in Des Plaines Watershed (395 acres)



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STORMWATER DETENTION AND DEPRESSIONAL STORAGE ANALYSIS

Foxconn Phase 1 Area and Local Roads in Des Plaines River Watershed

Development Phase	Stormwater Detention Deficit ¹ (acre-ft)	Depressional Storage Deficit ² (acre-ft)	Total Stormwater Detention and Depressional Storage Deficit (acre-ft)
Foxconn Phase 1 (395 acres)	17	43	60
Local Roads (148 acres)	3.4	16.9	20.3
TOTAL	20.4	59.9	80.3

¹ Difference in Mount Pleasant/SEWRPC detention requirements and Lake County requirements

² Quantification and compensation for Depressional Storage not required in Wisconsin

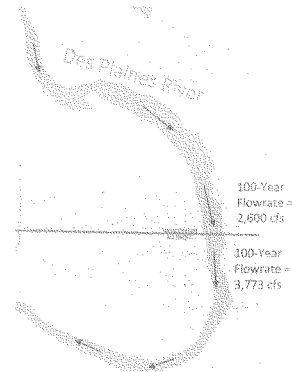
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REVIEW OF DES PLAINES RIVER FLOODPLAIN IN WISCONSIN

- FEMA published flood flows based on 2003 SEWRPC "Comprehensive Plan for the Des Plaines River Watershed"
- HSPF Hydrologic Model utilized Historical Rainfall data from 1940 – 1994
 - Largest rainfall event in series (August 1978) adjusted down
 - 3 of 5 largest 48-hour rainfall events occurred after 1994
 - Largest 10-day rainfall event in May 2004
- 5 largest measured floods at state line occurred after 1994
 - May 2004 = 3,500 cfs
 - July 2017 = 2,830 cfs
- Discrepancy in FEMA flood flows at State Line
 - Wisconsin 100-year flowrate = 2,600 cfs
 - Illinois 100-year flowrate = 3,773 cfs
- U.S. Geological Survey Published Statistical Flowrate = 4,290 cfs
- FEMA flood flows and flood elevations in Wisconsin are underestimated for Des Plaines River
 - Flood map in Wisconsin does not represent actual 100-year floodplain based on recent rainfall
 - Difficult to assess downstream impacts from development for large storm events
 - Floodplain fill from development will be underestimated
 - Flood risk for structures near floodplain in Wisconsin is underestimated



Graphical Representation of Des Plaines River at State Line

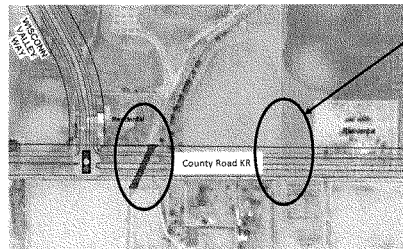
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FLOODPLAIN ENCROACHMENTS

- Chicago Collar Counties require compensatory storage for placement of fill in the floodplain
- In Wisconsin, compensatory storage is only required in a "Flood Storage District" – Des Plaines River is not a designated Flood Storage District
 - Floodplain mapping technical analysis meets requirement for Flood Storage District
 - 2003 SEWRPC Study completed prior to Flood Storage District designations
- Local Road Improvements require fill in Kilbourn Road Ditch Floodplain
 - New/Widened Culverts at Braun Road, County Highway KR, Wisconsin Valley Way
 - Total Floodplain Fill = 10.7 acre-ft without compensatory storage
 - Fill volume at the 100-year flood elevation is larger due to underestimated floodplain



Floodplain Fill at County Highway KR due to roadway widening

Exhibit of County KR Expansion with Kilbourn Road Ditch Floodplain shown in pink

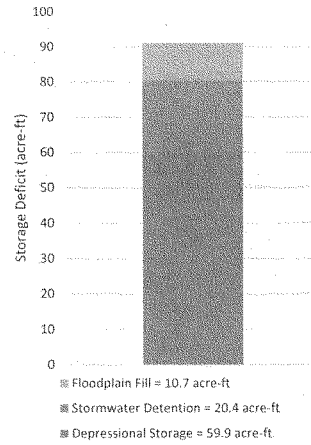
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TOTAL STORMWATER AND FLOODPLAIN STORAGE DEFECIT

- Deficit compares estimate of what would be required in Lake County, IL vs. Wisconsin requirements
- Summation of:
 - Stormwater detention deficit
 - Depressional storage deficit
 - Floodplain fill deficit
- Deficit = 91 acre-ft for 543 acres of Foxconn Phase 1 and Local Road Development
- Equates to 54,600 gallon deficit for every acre of land developed

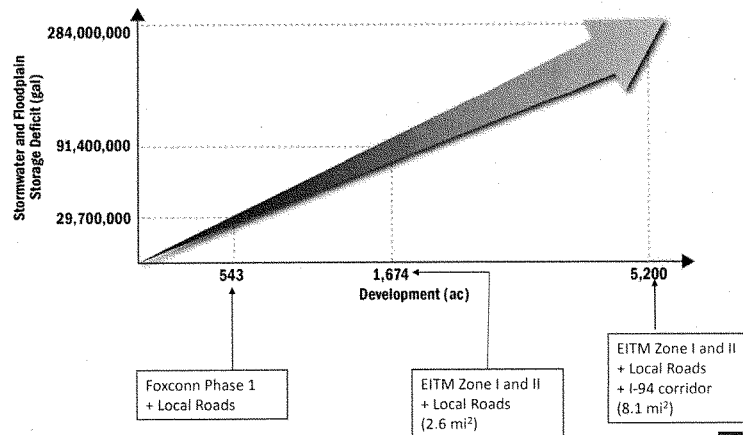


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PROJECTING THE DEFICIT FORWARD



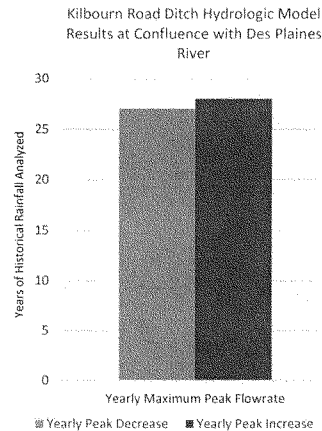
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2017 SEWRPC EVALUATION OF EITM ZONE DEVELOPMENT

- 2018 SEWRPC Study evaluated EITM Zone effect on Kilbourn Road Ditch flood flows
 - Utilized HSPF Hydrologic Model from 2003 Watershed Study
 - Analyzed impacts to Kilbourn Road Ditch from development using 1940-1994 historic rainfall
 - Peak flowrate for each of 55 years statistically analyzed 2-year and 100-year return interval flood flows in headwaters of Kilbourn Road Ditch
 - CBBEL review of SEWRPC Analysis:
 - No large storm events analyzed
 - Volume of floodwater increases from development
 - Model output at downstream reach shows that yearly maximum peak flowrate would have increased in 28 of the 55 years analyzed (>50%)

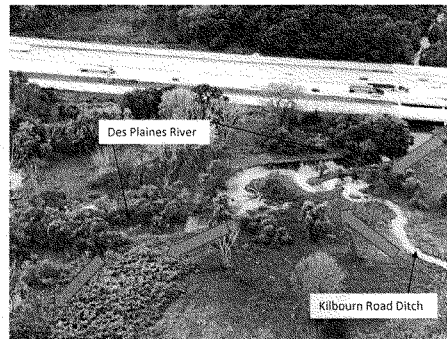


SOIL EROSION AND SEDIMENT CONTROL

According to the Illinois Environmental Protection Agency (IEPA), the Des Plaines River in Illinois south of the state line is impaired for "Sedimentation/Siltation, Total Suspended Solids (TSS)" with a potential source listed as "Site Clearance (Land Development or Redevelopment)"



Foxconn Phase 1 Construction Site - September 6, 2018



Confluence of Kilbourn Road Ditch and Des Plaines River - September 6, 2018

SOIL EROSION AND SEDIMENT CONTROL

- Challenges
 - Large land area under construction
 - Linear roadways with waterway crossings
- Deficiencies
 - Site stabilization
 - Construction sequencing
 - Sediment basins
- WDNR Citation Issued September 14, 2018
 - Failure "to implement or maintain erosion control ...during the period of permit coverage"

Natural Resources Citation

State of Wisconsin

Department of Natural Resources

Citation No. **0460C713PN**

Project Name: **Des Plaines River Watershed**

Location: **Des Plaines River Watershed**

County: **Des Plaines**

City/Town/Village: **Des Plaines**

Section: **13**

Subsection: **13**

Section 104.01(1) - **DES PLAINES RIVER WATERSHED**

Section 104.01(2) - **DES PLAINES RIVER WATERSHED**

Section 104.01(3) - **DES PLAINES RIVER WATERSHED**

Section 104.01(4) - **DES PLAINES RIVER WATERSHED**

Section 104.01(5) - **DES PLAINES RIVER WATERSHED**

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Section 104.01(41) - **DES PLAINES RIVER WATERSHED**

Section 104.01(42) - **DES PLAINES RIVER WATERSHED**

Section 104.01(43) - **DES PLAINES RIVER WATERSHED**

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SUMMARY OF WETLAND IMPACTS AND MITIGATION

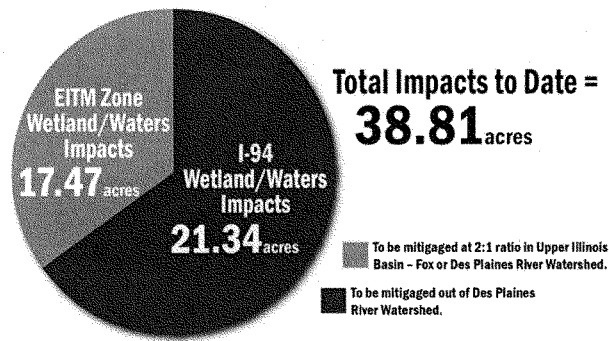
- Foxconn - Phase 1 and Local Roads Isolated Wetland impacts
 - 17.47 acres of impact within the Des Plaines River Watershed**
 - Phase 1 = 13.17 acres of impacts
 - Local Roads = 4.30 acres of impacts
- All wetlands within EITM site to be compensated via "fee in lieu" credit purchase at a 2:1 replacement ratio
 - Phase 1 wetland mitigation in Des Plaines River Watershed
 - 13.17 acres x 2 = **26.34 acres** of mitigation purchased at a cost of **\$61,000** per credit. Total cost approximately **\$1,606,740**
 - Local Road wetland mitigation in Des Plaines River Watershed
 - Mitigation to be provided at 2:1 ratio
 - Mitigation sites are not yet determined
 - Two RFPs have been issued to create mitigation site(s)
 - Mitigation must be within state of Wisconsin per statute
 - No suitable sites submitted to date
- Phase 1 Mitigation cost following WDO standard fee amount
 - If purchased via LC standard, the total cost equals **\$2,631,366**
 - Difference of \$1,024,626**
 - Concern noted to WDNR: rising land value in DP Corridor may hinder mitigation locally.
- I-94 Wetland/Waters Impacts (WisDOT)
 - 21.336 acres of impact (USACE and Isolated)
 - 21.575 acres of mitigation provided in WisDOT wetland mitigation banks (**all being mitigated out of Des Plaines River Watershed**)

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WETLAND IMPACT OVERVIEW



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RECOMMENDATIONS

1. Complete comprehensive hydrologic and hydraulic re-study of Des Plaines River Watershed that spans the Illinois-Wisconsin border.
 - a) The study should be completed with the most current data and state-of-the-art modeling software and calibrated to recent large storm events.
 - b) This process should be led by each state's FEMA Cooperating Technical Partner (CTP) with extensive stakeholder involvement – Illinois State Water Survey and Wisconsin Department of Natural Resources.
2. The Des Plaines River should immediately be made a Flood Storage District in Wisconsin.
 - a) Hydraulically equivalent compensatory storage should be required for fill in the floodplain.
 - b) The compensatory storage requirement should apply to all projects where floodplain fill occurs, including all roadway projects (local and WisDOT).
3. The existing depressional storage on each site should be quantified and compensated for as part of the site development stormwater management plan.

