



## Legislation Text

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**File #:** 160250, **Version:** 0

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### IMMEDIATE ADOPTION

160250

ORIGINAL

141707

ALD. KOVAC & BOHL

Resolution expressing the City of Milwaukee's support for the removal of the Estabrook Dam and authorizing the City Attorney to intervene in Dane County Circuit Court Case No. 16CV1396 challenging the Wisconsin DNR's decision to issue an Environmental Impact Statement permitting Milwaukee County to repair, rather than remove, the Estabrook Dam.

This resolution reiterates the City of Milwaukee's support for the removal of the Estabrook Dam as soon as practicable, and authorizes the City Attorney to intervene in Dane County Circuit Court Case No. 16CV1396 challenging the Wisconsin DNR's decision to issue an Environmental Impact Statement permitting Milwaukee County to repair, rather than remove, the Estabrook Dam.

Whereas, The Estabrook Dam on the Milwaukee River has been in decline and has developed major structural issues due to years of neglect; and

Whereas, The dam is a crumbling "public nuisance" that hasn't operated since a 2008 Wisconsin Department of Natural Resources order to shut it down; and

Whereas, Industrial pollutants, including polychlorinated biphenyls, have been accumulating near the dam for decades, mostly from industrial sources upstream in the Lincoln Creek watershed; and

Whereas, There is no viable reason to maintain the dam and keep it permanently open as the short-term repair costs and long-term maintenance costs of that scenario would far exceed removal costs; and

Whereas, The dam removal alternative means the complete removal of the dam, including the gated control structure and fixed crest spillway, and the creation of a free-flow condition; and

Whereas, Removing the dam and restoring free-flow conditions would allow for unimpeded passage of boats, fish and aquatic invertebrates, yield the greatest positive impacts on river ecology, flood management, water quality, sediment management, fish and aquatic life, terrestrial wildlife and recreation, would support natural wetland hydrology, and may result in a net gain of wetland acreage; and

Whereas, The ecological health created by a free-flowing river offers greater long-term value than maintaining the present water body behind the dam; and

Whereas, On May 12, 2016, the City of Milwaukee passed resolution number 141707 expressing the

City of Milwaukee's support for the removal of the Estabrook Dam.

Whereas, On April 21, 2016 the Wisconsin Department of Natural Resources (DNR) issued a final Environmental Impact Statement which serves as a basis to permit the owner of the dam, Milwaukee County, to repair rather than to remove the dam;

Whereas, The DNR failed to consider certain issues and failed to appropriately apply the law in various ways that would have supported dam removal and not dam repair;

Whereas, Cheryl Nenn and Milwaukee Riverkeeper filed a Petition for Review Pursuant to Wis. Stats. § 227.52 seeking judicial review of the DNR's decision to issue the final Environmental Impact Statement on grounds similar to those stated above;

Whereas, The City of Milwaukee's legally protected interests, as well as those of its residents, will be harmed by the DNR's decision to allow Milwaukee County to repair, rather than remove, the dam;

Whereas, Removal of the dam is the only option to permanently abate the public nuisance caused by years of neglect and protect the interests of the City of Milwaukee and its residents; now, therefore, be it

Resolved, By the Common Council that the City of Milwaukee continues to support the removal of the Estabrook Dam and authorizes the City Attorney to intervene in Dane County Circuit Court Case No. 16CV1396 challenging the Wisconsin DNR's decision to issue an Environmental Impact Statement permitting Milwaukee County to repair, rather than remove, the Estabrook Dam.

LRB164809-1

Andrea Fowler: Tea Norfolk

06/08/2016