95-147
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Triazine Network

Contact: Jere White
Triazine Network
(913) 448-6922

Kim Polzin
Ceres Communications
(612) 894-2414

Wisconsin growers take the atrazine story to Washington

Members of The Triazine Network take part in first-time conference to explore benefits of herbicide class

WASHINGTON, D. C. (Jan. 29, 1996) — Ron Senft, Wisconsin Corn Growers Association president, Cambria; Mark Riechters, Wisconsin Farm Bureau and Wisconsin Corn Growers Association member, Darlington; and Russel Weisensel, Wisconsin Agribusiness Council director of legislative affairs, Madison, met with members of Congress today to discuss the importance of triazine herbicides to Wisconsin agriculture. Triazines include atrazine, simazine and cyanazine.

"For corn growers, atrazine is extremely important. It is economical and works in a variety of weed management situations. In fact, without it, growers need to increase tillage and might have to use more chemicals to get the same job done," said Senft.

The visit to Capitol Hill was part of The Triazine Special Review Conference conducted by The Triazine Network, a coalition of commodity groups that formed to help keep triazine herbicides available to growers. The conference included presentations to staff members of the Environmental Protection Agency, United States Department of Agriculture and Congress.

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"In Washington, EPA staff members and members of Congress obviously can't have an in-depth understanding of our business. We have been taking steps necessary to make sure they understand what further restricting triazines would mean to us," said Weisensel.

Riechters told the Wisconsin congressional delegation that recent studies by the University of Wisconsin showed non-atrazine test plots averaged 12 less bushels of corn per acre plus had higher herbicide costs than the plots protected by atrazine.

Wisconsin growers presented statements from the Wisconsin Department of Agriculture Trade and Consumer Protection, National Association of State Departments of Agriculture, Midwest Governor's Conference and the National Corn Growers Association, all of whom oppose further restrictions on the triazines.

For more information about the Triazine Special Review, contact The Triazine Network, P.O. Box 446, Garnett, Kan., 66032-0446; telephone 800-489-2676.

-30-

State of Wisconsin
Tommy G. Thompson, Governor

Department of Agriculture, Trade and Consumer Protection
Alan T. Tracy, Secretary

2811 Agriculture Drive
Madison, Wisconsin 53704-6777

PO Box 8911
Madison, WI 53708-8911

TELEFAX COVER SHEET

DATE	2-1-96
TO	REPRESENTATIVE ALVIN OTT
FROM	NED ZUELSDORFF
SUBJECT	BACKGROUND INFO REGARDING THE ATRAZINE RULE

Phone No.: 608/224-4500 WI Dept. of Agriculture, Trade & Consumer Protection
Agricultural Resource Management Division

FAX Number: 608/224-4656

11 PAGES TO FOLLOW

If any pages need to be resent, please call the sender at the above number.
Otherwise, we will assume this transmittal has been completely received.

Thank you.

MESSAGE:

ATTACHED IS A COPY OF MATERIALS WE PREPARED FOR OUR BOARD TO ADDRESS RECENT CONCERNS OVER THE 1996 ATRAZINE RULE (AMENDMENTS) THE RULE TIMETABLE INCLUDES REVISIONS OF ATCP 31 TO INCORPORATE A GENERIC PESTICIDE USE PROHIBITION AREA (PA) RESCINDING PROCESS AND CRITERIA. BASED ON CONCLUSIONS OF OUR 5 YEAR ATRAZINE EVALUATION PROCESS (DUE DEC '96) WE COULD SUBSEQUENTLY DEVELOP A ATRAZINE SPECIFIC PA RESCINDING PROCESS AS PART OF THE 1998 ATRAZINE RULE. NICK OR I COULD MEET WITH YOU NEXT WEEK IF YOU NEED MORE INFO.

AR-0058

State of Wisconsin
Tommy G. Thompson, Governor

Department of Agriculture, Trade and Consumer Protection
Alan T. Tracy, Secretary

2811 Agriculture Drive
Madison, Wisconsin 53704-6777

PO Box 8911
Madison, WI 53708-8911

DATE: January 10, 1996

TO: Board of Agriculture, Trade and Consumer Protection

FROM: Alan T. Tracy, Secretary
Nicholas J. Neher, Administrator
Agricultural Resource Management Division

SUBJECT: Improving Atrazine Program Processes

At the December 12th, 1995 Board meeting, department staff were directed by the Board to present improved policies used to implement the department's groundwater protection program at your January 30th meeting. Staff met with Louis Wysocki, chair of the Board Agricultural Resource Management Committee, on January 4th to clarify the issues to be addressed by staff.

First, the Board requested that a statement be developed which fully discloses the possible repercussions of submitting a groundwater sample to a state or local agency. The new full disclosure now being presented to wellowners is attached. Second, staff were to expand groundwater investigations in the area surrounding a well which exceeds pesticide standards to better understand the extent of contamination. This is to include additional well sampling. Staff will describe changes now being implemented to address this concern. Third, the department was to begin development of a policy to rescind prohibition areas when other alternatives are expected to maintain compliance with the standards. A timeline to develop rule changes clarifying when a prohibition area may be rescinded is included.

To assist the Board in its evaluation of groundwater protection policy, a history of atrazine regulation in Wisconsin is included. A listing of the components to evaluate the atrazine rule, which will be completed by December 1996, summarizes work currently underway. Also included is an outline indicating those things that are known and unknown about atrazine contamination from a scientific standpoint.

Well Sampling Program

Most residents of rural Wisconsin rely on ground water for their supply of drinking water. By state law, The Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP) is charged with protecting this resource from contamination by agricultural chemicals such as pesticides and fertilizer. The department monitors this valuable resource by collecting samples of drinking water for laboratory analysis.

We would like to collect a sample from your water supply as part of this program.

Why Should I Participate?

There are benefits to participating in this program. Testing your drinking water can determine if the water is safe for drinking and preparing food.

If pesticides are found, it may be possible to identify the source(s) of contamination. If so, the chances for further contamination of area ground water can be reduced.

How Are the Results Used?

All sample results are, by state law, public records; they are not confidential. The department cannot withhold sample results from any interested party.

If your drinking water contains unsafe levels of pesticide contaminants, the department will conduct an investigation attempting to identify the source of the contamination, determine whether any department regulations have been violated, and determine if any action is needed to prevent further ground water contamination. One possible action is to prohibit further use of the pesticide on lands surrounding the well. The department has established about 90 atrazine prohibition areas based on water sample results.

This investigation may also involve collecting and analyzing soil samples from your land. Any sampling results from your property will be provided to you.

If we find significant levels of pesticide contamination in your property's soil, the contaminants will have to be removed from the soil to prevent them from moving through to the groundwater and causing further contamination.

Soil cleanups generally involve excavating the contaminated soil and spreading it on agricultural fields. The costs for this activity are relatively low.

What Are My Responsibilities?

You may incur some responsibilities depending on the results of this well test. In some extreme cases, the soil or ground water contamination may be so severe as to require more extensive action. This could include hiring an environmental consultant and cleaning up ground water. These costs may reach tens of thousands of dollars. An agricultural chemical cleanup fund will be available to cover a significant portion of these costs. To date, groundwater cleanup has been necessary only at a few farm supply dealerships. No farm site has required the cleanup of groundwater itself.

If you have any questions, please call our office at 608/224-4500.

History of Regulating Atrazine in Wisconsin

Background

Regulating Well Construction

Unlike some of our neighboring states, Wisconsin residents rely almost entirely on groundwater for consumption. Wisconsin was first among the states to register well drillers and regulate private wells with the passage of Chapter 434, Laws of 1935 (Ch. 162, Wis. Stats.). Public health was the sole interest of the law. This program has produced what the United States Environmental Protection Agency (USEPA) in 1978 termed "...one of the greatest concentrations of properly constructed and protected water wells in the country."

The Groundwater Law

In 1980, residues of the insecticide aldicarb were detected in groundwater in the Central Sands region of Wisconsin. This brought the agricultural community into the discussion about groundwater regulations. Prior to this point, solid-, mining-, and hazardous-waste disposal were the focus of groundwater legislation.

In 1981, the Ad Hoc Committee on Hazardous Waste Management concluded that Wisconsin lacked a clear set of groundwater protection goals. They recommended the formation of a Legislative Council Special Committee on Groundwater Management to study groundwater policy.

The Public Intervenor, the Wisconsin Farm Bureau Federation and the agricultural chemical industry formed an alliance to push for groundwater standards, rather than the zero-degradation policy authorized by state statutes to the Wisconsin Department of Natural Resources.

The Legislative Council Special Committee agreed that the groundwater standards would be based on risk to human health. The concept of the preventive action limit, or PAL, was proposed to trigger regulatory action to see that the enforcement standard, or ES was not exceeded. The two-tiered standard system is still unique to Wisconsin.

The groundwater law is Chapter 160 of the Wisconsin Statutes. It was adopted in 1984 and sets forth the regulatory framework within which our department operates.

Aldicarb Regulation

The department responded to aldicarb findings in groundwater and drinking water by use of both emergency and regular rulemaking from March 1982 through March 1988.

The following key provisions were established through the public

what's happening with wells today are they cleaning up or not?

rulemaking process.

1. Prohibition zones were established that included land within a one-mile radius of the contaminated well;

2. The department reviewed and evaluated proposed applications of aldicarb before allowing use;

3. Aldicarb use was prohibited in susceptible areas unless a monitoring well was installed and sampled at the owner's expense;

4. The department established a definition for the term "reliable groundwater test result".

Rulemaking routinely resulted in legislative hearings and in one instance legislation passed requiring prohibition areas to be enlarge by a factor of four. Environmental groups and the public intervenor remained skeptical of the department's approach and repeatedly asked for a statewide ban. That theme was also common in the media.

Atrazine Use History

Atrazine was first registered for use on agricultural crops on or about 1960. It became very popular in Wisconsin for controlling broadleaved weeds in corn, and for controlling quackgrass in first-year corn after alfalfa. When combined with a surfactant it was very effective as a rescue treatment in corn, when the planned weed control strategy failed. Although its use has declined somewhat in Wisconsin the last 5-10 years, it is still applied to about half of the corn crop each year.

Recognizing Atrazine as a Groundwater Contaminant

In the 1970s our attention was focused on other agricultural chemicals, especially the organochlorine insecticides such as DDT. Atrazine was not believed to pose a significant risk to human health. Virtually no groundwater samples were analyzed for atrazine until 1984, about 24 years after it was first used in Wisconsin.

Atrazine was first detected in private water supply wells in the lower Wisconsin River valley in 1984. (Research conducted in the river valley in the last few years has shown it to be among the most susceptible soil-groundwater systems in Wisconsin.) At that time the lowest concentration of atrazine that could be detected in groundwater was 1 microgram per liter (ug/l, the same as part per billion), and the USEPA health advisory level for atrazine was 215 ug/l.