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RECOMMENDATIONS

4. Future development within the Des Plaines River Watershed should be required to provide stormwater detention to meet a 0.15 cfs/acre release rate to be consistent with Lake County regulations.
5. Mitigation for fill of wetlands and Waters of the U.S. in the Des Plaines River Watershed should be provided within the Watershed.
 - a) No net loss of wetland/waters in the Des Plaines River Watershed.
 - b) Includes WisDOT projects and the WWCT ILF mitigation for impacts in the EITM Zone.
 - c) The cost per credit for ILF mitigation should be re-evaluated to ensure that the fee is appropriate to fund land cost, maintenance, monitoring and long-term stewardship.
6. To prevent further water quality degradation of the Des Plaines River from construction activities:
 - a) Require comprehensive soil erosion and sediment controls on all construction sites
 - b) Implement rigorous enforcement inspections to verify compliance
 - c) Issue violations and utilize available legal and financial tools as necessary to achieve compliance
 - d) These controls should apply to all public and private developments as well as linear projects such as roadways



LAKE COUNTY STORMWATER MANAGEMENT
COMMISSION UPPER DES PLAINES RIVER WATERSHED
IMPACT STUDY Report, Executive Summary and
PowerPoint can be viewed and downloaded at:

[https://www.lakecountyil.gov/553/Stormwater-
Management-Commission](https://www.lakecountyil.gov/553/Stormwater-Management-Commission)

PUBLIC COMMENT PERIOD IS OPEN UNTIL APRIL 8TH,
2019. PLEASE SEND YOUR COMMENTS TO:
stormwater@lakecountyil.gov



APPENDIX C



2 HYDROLOGIC AND HYDRAULIC MODELING UPDATE

2.1 SEWRPC FLOODPLAIN MAPPING PROJECT SUMMARY

Updated hydrologic and hydraulic modeling for the Kinnickinnic River watershed was completed as part of a floodplain mapping project being conducted by the SEWRPC for the Milwaukee County Automated Mapping and Land Information System (MCAMLIS) steering committee and the MMSD. SEWRPC made updates and refinements to the hydrologic and hydraulic models reflecting many physical changes in the watershed that occurred between 2008 and 2013.

In 2013, SEWRPC submitted the hydrologic analysis to the WDNR for review and approval. WDNR responded in January 2014 and requested that additional work be completed to extend the historical simulation period to include major flooding events that occurred in 2008, 2009 and 2010. When the historical record was extended to 2012 to include these additional events were included, the 1986 storm event, the largest on record, is no longer considered an outlier. The above changes resulted in a significant increase in flood flow estimates from earlier studies. For the 1% flood event, increases typically ranged from 20 to 50 percent. The majority of this increase was attributed to extending the simulation period to include recent large events, with a smaller amount attributable to eliminating the historical adjustment for the 1986 event. Some additional changes in peak flow (both increases and decreases were attributable to the changes made to the HEC-RAS model and updates made to hydrologic routing tables (F-tables).

The overall impact of the updated floodplain mapping project was a significant increase in the computed peak flows for the one-percent event. The higher flows result in higher flood profiles and an increase in the computed flood risk in the watershed. These results led to this project, which is intended to update previous work to address this increased flood risk in addition to the other objectives stated for this project. **Table 2-1** presents a comparison of the one-percent event flows between the 2005 Watercourse Phase 2 study and this Watercourse Plan Update.

2.2 HYDROLOGIC AND HYDRAULIC MODEL – 2016 FLOOD RISK CONDITIONS

This Watercourse System Management Plan Update uses the SEWRPC models that were updated for the MCAMLIS floodplain mapping project to define the 2016 estimated flood risk in the watershed. It should be understood that throughout this report, the term “2016 flood risk” refers to the existing channel hydraulics combined with hydrologic conditions generated from the 2020 land use dataset. The updated peak flow rates, flood profiles and floodplain mapping for the 2016 flood risk conditions were used to identify flood risk areas and to compute the estimated potential flood damage to structures.

The entire Kinnickinnic River watershed was represented with one U.S. Environmental Protection Agency Hydrologic Simulation Program – Fortran (HSPF) model. The model was used to compute continuous stream discharge over a 73-year period at various points within the watershed. The input files were based on year 2020

TABLE 2-1 COMPARISON OF FUTURE (2020) LAND USE CONDITIONS FLOW RESULTS FOR 1% ANNUAL PROBABILITY FLOOD EVENT

SUBWATERSHED	LOCATION	RIVER MILE	2005 PHASE 2 WMP (CFS)	2016 WMP UPD (BASED ON SEWRPC 2014 FLOWS) (CFS)	PERCENT DIFFERENCE (%)
Lyons Creek Park	West Forest Home Avenue	1.31	675	903	34%
	West Oklahoma Avenue	0.687	1,010	1,310	30%
	West Cleveland Avenue	0.08	1,400	1,730	24%
Wilson Creek Park	Drop Structure	5.25	862	1,010	17%
	South Howell Avenue	3.65	1,700	2,110	24%
	CP Line Railroad	2.56	2,850	3,930	38%
	Villa Mann Creek	1.79	3,150	4,420	40%
	Howard Avenue	1.27	3,150	4,550	44%
	West Morgan Ave	0.8375	3,190	4,550	43%
	West Lakefield Drive	0.4825	4,100	5,610	37%
	West Electric Avenue	0.9485	309	N/A	N/A
	UPRR Railroad	0.091	1,060	N/A	N/A
43rd Street Ditch	Colony Drive	0.6425	241	303	26%
	South 27th Street Tunnel	0.256	488	645	32%
43rd Street Ditch	West Bolivar Avenue	0.3975	961	1,460	52%
Villa Mann Creek Tributary	South 60th Street Outfall	8.01	1,100	2,050	86%
	South 43rd Street	6.489	1,910	2,730	43%
Villa Mann Creek	West Forest Home Avenue	5.71	2,050	3,110	52%
Kinnickinnic River Mainstem	South 35th Street	5.44	2,570	3,730	45%
	Wilson Park Creek	5.126	6,350	8,940	41%
	South 27th Street	4.865	6,350	8,940	41%
	South 16th Street	3.555	6,650	8,940	34%
	South 6th Street	2.792	6,650	9,030	36%
	Interstate Highway 94	2.56	7,320	10,775	47%
	South 16th Street	3.46	6,650	9,030	36%
	South 6th Street	2.792	7,320	9,030	23%
	Interstate Highway 94	2.56	7,320	10,775	47%

APPENDIX D

Flood Storage Area Frequently Asked Questions

Wisconsin Department of Natural Resources Floodplain Program

Q. Why is this flood storage area information relevant?

In the process of developing new engineering studies for new floodplain maps and Flood Insurance Studies (FIS), the flood storage capacity was considered for some waterways in your community where detailed terrain data and significant flood storage exists.

Q. What is a flood storage area?

A **flood storage area** is part of the mapped floodplain that identifies the natural flood storage capacity of that area in a watershed. A computer model was used to calculate the amount of runoff expected to a mapped waterway within a watershed. The resulting volume of water is the basis for determining how much of the regional flood discharge the flood storage area is capable of holding back. This information is depicted on the FEMA floodplain map as the extent of the flood fringe areas. The Department of Natural Resources will provide additional maps showing where flood storage was considered within those flood fringe areas.

Q. What are the benefits of protecting flood storage areas?

By infiltrating runoff water and acting as holding basins, flood storage areas can reduce the amount and duration of flooding in the floodplain immediately downstream. Wetlands are a good example of natural flood storage areas. If a wetland is filled, it can no longer provide this natural function and an increase in flooding can be observed farther down in the watershed. Envision dropping a rock into a full glass of water; the water spills out into surrounding areas that would otherwise be dry. By including flood storage areas in the FIS, flood flows and floodplain elevations in lower reaches are reduced.

Q. How is the location of a flood storage area determined and documented?

Engineers experienced in preparing floodplain maps and flood insurance studies evaluate areas within the floodplain that could potentially provide a significant amount of flood water storage. Data are collected from these areas and entered into the computer model calculations that are used to prepare flood maps. By mapping and protecting the storage areas, the volume of flood waters can be reduced, thereby lowering flood elevations in the floodplain. For current updates of the flood insurance studies, flood storage areas are located where significant storage is provided by wetland areas mapped by the Wisconsin Wetland Inventory, permanent impoundments (lakes or reservoirs) or immediately adjacent areas.

Q. How would a municipality know if they have flood storage areas and, therefore, need to create a Flood Storage District in their zoning ordinance?

Before producing new floodplain maps, DNR will determine whether to include flood storage in the study. They will notify all municipalities that have flood storage areas and then provide separate Flood Storage District (FSD) maps that **must** be adopted into the floodplain zoning ordinance. The DNR provides a model floodplain ordinance on its website that includes language for the creation of Flood Storage Districts. This is located at: <http://dnr.wi.gov/topic/floodplains/communities.html>. Communities can choose to adopt the entire model ordinance or they can simply amend their existing ordinance to adopt the new Flood Storage District maps and language.

Q.: What is shown on the Flood Storage Maps?

The Flood Storage Maps show the flood storage areas and the floodway. Only the floodfringe is used to calculate the flood storage areas. Therefore, the flood storage areas do not extend beyond the floodfringe as shown on the Flood Insurance Rate Map.

