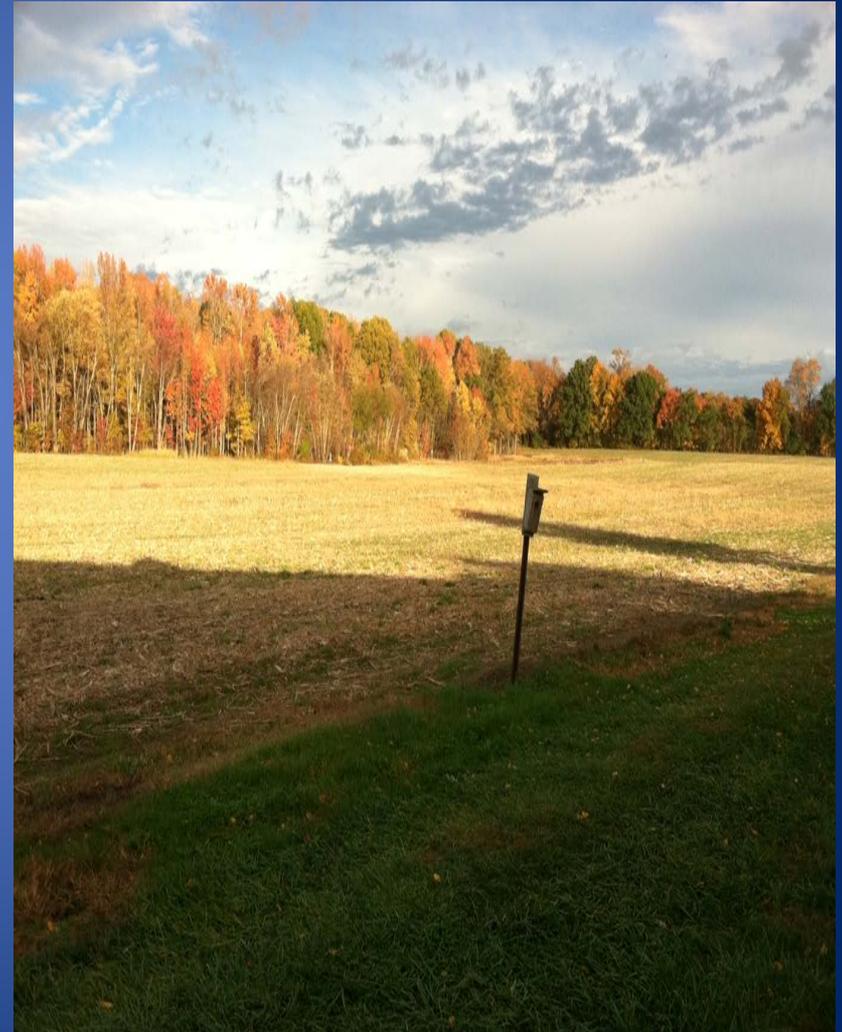


Prior Wetland Legislative Efforts: My view from the back forty



FWW Legislative Initiatives Since 1989

- There have been two Senate efforts to pass a *Freshwater Wetlands Act* during the respective 136th and 137th General Assembly. (1992 and 1993) – **Referenced as Sokola SB No 248 (1993)**
- One effort by the House to pass a bill to amend *Chapter 66, Title 7 of the Delaware Code Relating to the Protection of Wetlands* by the 141st General. (2002) – **Referenced as Cathcart HB No 340 (2002)**
- Circa 2005, one bill drafted by Dr. Jerry Kaufman/ENGO. Titled *Freshwater Wetlands Act* based on NJ's wetland law known as the Ogden Act. – **Referenced as Kaufman/ENGO FWW Act (2005?)**
- One bill drafted in 2011 (DNREC and/or AG?) amending Delaware Code to establish a *Program for the Regulation and Protection of Freshwater (Nontidal) Wetlands*. – **Referenced as Ormond/AG (MIA)**



Evaluation of these Legislative efforts

- To date there has not been a systematic side-by-side evaluation of these efforts. Such an analysis along with some legislative history would help us understand what worked, what did not and why.

To wit:

- Those who don't know history are destined to repeat it.
Edmund Burke
- Study history, study history. In history lies all the secrets of statecraft. Winston Churchill

Comparative Review

- 3 of the 4 efforts were reviewed
- Review compared efforts as to their:
 - Purpose
 - How FWW is Defined
 - Treatment of pre-existing use
 - Protected FWW types
 - Permit application process

Comparative Review (continued)

- Mapping requirements
- Mitigation requirements
- Conservation planning
- Public hearings
- Landowner incentives

Opportunity exists add other comparative components and add in the **Ormond/AG (MIA) effort.**

Preliminary Observations

- Legislative efforts that seek to amend Delaware Code to address FWW issues are difficult to follow or understood.
- Stand alone legislative efforts that address FWW issues are more understandable and transparent.
- Legislative efforts that do not involved affected stakeholders usually fail.

Preliminary Observations (continued)

- Prior legislative efforts are excellent resource documents that should be consulted by this committee.

Next Steps

- Add in Ormond/AG effort (see synopsis)
- Turn over e-file of Comparative Review of prior efforts to DNREC
- Update Comparative Review Matrix based on Committee's input
- Designate a DNREC staff member to maintain and update comparative review matrix as needed
- Link full e-copies of all four efforts to matrix document.