Groundwater Standards for Atrazine

In Wisconsin, groundwater standards are proposed to the Department of Natural Resources (DNR) by the Division of Health with the Department of Health and Social Services (DHSS). In the absence of a federal number, as was the case for atrazine at that time, DHSS evaluates the toxicology literature for a compound and makes a recommendation to the DNR, using guidelines in the groundwater law. The guiding concept is that Wisconsin residents should not be exposed to a significant health risk by drinking their water.

The preventive action limit and enforcement standard adopted by the DNR in 1988 applied only to the parent atrazine molecule. By then, the Grade A Dairy Farm Well Water Quality Survey had identified atrazine as the primary pesticidal contaminant in Wisconsin groundwater. These samples were analyzed for parent atrazine only.

In 1990, our laboratory analyzed followup samples from the Rural Well Survey for the deethyl- and deisopropyl- chlorinated metabolites of atrazine. Deethylatrazine was found quite often, while deisopropyl atrazine was found rarely. Ciba-Geigy analyzed about 234 samples from the Rural Well Survey followup for all three chlorinated metabolites. Their results were not received by the department until May of 1991. The Ciba laboratory reported a detection limit of 0.1 ug/l for each metabolite, considerably lower than our laboratory was reporting. In the Ciba samples deethyl atrazine and diamino atrazine were detected at similar frequencies and concentrations to parent atrazine.

In 1992 more restrictive standards were adopted that included parent atrazine and three chlorinated metabolites of health concern. This change had a tremendous impact on our regulatory program as it dramatically increased the number of wells above both the preventive action limit and enforcement standard.

The actual concentrations of atrazine and its chlorinated metabolites in Wisconsin groundwater probably have not changed significantly throughout this process. Only our knowledge and definition of "the problem of atrazine in groundwater" has changed.

The Atrazine Rule

The Atrazine Rule, Ch. ATCP 30 (formerly Ag 30), Wis. Adm. Code, was promulgated in March 1991 to protect Wisconsin's groundwater. This rule restricted the use of atrazine on a statewide basis and established one atrazine management area (AMA) and six prohibition areas (PAs) in which the use of atrazine was further restricted or prohibited. (Prohibition areas were established

based on the same rationale that was used for aldicarb.) Statewide, atrazine application rates were limited to 1.0 - 2.0 pounds/acre depending on surface soil texture and whether atrazine was used the previous year. The AMA established in the Lower Wisconsin River Valley limited atrazine application rates to 0.75 pounds/year. An analysis by the department of the technical and economic aspects of weed control in corn showed that, while it was technically feasible to produce corn without atrazine, it was not economically feasible.

Amendments to the Atrazine Rule were promulgated in March 1992. These amendments established five additional AMAs and eight additional PAs in areas of the state where sample results received by the Department by April 1, 1991 showed more acute contamination. This included virtually the entire lower Wisconsin River valley. The maximum atrazine application rates in the AMAs were 0.75 pounds/acre for coarse soils and 1.0 pounds/acre for medium and fine soils. The department determined that these application rates were the lowest that would still provide adequate weed control.

Additional amendments to the Atrazine Rule were promulgated in March 1993. These amendments further limited the use of atrazine statewide and included 54 atrazine PAs where the groundwater enforcement standard for total chlorinated residues of atrazine had been exceeded. Because the new statewide restrictions were similar to the restrictions in the existing AMAs, the existing AMAs were not included in the rule. The groundwater standards for atrazine were redefined effective in February 1992 to include parent atrazine and its three chlorinated metabolites. As a result, a significant number of additional wells now exceeded the enforcement standard, and exceedances of the preventive action limit now were routine. The reduced statewide use rates were in response to this widespread exceedance of the preventive action limit.

Specifically, the 1993 rule amendments established statewide maximum allowable atrazine application rates of 0.75 pounds/acre for coarse textured soils and 1.0 or 1.5 pounds/acre for medium/fine textured soils. The 1.5 pounds/acre rate is allowed on medium/fine textured soil if no atrazine has been applied the previous year. If a rescue treatment is needed on seed and sweet corn, an additional amount of atrazine can be used as long as the total annual amount of atrazine use does not exceed 1.5 pounds/acre on coarse textured soils and 2.0 pounds/acre on medium/fine textured soils.

Additional amendments to the Atrazine Rule were promulgated in March 1994. These amendments created 19 new PAs in 12 counties

and enlarged three existing PAs. The total land area involved in these new PAs is approximately 58,000 acres. This action was based on groundwater sample results for atrazine and metabolites that the Department has received in the previous year.

Additional amendments were promulgated in March 1995. These amendments created nine new PAs and enlarged four existing PAs where the enforcement standard for total chlorinated atrazine residues had been attained or exceeded.

Additional amendments have been proposed for the 1996 growing season. All statewide provisions in the current rule would remain in effect. Twelve new PAs would be created and two existing PAs would be enlarged where the enforcement standard has been attained or exceeded. This action is based on groundwater samples the department received in the last year. Most of the proposed new PAs are based on a single well exceeding the enforcement standard. The proposed expansion of two existing PAs is due to new findings of total chlorinated residues of atrazine above the enforcement standard near existing PA boundaries.

What research has been done by the UW - or others - over the years.

What don't we know about atrazine behavior in the environment

We don't know how long it takes for atrazine to break down in the groundwater, although we know the rate will vary according to pH, temperature etc.

We don't know the exact concentrations of atrazine that reach groundwater on various conditions of soil type, depth to groundwater, and application rates.

We don't know exactly how old the atrazine is in contaminated wells in the state.

We don't know where all the wells are in the state that exceed the enforcement standard.

We don't know how the concentrations of atrazine in water supply wells compare with the concentrations at the water table.

We don't know exactly how management practices (tillage, irrigation, crop rotations etc.) effect atrazine leaching.

We don't know how to predict atrazine leaching accurately using computer models.

What we do know about atrazine

We know that atrazine is found in groundwater in all the agricultural areas of the state, although to a lesser extent in eastern Wisconsin.

We know that approximately 12% of the groundwater exploitable by private water supplies contain atrazine residues and that about 1.7% exceed the enforcement standard.

We know that the Lower Wisconsin River Valley is an area extremely susceptible to groundwater contamination by atrazine.

We know that the patterns of atrazine contamination in groundwater in Wisconsin are related to soil type and atrazine use patterns.

We know that atrazine is commonly found in groundwater because it has been used extensively and breaks down relatively slowly in the soil compared to other herbicides.

We know that both point sources and non-point sources of atrazine can contaminate groundwater.

We know that the concentration of atrazine in a well varies over time and that this variation is not always predictable.

We know that atrazine is found in both farm and non-farm rural wells.

Atrazine Rule Evaluation

Date of report due?

Under ATCP 30.40, Wis. Admin. Code, the department is required to provide a report to the Board of Agriculture, Trade and Consumer Protection evaluating the provisions of the Atrazine Rule and the need for modifications. The evaluation will be based on groundwater and related data available to the department. The following is a brief description of the individual components of this evaluation.

Atrazine Rule Evaluation Surveys

As part of the rule evaluation, the Department will conduct two statistically valid surveys of atrazine residues in groundwater at two and four years after April 1, 1991. The main objective of these surveys is to answer the question "has there been a statistically significant change in the levels of atrazine residues in groundwater between survey one and survey two?" In other words, the surveys will determine if the atrazine levels in groundwater are going up, down, or staying the same.

Paired Well Survey

The Paired Well survey will determine changes in atrazine levels in groundwater in response to atrazine prohibition areas (PAs). To accomplish this, pairs of wells (one inside a PA and one outside) were selected and will be sampled quarterly for one year. The results from this survey will be used to determine if atrazine levels in the PAs are dropping faster than the levels outside PAs.

Pesticide Use Surveys

The Department and WASS will conduct a Pesticide Use Survey for the 1996 growing season. This survey will include detailed information about atrazine use patterns. This survey will be compared to similar surveys conducted in 1985 and 1990 to determine changes in atrazine use patterns over this time period. The 1990 and 1995 surveys will span the history of the atrazine rule.

Pesticide and Groundwater Research Projects

Several research projects funded by DATCP, DNR, and the University of Wisconsin provide relevant information to the Atrazine Rule Evaluation:

One of these research projects will determine the effect of atrazine application rates on movement through a silt loam soil. This study is being conducted in the UW Biotron using intact soil columns.

Another study was conducted to determine the level of understanding farmers have of the atrazine rule and their compliance with it. This study also discusses the weed control practices farmers have adopted in response to reduced and prohibited atrazine use.

The following research projects on the fate of atrazine in soil and groundwater have also been conducted. Relevant findings from these studies will be included in the rule evaluation.

Sources and Extent of Atrazine Contamination of Groundwater at a Grade A Dairy Farm in Dane County, Wisconsin.

Effect of Soil Type on Atrazine and Alachlor Movement through the Unsaturated Zone.

Field Study of Atrazine Contamination of Groundwater in Dane County, Wisconsin.

Hydrologic and Land Use Controls on Atrazine Detections in Dane County, Wisconsin.

DATCP Monitoring Well Program

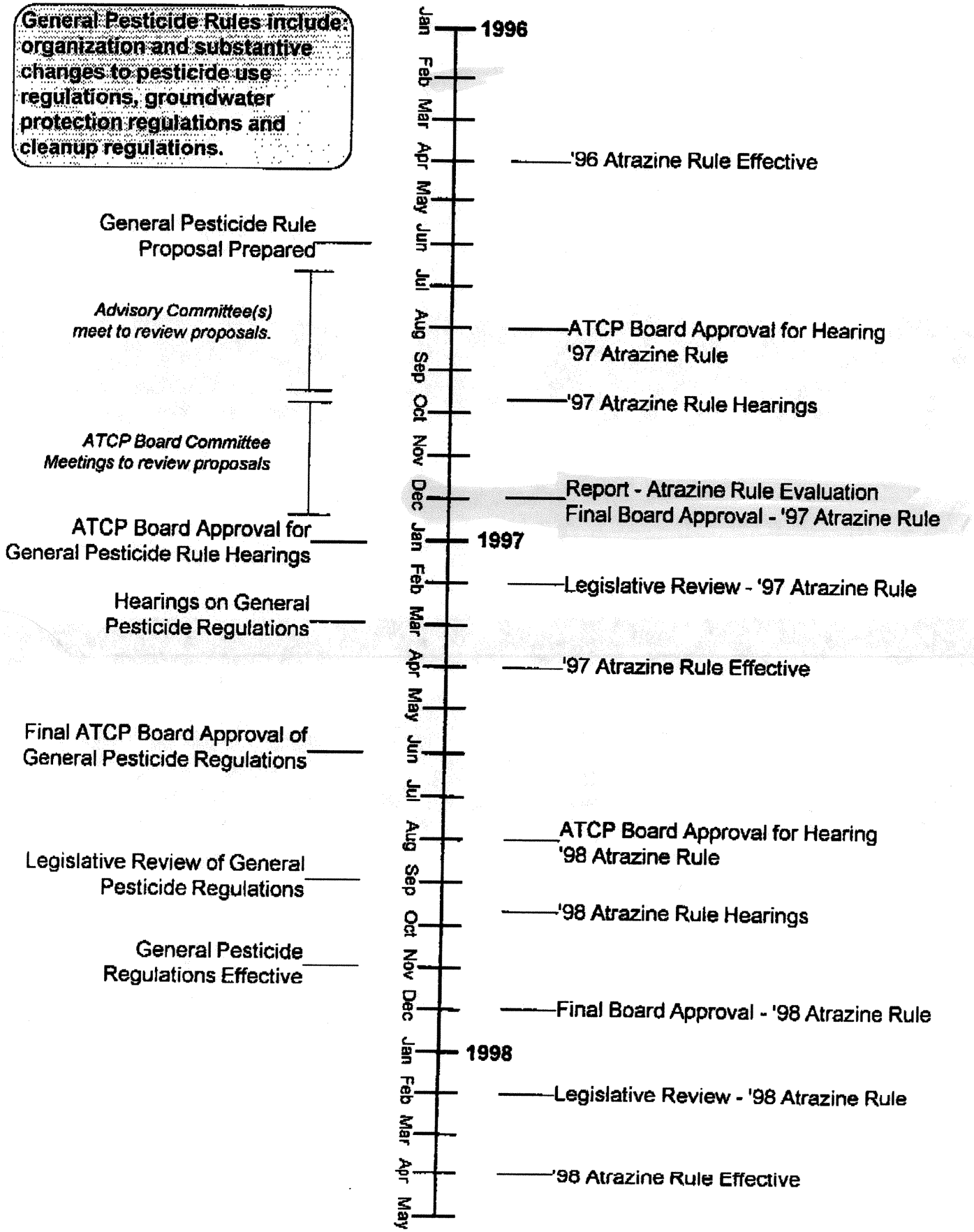
DATCP has been testing monitoring wells next to 34 fields treated with atrazine since 1985. These fields are all in areas known to be susceptible to groundwater contamination (sandy soil, shallow depth to groundwater). The results from these wells can be used to assess the effects of the atrazine rule in areas of coarse soil.