Q: What can a community do with a Flood Storage District?

A FSD enables protection of these important storage areas from displacement by development. Developers with a proposal for work in a FSD must prove that the development will not increase the flood elevation level. Additionally, they must adhere to certain building standards that are specified in the community's ordinance.

Q: Do local governments have authority to require proof that a proposed development will not cause a flood elevation increase?

Yes. Local governments have statutory authority to protect floodplains. Wisconsin Administrative Code NR116, Wisconsin's Floodplain Management Program, sets minimum standards for development in mapped floodplains. These standards are adopted and administered through the local floodplain zoning ordinance.

Q: What should a municipality require of a developer whose proposal would result in flood storage loss?

The standards to be applied are contained in section 5.2 of the "Model Floodplain Ordinance with FP Storage Language Added, January 2012 DNR" <http://dnr.wi.gov/topic/floodplains/communities.html>.

Q: Does all proposed filling in the floodfringe require an engineering analysis to evaluate the impact on the regional flood elevation?

No. Only in areas designated as Flood Storage Districts in an adopted floodplain ordinance.

Q: What options are there for repairing or restoring existing homes that are newly identified in a FSD when they have been flooded previously?

Existing homes or other structures in a Flood Storage District retain all development rights and restrictions as existed before the adoption of the flood storage maps. If an addition to the existing structure or other development is proposed for the site, the equal cut and fill conditions must be followed.

Q: Under what circumstances is new development permitted in a FSD?

Proposed new development or additions in a FSD must meet the equal cut and fill condition. This ensures that any fill on the site which reduces flood storage capacity, is replaced on the site by an equal amount of new flood storage. Any change to the land **shall not** reduce the net volume of floodwater that can be stored. Excavation below the groundwater table is not considered to provide an equal volume of storage.

Q: How much time does a community have to adopt the FSD maps?

Communities can expect to receive a FSD notification letter shortly after receiving the Letter of Final Determination (6 months before FIRM adoption). It serves the community best to adopt the storage maps at the same time as the FIRMs since there is new language that needs to be added to the ordinance. Officially, communities have one year from the date of the FSD notification letter to adopt the storage maps but waiting will require the local floodplain ordinance to be amended twice.

APPENDIX E

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US Army Corps of Engineers St. Paul District

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Each year, the public in Minnesota and Wisconsin undertake projects that affect the nation's aquatic resources. Often these projects require a Clean Water Act or Rivers and Harbors Act permit from the U.S. Army Corps of Engineers before work can proceed. The Corps reviews these projects to ensure environmental impacts to aquatic resources are avoided or minimized as much as possible. Consistent with the administration's goal of "no net loss of aquatic resources" a Corps permit may require a property owner to replace the loss of existing aquatic resource functions from a project through compensatory mitigation.

What Is Compensatory Mitigation?

Hover over highlighted text for the definition

Compensatory mitigation is the restoration (re-establishment or rehabilitation), establishment (creation), enhancement, and/or in certain circumstances preservation of aquatic resources for the purpose of offsetting impacts which remain after all appropriate and practicable avoidance and minimization has been achieved. Compensatory mitigation may come from three sources: mitigation banks, in-lieu fee programs, and permittee responsible mitigation. Refer to the chart below for more information regarding these sources. In general, mitigation should be located within the same watershed as the impact site and should be located where it is most likely to successfully replace lost functions and services. The Corps considers the type and location options for mitigation in the following order although flexibility in approach can be exercised on a project-specific basis: mitigation bank credits, in-lieu fee program credits, permittee responsible mitigation under a watershed approach, permittee responsible mitigation through on-site and in-kind mitigation, and permittee responsible mitigation through off-site and/or out-of-kind mitigation.

Sources of Compensatory Mitigation	
Mitigation Bank	One or more sites where aquatic resources such as wetlands or streams are restored, established, enhanced and / or preserved for the purpose of providing compensatory mitigation in advance of authorized impacts to similar resources.
In-lieu Fee Program	A program that involves the compensatory mitigation of aquatic and related terrestrial resources through funds paid to a government or non-governmental natural resource management organization.
Permittee-responsible Mitigation	Individual projects constructed by permittees to provide compensatory mitigation for activities authorized by Corps of Engineers' permits.

Mitigation Bank Notices

[2006-02759-MVM](#) [\(Lincoln County, MN\)](#) [Madsen Wetland](#) [Mitigation Bank](#)

PUBLIC NOTICE: The sponsor is proposing to develop the Madsen Wetland Bank. The proposed bank site is approximately 76 acres in size, including upland buffer areas. The bank is for the Minnesota Local Government Road Wetland Replacement Program (LRWRP).
 Published: 7/3/2019

[2019-00344-SRK](#) [\(Douglas County,](#) [MN\) Robert Johnson](#) [Wetland Mitigation](#) [Bank](#)

PUBLIC NOTICE: The sponsor is proposing to develop the Robert Johnson Wetland Bank. The proposed bank site is approximately 21.3 acres in size, including upland buffer areas.
 Published: 6/27/2019

[2017-04161-DAS](#) [\(Blue Earth County,](#) [MN\) Church Farm](#) [Wetland Mitigation](#) [Bank](#)

PUBLIC NOTICE: The sponsor is proposing to develop the Church Farm Wetland Mitigation Bank. The proposed bank site is approximately 122 acres in size, including upland buffer areas.

Map to main content (Press Enter).

Search St. Paul Distr



Contact Information

- [Minnesota](#)
- [Wisconsin](#)
- [District Headquarters](#)

Related Links

[BBITS](#) (Regulatory In-lieu Fee and Bank Information Tracking System) link

[Federal Mitigation Rule](#)

2019 Wetland Banker Training

[Credit Allocation and Numbers](#) (PDF)

[Prospectus](#) (PDF)

[Wetland Banking Overview](#) (PDF)

[Performance Standards and Credit Release Schedules](#) (PDF)

[Moving from Prospectus to Mitigation Plan](#) (PDF)

Information for Permit Applicants by State

- [Minnesota](#)
- [Wisconsin](#)

Information for Bank Sponsors by State

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- [Wisconsin](#)

**TESTIMONY OF HOWARD A. LEARNER
EXECUTIVE DIRECTOR, ENVIRONMENTAL LAW & POLICY CENTER**

**U.S. HOUSE OF REPRESENTATIVES, COMMITTEE ON SMALL BUSINESS
HEARING ON “FLOODED OUT: VANISHING ENVIRONMENTAL REVIEWS
AND THE SBA’S DISASTER LOAN PROGRAM”**

JULY 19, 2019 – WHEELING, ILLINOIS

I am Howard Learner, an experienced attorney and the Executive Director of the Environmental Law & Policy Center. I am also an (adjunct) Professor teaching advanced seminars on environmental and energy law and policy issues at the University of Michigan Law School and Northwestern University Law School. I appreciate the Committee on Small Business’ invitation to testify at the hearing today on the topic of “Vanishing Environmental Reviews” with respect to potential flooding problems exacerbated by the proposed Foxconn development in Wisconsin and the related impacts on the Small Business Administration’s Disaster Loan Program.

Thank you, Chairwoman Velázquez and Ranking Member Chabot, for holding today’s field hearing on this important topic, and thank you Rep. Schneider for your engagement and thoughtful attentiveness to this problem and potential solutions.

The Environmental Law & Policy Center (ELPC) is the Midwest’s leading environmental legal advocacy and eco-business innovation organization, and among the nation’s leaders. ELPC’s headquarters is in Chicago, we have offices and staff and work on environmental issues in seven Midwest states, including in Madison, Wisconsin, as well as Washington D.C. Like many, ELPC was very concerned when, under the Governor Walker administration, the State of Wisconsin rolled back necessary environmental protections and undercut essential environmental reviews to entice a single private development by Foxconn in southeast Wisconsin. Thus far, Foxconn doesn’t appear to even be living up to its own job creation pledges and public commitments. Wisconsin and local governments apparently could provide up to \$4 billion in tax breaks and public funds for this corporate venture. The cost to taxpayers and the environmental threats of this project are troubling.

The harmful impacts of the Foxconn development and the effects of vanishing environmental reviews are not limited to Wisconsin. Air pollution crosses many state lines, and the impacts on water also affect Illinois and other Great Lakes states as well. The Foxconn project could potentially increase flooding in the Des Plaines River watershed in Illinois. Foxconn’s need for water has already led to a request to withdraw some of that water outside of the Great Lakes basin.

The purpose of environmental reviews, whether it is the National Environmental Policy Act (NEPA) or the Wisconsin Environmental Policy Act (WEPA), is for policymakers and the public to: (1) more carefully consider adverse environmental impacts, including air, water and toxics issues, before the project is approved to go forward; (2) rigorously explore and objectively evaluate all reasonable alternatives, including a no-action alternative; (3) fully and fairly consider cumulative environmental impacts of multiple project; and (4) engage meaningful public participation in the process, among other factors. Wisconsin’s weakening of its environmental

protection laws and environmental review laws and processes are unfortunate for Wisconsin residents and its environment, and, also, for Illinois and other states' residents.

The harmful impacts play out especially significantly when it comes to the Foxconn development project's potential harmful impacts on water and flooding issues in Lake County, Illinois. That, in turn, implicates the Small Business Administration's (SBA) Disaster Loan Program.

Representative Brad Schneider recently commented: "When corners are cut on environmental reviews, our local communities pay the price..." I agree. Under Wisconsin Governor Walker's administration, in 2017, Wisconsin policymakers cut corners when they eliminated or weakened meaningful environmental rules in many ways for the Foxconn project. I'll highlight three specific problems:

1. Wisconsin's legislation exempted this Foxconn project from the Wisconsin Environmental Policy Act's requirement that an Environmental Impact Statement be prepared for major projects and actions that might have a significant environmental impact. Foxconn clearly is and was such a project. It certainly will have significant environmental impacts.
2. Wisconsin's legislation similarly exempted this Foxconn project from state regulatory requirements restricting the filling of wetlands and waterways. In effect, Foxconn can fill in wetlands without a permit. Wetlands act as natural sponges, which prevent flooding while also providing valuable wildlife habitat. The wetlands in the Foxconn area were determined to be outside of federal jurisdiction, so they are also unprotected under federal law.
3. In 2018, the United States Environmental Protection Agency weakened air quality protections in Racine County in a highly-criticized decision that is now on appeal to the United States Court of Appeals for the D.C. Circuit and has been the focus of newspaper articles about undue political influences overriding the EPA staff's technical and policy reviews under standard Clean Air Act criteria. Due to that rule change, Foxconn would be allowed to escape important pollution reduction requirements. This, too, has an adverse impact on Illinois and Wisconsin residents, especially children, seniors and people with breathing problems who are harmed by degraded air quality.

