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(FORM UPDATED: 08/11/2010)

# WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

## 2009-10

(session year)

## Senate

(Assembly, Senate or Joint)

## Committee on Environment...

### COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
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### INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)
  - (**ab** = Assembly Bill)                      (**ar** = Assembly Resolution)                      (**ajr** = Assembly Joint Resolution)
  - (**sb** = Senate Bill)                              (**sr** = Senate Resolution)                              (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

\* Contents organized for archiving by: Stefanie Rose (LRB) (September 2013)



## *Wisconsin Association of Lakes*

Senate Committee on Environment  
March 23, 2010

### STATEMENT IN SUPPORT SENATE BILL 620

William P. O'Connor  
*Legislative Counselor*  
608-255-7277

The Wisconsin Association of Lakes urges this committee to support passage of SB-620, even though we disagree with a key state ground water policy that would not be changed under this bill. That policy authorizes large scale ground water withdrawals without so much as considering their impacts on all of Wisconsin's lakes. This unwise policy downgrades the vast majority of Wisconsin's lakes to second class water resource status. Our members respectfully disagree with that assessment.

When the Perrier project was proposed in 2000, a dubious agency interpretation of the high capacity well statute concluded that DNR's authority to consider the impacts of high volume ground water extraction was strictly limited to consideration of existing municipal water supplies. That policy was revised only slightly in the 2004 ground water legislation, which prohibited the DNR from reviewing the environmental impacts of proposed high capacity wells on all but a fraction of Wisconsin lakes. Current law and this bill would require DNR to grant a permit, even if the agency knew that the proposed high capacity well could materially damage (or effectively destroy) any Wisconsin lake not protected under the definition of "groundwater

protection area” in s. 281.34(1)(a). That protection extends only to the 254 of the State’s 15,000 lakes classed as exceptional or outstanding water resources.

The effect is to deliberately expose to harm, the ecosystems of lakes and with that, their immense recreational and economic value. Our members challenge the members of this Committee to explain why you insist that the impacts of a proposed high capacity wells on Wisconsin’s world class lake resource be ignored as a matter of state policy.

Some of you have objected to the provision of SB-620 that would permit DNR to consider the impacts of a high cap well on lakes (and other water bodies not listed in the special class described in s. 281.34(1)(a) where evidence of significant adverse impacts is presented by affected local governments, property owners or citizens. We disagree with that section too, because we believe the agency should assess the impacts of high cap wells on all affected surface waters and should grant or deny large scale ground water withdrawals only after considering a full and honest balance sheet of benefits and costs.

How can the state responsibly protect its public waters if it authorizes major actions without even inquiring into their effects? Management of groundwater is critical to economic interests in Wisconsin from agriculture to tourism and other industries. Denying some permit applications would unacceptably injure our economy. But just as surely, granting some high capacity well permits will kill jobs and wreck unwarranted damage to the State’s economic interests and its natural resource legacy. That the State should at least rationally evaluate these impacts which is the central idea of the Wisconsin Environmental Policy Act and other laws requiring agencies to consider the economic impact of their decisions.

The members of this Committee know full well that lakes matter in Wisconsin. They provide recreation for untold numbers of anglers, boaters and swimmers. They anchor our recreational economy and the property tax bases of many Wisconsin communities. During the

work of the Ground Water Task Force, many of you have already seen the effects excessive ground water withdrawals can have on surface waters. But I am not sure you have focused enough on the hard economic value of lakes and streams.

The Department of Revenue's property valuation records are aggregated mostly using taxing jurisdictions and property use classes (such as residential and agricultural). As a result, there is no statewide data that shows the economic significance of land on or near our lakes and streams. But WAL has done some digging to help you better recognize the significance of the property bordering lakes -- lakes that are exposed to damage from high capacity wells whose impacts state law insists must be ignored. We looked at Department of Revenue assessed valuation data for a series of the state's larger town sanitary districts and lake districts, jurisdictions consisting substantially of parcels located on or very close to major lakes. The trend would no doubt be repeated on thousands more lakes across the State. Here are some highlights:

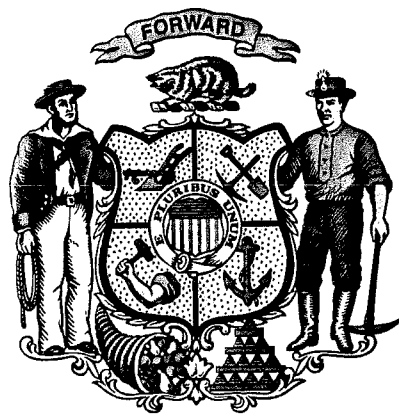
In the 14<sup>th</sup> Senate District, we looked at the 2009 assessed valuation of property in the Green Lake Sanitary District, the Buffalo Lake Management District and the Lake Puckaway Management District. Each of these special districts includes substantially all of the waterfront property on these lakes and very few nonriparian lots. Here's what we found: The Green Lake Sanitary had a 2009 assessed valuation of just under \$1.1 billion. This compares with a *total value of all the taxable property in Green Lake County* of just over \$2 billion. That means that the ribbon of lakefront homes and lots on Big Green Lake have a value exceeding all the rest of the property in the county and contribute more than half of the tax dollars that support the public schools, the sheriff's department, the highway department and the rest. Just down the road, the Lake Puckaway Management District had a 2009 valuation of \$56,259,295, which totals just under half of the total value of taxable property in the entire Town of Mekan (which had a 2009