General Well Testing for Pesticides

The DATCP database contains results from over 22,000 well tests. Some of these results are from multiple testing of the same wells, particularly those with higher concentration. These results will be analyzed and trends over time will be included in the evaluation.

Agrichemical Management Timeline for Rule Development 1996-1997

General Pesticide Rules include: organization and substantive changes to pesticide use regulations, groundwater protection regulations and cleanup regulations.



REP. DAVID BRANDEMUEHL

ATRAZINE TESTIMONY

FEBRUARY 8, 1996

Thank you Chairman Ott and committee members for giving me this opportunity to testify in opposition to Clearinghouse Rule 95-147, relating to atrazine use restrictions.

I believe this rule establishes an atrazine ban in an area where it is not needed, specifically the Town of North Lancaster in Grant County.

In 1994, DATCP ran one test of a shallow well located on a farm in North Lancaster. They found an atrazine level of 3.55 ppb, slightly above the enforcement level of 3 ppb. Since a spill is believed to have occurred near the tested well, I asked DATCP to run more tests on that particular well and those in the surrounding area which would be included in the new prohibition area.

Six months later, in August of 1995, new tests revealed that all of the wells were within the legal limits. The well which previously tested at a level of 3.55 ppb, was now at 2.88 ppb, well below the enforcement level.

However, due to the inflexibility of the current atrazine laws, the Agriculture, Trade and Consumer Protection Board imposed the ban even though further tests showed compliance. Although the Board members expressed displeasure with their own actions, they feel it

necessary to impose a ban even if just one test shows a contamination level of 3 ppb or more.

Since the most recent tests show compliance with the atrazine laws, I believe this ban is unnecessary and this rule should be partially rejected.

Wisconsin farmers deserve more practical atrazine regulations which allow for use of the relatively cheap herbicide while preserving the safety of our water. The actual threat of atrazine to our health is questionable. In the past 34 years, there has not been one documented health problem related to atrazine. Although there were a number of tests administered to lab animals which indicated a potential for problems, there is no documented proof of an existing hazard.

The economic impact of an atrazine ban is substantial. The problem is compounded by the inability to remove a ban once it is put into place.

In discussions with Secretary Tracy of DATCP and other department officials, I have been assured that they are reviewing the current atrazine rule and are going to bring forward modifications to ease the permanency of the bans. But any changes will take at least 2 years to implement, so it will be too late for these Grant County farmers, if this atrazine prohibition rule is accepted as it is.

I would like to note that Wisconsin has much stricter atrazine standards than our surrounding states. Wisconsin has an atrazine limit of 3 ppb which includes the measurement of metabolites, the properties atrazine breaks down into as it deteriorates. By including

the metabolites, the number of wells exceeding the enforcement standard jumps significantly.

Both Iowa and Illinois also have an atrazine limit of 3 ppb. However, they only measure for the parent atrazine molecule, they do not include the metabolites. Minnesota has a health-risk level of 20 ppb and again, they do not measure for metabolites. A few years ago, Minnesota also had the standard of 3 ppb, but with new data taken into consideration they went to 20 as a safe level and have had no problems with the EPA.

Since there is no documented proof that atrazine is a serious health risk, I do not believe it is fair for Wisconsin farmers to be facing more stringent standards than their neighbors.

Based on the facts, I urge you to partially reject this rule banning atrazine use for the Town of North Lancaster in Grant County.

I would also urge your support for the department's efforts to rework the existing atrazine rules to make them more reasonable and farmer friendly.

Thank you.

The agency is prohibited from promulgating the proposed rule until the conclusion of the committee review period, unless both committees waive their jurisdiction over the rule prior to the end of the review period.

6. AUTHORITY OF REVIEWING COMMITTEES

If both committees fail to take any action during the review period, the agency may complete promulgation of the proposed rule.

If a committee, by majority vote of a quorum of the committee, recommends modifications in a proposed rule (and the agency, in writing, agrees to make modifications), the review period for both committees is extended to the later of:

a. The 10th working day following receipt by the committees of the modified proposed rule; or

b. The expiration of the initial or extended committee review period.

There is no limit on the number of times that modifications may be sought, prior to the conclusion of the committee review period.

An agency may unilaterally propose rule modifications during, or following, the committee review period.

A committee may object to a proposed rule, or part of a proposed rule, only for one or more of the following reasons:

a. An absence of adequate statutory authority.

b. An emergency relating to public health, safety or welfare.

c. Failure to comply with legislative intent.

d. Being contrary to state law.

e. A change in circumstances since the original date of passage of the earliest law upon which the rule is based.

f. Being arbitrary and capricious or imposing an undue hardship.

DAVID BRANDEMUEHL

State Representative
49th Assembly District

Call Shari after hearing on Wed.

TO: Members, Agriculture Committee

FROM: Rep. David Brandemuehl Dab

DATE: February 9, 1996

RE: Clearinghouse Rule 95-147

Attached is a copy of the testimony I gave on February 8, in opposition to Clearinghouse Rule 95-147, relating to atrazine use restrictions. I believe this rule will create an undue hardship, and thus I believe it should, at least in part, be rejected.

If you have any questions, please don't hesitate to contact me or my office. Thank you for giving this matter the attention it deserves.

Member: Committees on Education; Criminal Justice & Corrections; Highways & Transportation (Chair); Transportation Projects Commission
Office: State Capitol, P.O. Box 8952, Madison, Wisconsin 53708 • (608) 266-1170
Home: 13081 Pine Road, Fennimore, Wisconsin 53809 • (608) 822-3776
Legislative Hotline: (toll free): 1 (800) 362-WISC (9472) • **Fax:** (608) 266-7038

Chairman:
Agriculture Committee

Member:
Environment & Utilities
Government Operations
Natural Resources
Rural Affairs

Al Ott

State Representative • 3rd Assembly District

IMPORTANT

To: Assembly Agriculture Committee Members

From: Representative Al Ott, Chair

Date: February 13, 1996

Re: CR 95-147

Following the public hearing last week on CR 95-147 relating to atrazine use I am unsure as to the committee's wishes in dealing with the rule. Our deadline for action on the rule is February 25th, 1996.

Dave Stute will be providing committee members with a background memo on CR 95-147 hopefully by the end of this week. If you already perceive that you will be requesting that the committee object to the rule, I would encourage you to make the appropriate contacts, either to DATCP or others, to get answers to your questions as soon as possible.

Please respond to my office no later than 5:00pm, Tuesday, February 20th with your wishes as to acting or not acting on CR 95-147. If you wish to object to the rule either in whole or in part, please indicate in writing your specific objections. It is absolutely imperative that you respond to me by this deadline as the only opportunity for an executive session on the rule will be in River Falls provided there is a quorum of members present.

Please feel free to contact me if you would like to discuss this further.

Office: P.O. Box 8953 • Madison, WI 53708 • (608) 266-5831 • Toll-Free: 1 (800) 362-9472
Home: P.O. Box 112 • Forest Junction, WI 54123-0112 • (414) 989-1240

Grant County farmers seek lift of atrazine ban

Madison 2-14-96 County Today

The Assembly Agriculture Committee delayed taking action on expanding atrazine ban areas after hearing testimony from two Grant County farmers.

Bill Pink and Walter Taylor testified Feb. 8 that the Department of Agriculture, Trade and Consumer Protection should not include their land in atrazine prohibition areas.

The farmers, who also testified at a recent DATCP board meeting, are seeking a reversal in the decision. The land, located in North Lancaster township, was one of 12 atrazine prohibition areas added to the list of atrazine prohibition areas, which includes 80 prohibited areas encompassing more than 1.2 million acres.

According to Nick Neher, administrator of DATCP's division of agricultural resource management, well tests conducted in early 1995 indicated unsafe atrazine levels on Mr. Taylor's farm. Safe levels are under 3 parts per billion and levels at the testing site on Mr. Taylor's farm were .55 ppb.

According to the farmers, tests conducted in August 1995 showed the atrazine levels complied with DATCP regulations, but the farmers learned the ban still would be imposed. Once land is designated a prohibited-use area, farmers must wait 2 years before atrazine application is allowed.

Mr. Neher said precautions are taken because other prohibited areas have shown minimal atrazine decline in groundwater. The department only wants to ensure clean water, he added.

Rep. David Brandemuehl, R-Fennimore, said the ban should be lifted. When six wells in the area were retested, all fell within DATCP safety standards, he added.

"If that land is included in the prohibition area, it would take 2 years to reverse the decision and it would hurt those farmers," Rep. Brandemuehl said. "Atrazine rules should be modified to be more farmer-friendly."

Mr. Pink said DATCP's atrazine ban would legislate farmers out of business. "If this land gets put in the prohibited area, it will not be straightened out in 2 years," he said.

Mr. Taylor said the atrazine ban increased his cost per acre for chemical application and decreased his land values.

Mr. Neher defended DATCP's testing saying "the result from our tests are reliable. We are confident atrazine use contributes to the groundwater problem, but we cannot say if it was a point (spill) or non-point (animal waste) source."

The committee delayed action until further research is conducted.