The Wisconsin Environmental Policy Act requires an Environmental Impact Statement for large developments as part of a state process that allows the public to comment on plans. For Foxconn, that state Environmental Impact Statement was avoided, and there was no process to allow the public to comment on this private company's development plans. The consequences are not confined to Wisconsin's state boundaries when it comes to air pollution and water impacts.

Foxconn was exempted from state laws that require a permitting process for wetlands disturbances. Foxconn instead pays into a wetlands fund; however, according to the Chris Burke Engineering report commissioned by Lake County, the replacement wetlands are largely outside the Des Plaines River Watershed. When wetlands are filled in, the absorption capacity of the area is decreased causing water to flow to areas that might otherwise have stayed dry. This is basic geographic and hydrological reasoning and it explains why homeowners and businesses in Lake County communities are concerned about Foxconn's freedom to do as it pleases - without

oversight, without environmental analysis and without the benefit of public review. While the best choice is to not disturb wetlands, if the state allows the project to fill wetlands, those wetlands should be replaced in the affected area – here, the Des Plaines River Watershed – in order to properly mitigate the harmful impacts of Foxconn’s development.

The Des Plaines River Watershed in Illinois thus faces a greater chance of flooding. This likelihood is exacerbated by climate change. In March 2019, ELP’s policy staff and a team of 18 leading scientists and experts from Midwest universities and institutions issued the state-of-the-science report assessing the impacts of climate change on the Great Lakes region.

This sound science report explains that a warmer atmosphere due to global climate change is increasing the frequency and intensity of heavy rain and snow events. This increased precipitation will likely lead to more flooding across the Great Lakes region. In areas with abundant concrete and other impermeable surfaces, this will likely damage homes, businesses, roadways, and other infrastructure. When this flooding occurs, more people will look to federal programs like the Small Business Administration’s Disaster Loan Program.

In addition to the Foxconn project’s unfettered ability to fill in wetlands, the Foxconn development also uses an extreme amount of water and that, too, results in harmful environmental impacts. The City of Racine requested approval to divert 7 million gallons of Lake Michigan water each day to the Foxconn site.

There will also be little environmental oversight regarding the air pollution effects of the Foxconn development. In 2018, the U.S. Environmental Protection Agency decided that Racine County, Wisconsin, where Foxconn will locate, is somehow now not an ozone non-attainment area. That will likely result in more pollutants causing smog and other harm. The decision was made despite an EPA staff analysis of Wisconsin’s ozone levels that found the county’s air exceeded federal ozone limits. The Trump Administration’s decision to designate Racine County as an attainment area combined with the extensive development and pollution from Foxconn threaten air quality both in Wisconsin and, also, in Lake County, Illinois.

The Foxconn experience underscores several critical points:

First, environmental impact statements and proper review serve essential purposes and should not be casually tossed aside simply because a private company and political official extol the promise of jobs and investment. As we now know with Foxconn, the job promises and investments don’t really match the rhetoric. Moreover, at the Environmental Law & Policy Center, we deeply believe that job creation, economic growth and environmental protections can be achieved together, and that win-win-win success has been demonstrated to work time-and-again here in the Midwest.

Second, choosing to exempt development projects from important regulations and oversight has consequences. Other people and jurisdictions can be harmed and recourse is difficult. That’s the Foxconn situation here as it creates threats to flooding in Illinois.

Third, our environment is fragile. Changing air quality and clean water protections can affect the health and safety of thousands of people downwind and downstream. In the present Foxconn case,

potentially thousands of downstream homes and businesses could be flooded. That, in turn, impairs the already stretched SBA disaster loan program.

Thank you for convening this field hearing and for your consideration of my and other witnesses' testimony today. I would be pleased to address any questions or suggestions that you may have.

Pizzeria DeVille, LLC

404 N Milwaukee Ave.
Libertyville, IL 60048

John P. Durning
Managing Member

TEL: 224-430-1465
pizzadeville@gmail.com

July 17, 2019

Via E-mail

Congress of The United States
U.S. House of Representatives
Committee on Small Business
2361 Rayburn House Office Building
Washington, DC 20515-6315

Dear Committee Members:

On the night of July 11 and into July 12, 2017, The Lake County/Libertyville, Illinois received approximately seven inches of rainfall causing widespread flooding in the area. The cause of the flooding from our research and understanding initially was that it was the result of freak storm and a local municipal water/sewer system that was antiquated and unable to handle the deluge. Water entered through the sewer line and up through the basement bathroom drains. Through follow-up meetings and discussions, the water/sewer system was only part of the issue and apparently some of the issue is that the system has not kept up with the ever-expanding development of lot-filling McMansions and other heavy development along the Des Plaines River. While I am no expert on why it flooded, I can share its impact on me and my business.

When the flood occurred, my family pizzeria was nearing its third anniversary. To that point I had not never experienced any real flooding in my business. We had a mop sink back up a couple of times but that was because of debris in the drain.

What we experienced on July 12, 2017 was 4-6 inches of blackwater (tainted with human waste and grease from our grease trap) floating around my basement kitchen, party room and into all floor / near floor equipment and products.

I have submitted a video of what I walked into that morning and I was literally heartbroken. I knew we would be shut down, at least in our basement and prep area, for a few days but didn't fully comprehend what a hassle this was going to be.

We acted fast and were able to engage a flood remediation company at a great price to get going on our flood mitigation. Our insurance company, Society Insurance was also quick to respond. While we were able to get the place mostly cleaned up in two days, my party room was shut down because we needed to remove and replace doors and drywall, among other things, and ensure the space was ready for food prep.

preparation. Everyone pitched in to get this done in a timely fashion and we were able to reopen for limited service on my main floor in a few days.

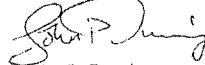
Then on 8/28/18, it happened again, albeit less water. We still needed to bring in another flood remediation company and pay another insurance deductible. As a small business, with sales of about \$1,100,000 annually at the time, we live and operate paycheck to paycheck. Having to absorb loss of business, pay two insurance deductibles and have to do so without sixty seats of our party room and prep kitchen left me feeling helpless. When it happened again six weeks, you can imagine my thoughts. Obviously, my insurance premiums went up as well. Staff retention was a challenge as we had to scale back for a bit and nothing was quite right operationally for a few weeks as our mixer was down and we had to make our pizza dough two doors down at a neighboring restaurant. You can imagine how difficult my monthly loan payments to the SBA became during this period, though we never missed and were never late with our payment.

However, the lasting effect of this also debilitating as there has not been a major rainstorm since that I have not sat awake and or driven directly to the restaurant to see if its happening again. We've seen a few more minor incidences and have come to learn that much of this is caused by an age and capacity issue with our municipal sewer system. Moreover, some of the capacity issues relate directly to new development in the area.

Our local municipality has been quick to act and address this issues as best they can, but this does little to ease my mind every time I see big storms on the radar. Many in our community were hit harder than my business and my heart goes out to them. In fact, we subsequently did a fundraising effort for a family that lives near the Des Plaines River in Vernon Hills/Metawana whose home was inundated by the floods.

Since that time, new development seems to be moving ahead full steam both up and down the river and around Libertyville and its surrounding towns. Having worked in residential and commercial real estate development in the past and now owning my own small business, I understand the many sides to this complex issue. With that said, I think for the good of all involved, including local businesses, home owners and renters currently in place and those who would hope to live in new developments, it is imperative that local, state and federal officials figure out how to mitigate the larger issues of wetland protection, over-development and sprawl so that those of us who are left to live, work and and raise our families in the area can do so with confidence that the homes and businesses we have invested our life savings into are able to operate and thrive without the threat of catastrophic flooding that nearly eliminated my favorite place, Pizzeria DeVille.

Sincerely,



John P. Durning
Managing Member
Pizzeria DeVille, LLC
(224) 430-1465
pizzadeville@gmail.com

Society Insurance Reimbursement #2 for Municipal Sewer Failure of 7/12/17.

Roto Rooter Mitigation Services		2,500.00	
Roto Rooter Mitigation Services		500.00	
Artisan Pizza Solutions		6,170.70	New Mixer
Rental for moving mixer		22.00	Rental MAX
Doors Replaced/Installed*		3,350.00	does not include painting/job is midway done
Divinchi Painters/DryWall*		1,827.00	Initial Bid/Pre-Painting
Misc Supplies as reported earlier:			
Thermal Paper 3"	0.7	23.80	Sysco Supplies
Thermal Paper 3 1/8"	0.7	23.80	Greco Supplies
Thermal Paper 2.25"	1	17.95	Greco Supplies
14" Pizza Boxes	3	59.97	Greco Supplies
Flour OO	1	21.95	Greco
Flour Sir Galahad	1	16.99	Greco
Furnace Filters (costco)	4	30.00	Costco
Office Paper	3	12.00	Costco
Wooden Pizza Boards** (Catering)	12	234.60	Webstaurant/American Metalcraft/bds were in closet
Wooden Pizza Peels**	8	111.92	Webstaurant/American Metalcraft/bds were in closet
Burrmixer**	1	596.00	webstaurant quote / excludes shipping
Kitchen 6 QT Aid Mixer**	1	329.99	Costco
Brother MFC 7360N Toner Cartridge	1	13.00	Online quote
ARTWORK***Logo Canvas	1	500.00	quote to have this replaced. Item was stored in basement and bottom few inches were soiled with sewer water
Total for this Reimbursement:		16,361.67	

* Work in progress

** Items have not been replaced yet - awaiting society insurance approval per the following:

Robot Coupe was water- damaged and now makes a different-high pitched noise when using it. Used sparingly now.
Kitchen Aid Mixed was also exposed to water and does not turn on automatically when turned on, requiring jockeying of on/off position to get it to run.
Boards and Peels were discarded and we are working on a dwindling supply of these until we have approval.

Income data is coming this week.

DiVinci Painters	TBD
Door Replacement	TBD

Municipal Sewer Failure 2

Pro-Tech Water mitigation \$4,641.00

No lost revenue. Doors had not been installed yet and drywall did not need to be replaced per Divinci Painting/Drywall.