valuation of \$115,403.00. A little further west, the Buffalo Lake Management District in the Montello area had a 2009 valuation of \$92,868,630 in two towns and the City of Montello. Of that, \$64,190,562 of property value was in the Town of Packwaukee, where the lake district property accounted for almost 36 percent of that town's property value.

In the 11<sup>th</sup> and 22<sup>nd</sup> Senate Districts, the story is about the same. Pewaukee Lake Sanitary District, Delavan Lake Sanitary District, Lauderdale Lake Management District, Fowler Lake Protection and Rehabilitation District, Camp and Center Lake Rehabilitation District and Powers Lake Management District all contribute hugely to the tax bases of the towns in which they are located, with the lake property constituting between 23 percent to 85 percent of the total value of property in the jurisdictions in which they are located.

Of course, the state's inland lakes do far more for our state's economy beyond serving as an engine of property taxes. These water resources are central to the how people in Wisconsin actually live and the reason so many of us love the state. Why would the Legislature place such significant public assets at risk by purposely disregarding the impacts of high capacity wells?

We urge the committee to consider an amendment to SB-620 that would protect lakes from significant adverse environmental impacts resulting from high capacity wells. We would prefer a policy that places lakes in the same status as trout streams and require that the impacts of high capacity wells on these important resources be evaluated and considered when permits are considered. At a minimum, we urge you to support this bill, which provides a mechanism to assess environmental impacts on lakes where an exceptional showing is made by the people and communities that will be directly affected by a high capacity well.



## **Memorandum**

**Date:** March 23, 2010  
**To:** Chairman Miller, Members of the Senate Committee on Environment  
**From:** Pat Osborne, on behalf of the Aggregate Producers of Wisconsin  
**Re:** Testimony in Opposition to SB 620

The Aggregate Producers of Wisconsin (APW) is a statewide association comprised of 130 member companies engaged in the production of aggregate materials and the supply of goods and services to the aggregate industry. The aggregate industry utilizes high capacity wells for quarry pit dewatering, rock washing operations, ready mixed concrete production and other water supply related aspects of the business, such as dust suppression for air quality control purposes. APW appreciates the opportunity to provide public hearing comments on SB 620 and submits these comments in opposition to the bill based on the concerns outlined below.

### **Undefined Regulatory Requirements**

The bill establishes a process for enhanced regulation of high capacity wells but does not adequately outline what the regulation might entail or where they might be applied. Under the bill — a subcommittee of the groundwater coordinating council makes the initial determination as to whether an area should be designated as a groundwater management area (GMA) or a groundwater attention area (GAA). Once set in motion by that subcommittee — the process culminates in a groundwater management plan to implement new regulations. The whole process is so vague that it is impossible to know what the ultimate regulation might be, where it might apply and how it might impact an aggregate business in a given area.

### **Unknown Regulatory Costs**

The uncertainty of what regulation might be imposed, and where, makes it difficult to determine what the ultimate regulation might cost an individual business or type of business. Absent some parameters on cost — we simply cannot endorse a blank check regulatory scheme.

Potential cost concerns are highlighted under Section 11 of the bill, which grants the public service commission new taxing authority that could significantly impact the operating costs of an aggregate business.

Further unknown but potential regulatory costs are contained in the citizen petition provision created under Sections 18 and 19 of the bill. Current law at least provides some parameters on where environmental review and regulation of a proposed high capacity well is required. Under the citizen petition proposal, any party may petition for review of any proposed well anywhere in the state. Aggregate producers already face multiple obstacles in locating a nonmetallic mining facility and this provision will likely add additional costs and delays at any proposed facility that would employ the use of a high capacity well.

### **Impact on Existing Wells**

Sections 26, 27 and 28 of the bill provide that the department may modify or rescind the approval of a previously approved high capacity well in a GMA or a GAA. This broad authority to re-regulate is applicable even if the operation of an existing high capacity well is in full compliance with the standards and conditions under which it was originally approved. This reach back provision should be deleted and existing approvals should be honored subject to the conditions of the original approval.

Our objection to rescinding existing approvals or applying new regulation on existing wells is heightened by the proposed deletion of s. 281.34 (9) in Section 29 of the bill. Under current law, [s. 281.34 (9) (d)], the department may not impose mitigation requirements on an existing well in a GMA unless the department provides full funding for such mitigation — no similar funding requirement to pay for the mitigation costs imposed on an existing well is contained in SB 620.