—Bob Kliebenstein

DAVID BRANDEMUEHL
State Representative
49th Assembly District

TO: Members, Assembly Agriculture committee

FROM: Rep. David Brándemuehl

DATE: February 15, 1996

RE: Clearinghouse Rule 95-147, relating to atrazine use restrictions

Attached is some further information provided by my constituents regarding the specific atrazine ban proposed for North Lancaster in Grant county.

I hope you will take a few minutes to review this material. If you have any questions, please feel free to contact me immediately.

Thank you.

Member: Committees on Education; Criminal Justice & Corrections; Highways & Transportation (Chair); Transportation Projects Commission
Office: State Capitol, P.O. Box 8952, Madison, Wisconsin 53708 • (608) 266-1170
Home: 13081 Pine Road, Fennimore, Wisconsin 53809 • (608) 822-3776
Legislative Hotline: (toll free): 1 (800) 362-WISC (9472) • **Fax:** (608) 266-7038

Our records indicate that you were never assigned a Wisconsin Unique Well Number (WUWN). A WUWN is an identification number for a well consisting of 2 letters followed by 3 numbers. For future reference, we will assign your well a WUWN. This number is listed in the top right hand corner of this letter's first page. Enclosed are your WUWN identification stickers along with placement directions. If you were already assigned a WUWN by the DNR please notify us so we can update our records.

Sample Results for Nearby Wells

Twelve (12) samples are from wells that are inside the proposed prohibition area while 1 sampled well is some distance west. The results for atrazine and its breakdown products are shown on the attached map. Four of the 13 samples (32%) contain detectable levels of atrazine and/or its breakdown products. Fortunately, none of the wells are above the enforcement standard of 3 parts per billion. However, three of the four wells exceed the preventive action limit of 0.3 parts per billion.

I have enclosed a copy of a survey of atrazine in Wisconsin groundwater we completed earlier this year. The results from our sampling in one small part of Grant County are quite similar to what we would expect to find based on the results of the statewide survey.

The Board of the Department of Agriculture, Trade and Consumer Protection is meeting on December 12, 1995. These results will be presented to them for their consideration.

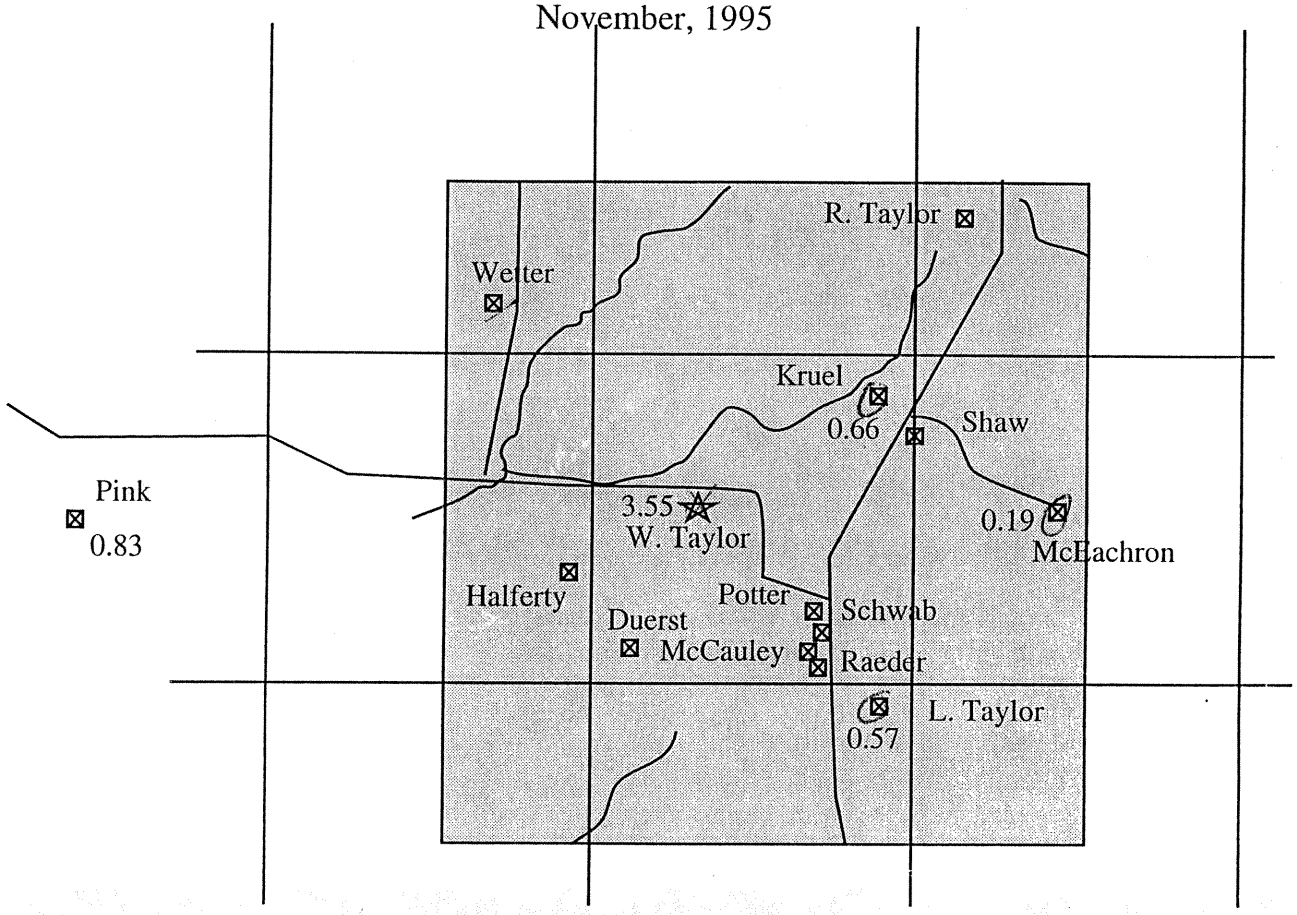
Thank you for helping us to take a closer look at atrazine in the drinking water in your area. Please call me at 608-224-4502 or Jim Vanden Brook at 608-224-4501 if you have any questions.

Sincerely,

Gary LeMasters

Gary LeMasters
Groundwater Specialist
AGRICULTURAL RESOURCE MANAGEMENT DIVISION

GRANT COUNTY
Results of Sampling in Proposed PA
November, 1995



	Atrazine	DEA[1]	DIA[1]	DAA[1]	TCR[2]	Alachlor	Alachlor ESA	Nitrate-Nitrogen
Duerst	ND	ND	ND	ND	ND	ND	ND	ND
Halferty	ND	ND	ND	ND	ND	ND	ND	5.68 ppm
Kruel	0.309	0.352	ND	ND	0.661	ND	1.33	24.4 ppm
McEachron	0.186	ND	ND	ND	0.186	0.348	ND	6.84 ppm
McCauley	ND	ND	ND	ND	ND	ND	ND	1.71 ppm
Pink	0.252	0.580	ND	ND	0.832	ND	ND	13.0 ppm
Potter	ND	ND	ND	ND	ND	ND	ND	ND
Raeder	ND	ND	ND	ND	ND	ND	2.20	8.70 ppm
Schwab	ND	ND	ND	ND	ND	ND	ND	3.24 ppm
Shaw	ND	ND	ND	ND	ND	ND	3.20	5.67 ppm
L. Taylor	0.186	0.386	ND	ND	0.572	ND	2.97	6.62 ppm
R. Taylor	ND	ND	ND	ND	ND	ND	8.48	14.4 ppm
Wetter	ND	ND	ND	ND	ND	ND	ND	10.5 ppm
W. Taylor								
July 6, 1994	2.06	1.49	ND	ND	3.55	0.328	2.55	17.7 ppm
August 9, 1995	1.54	1.34	ND	ND	2.88	0.487	5.84	16.4 ppm

[1] DEA = deethylatrazine, DIA = Deisopropylatrazine and DAA = Diaminoatrazine. These are breakdown products of atrazine.

[2] TCR is the sum of atrazine, DEA, DIA and DAA.

I Lauren Taylor verify that there was a back Siphon to the WELL. from a sprayer that Contained Atrazene, 10 years ago. Before Walter started applying Chemicals.

2-5-96 Lauren Taylor

Lauren Taylor

State of Wisconsin
Tommy G. Thompson, Governor

Department of Agriculture, Trade and Consumer Protectio
Alan T. Tracy, Secretary

2811 Agriculture Dri
Madison, Wisconsin 53704-67

PO Box 89
Madison, WI 53708-89

Dear Walter;

You asked me to circle the area on the map that I believe contaminated your well. I cannot determine the exact area that contributes water to your well without installing a series of groundwater monitoring wells to determine the direction of groundwater flow. We drew the prohibition area as we did, a four square mile area centered around your well, to include all lands that could contribute water to your well. We are confident that the zone of contribution to your well is included in this area. Please call me if you want to discuss this matter.

I have also faxed the letter I wrote to Mr. Pink about laboratory variability. I mailed a copy to you yesterday.

Thank you for your continued interest in your groundwater quality.

Sincerely,

Sincerely,

Gary LeMasters

Gary LeMasters
Soil Scientist/Groundwater Specialist
AGRICULTURAL RESOURCE MANAGEMENT DIVISION
608/266-0541