#(B)ottles/(C)ases	Item	Cost
Liquor		
11 B	Deep Eddy Flavored Vodka	\$233.31
7 B	Absolut Vodka	\$223.72
3 B	Pinnacle Vodka	\$44.85
4 B	Jameson Irish Whiskey	\$141.84
1 B	Casamigos Tequila Blanco	\$51.87
1 B	Templeton Rye Whiskey	\$35.02
2 B	Grand Marnier	\$80.58
1 B	Malibu Coconut Rum	\$20.38
	Subtotal	\$831.57
Wine		
1 C	Cusamano Merlot	\$141.50
1 C	Jason Stephens Cabernet	\$186.00
2 C	Pertinace Nebiolo	\$344.00
1 C	Rocco Del Macie Chianti	\$194.50
1 C	Chatueu Reisling	\$110.50
1 C	Stemmari Pinot Noir	\$108.50
1 C	Stemmari Rose	\$108.50
	Subtotal	\$1,193.50
Beer		
1 C	Strongbow Hard Cider	\$36.25
1 C	Tighthead Scarlett Fire	\$41.45
2 C	Allagash White	\$93.20
1 C	Miller Lite	\$18.75
1 C	Coors Light	\$18.75
1 C	Stella Artois	\$30.10
2 C	Victory Dirtwolf	\$83.98
2 C	Goose Island 312	\$61.50
2 C	Lagunitas Lil Sumpin	\$36.10
1 C	Bells Two Hearted	\$33.10
2 C	Brooklyn Lager	\$59.00
2 C	Apex Predator	\$38.96
2 C	Trumer Pilsner	\$27.00
2 C	Duvel	\$150.00
1 C	Moose Drool	\$29.99
1 C	Black Jack Porter	\$33.10
	Subtotal	\$791.23
	Total	\$2,816.30

59

# (C)ases	Item	Cost
2 C	Sour Mix (8 Gallons)	
1 C	Pint Glasses	
1 C	Dinner Napkins	
1 C	Large Pizza Boxes	
1 C	Bar Coasters	
1 C	Glass Shakers (Cheese/Pepper)	
	Total	



LAKE COUNTY FOREST PRESERVES
www.LCFPD.org

Preservation, Restoration, Education and Recreation

U.S. House Small Business Committee
Chairwoman Nydia M. Velazquez
2361 Rayburn House Office Building

July 24, 2019

Washington DC 20515

Honorable Chairwoman:

The Lake County Forest Preserve District on July 10, 2019 passed a resolution addressing the issue of collaboration with our neighbors in Wisconsin concerning stormwater management regulations. Two major watersheds drain from Wisconsin into Lake County, Illinois including the Fox River and the Des Plaines River. Inadequate regulations are in place in Wisconsin for road projects and new development that have a negative impact upon flood events in our county and to the Forest Preserve's land holdings.

Please refer to our attached resolution for details.

We appreciate the opportunity to provide written testimony regarding this issue. Please feel free to contact me if you have any questions.

Sincerely,

James L. Anderson
Director Natural Resources
Lake County Forest Preserve District
1899 West Winchester Road
Libertyville, Illinois 60048
janderson@lcpd.org

LAKE COUNTY FOREST PRESERVES
www.LCFPD.org



Preservation, Restoration, Education and Recreation

DATE: June 24, 2019

MEMO TO: John Wasik, Chair
Planning Committee

Agenda Item# 9.9

FROM: James L. Anderson
Director of Natural Resources

RECOMMENDATION: Recommend approval of a Resolution Requesting Regulatory Agencies in Wisconsin to Continue Collaboration with Lake County Agencies to Enforce and Improve Environmental Regulations to Offset Impacts from Further Development in the Fox River and Des Plaines River Watersheds.

STRATEGIC DIRECTIONS SUPPORTED: Conservation; Leadership; Communication; Education Outreach; Organizational Sustainability

FINANCIAL DATA: There is no financial impact.

BACKGROUND: The District has expended significant funds acquiring and restoring lands within the Fox River watershed and the Des Plaines River watershed. The District holds 10,483 acres in the Fox River watershed and 16,753 acres in the Des Plaines River watershed.

Within the past 15 years, these watersheds, due to climatic conditions, have seen an increase in the severity of precipitation events which has led to significantly different historic flood events, compared to previously modeled flood events within the watersheds. Additionally, increased development, including large industrial and office projects, has occurred in the watersheds over the past 15 years that has increased the amount of stormwater reaching the Des Plaines and Fox River watersheds.

Significant flood events in the past 5 years have inundated and impacted District preserves and property, public access to preserves and recreational trails, Nature Preserves, and state and federally listed endangered and threatened species populations. Other public areas not owned by the District, including the Chain O'Lakes State Park and the Fox River Waterway, have also experienced significant flooding events that have impacted recreational use on the Fox River. In 2017, the Des Plaines River Canoe Marathon was cancelled due to significant flooding.

Recently, in response to a development in Wisconsin, the Lake County Stormwater Management Commission (SMC) was directed by its Board to investigate the impacts of development in Wisconsin. SMC hired a consulting firm that determined that, because of different and less restrictive ordinances in Wisconsin, Lake County was being negatively impacted by increased stormwater caused by development in Wisconsin. The less restrictive Wisconsin ordinances govern land that is upstream from District land, but within the Fox River watershed and the Des Plaines River watershed. District staff recommends that the District Board approve a resolution requesting that Wisconsin regulatory agencies follow recommendations made by SMC's consultant and update their hydrological information to include more recent and significant storm events, so that their ordinances and regulations can match those in Lake County and reduce potential flooding impacts.

REVIEW BY OTHERS: Executive Director, Chief Operations Officer, Corporate Counsel.

STATE OF ILLINOIS)
) SS
 COUNTY OF LAKE)

**BOARD OF COMMISSIONERS
 LAKE COUNTY FOREST PRESERVE DISTRICT
 REGULAR JULY MEETING
 JULY 10, 2019**

MISTER PRESIDENT AND MEMBERS OF THE BOARD OF COMMISSIONERS:

Your **PLANNING COMMITTEE** presents herewith "A Resolution Requesting Regulatory Agencies in Wisconsin to Continue Collaboration with Lake County Agencies to Enforce and Improve Environmental Regulations to Offset Impacts from Further Development in the Fox River and Des Plaines River Watersheds," and requests its approval.

PLANNING COMMITTEE:

Date: 06.24.19 ☐ Roll Call Vote: Ayes: _____ Nays: _____

☒ Voice Vote Majority Ayes; Nays: 0

PRESENT; 1

**LAKE COUNTY FOREST PRESERVE DISTRICT
LAKE COUNTY, ILLINOIS**

**A RESOLUTION REQUESTING REGULATORY AGENCIES IN WISCONSIN TO
CONTINUE COLLABORATION WITH LAKE COUNTY AGENCIES TO ENFORCE
AND IMPROVE ENVIRONMENTAL REGULATIONS TO OFFSET IMPACTS FROM
FURTHER DEVELOPMENT IN THE FOX RIVER AND DES PLAINES RIVER
WATERSHEDS**

WHEREAS, the Lake County Forest Preserve District (the "District") has been an active member in collaborative watershed programs with Wisconsin regulatory agencies over the past twenty years including the Southeast Fox River Partnership, Fox River Ecosystem Partnership, Des Plaines River Ecosystem Partnership, Upper Des Plaines River Flood Reduction Project Phases I & II, and Des Plaines River Watershed Workgroup; and

WHEREAS, the District has expended significant funding for the acquisition and restoration of depressional wetlands, flood prone areas, flood plain, and floodway and the restoration of native plant communities to reduce flooding from storm events, increase infiltration and improve water quality and supply; and

WHEREAS, the District has collaborated with Illinois State and Federal Agencies to implement large scale habitat restoration projects that include significant wetland restoration that provides flood storage within the Des Plaines River and Fox River watersheds (the "Watersheds"); and

WHEREAS, the District is an active member of the Lake County Stormwater Management Commission's ("SMC") Technical Advisory Committee and collaborates with SMC to review and update SMC's Watershed Development Ordinance as new data and regulations are made available; and

WHEREAS, because of climatic conditions, the severity of precipitation events has increased, leading to significantly different historic flood events within the Watersheds, compared to previous models for published base flows for the Watersheds; and

WHEREAS, increased development, including large industrial and office projects, has occurred in the Watersheds over the past 15 years that has increased the amount of stormwater reaching the Watersheds; and

WHEREAS, the District strongly encourages regulatory agencies in Wisconsin to follow Chicago Metropolitan Planning Area's ("CMAP") goal of having an *"Integrated Approach To Water Resources"* and to comply with the following CMAP recommendations (the "CMAP Recommendations"):

1. Protecting and enhancing the integrity of the region's aquatic systems will require incorporating better water resource management into local planning, optimizing water infrastructure investment, and addressing the unique challenges of Lake Michigan and its tributaries.
2. Reducing flood risk begins by updating our understanding of the areas at most risk of flooding in order to improve readiness. It will also require investments in gray and green infrastructure and addressing flood vulnerability and stormwater management in current and future transportation assets; and

WHEREAS, the District strongly encourages regulatory agencies in Wisconsin to comply with the following SMC recommendations (the "SMC Recommendations"):

1. to update and manage the conditions within the Watersheds, a comprehensive and collaborative floodplain mapping effort should be undertaken by the Federal Emergency Management Agency ("FEMA") partners designated for each state (Wisconsin Department of Natural Resources and Illinois State Water Survey, with Illinois Department of Natural Resources consultation) that spans the state boundary and actively involves all stakeholders;
2. to accommodate the trend of stormwater storage deficit within Wisconsin, (a) flood storage districts should be designated for the Watersheds, (b) compensatory storage should be required for all fill within the floodplain for all projects, (c) displacement of existing depressional storage in an affected Watershed should be compensated for, within the same Watershed, during land development and transportation projects, and (d) stormwater detention storage should be provided in Wisconsin, at a rate and volume equivalent to SMC requirements;
3. to achieve the "no net loss" watershed objective, (a) mitigation for wetland impacts in the Wisconsin areas of the Watersheds should be replaced within the Watershed where the impact occurred, including all impacts by Wisconsin Department of Transportation projects and (b) mitigation projects funded by the Wisconsin Wetland Conservation Trust in-lieu fee program should be located within the same Watershed, if not sub-Watershed, as the original project that caused the wetland impacts,;
4. to prevent further water degradation of the Des Plaines River and Fox River, (a) require comprehensive soil erosion and sediment controls on all construction and transportation projects, (b) implement rigorous enforcement inspections to verify compliance, and (c) issue citations for violations and utilize legal and financial tools as necessary to achieve compliance; and
5. comply with the recommendations put forth in the US Army Corps of Engineers' Des Plaines River and Tributaries Phase II Study and implement ecosystem restoration flood reduction sites identified in the study;

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the Lake County Forest Preserve District, Lake County, Illinois THAT:

Section 1. Recitals. The recitals set forth above are incorporated as a part of this Resolution by this reference.

Section 2. Request for Collaboration. The District hereby requests that Wisconsin state and local public agencies collaborate with the District, SMC, and other Lake County public agencies to offset impacts from further development within the Watersheds by complying with the CMAP Recommendations and SMC Recommendations.


Section 3. Effective Date. This Resolution shall be in full force and effect from and after its passage and approval in the manner provided by law.

PASSED this 10th day of JULY, 2019

AYES: VOICE VOTE - UNANIMOUS AYES

NAYS: 0

APPROVED this 10th day of JULY, 2019


 Angeló D. Kyle, President
 Lake County Forest Preserve District

ATTEST:


 Julie Gragnani, Secretary
 Lake County Forest Preserve District

Exhibit No. 5539

Christopher Johnson
1240 Park Avenue West, Unit 304
Highland Park, IL 60035
847/502-4811 cjohnsonconsulting@comcast.net
www.chrisjohnsonwrite.com

July 22, 2019

U.S. House Small Business Committee
Chairwoman Nydia M. Velázquez
2361 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairwoman Velázquez:

I live in Highland Park, Illinois, a suburb north of Chicago. Our residence is a condominium in a complex that lies about 200 feet east of the Skokie River, one of three branches that converge to form the Chicago River.

On July 11 and 12, 2017, the Chicago area experienced heavy thunderstorms that caused severe flooding throughout the region. The Skokie River overflowed its banks and inundated the entire area, turning our complex into an island. Unlike hundreds of residents throughout Lake County, we were fortunate not to have our residence flooded.

The businesses just west of the Skokie River were not so fortunate. A small strip mall lies a short distance west of the river and includes a Staples Office Supply store, a Trek Bicycle Shop, a Foss Swim Shop, an Illinois Bone and Joint Institute facility, and Muller Honda. A Ford dealership lies just northwest of the river. Because of the severe flooding, these businesses had to close for the better part of a week, costing them thousands of dollars in revenues.

I recently went to a Field Hearing held by U.S. Representative Brad Schneider in Wheeling. At the hearing, John Durning, who owns Pizzeria DeVille in Libertyville, testified that the 2017 floods destroyed equipment and shut down parts of his restaurant for six weeks.

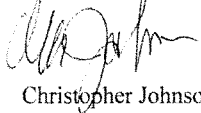
Floods like this one are going to increase in the future, and they are going to have greater and greater effects on businesses and residents alike in Lake County. Recently, the Illinois State Water Survey released updated statistical rainfall data, which indicates that Lake County is receiving between 20% and 45% higher rainfall amounts than was once the case.

These rainfall amounts and resultant floods are going to be exacerbated by the Foxconn development and other developments in southern Wisconsin. The Foxconn development

will reduce wetlands and release greater quantities of water into the Des Plaines River Watershed, which will worsen flooding conditions in southern Wisconsin and northeastern Illinois. Yet Wisconsin has not required an Environmental Impact Statement to assess the impacts of the Foxconn. This is unconscionable. Many of us who live in Lake County have strongly urged Wisconsin to require that an EIS be written for the Foxconn development. We have also urged the state to require Foxconn to restore wetlands to absorb the water that the plant will disperse.

These recent events show dramatically that natural disasters, including floods, are going to have more and more negative effects on small business. Consequently, the Small Business Administration is going to need additional resources to help small businesses acquire loans, low interest rates, and lenient repayment terms to help them survive the floods caused by climate change. As your committee investigates this important issue, members should and must take into account the importance of providing resources to small businesses in sufficient amounts and *quickly* to help these businesses maintain their critical role in the U.S. economy.

Yours truly,

A handwritten signature in black ink, appearing to read "Chris Johnson", written over a horizontal line.

Christopher Johnson

To Whom it may Concern:

The following is my written testimony regarding Des Plaines River flooding in the town of Libertyville, IL.

My family business, Liberty Auto City, borders the Des Plaines River to the North of our back lot property. This is where we park both new and predriven vehicles. I began my career at Liberty in the late 1980's. At this time, we never experienced flooding problems. However, in about the last 5 - 7 years, this has changed dramatically, to the point that we have sustained vehicle damage and financial hardship due to the growth in flooding in the area.

Typically, our concern for the flooding starts in April and runs all the way through August. I am constantly watching the river crest report, on www.water.weather.gov, via the Advanced Hydrologic Prediction Service, to see what the water levels are in Gurnee, IL, the town just to our North. It is a great predictor of disaster coming South to the town of Libertyville.

When the River levels are high, water seepage on our lot forces us to move vehicles South towards our building. At its worst, we need to find alternate locations to move numerous vehicles — a difficult task when open land or parking lots are at a premium in the town of Libertyville. This costs extra labor expenses in employees to move the cars, or pulls sales professionals away from their jobs in order to ensure that cars are not damaged. If it happens rapidly or catches us off guard, we lose vehicles and have financial hardship.

The idea of development up stream of the Des Plaines River that would affect water run off or flood plain areas to be reduced, could be devastating to a business that is downstream. The potential to put further stress on an already existent problem is quite concerning to a business like ours. At minimum, we currently have five months of worry about this issue, with further building, I can't imagine the additional flooding that could occur.

Under separate cover, six photos were emailed which is a small illustration of the concerns that our business faces.

Thank you for your concern in this matter.

Sincerely,

Joe Massarelli, Owner
Liberty Auto City

July 24, 2019

Sent by email to Tommy.Brown@mail.house.gov

Chairwoman Nydia M. Velázquez
U.S. House Small Business Committee
2361 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairwoman Velázquez,

Openlands appreciates the opportunity to submit testimony as to how developments such as Foxconn cause serious harm to small businesses and residents across a wide region in skirting every appropriate environmental review and failing to take adequate measures to protect the health and public welfare of affected communities. The real and pervasive problems caused by such poorly planned developments are an increasing threat to small businesses that are already facing more intense rainfall and higher rates of flooding. The lack of analysis and consideration in the Foxconn review and permitting process underscores the importance of adequate state protections and the critical need for federal jurisdiction and oversight of interstate issues like the impacts on downstream Waters of the United States.

Openlands is one of the nation's largest and oldest non-profit conservation organizations in the region. Founded in 1963, Openlands protects the natural and open spaces of northeastern Illinois and the surrounding region to ensure cleaner air and water, and protect natural habitats and wildlife, helping to balance and enrich all of our lives. As an accredited land trust, Openlands owns four properties, including its flagship Openlands Lakeshore Preserve in Highland Park, and holds 24 conservation easements on 1,510 acres in Lake County, with an additional 3,795 acres in the surrounding region. Overall, Openlands has collaborated with agencies across the metropolitan area to directly protect more than 15,000 acres of land.

Openlands and our supporters use, recreate upon and act to preserve and restore waters and associated lands that have been and will continue to be degraded by the Foxconn development. Resulting flooding, pollution, lost habitat and diminished quality of life will continue to affect those who support us and our region at large, so that we are less healthy, less resilient to climate change and less economically competitive in a global market.

Environmental Review

In September of 2017, the Wisconsin Legislature authorized the creation of an Electronic and Information Technology Manufacturing (EITM) Zone for the Foxconn development. Under this state law, Foxconn is exempt from the environmental review requirements of the Wisconsin

Environmental Policy Act (WEPA).¹ The development is also exempt from state permitting requirements for dredging and filling wetlands. This waiver of vital environmental protections intended to benefit Foxconn directly contradicts the very purpose of environmental review laws and leads to a gross underestimation of the development's impact.

The National Environmental Policy Act (NEPA), often called a “stop and think statute,” was designed to provide thoughtful consideration of the direct, indirect and cumulative environmental impacts of human activity and fully inform agencies and the public in developing, funding and approving projects. Agencies must take a hard look at environmental consequences of reasonable alternatives², using a robust scientific and analytical basis for achieving the proposed goals.³

State laws such as WEPA that mirror their federal counterparts ensure that where federal environmental review laws do not apply, state resources are not left unprotected. The purpose of WEPA is to maintain an open, transparent and meaningful process assessing the full range of impacts to the public while protecting and managing Wisconsin's natural resources. The EITM Zone exemptions, however, allow Foxconn to circumvent this careful review and profit financially without fully addressing the impacts that have already been felt by the surrounding communities.

Because the wetlands in the development area were determined to be “isolated” under the current “Waters of the United States” (WOTUS) rule, they do not fall within federal jurisdiction and therefore no federal permit for dredging and filling is required. Although the new WOTUS rule draws a jurisdictional line between isolated wetlands and those with a direct surface connection, even so-called “isolated wetlands” provide important functions such as storage of floodwaters, groundwater recharge, retention and filtering of nutrients and pollutants, and transportation of organic matter, as well as critical wildlife habitat.

Wetlands are rapidly disappearing from our region: “[i]n the Midwestern farm belt states alone, more than 36 million acres of wetlands had been lost in 200 years,” according to a 1991 report.⁴ Furthermore, restoring natural areas has *proven* to provide ecosystem services benefits. Indeed, Openlands and Stantec Consulting found that restoring 1,440 acres of Forest Preserve area to high-quality wetlands and uplands allowed these sites to absorb 110 million more gallons of stormwater per year, yielding a \$8.3:1 return on project costs.⁵ In fact, the total benefits of restoration of one Forest Preserve exceeded \$44 million.⁶

¹ Wis. Stat. Ann. § 238.396.

² *Baltimore Gas & Elec. Co. v. Natural Resources Defense Council*, 462 U.S. 87, 97 (1983); *Robertson v. Methow Valley Citizens Council*, 490 U.S. 332, 350 (1989).

³ CEQ: Environmental Consequences, 40 C.F.R. 1502.16; *See also, DuBois v. U.S. Dep't of Agriculture*, 102 F.3d 1273, 1286 (1st Cir. 1996).

⁴ Thomas E. Dahl, *Wetlands Losses in the United States: 1780s to 1980s*, U.S. Fish & Wildlife Service (1990).

⁵ Openlands and Stantec Consulting, Inc., *Economic Valuation Study: Deer Grove East* (2016).

⁶ *Id.*

While Foxconn was required to mitigate the loss of wetlands at a 2:1 ratio, no mitigation has yet occurred and such mitigation is not even required to occur within the same watershed, where the devastating flooding impacts are already felt. Given that the Village of Mt. Pleasant is on track to spend \$900 million in land acquisition to accommodate the development⁷ and the ecosystem services benefits high-quality natural areas can provide, Foxconn is clearly taking Wisconsin and Illinois in the wrong direction financially. Moreover, both the preservation and health of the region's wetlands are essential to protecting human health and environment. Without adequate state protection of these wetlands, they will slip through the regulatory cracks and Illinois residents will increasingly suffer from poor water quality and flooding damage.

In the recent revision of the WOTUS definition, the U.S. EPA and U.S. Army Corps of Engineers ("the Agencies") proposed eliminating the categories covering interstate waters and wetlands, shifting the burden to address regional and national water quality issues to the states. Should this dangerous proposal be finalized in the coming months, Illinois will be powerless to stop pollution and flooding caused by the Foxconn development. Indeed, both the recent flooding along the Mississippi River and the infamous 8,500-square-mile "dead zone" in the Gulf of Mexico (caused by nutrient pollution in the Mississippi River Basin from various upstream sources) illustrate the devastation that can occur when headwaters and interstate waters and wetlands are inadequately protected.