2-6-91

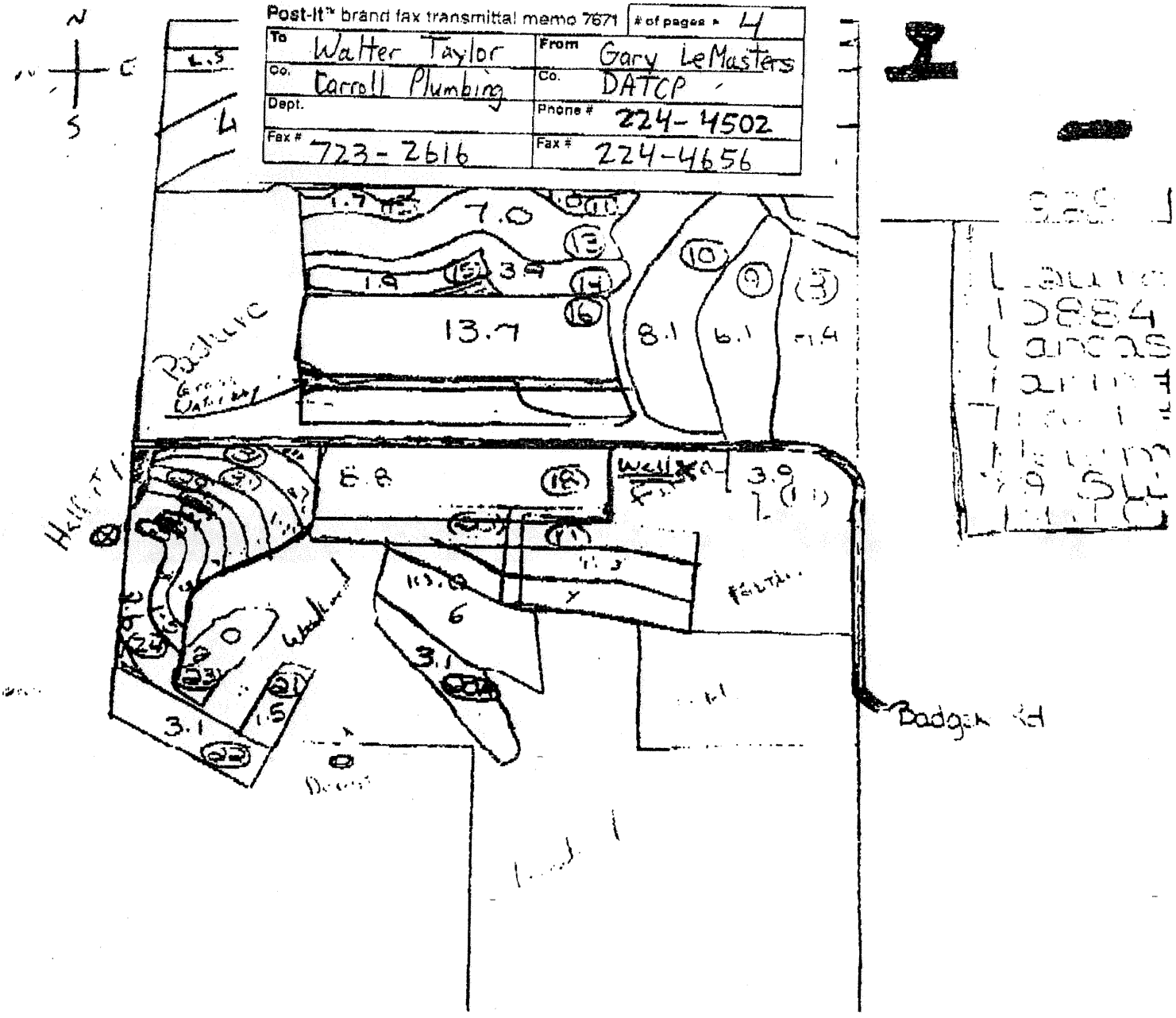
To: Gary Lemasters

From: Walter Taylor

Fax # 723 2616

Post-It™ brand fax transmittal memo 7671 | # of pages ▸ 4

To	Walter Taylor	From	Gary LeMasters
Co.	Carroll Plumbing	Co.	DATCP
Dept.		Phone #	224-4502
Fax #	723-2616	Fax #	224-4656



Gary Lemasters,

Could you please circle the area that you think contaminated the well. Respond promptly.

Walter Taylor

Wisconsin Agribusiness Council

2317 International Lane Suite 109 • Madison, WI 53704-3129 • (608) 249-2323 Fax (608) 249-2797

February 15, 1996

File w/ rule

To: The Assembly Committee on Agriculture
Fm: Russ Weisensel

Re: Atrazine rule 95-147 / ATCP 30: Taylor Site in Grant County

Representative Wilder asked if a single test of groundwater with a contaminant other than pesticides, would result in the state imposing product bans. As with many issues, this question isn't easy to answer.

Agriculture utilizes crop protection products, some of which can move into the water table. These pesticides, at very low concentrations, are spread onto many acres.

Industrial compounds may leach into the groundwater from land fills, old commercial sites (such as abandoned manufacturing facilities, dry cleaning plants, service stations) and from current operating facilities. Often, but not always, these contaminants come from the "point" rather than a "non-point" source.

If a public water supply shows a contaminant, either industrial compounds or pesticides, over the state enforcement standard (ES), the DNR will check that well or water supply quarterly. If the average from the results from four quarters shows that the contaminant is above the ES, the municipality must make a correction. That could be a filter, abandoning the well, or in some instances blending water from the contaminanted well with water from other sources so that the product going to the consumer is below the ES. [reference: WI Administrative Code NR 809]

It has been DATCP's philosophy that a single test over the ES triggers an atrazine prohibition area, unless the "weight of credible evidence" indicates that alternative measures would result in the atrazine in groundwater diminishing to a level below the ES.

Please review the highlighted map and minutes from DATCP. The atrazine level in the well in question in Grant County dropped approximately 19% from July 6, 1994 to August 9, 1995. **Isn't this official test by DATCP "credible evidence" that the detect level will stay below the ES of 3 ppb?**

When the DATCP board requested additional investigation, 13 additional area wells were sampled on or about November 20, 1995. Nine showed no detect. The average level of atrazine in the 3 "new" samples from the proposed prohibition area (PA) is less than 0.5 ppb. (I didn't include the Pink well detect in this average because it isn't in the proposed PA.) Since atrazine was used in this area during the 1994 and 1995 growing season, **isn't this more "credible evidence" that current statewide restrictions are working at this site?**

- more -

Why didn't DATCP resample the Taylor well on November 20? Ninety days had expired since the August test. A second sample in 1995 would have helped to confirm or deny the declining trend shown in the previous tests.

Since, presently there is no mechanism to recind existing PA's, and since based on current test data, no other wells in this area are at risk to have atrazine levels approaching the ES, it would be reasonable for your committee to direct DATCP to promulgate the amendment to ATCP 30 without including the Taylor site as a prohibition area for 1996.

Also enclosed for your information is an updated report from the University of Wisconsin on the costs of raising corn without atrazine. This report was presented at the 1996 Wisconsin Fertilizer, Aglime & Pest Management Conference in January and to the Wisconsin Corn Growers Conference this week.

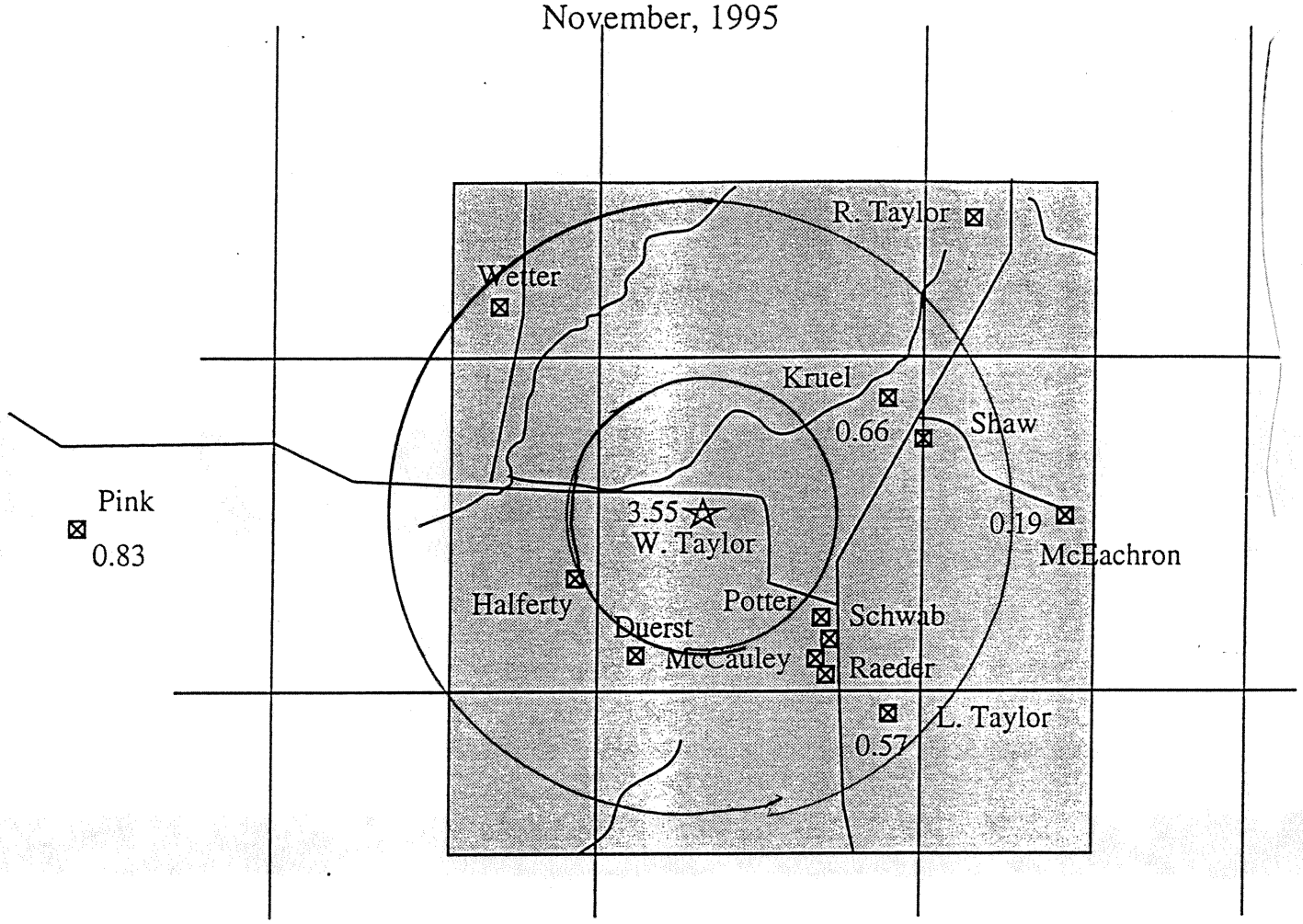
Given the ample safety factors in Wisconsin's groundwater standards, we must not penalize any farmer growing corn in our state where the use of atrazine does not result in residue levels exceeding 3 ppb!

Thank you.

enc:

c: Representatives Brandemuehl & Grothman
Senators Drzewiecki , Schultz & Welch

GRANT COUNTY
Results of Sampling in Proposed PA
November, 1995



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Potter	ND	ND	ND	ND	ND	ND	ND	ND
Raeder	ND	ND	ND	ND	ND	ND	2.20	8.70 ppm
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19%

[1] DEA = deethylatrazine, DIA = Deisopropylatrazine and DAA = Diaminoatrazine. These are breakdown products of atrazine.

[2] TCR is the sum of atrazine, DEA, DIA and DAA.

ATRAZINE--FINAL DRAFT RULE

Nick Neher and Jim VandenBrook of the Division of Agricultural Resource Management asked the Board to approve a final draft rule amending ch. ATCP 30, Wis. Adm. Code (Atrazine Pesticides; Use Restrictions). The Board approved a hearing draft rule on August 8, 1995.

This rule makes the following changes to the current rules:

- It creates 12 additional prohibition areas where atrazine contamination of groundwater has exceeded the state enforcement standard;
- It enlarges two existing prohibition areas. Along with the new prohibition areas, atrazine use will be prohibited on an additional 36,500 acres.

During public hearing, Portage County submitted screening test results for four wells that showed levels that exceeded the enforcement standard for atrazine, and the county recommended five additional prohibition areas for inclusion in the final rule. The department is currently investigating these well findings and would propose to consider these for prohibition areas in amendments to the 1997 atrazine rule.