In the federal rulemaking, the Agencies emphasized the "primary responsibilities and rights of States to . . . plan the development and use (including restoration, preservation, and enhancement) of land and water resources,"⁸ praising the new WOTUS definition as handing the power to manage and protect natural resources back to the states. However, the State of Wisconsin has created a loophole for Foxconn, allowing the corporation to avoid the necessary environmental reviews and sidestepping the state's responsibility to assess the full impacts of the development. This legislative loophole and the destruction it has already wrought by failing to consider the full impact on Wisconsin and Illinois communities underscore the importance of strong state protections and federal oversight under laws like the Clean Water Act to fully protect the public health, welfare and livability of all our communities.

Flooding Impacts

As a changing climate causes storms to grow in both frequency and intensity, homes, roads and businesses increasingly flood and will continue to do so. In July 2017, the Illinois Emergency Management Agency reported more than seven inches of rainfall in Lake County within 24 hours. Flash floods inundated thousands of homes and businesses and left roads impassable. The Des Plaines River and other streams overflowed into communities, taking much longer for

⁷ *Residents claim Trump's Foxconn factory deal failed them*, NBC News Now, July 23, 2019, <https://www.nbcnews.com/now/video/residents-claim-trump-s-foxconn-factory-deal-failed-them-64392773667>.

⁸ Clean Water Act, 33 U.S.C. § 1251(b).

floodwaters to subside and the Governor declared a state of emergency. In 2018, Lake County set a new flood stage record, with triple the average number of storm events that rose above flood stage over the last decade. We are on track to break that record in 2019.

In 2017, the Illinois State Water Survey warned that more intense and frequent urban flooding events would increase human, environmental and economic risks.⁹ Indeed, the Fourth National Climate Assessment noted that “[t]here has been an increase in extreme precipitation events that overwhelm storm water sewage systems, disrupt transportation networks, and cause damage to infrastructure and property.”¹⁰ These heavy rainfall events will continue to cause combined sewer overflows (CSOs), the release of raw sewage, and basement backups in communities across the Midwest.

These storms cost Illinois residents and businesses dearly. In 2015, the Illinois Department of Natural Resources documented a cost of \$2.3 billion in urban areas over the span of ten years, and \$1.6 billion in damages resulting from just five severe storms, with 90 percent of this damage occurring outside the floodplain.¹¹ The July 2017 storms alone resulted in reported damage from more than 3,500 residents while studies show that damage to homes and storefronts is underrepresented and underreported.¹² As predicted, 2019 saw record flooding across the Midwest, leading to adverse health effects, property and infrastructure damage and mass socioeconomic harm in costs associated with cleaning up and repairing the damage.

“According to FEMA, almost 40 percent of small businesses never reopen their doors following a flooding disaster.”¹³ Additionally, the economic harm to these communities is far worse than suspected. Affected residents and businessowners often do not report such damage, particularly when FEMA emergency funding would not be available.¹⁴ As storms in our region continue to intensify, farmers across the Midwest experience delayed planting or are unable to plant in time for the season at all, with the number of farms filing for bankruptcy rising by 19 percent in the past year alone.¹⁵

Like other landowners in Lake County, Openlands has experienced severe flood damage, including accelerated slumping of ravine and bluff slopes that is directly correlated with the

⁹ “Impacts of Potential Future Climate Change on the Expected Frequency of Extreme Rainfall Events in Cook, DuPage, Lake and Will Counties in Northeastern Illinois,” Illinois State Water Survey (Prairie Research Institute) Contract Report 2017-05, Angel, James and Markus, Momcilo, et al. (Dec. 2017).

¹⁰ U.S. Global Change Research Program, *Impacts, Risks, and Adaptation in the United States: Fourth National Climate Assessment, Volume II, Chapter 21: Midwest*, at 900.

¹¹ “Frequency Distributions of Heavy Precipitation in Illinois: Updated Bulletin 70,” ISWS Contract Report 2019-05, Angel, James and Markus, Momcilo (Mar. 2019).

¹² “The Prevalence and Cost of Urban Flooding,” Center for Neighborhood Technology: A Case Study of Cook County, Illinois (May 2014) (hereinafter “CNT Report”).

¹³ CNT Report at 1, 2.

¹⁴ *Id.*

¹⁵ Mitch Smith, Jack Healy and Timothy Williams, *‘It’s Probably Over for Us’: Record Flooding Pummels Midwest When Farmers Can Least Afford It*, N.Y. Times, Mar. 18, 2019, <https://www.nytimes.com/2019/03/18/us/nebraska-floods.html>.

volume of surface water flowing over and down the slopes. To date, Openlands has spent \$7 million restoring the Lakeshore Preserve, with \$3 million invested in making the site publicly accessible. Flooding, in combination with high lake levels, is the number-one threat to the Preserve.

Compounding the problem of worsening storms, not only does Wisconsin fail to adequately protect its headwater streams and wetlands which feed into Illinois waterways, but there is already a “deficit of approximately 55,000 gallons [of compensatory stormwater storage] for every acre developed”¹⁶ in the project area. As Foxconn plans to expand its development and fill more of Wisconsin’s wetlands, this deficit will explode throughout the Des Plaines River Watershed, resulting in more frequent and harmful downstream impacts.

The health of headwaters and the preservation and restoration of wetlands play huge roles in the management of floodwaters. The continued degradation and destruction of interstate waters and wetlands will leave downstream waters choked in sediment and Illinois communities, particularly in Lake County, will increasingly pay with severe flooding and basement backups. This creates an unjust subsidy by allowing select corporations to profit at the expense of disempowered downstream residents and businesses.

Understanding that healthy wetlands and natural areas absorb stormwater and protect our communities from flooding and pollution, we expect the Federal government to require our neighbors in Wisconsin and across the country to adequately enforce environmental review laws, fully mitigate any impacts of development in our communities and protect our natural resources.

Thank you again for allowing Openlands to share our experience with the Foxconn development and the impacts felt by the surrounding communities. We appreciate the opportunity to submit testimony on this important issue.

Sincerely,

Stacy Meyers, Senior Counsel
Molly Kordas, Staff Attorney
Openlands
25 E. Washington Street, Suite 1650
Chicago, IL 60602
312.863.6265
312.863.6274

¹⁶ Press Release, Lake County Stormwater Management Commission, *Lake County Stormwater Management Commission Presents Upper Des Plaines River Watershed Impact Analysis Findings* (Mar. 8, 2019), <https://content.govdelivery.com/accounts/ILLAKE/bulletins/2308c18>.



U.S. House Small Business Committee
 Chairwoman Nydia M. Velazquez
 2361 Rayburn House Office Building
 Washington, DC 20515

July 20th, 2019

Dear Chairwoman Velazquez,

Yesterday I had the pleasure of attending a Field Hearing hosted by Congressman Brad Schneider of the 10th District in Illinois. I live in a small town in Northern Illinois which is directly affected by the Foxconn development directly North of the Wisconsin border. The Des Plaines River runs through the middle of our town and we are seeing an increase in flood events.

In the hearing I learned that in a town just North of us they have turned a farmers' field into a private wetland bank. I further learned that the 1st purchasers of wetland credits from this new Mill Creek wetland bank were the Illinois Department of Transportation and the Illinois Tollway Authority. And while it doesn't address the lack of review of the property for Foxconn prior to them being granted approval, I found it to be a novel solution to a problem of vanishing wetlands. My question and/or suggestion, is in regard to these private wetland banks has to do with possible incentives by the State or Federal government. Is it possible for there to be grants to the farmers and landowners to cause them to prefer turning their land into a land bank rather than to sell it to a developer?

I am a resident of Gurnee. I am also a Trustee on the Gurnee Village Board as an elected official and I am also on the board of our local homeowner's association. I am involved in my community and have observed first-hand the effects of flooding of the Des Plaines River.

Warm regards,

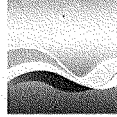
Quin O'Brien

BOARD OF TRUSTEES

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 VICE PRESIDENT PRESTON P. CARTER, BEACH PARK
 TREASURER B. SUGAR YOUNG, WAUKEGAN
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EXECUTIVE DIRECTOR BRIAN DORN, P.E.
 SECRETARY MARY JO BRYANT
 ATTORNEY GREGORY T. JACKSON

North Shore Water Reclamation District



Post Office Box 750, 14770 W. Wm. Koepsel Drive
 Gurnee, Illinois 60031
www.northshoreward.org
 847/623-6060 Fax 847/623-3205

July 23, 2019

U.S. House Small Business Committee
 Chairwoman Nydia M. Velázquez
 2361 Rayburn House Office Building
 Washington, DC 20515

RE: House Small Business Committee Field Hearing -
 Flooded Out: Vanishing Environmental Reviews & SBA's Disaster Loan Program

Dear Chairwoman Velázquez:

The North Shore Water Reclamation shares the concern of many of its neighboring northern Illinois communities along the Des Plaines River regarding the State of Wisconsin's decision to waive environmental regulations associated with the Foxconn manufacturing development located at the headwaters of the Des Plaines River, and the potential this decision has to increase flooding throughout the Des Plaines River watershed. The District is particularly concerned that this risk of increased flooding could jeopardize operation of the District's Gurnee Water Reclamation Facility and compromise the ability of this facility to safely and effectively treat the wastewater of thousands of residents in northern Illinois.

As a result of this concern, the District has passed the enclosed resolution asking the State of Wisconsin to reconsider its actions and to enforce all regulations and laws related to the Foxconn development to ensure that there are no negative environmental impacts upon the residents of Lake County, and encouraging coordination and cooperation between the appropriate political and professional leaders in both Illinois and Wisconsin over the Foxconn development.

The District appreciates the opportunity to comment on the potential impacts of this development upon the North Shore Water Reclamation District. As President of the North Shore Water Reclamation District, I respectfully request that the District's resolution be entered into the public record for the House Small Business Committee Field Hearing conducted by Representative Brad Schneider on July 19, 2019. The District offers its continued support to ensure that the Foxconn development is accomplished in an environmentally sound manner.

Sincerely,

Daniel M. Pierce
 President
 NORTH SHORE WATER RECLAMATION DISTRICT

Protecting Lake Michigan & Our Waterways

BOARD OF TRUSTEES

PRESIDENT DANIEL M. PIERCE, HIGHLAND PARK
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North Shore Water Reclamation District



Post Office Box 750, 14770 W. Wm. Koepsel Drive
 Gurnee, Illinois 60031
 www.northshorewrd.org
 847/623-6060 Fax 847/623-3205

RESOLUTION

WHEREAS, the State of Wisconsin recently passed legislation waiving environmental regulations for and providing various incentives to Foxconn/ Upstream Development (Foxconn/ Upstream) for the construction of manufacturing facilities within Racine County along the Wisconsin-Illinois border in the headwaters of the Des Plaines River; and

WHEREAS, the action allows Foxconn/ Upstream to fill 26 acres of wetlands with dredged materials without an Environmental Impact Study, or input from the U.S. Army Corps of Engineers at a site that is in the headwaters of the Des Plaines River, resulting in detrimental impacts upon the people of and properties within a downstream Lake County area that has already suffered billions of dollars in damage from flooding; and

WHEREAS, additional development and infrastructure improvements required to support Foxconn are likely to result in additional impervious pavement and filling of more wetlands; and

WHEREAS, the actions to fast track the Foxconn/ Upstream development will unilaterally impose negative impacts outside the political and geographical boundaries of Wisconsin; and

WHEREAS, the North Shore Water Reclamation District's Gurnee Water Reclamation Facility is located adjacent to the Des Plaines River, and the potential detrimental impacts of flooding upon District facilities will adversely affect the environment and jeopardize public health and safety.

NOW, THEREFORE IT BE RESOLVED BY THE BOARD OF TRUSTEES OF THE NORTH SHORE WATER RECLAMATION DISTRICT, this 12th day of September, 2018, that:

1. The North Shore Water Reclamation District urges its neighbors and counterparts in the State of Wisconsin to immediately reconsider any actions relative to the Foxconn/ Upstream Development that waive enforcement of or compliance with all applicable regulations and laws which could compromise the environmental integrity and resiliency of natural resources to the detriment of the people and property in Lake County;
2. With regard to the Foxconn/ Upstream project and any and all future development projects upstream of Lake County, we urge our local and state counterparts in Wisconsin and federal agency counterparts to uniformly apply and enforce all applicable regulations and laws as written without any exemptions, waivers or variances to ensure negative impacts are not imposed on the residents of downstream Lake County;
3. We support the Illinois Attorney General, Illinois General Assembly and Illinois agencies in taking whatever actions possible to protect Lake County and the State of Illinois against the loss of water resources, potential flooding, and other ecological impacts from this development; and

Protecting Lake Michigan & Our Waterways

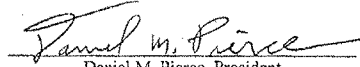
4. We support coordination and cooperation between the appropriate political and professional leaders in both Illinois and Wisconsin with the jurisdiction over and/or interest in the Foxconn development in Racine County, Wisconsin.

Adopted by roll call vote as follows:

AYES: (4) P. Carter, S. Young, S. Drew, D. Pierce

NAYS: (1) T. Swarthout


ABSENT AND NOT VOTING: None


Daniel M. Pierce, President

PASSED: September 12, 2018

APPROVED: September 12, 2018

PUBLISHED: September 12, 2018

ATTEST: 
Secretary

U.S. House Small Business Committee
 Chairwoman Nydia M. Velazquez
 2361 Rayburn House Office Building
 Washington, DC 20015

Re: Flooding and the potential impact of the Foxconn development

I am a property owner in the Des Plaines River 100-year flood plain, for the past 25+ years. Our home is located at 410 Thornmeadow Rd, Riverwoods, IL 60015. Based on Lake County Storm Water Management Commissions (SWC) recently published study on rainfall and Foxconn related data, the 100-year flood plain is becoming a 25-year flood plain. Our property is at increased risk. We have 5 acres with more than 2 1/2 acres of wetland.

We have invested thousands of dollars in collaboration with the Village of Riverwoods for native plant restoration. The flood of July 2017 destroyed that investment. While the water has never reached our home, we have invested in a 175' wall within 10 feet of our house.

Over the course of 25+ years, the wetland water levels rise and falls 15'. While the water reach our home, it continues to edge closer. Our wetlands continue to experience erosion from the rising and falling water levels. Without Federal, State or County support, as homeowners, we don't have the resources or expertise to effectively manage our wetlands. Homeowners and small businesses in the area are facing serious future challenges, as highlighted in the SWC projections and the FoxConn impact on the Des Plaines River flood plain.

Where can we take practical and immediate impactful action? The planned Deerfield Road Corridor Expansion involves more than \$35M of Federal funding. Lake County DOT is planning the Deerfield Road Corridor expansion with construction in 2023. Most of that expansion is in the Des Plaines River flood plain.

There are two related issues that must be reflected in this written testimony. They include:

- 1) SWC projects Lake County's 20-40% increase in projected rainfall impacting the Des Plaines River and surrounding wetlands. Existing water mitigation standards need to be modified for this project or we are only contributing to the areas future problems. Excuses such as *"the project planning is underway so we can't accommodate for changing environmental issues"* are irresponsible and irrational.
- 2) The Village of Riverwoods is a community on the Des Plaines River with numerous wetlands and a commitment to woodland health. The Deerfield Road Corridor project will remove between 300-600 desirable trees. What is the water table impact of this action? **Ignoring the impact of removing these many trees on the flood plain is environmentally, socially and economically irresponsible.**

David Shimberg 410 Thornmeadow Rd, Riverwoods, IL 60015 847-317-1731 dshimberg@gmail.com

Thank you

David Shimberg, Riverwoods Preservation Council, President
410 Thornmeadow Rd
Riverwoods, IL 60015

Statement of John Wasik, Member, Lake County Board and Forest Preserve Commission, Member, Lake County Stormwater Management Commission, Lake County Board Energy and Environment and Public Works, Planning and Transportation Committees

Tommy:

Here is my written testimony for Friday's Congressional sub-committee hearing sponsored by Rep. Schneider in Wheeling. If I find any other businesses who were impacted by the 2017 flooding, I will send them your way.

In July 2017, Grayslake and Hainesville businesses and residents experienced catastrophic flooding, causing millions of dollars in damage. It caused disruption and anguish to thousands of people who had never experienced that kind of rain event—more than seven inches in a 24-hour period. It hit all of Lake County hard.

While we have no way to predict if such a catastrophic rain event will occur again, we know that climate change is leading to an increase in precipitation—some 20% to 40% more than historical averages. That will lead to severe damage and disruption of countless businesses and residents.

Worse yet, since little meaningful flood mitigation was done in Wisconsin when the Foxconn complex was approved, the flooding in Lake County will likely get worse, since we are downstream from that site, which sits on the headwaters of the Des Plaines River. Watersheds respect no state or federal boundaries.

As a member of the Lake County Stormwater Management Commission and Energy and Environment Committee, I call upon the federal government to take—and enforce—meaningful measures to prevent future flooding.

We also call upon our neighbors to the north to not only undertake meaningful stormwater retention measures, but to do so in the entire I-94 corridor, which is under intense development. In doing so, they will not only be doing the right thing, they will be good neighbors.

John Wasik

Member, Lake County Board and Forest Preserve Commission,
Member, Lake County Stormwater Management Commission, Lake
County Board Energy and Environment and Public Works, Plan-
ning, and Transportation Committees

JWasik@lakecountyil.gov



July 23, 2019

Congressman Brad Schneider
111 Barclay Blvd., Suite 200
Lincolnshire, IL 60069

Re: Congressional Hearing on Flooding and Foxconn Development

Dear Congressman Schneider:

The Village of Libertyville strongly opposes the Foxconn Development in Wisconsin and supports the efforts of our State Representatives to stop the potential impacts it will have on our community.

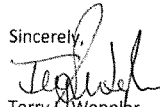
I wanted to thank you for taking the time to host the Congressional hearing regarding upstream development as it relates to local flooding in our communities. As you are aware, the Village of Libertyville suffered catastrophic flooding in the summer of 2017.

This May, the Village formerly updated its Master Storm Water Plan which includes approximately \$46 million in needed infrastructure improvements. This plan currently has no funding source mainly due to the limitations placed on non-home rule communities in the State of Illinois.

I have included a copy of our plan for your reference and a copy of Resolution 18-R-146 which urged the State of Wisconsin to comply with environmental regulations.

Thanks again for your commitment to this important issue.

Sincerely,



Terry L. Weppeler
Mayor

Village Hall
118 West Cook Avenue Libertyville, Illinois 60048 (847) 362-2430 (847) 362-9453 fax
www.libertyville.com

RESOLUTION NO. 18-R-146

A RESOLUTION TO SUPPORTING COMPLIANCE WITH APPLICABLE
ENVIRONMENTAL REGULATIONS AND LAWS FOR THE PROPOSED FOXCONN
DEVELOPMENT IN RACINE COUNTY, WISCONSIN (DES PLAINES RIVER
WATERSHED)

WHEREAS, the State of Wisconsin recently passed legislation waiving certain environmental regulations for the proposed Foxconn Development for the construction of manufacturing facilities within Racine County, Wisconsin along the Wisconsin-Illinois border in the headwaters of the Des Plaines River; and

WHEREAS, the action allows the Foxconn Development to fill wetlands with dredged materials without an Environmental Impact Study, or input from the U.S. Army Corps of Engineers; and

WHEREAS, these wetlands may not all be replaced within the same watershed, resulting in less multi-jurisdictional cooperation to reduce river flooding; and

WHEREAS, additional development and infrastructure improvements required to support Foxconn are likely to result in additional impervious areas; and

WHEREAS, people, businesses and property of the Village of Libertyville have suffered hundreds of thousands of dollars in damage due to flooding from the Des Plaines River in recent years; and

WHEREAS, the Lake County Board, the Village of Gurnee, and the Village of Lincolnshire adopted resolutions denouncing the actions of certain governmental entities in Wisconsin for expediting Foxconn and incentivizing this company to pollute and damage natural resources,

thereby negatively impacting communities outside the political and geographical boundaries of Wisconsin.

NOW, THEREFORE, BE IT RESOLVED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF LIBERTYVILLE, LAKE COUNTY, ILLINOIS, AS FOLLOWS:

SECTION 1: The foregoing recitals are hereby incorporated and fully set forth as findings of the Village of Libertyville President and Board of Trustees.

SECTION 2: The Village of Libertyville Board of Trustees requests compliance and enforcement of all applicable environmental regulations and laws for the proposed Foxconn Development in Racine County, Wisconsin.

SECTION 3: This Resolution shall take effect immediately upon its passage and approval as provided by law.

PASSED this 10th day of July, 2018.

AYES: Johnson, Justice, Adams, Carey

NAYS: None

ABSENT: Moras, Garrity

APPROVED this 11th day of July, 2018.


Terry I. Weppley, Village President

ATTEST:

Sally A. Kowal, Village Clerk