Nick Neher submitted to the Board a letter form State Representative David Brandemuehl of the 49th Assembly District. The letter urges the Board to delay action on the designation of a prohibition area in the Town of North Lancaster, Grant County, until the department conducts further investigation.

Board discussion followed. The Board expressed concern that the investigation that led to the designation of the prohibition area in the Town of North Lancaster was not thorough enough. Neher stated that the department would conduct an additional investigation and follow up with additional samples.

The Board discussed a letter sent to Board members by Mike and Roland Fischer of Eau Claire County. The letter expresses concern about the procedures followed by the department in testing a well on the Fischer property. Tests results showed atrazine levels in excess of the enforcement standard, and the final draft designates a prohibition area based on this result. Brazeau Brown recommended that the department conduct further investigation of the Fischer well. Louis Wysocki noted that the procedures followed by the department with respect to the Fischer well were consistent with the procedures upon which the designation of prohibition areas is based.

VandenBrook explained that Wisconsin's atrazine law requires that prohibition areas be established on the basis of a *single* sample that shows atrazine levels that exceed the enforcement standard.

Louis Wysocki stated that informational materials distributed to property owners whose wells are tested may contain misleading language. He suggested that the language be clarified to state clearly that findings of atrazine levels that exceed the enforcement standard could lead to enforcement action. Neher agreed to amend the materials to reflect Wysocki's concerns. Wysocki also stated that the department should conduct broader sampling around wells shown to exceed the atrazine enforcement standard. He further stated that the department should seek financial support from manufacturers in order to enable broader sampling efforts.

The Board stated that the department's atrazine program should include regular monitoring of wells found to exceed the enforcement standard, and that this monitoring should provide data to evaluate the program's effectiveness.

MOTION:

It was moved by Louis Wysocki and seconded by Pete Knigge, to approve the final draft rule amending ch. ATCP 30, Wis. Adm. Code, but to delay action on the atrazine prohibition area in the Town of North Lancaster, Grant County, pending further investigation. Motion carried on a vote of 4-2 (Brazeau Brown and Malchine opposed; Harsdorf abstained).

WEED CONTROL OPTIONS WITHOUT ATRAZINE OR BLADEX

R. Gordon Harvey[1]

Many herbicides are registered for use in corn which could substitute for atrazine in Wisconsin corn production systems. Potential benefits of many of these treatments compared to atrazine include 1) reduced carryover potential, 2) reduced likelihood of ground water contamination, and 3) improved control of atrazine tolerant or resistant species. Unfortunately, these alternatives often 1) require more applications per year, 2) are more expensive, 3) are more likely to cause corn injury, 4) are more likely to drift off-site and cause injury to adjacent crops, 5) are less effective overall in controlling a broad spectrum of weed species, and 6) result in reduced corn yield. Wisconsin atrazine use restrictions are more severe than in any other state. Thus, Wisconsin corn producers are at an economic disadvantage compared to corn producers in other states. But what is the magnitude of this economic disadvantage?

A three-year field study was initiated at the University of Wisconsin Arlington Agricultural Research Station in 1993 to identify the best alternatives for weed management practices which include atrazine. Results of this study also demonstrated the potential cost of atrazine use restrictions to Wisconsin corn producers. Most of the treatments included in the study utilized Clarity for broadleaf weed control. Clarity and other formulations of dicamba (e.g. Banvel and Marksman) are currently the most widely used atrazine substitutes in Wisconsin. Several other alternative treatments were included as well. Each year, plots were harvested and corn yield determined. Approximate chemical costs were determined by a survey of dealer prices. Actual costs may vary depending upon container size, date of purchase, and region of state. For this analysis, application costs were assumed to be $6.00 per acre. This cost will also vary depending if growers apply herbicides themselves, or depend upon custom application. Crop value was estimated by multiplying the corn yield by a price of $2.50 per bushel. Of course crop value will vary depending upon the price farmers can get for their crop. Net return was calculated by subtracting chemical and application costs from crop value. Net returns of alternative treatments were compared to net returns from a tank-mix combination of atrazine at 1.5 lb ai/A plus a soil-applied grass herbicide (Partner at 3.1 lb/A was used as a representative soil-applied grass herbicide).

Net returns from all 13 alternative treatments included in the three-year study were lower than from the atrazine plus Partner standard (Table 1). The reason was obvious. All alternatives were more expensive and resulted in numerically lower corn yields. Only three alternative treatments did not have a significantly lower corn yield (based on 90% confidence level), and those three treatments had significantly lower

[1]Professor, Department of Agronomy, University of Wisconsin--Madison.

late-season weed control (data not shown) suggesting that the observed numerical yield differences were probably real. In fact, only the 7DAP application of Harness plus Clarity did not result in significantly lower late-season weed control. Thus when a sequential application of Partner PRE followed by Clarity EP was used, the loss in net return relative to the standard atrazine treatment was $37 per acre. Applying the two products together PRE reduced the application cost, but also resulted in a $53 per acre loss in net return due to a lower corn yield. The most economical method of applying Partner plus Clarity was as a delayed preemergence treatment seven days after planting (7DAP) which resulted in a loss of only $21 per acre. The least loss in net return resulted from the tank-mixed application of Prowl and Clarity 7DAP. Many growers may hesitate to use this treatment, however, due to potential for crop injury. Timing of this treatment may be particularly critical, since net return was reduced $52 and $47 per acre, respectively, when the chemicals were applied seven days early or late.

Neither Bladex or Extrazine were included in the three-year study described above. Yet both products are often used as substitutes for atrazine. In order to determine the relative benefits of those products, results were combined from all studies conducted over the past 26 years at the Arlington Agricultural Research Station. All treatments summarized included normal use rates of alachlor (either Lasso, Microtech, or Partner), Dual or Prowl (Table 2). Atrazine, Bladex and Extrazine rates were approximately 1.5, 2.0 and 2.0 lb ai per acre, respectively. Yields were adjusted to 1993 through 1995 levels. When averaged together, the net returns for 216 atrazine treatments, 123 Bladex treatments, and 42 Extrazine treatments were $385, $365 and $375 per acre. Thus, substituting Bladex and Extrazine for atrazine resulted in $20 and $10 per acre reductions in net returns, respectively. As a result of a DuPont and EPA agreement, both Bladex and Extrazine will be phased out over the next few years. Thus, other alternatives will be needed.

Numerous new corn herbicides are being developed to substitute for atrazine combinations. Results of a 1995 study with two of them are summarized in Table 3. The examples demonstrate two options for maintaining net value. Basis was registered for use by growers in 1995, and was promoted as a low cost weed management system. While it provided excellent weed control, it also caused slight corn injury and resulted in a lower corn yield than a handweeded standard. Despite the low price, the net return may be less than desired due to the lower yield. EXP-31130A is an experimental, low-rate, soil-applied herbicide being developed by Rhone-Poulenc, Inc. This broad spectrum herbicide was extremely effective in university trials conducted around the corn belt in 1995. If registered for commercial use as anticipated in 1997, this product might result in corn yields more comparable to atrazine treatments. But, most new herbicides are more expensive than older chemicals like atrazine. It is unrealistic to expect that a new product like EXP-31130A will not reduce net returns relative to standard atrazine containing treatments as a result of higher product cost.

Summary: Wisconsin corn producers are being penalized economically relative to corn producers in other states due to the state's atrazine use restrictions. The magnitude of this penalty will vary depending upon

whether or not a producer operates within an atrazine prohibition area, and upon the severity of weed infestations on the producer's farm. It is unlikely that this penalty can be eliminated until either Wisconsin atrazine use restrictions are withdrawn, or until similar rules are enacted nationwide. Results of University of Wisconsin research confirms what was intuitively obvious. Restricting use of the least expensive and most effective product must result in a reduction in net economic return to the crp producer!

Table 1. Comparison of herbicide treatments included in 1993 to 1995 field corn weed control study conducted at the University of Wisconsin Arlington Agricultural Research Station.

Treatment	Cost		Corn yield	Crop value	Net return	Loss in net return w/o atrazine
	Chem.	Applic.				
	---- $/A ----		bu/A	--------- $/A ---------		
Nontreated	0	0	79	198	198	-238
Atrazine + Partner	18	6	184	460	436	0
Partner/Clarity-split	24	12	174	435	399	-37
Partner + Clarity-PRE	24	6	165	412	383	-53
Partner + Clarity-7DAP	24	6	178	445	415	-21
Partner + Clarity-14DAP	24	6	169	423	393	-43
Dual + Clarity - 7DAP	27	6	180	450	417	-19
Frontier + Clarity-7DAP	30	6	173	432	397	-39
Harness + Clarity-7DAP	27	6	176	440	407	-29
Prowl + Clarity - PRE	23	6	165	412	384	-52
Prowl + Clarity - 7DAP	23	6	182	455	426	-10
Prowl + Clarity - 14DAP	23	6	167	418	389	-47
Broadstrike + Dual-PRE	25	6	173	432	401	-35
Accent + Beacon - POST	19	6	169	422	398	-38
Clarity/Accent - split	43	12	180	450	395	-41
LSD(10%) =	--	--	8	20	20	20

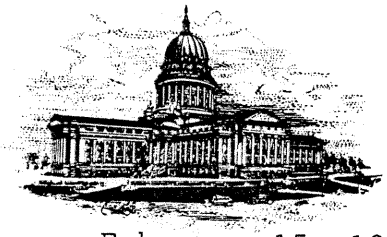
Table 2. Comparison of preemergence Atrazine and Bladex treatments from 26 years of research conducted on the University of Wisconsin Arlington Agricultural Research Station.

Treatment	Treatment cost[b]	Relative[a] Corn yield	Relative[a] Crop value	Relative[a] Net return	Loss in net return w/o atrazine
	$/A	bu/A	----------	$/A	----------
Atrazine + alachlor[c]	24	164	410	386	---
Bladex + alachlor[c]	32	161	403	371	---
Extrazine + alachlor[c]	29	161	403	374	---
Atrazine + Dual	27	166	415	388	---
Bladex + Dual	35	158	395	360	---
Extrazine + Dual	32	163	408	376	---
Atrazine + Prowl	23	157	393	370	---
Bladex + Prowl	31	159	398	367	---
Extrazine + Prowl	28	171	427	399	---
Mean of 216 atrazine treatments	25	164	410	385	0
Mean of 123 Bladex treatments	33	159	398	365	-20
Mean of 42 Extrazine treatments	30	162	405	375	-10

[a] Corn yields were adjusted to 1993 to 1995 levels.

[b] Estimated cost of chemical plus $6.00 per acre for application.

[c] Combination of Lasso, Microtech and Partner formulations.



Wisconsin State Assembly

P.O. BOX 8952 • MADISON, WI 53708

February 15, 1996

Secretary Alan Tracy
Department of Agriculture, Trade and Consumer Protection
2811 Agriculture Drive
Inter-Departmental

Dear Secretary Tracy:

We write today regarding the Assembly Committee on Agriculture's hearing held on Clearinghouse Rule 95-147, Section PA 96-22-01, February 8, 1996. We feel a 2 year restriction on chemical use by farmers, without reliable tests or data is too restrictive in nature.

Mr. Walter Taylor, Grant County, had his well tested by DATCP, and it was found to have levels of atrazine that exceeded the enforcement standards. I have enclosed a copy of the letter Mr. Taylor received from DATCP. According to the letter, DATCP believe's his atrazine application contributed to his well exceeding the DATCP standards, but Mr. Taylor's father, Lauren Taylor contributes the high atrazine levels to "a back siphon to the well from a sprayer that contained atrazine 16 years ago, before Walter started applying chemicals."

We want to go on record as opposing the introduction of this specific section of the Clearinghouse Rule. We do not feel the testimony given by Mr. Taylor corresponds to the severe action taken by DATCP. We will be willing to discuss language that would be appropriate for the situation at your convenience.

Sincerely,

Rep. Eugene Hahn
47th Assembly District

Rep. Clifford Otte
27th Assembly District

Rep. Luther Olsen
41st Assembly District

Rep. Robert Zukowski
69th Assembly District

Rep. Rick Skindrud
79th Assembly District

Rep. David Brandemuehl
49th Assembly District

cc: Rep. Al Ott
EHH:rjw
s:\docs\atra.2

WISCONSIN LEGISLATIVE COUNCIL STAFF MEMORANDUM

One East Main Street, Suite 401; P.O. Box 2536; Madison, WI 53701–2536
Telephone (608) 266–1304
Fax (608) 266–3830

DATE: February 16, 1996

TO: MEMBERS, ASSEMBLY COMMITTEE ON AGRICULTURE

FROM: David J. Stute, Director

SUBJECT: Operation of the Groundwater Law; Clearinghouse Rule 95-147, Relating to Atrazine Use Restrictions

This memorandum was prepared following the Assembly Committee on Agriculture's February 8, 1996 public hearing on Clearinghouse Rule 95-147, relating to atrazine use restrictions. The purpose of the memorandum is to provide a brief overview of the operation of Wisconsin's groundwater protection law and to set forth the options available to the Committee under the procedure for review of proposed administrative rules.

A. GROUNDWATER LAW

Chapter 160, Stats., "Groundwater Protection Standards," became effective in May 1984. The law sets up a comprehensive system for identifying undesirable groundwater contaminants; establishing concentration standards for contaminants which may be present in groundwater; and providing for a control mechanism. The system has the following principal steps:

1. Identification of substances. Each regulatory agency of the state (defined as four named agencies, including the Department of Agriculture, Trade and Consumer Protection (DATCP), and any other state agency which regulates activities, facilities, or practices related to substances which have been detected in or have a reasonable probability of entering groundwater) is required to submit to the Department of Natural Resources (DNR) a list of substances which either have been detected in, or have a reasonable probability of entering, the groundwater of the state and are related to activities within the agency's authority to regulate. The DNR places each substance reported to it into one of three categories for purposes of determining the priority in which standards will be established.

2. Setting standards. The DNR divides the substances submitted to it into those which are of public health concern and those which are only a concern to the general public welfare. Substances of public health concern are submitted to the Department of Health and Social Services (DHSS) for its recommendation as to appropriate enforcement standards. Once the

DHSS formulates its recommendations, the DNR promulgates enforcement standards for the particular substance.

An "enforcement standard" is a numerical expression of the concentration of the substance in groundwater. Chapter 160, Stats., requires that existing "federal numbers" be used as enforcement standards, unless a federal number does not exist for a particular substance or unless specified conditions allowing the establishment of an enforcement standard other than the federal number are met. The federal number for atrazine is 0.003mg/l, or three parts per billion. This number is the maximum contaminant level specified in the National Revised Primary Drinking Water Regulations, and is found at 40 C.F.R. s. 141.61 (c) (5).

Under ch. 160, the DNR also promulgates a "preventive action limit" for a substance for which an enforcement standard is established. The preventive action limit is a concentration of the substance which is either 10%, 20% or 50% of the enforcement standard for the substance. The preventive action limit for atrazine is at the 10% level, because of its carcinogenic properties.

3. Application of standards. Enforcement standards define when a violation has occurred. When a substance is detected in groundwater in concentrations equal to or greater than its enforcement standard, the facility, activity or practice which is the source of the substance is subject to immediate enforcement action.

The preventive action limit for a substance functions as a "warning" to assess the need for regulatory responses when a substance is detected in groundwater. When a preventive action limit is attained or exceeded, some regulatory response **may** be necessary. At a minimum, the regulatory agency governing the facility, activity or practice causing the substance to enter groundwater is required to evaluate the situation and take appropriate action.

Section 160.21, Stats., requires each regulatory agency to promulgate rules which set forth the range of responses it may take when a preventive action limit or enforcement standard is attained or exceeded. Further, s. 160.25 (1) (a) 1., Stats., generally requires prohibition of an activity or practice when an enforcement standard is violated.

Pursuant to statute, the DATCP has adopted s. ATCP 31.08 (1), Wis. Adm. Code, which authorizes the prohibition of a pesticide use on a site-specific basis when the concentration of that pesticide substance in groundwater attains or exceeds an enforcement standard. Among other things, this has resulted in the development of ch. ATCP 30, which imposes use restrictions on atrazine pesticides and creates "atrazine prohibition areas" at site-specific locations where atrazine has been detected in groundwater at or above the enforcement level of 3.0 parts per billion.

B. CLEARINGHOUSE RULE 95-147

Clearinghouse Rule 95-147 proposes to create 14 additional atrazine prohibition areas within the state. The proposed rule is before the Assembly Committee on Agriculture pursuant to s. 227.19, Stats. The Committee review period expires on Sunday, February 25, 1996. The Committee has the three following options available to it:

1. Do nothing. If no action is taken, following expiration of the Committee review period the DATCP may proceed with making the rule final.

2. Object, in whole or in part. Under s. 227.19, the Committee may vote to object in whole or in part to the proposed rule for one or more of the following reasons:

a. An absence of statutory authority.

b. An emergency relating to public health, safety or welfare.

c. A failure to comply with legislative intent.

d. A conflict of state law.

e. A change in circumstances since enactment of the earliest law upon which the proposed rule is based.

f. Arbitrariness and capriciousness or imposition of an undue hardship.

If the Committee objects to a proposed rule, the objection is referred to the Joint Committee for Review of Administrative Rules, which has 30 days following referral to deal with the objection. Unless modifications are made at that stage, the Joint Committee either concurs or nonconcurs in the standing committee's objection. If concurrence, the Department may not make the rule final and the Joint Committee must introduce a bill in the Legislature to ratify the Joint Committee's action. If nonconcurrence, the Department may proceed with the rule.

3. Seek modification. During the standing committee review period, the committee may vote to recommend to the Department modifications in the proposed rule. If the agency agrees in writing before the end of the review period to make modifications, the review period is extended to the 10th working day following receipt from the agency of the modified proposal. If modification is requested but not agreed to by the Department, the choices are limited to those discussed above under items 1 and 2.

Please contact me at the Legislative Council Staff offices if you wish further discussion on the topics covered by this memorandum.

DJS:wu:rjl;kjf

Feb. 16, 1996

Jerry Franz
W5354 Hall Road
Poynette, WI 53955

George E. Meyer Sec.
Dept. of Natural Resources
Madison, WI 53707

Subject: Agricultural Press Briefing

Dear Secretary,

I was somewhat surprised but tickled to get your letter addressed to "Member of the Press" dated Feb. 12. I do indeed have a burning question to which I think the agricultural press and many Wisconsin farmers will be interested in knowing your response.
As you well know, the WI groundwater enforcement standard for atrazine is 3 ppb. I am also certain that you are well aware that EPA is considering 20 ppb as the new federal standard in the reregistration process and that Minnesota has already adopted that standard.

Let me repeat some comments I made to Assembly and Senate Ag. Committee members at our DATCP breakfast on Jan. 27, 96. (last breakfast as a Bd. member)

I submit that 10 or 20 ppb of almost any substance is insignificant and it is certainly true in the case of atrazine.
We have scared farmers unnecessarily on this issue and have placed a "De Facto" Deed restriction on many Wisconsin farms with devaluation a potential result. (A taking?) We have placed Wisconsin farmers at ANOTHER economic disadvantage to neighboring states.

I believe some of the paranoia has died down on this issue and the situation has changed somewhat recently:
First, we have tested a lot of wells and are beginning to get a handle on the parameters of the contamination.
Second, we know that way less than 1% of the states population has direct access to drinking water with these very minute amounts of atrazine.
Third, we now have documented research from the UW by Dr. Harvey that states the economic impact of atrazine prohibition ranges from $10 to $20/acre generally and in some cases much more.

We are starting to review this issue at DATCP. Nationally the movement is toward being less restrictive with less intrusive government, including a strong effort to remove the Delaney Amendment. I hope we have the political guts to reverse what we have done and move back to some middle ground.

Those were my comments in the morning and later at our Board meeting Nick Neher in ARM said they have the Authority to promulgate rules for decertifying Prohibition Areas! A timetable has been set up for moving through this process. I hope that in the meantime we can move to a more realistic groundwater standard based on science. We not only set an extremely low standard but then lowered it manyfold by including all the metabolites.

Since our DATCP Board meeting I have been looking for something to compare to as it is very difficult to get a perspective on parts per billion. I got some perspective by looking through several DNR publications. To list just a few,

* Milwaukee air averaged around 2700 ppb carbon monoxide in 1994.
* Milwaukee air averaged about 20 ppb sulphur dioxide in 1994.
* The Mean Value of Total Nonmethane Hydrocarbons in Milwaukee air during 1994 was 206.4 ppb. (Probably much lower now since we moved to 90% market penetration with ethanol blends and Carbon monoxide definitely is much lower)
* Average maximum Annual Ozone concentrations at 11 monitoring sites, in Wisconsin, was about 150 ppb in 1994.

Utilities, paper mills and other stationary sources emitted 265,872 tons of sulphur dioxide in 1993.

+ The health advisory for eating fish with PCB's kicks in at 2000 ppb.

The Wisconsin Corn Growers Association recently passed a resolution calling for 20 ppb as our WI groundwater standard.

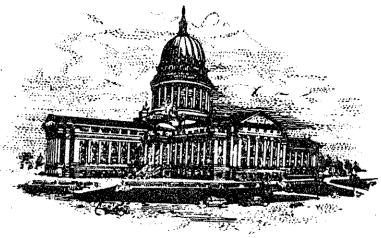
So the burning question is: What is your position on moving to 20 ppb for a Wisconsin groundwater standard, including the metabolites, so Wisconsin farmers are on a level playing field instead of at a competitive disadvantage?

* PUBL-AM-178-95
# Publ. AM-184-95
+ Publ-WR376-94 (very nice, printed on slick recycled paper with soy ink, Thank You!)

Sincerely,

Jerry Franz

cc: Gov. Tommy Thompson and Ag. Media



Wisconsin State Assembly

P.O. BOX 8952 • MADISON, WI 53708

February 16, 1996

Representative Al Ott
Chair, Assembly Agriculture Committee
3rd Assembly District

Dear Representative Ott:

We are writing you to request an Executive Session for the Assembly Agricultural Committee meeting on CR 95-147, focussing in particular on section PA 96-22-01. As you know, we need to have this meeting prior to the February 25, 1996 deadline.

Please contact us at your earliest convenience. Thank you for your attention and assistance.

Sincerely,

Rep. Eugene Hahn
47th Assembly District

Rep. Clifford Otte
27th Assembly District

Rep. Luther Olsen
41st Assembly District

Rep. Robert Zukowski
69th Assembly District

Rep. Rick Skindrud
79th Assembly District

February 18, 1996

Representative Al Ott, Chair
Assembly Committee on Agriculture
P.O. Box 7882
Madison, WI 53708

Dear Representative Ott:

This letter to you is in regards to the fraudulent and misleading methods used by our State and County agencies in collecting water samples from our family farms and use of the test results for the soul purpose of placing our farms in a State controlled Atrazine Prohibition Area. This action is causing unnecessary economic damage to our farming operations.

We feel that our individual rights, as guaranteed by the State and Federal constitutions, have been infringed upon in a most serious manner by the State, the Jackson County Land Conservation Department, and the Department of Natural Resources. The act of placing us in a Prohibition Area was based merely on assumptions without doing further investigation. We feel that immediate action should be taken to correct this situation and to prevent it from happening again.

Being an elected official, you are sworn to uphold the Constitution of the State of Wisconsin. We certainly hope that this matter can be resolved expeditiously.

Respectfully,

Kenneth Langan
Alma Center, WI

Thomas Langan
Alma Center, WI

Denis Janke
Alma Center, WI

Jeffery Janke
Alma Center, WI

CC: Senator Gary Drzewieki
Senator David Zien
Senator Joseph Andrea
Senator Alice Clausing
Senator Alan Lasee, Chair

Representative David Ward
Representative John Ainsworth
Representative Robert Zukowski
Representative Clifford Otte

Representative Richard Skindrud
Representative Eugene Hahn
Representative Luther Olsen
Representative Barbara Gronemus
Representative Alvin Baldus
Representative Martin Reynolds
Representative Thomas Springer
Representative Michael Wilder
Representative Robert Dueholm

February 19, 1996

In reference to the area surrounding the
Oliver and Giese Wells

To All Ag Committee Members:

It's a sad day in Wisconsin's History when government agencies and their employee's can come on our private property and mislead and document false claims against this property and cause such emotional and financial hardship. It is truely an example of disrespect and disregard of our personal and property rights.

I pray that you will rescind this action so no further action will be needed.

Respectfully,

Bill Laufenberg

715-964-2621 Bill Laufenberg, Alma Center, WI
N8499 Meek Road
Alma Center WI 54611-8402

N11011 U.S. HWY. 12
MERRILLAN, WISCONSIN
54754-8221

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JOHN AHL
GINGER AHL

February 19, 1996

Mr. Alan T. Tracy
Secretary of Agriculture
P.O. Box 8911
Madison, WI 53708-8911

Dear Mr. Tracy:

I have been a farmer most of my life and I'm happy to be part of agriculture.

I farm 7,000 acres that produces Christmas trees, nursery stock, timber, and small grain for good crop rotation of the land. I am one of the major producers of Christmas trees in the United States and one of the largest growers of container grown nursery stock in the Midwest.

It has come to my attention that adjacent to some of my property in the State of Wisconsin, the procedures used to determine prohibition areas for use of atrazine were not done in the right way. There was no history taken on the land that the tests were done for atrazine spot contamination. The land history was established when the farmer was not even home to supply the information needed. I question what kind of history information was used. Our wells at several of our farms have been tested by the state and had no atrazine percent found. In most cases the procedures and tests cause the prohibition of atrazine.

I do business in 39 states and 2 foreign countries. It is getting very difficult for us to compete in the agricultural crop areas because of the economic cost problem when we cannot use atrazine according to the label directions. To further escalate my concern, I see no provision in the rules to lift the restriction on properties involved at any time in the future. To have my land restricted and not be at fault is not fair.

I firmly believe that proper methods of the rules should be followed in regard to inspection tests, land history, and whatever else that is now being done to establish prohibitive atrazine farm land.

I'm sure that it has been an oversight in the manner of how evidence has been gathered in the past, but I live and farm in a

#1 state. I have always followed legal agricultural procedures, but at times things happen that need to be corrected so that our agricultural products don't have to come from third world countries. Unfair chemical restrictions are a big problem for U.S. farmers, but it is certainly not the only one that causes farmers to give up and stop farming. There are only 2% farmers left in the U.S. today. I'm proud to be part of that 2%. If the farmers in the U.S. cannot afford to farm, then I'm sure the 12% of the dollar the U.S. housewives spend for food will escalate to 50% like it is in foreign countries.

Farmers are fair. Treat us fair and we will continue to do a good job for you. Look at the facts. Please adjust the rules so we can work for you and always protect our most valuable asset, the land, in this great state of Wisconsin.

Allan, thanks for your time. Call me if I can ever be of any help with the insect problems in Door County.

Sincerely,

NORTHERN CHRISTMAS TREES & NURSERY

Calvin J. Frelk

Calvin J. Frelk

February 20, 1996

Representative Al Ott, Chairman
Assembly Committee on Agriculture
P.O. Box 8953
Madison, WI 53708-8953

Dear Representative Ott:

I am writing to express my concerns regarding the Atrazine prohibition area in Jackson County.

1. Adverse economics: $25-$30 per acre of extra chemicals. Documented by 3 year testing at UW-Madison. Land values are lowered by this negative issue.

2. Our watershed tests that were intended for our own household use, were illegally used for the creation of the prohibition areas. The Land Conservation Department locally are upset that these tests were used without oral or written permission from them.

3. Groundwater investigations were very poorly done. No phone call ahead to contact owner to help determine the source of the contamination. The sites are not surrounded by cornfields. Without checking other sources their conclusions are definitely false. Prohibition wells now test free or nearly free of atrazine.

4. We operate land in the prohibition area and were never notified that we were included. To this day we have never been informed that we are in an Atrazine Prohibition Area!

People are reluctant (including ourselves) to get involved with this issue because of the power of the DNR and the Ag Department. I feel the present regulations are very devastating to many people.

I feel we need a provision in state law or administrative rule which allows for more accurate investigation of sites, for notification of land owners and most important, rules that allow for a prohibition to be rescinded when testing shows no atrazine. Thank you for your time.

Sincerely,

Jerome Laufenberg

Jerome Laufenberg

February 21, 1996

Motion - Clearinghouse Rule 95-147

Move that the Assembly Committee on Agriculture request the Department of Agriculture, Trade and Consumer Protection to modify Clearinghouse Rule 95-147 by deleting, from Appendix A, proposed Prohibition Area (PA) 96-22-01, located in the Town of North Lancaster, Grant County. Further,

Move that, if the Department does not agree to make the above modification, the Assembly Committee on Agriculture objects to that part of Clearinghouse Rule 95-147, Appendix A, creating PA 96-22-01, by reason of it being arbitrary and capricious.

UW-Madison professor says atrazine rules too strict

Middleton

Current atrazine prohibitions place Wisconsin farmers at a competitive disadvantage, according to Gordon Harvey, agronomy professor at the University of Wisconsin-Madison.

Mr. Harvey, who spoke Feb. 13 at the Wisconsin Corn/Soy Expo at Holiday Inn West, Middleton, said current atrazine rules handcuff producer ability to control certain weeds. Atrazine use is prohibited on more than 1 million acres of Wisconsin farmland.

Increased cases of atrazine-tainted water wells caused the state Department of Agriculture, Trade and Consumer Protection to impose bans on atrazine use.

"Wisconsin growers are paying a penalty other farmers do not face," Mr. Harvey said.

In a 3-year study at the Arlington Agricultural Research Station, Mr. Harvey said corn without atrazine treatment yielded substantially lower.

"We knew changes would have an impact, but alternatives to atrazine are more expensive in some cases and needed multiple applications," Mr. Harvey said. "As we try to replace atrazine, farmers should expect to pay $10 to $20 extra per acre."

Other products were used during the study, but none equaled atrazine's weed control.

"There are several alternatives, but they are not atrazine," Mr. Harvey said. "It was as close to a perfect corn herbicide on the market for crop yield and safety."

Other drawbacks to atrazine alternatives include likelihood of injuring corn, drifting into other fields and less effective control for a wide variety of weeds, he added.

Mr. Harvey did not diminish water quality concerns, but said other states created regulations to allow atrazine use. He said lesser amounts of atrazine should be permitted, mixed with approved herbicides.

"The atrazine ban is a good law; the only problem, it was not enacted soon enough to stop the problem we now face," Mr. Harvey said.

Restrictions by the Environmental Protection Agency is forcing Du Pont to phase out Bladex by 1998, Mr. Harvey added. Bladex is similar to atrazine and is used commonly by Wisconsin produce farmers.

The phase-out period should be extended until another product is found, Mr. Harvey said.

"I would like to see the EPA slow the process until we could register something to take its (Bladex) place. If we cannot get rules relaxed, we may see vegetable canners leave Wisconsin to get away from atrazine rules," he said.

Growers may consider relocating to Minnesota or Illinois where regulations are less strict for Bladex and atrazine use, Mr. Harvey added.

—Bob Kliebenstein

Gordon Harvey

Assembly Committee on Agriculture

DATE February 22, 1996

Moved by Skindrud Seconded by Olsen

AB _____ SB _____ Clearinghouse Rule 95-147

AJR _____ SJR _____ Appointment _____

A _____ SR _____ Other _____

A/S Amdt _____

A/S Amdt _____ to A/S Amdt _____

A/S Sub Amdt _____

A/S Amdt _____ to A/S Sub Amdt _____

A/S Amdt _____ to A/S Amdt _____ to A/S Sub Amdt _____

Be recommended for:

- ☐ Passage
- ☐ Introduction
- ☒ Adoption
- ☐ Rejection
- ☐ Indefinite Postponement
- ☐ Tabling
- ☐ Concurrence
- ☐ Nonconcurrence
- ☐ Confirmation

	Committee Member	Aye	No	Absent	Not Voting
1.	Ott, Alvin (Chair)	✓			
2.	Ward, David (Vice-Chair)	✓			
3.	Ainsworth, John	✓			
4.	Zukowski, Robert	✓			
5.	Otte, Clifford			✓	
6.	Skindrud, Richard	✓			
7.	Hahn, Eugene			✓	
8.	Olsen, Luther	✓			
9.	Gronemus, Barbara	✓			
10.	Baldus, Al			✓	
11.	Reynolds, Martin	✓			
12.	Springer, Thomas			✓	
13.	Wilder, Michael			✓	
14.	Dueholm, Robert	✓			
15.					
16.					
17.					
18.					
	Totals	9	0	5	0

MOTION CARRIED ☒ MOTION FAILED ☐

s:\comclerk\rollcall.1