### **Springs**

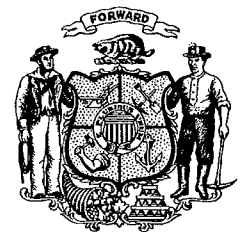
The proposed re-definition of a spring in Sections 12, 14 and 30, which triggers environmental review of a high capacity well, underscores the degree of unknown regulatory and cost impact contained in the bill. As proposed, the DNR simply needs to conduct an inventory of large springs and submit a report to the Legislature to automatically change the definition of a spring from one that flows at least 1 cubic foot per second (cfs) 80% of the time to one that flows at least 0.25 cfs and is “perennial” — a term to be defined by rule in the future. The change in definition should be deleted. Instead, policymakers and the regulated community should be afforded information on what the impact of such a change in the springs standard would mean once an inventory is completed. The policy question of whether to change the definition of a spring should come after, not before, the basic inventory data is completed and submitted to policy makers.

Thank you for your consideration of these comments. For information contact: Pat Osborne at (608) 258-9506 or email [osborne@hamilton-consulting.com](mailto:osborne@hamilton-consulting.com)





# WISCONSIN STATE LEGISLATURE



## **SENATE BILL 620**

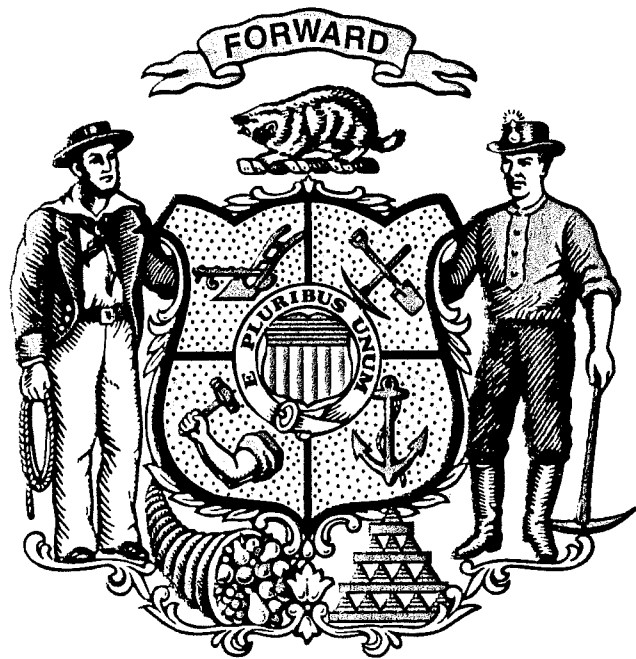
### **Testimony of Kathy F. Pielsticker To the Senate Committee on Environment *Tuesday March 23, 2010***

Good Morning Chairperson Miller and Committee Members: My name is Kathy Pielsticker. I am the Administrator of the Division of Agricultural Resource Management at the Department of Agriculture, Trade and Consumer Protection. Secretary Nilsestuen has asked that I testify for information purposes regarding Senate Bill 620 related to groundwater protection.

Wisconsin's groundwater is a precious resource on which every citizen and many industries rely. Senate Bill 620 attempts to broaden the legal connections between our ground and surface water resources. This groundwater protection legislation aims to make all users of the resource accountable and their perspectives on the management of the groundwater resource heard. The department acknowledges the challenges related to ensuring that our groundwater resources remain viable and sustainable for future generations. We would like to address a few items within the draft legislation.

- One component of this bill attempts to include mechanisms for pulling people together to focus on the high-agricultural value areas of the state. To ensure Wisconsin's agricultural productivity remains viable well into the future, it is necessary that our groundwater supplies remain intact, and that agriculture have a seat at the table as we all work toward that goal.
- The Groundwater Coordinating Council (GCC) is capable of addressing scientific and technical aspects of groundwater management. The GCC's role has always been advisory in nature. This bill places the GCC in the new role of recommending regulations and policy to the DNR, while it's current and historic role has been specifically non-regulatory.
- In this bill, the process for designating Groundwater Management Areas specifies that a new subcommittee within the GCC be established. It is our view that this subcommittee must include members with expertise in agricultural water use areas such as soil physics, agronomy, or agricultural hydrology.
- We would like to re-emphasize the importance of aspects of this bill that articulate the need for measurable goals, including target dates and withdrawal quantities, and the focus specifically on water conservation and efficiency measures to mitigate groundwater use challenges.

Wisconsin has a competitive advantage due to its abundant water resources, and future legislation should address the need to sustain these precious resources while allowing its fair use among all sectors, including agriculture. A collaborative approach to management, that includes a broad representation of all the groups affected, is needed. At all levels, any committees created to deal with these challenges, be they local or state, should have agricultural representation and assure that agriculture is not disadvantaged compared to other user groups.



March 23, 2010

Senator Neal Kedzie  
Senate Environment Committee  
Wisconsin State Capitol  
Madison, WI 53707

Dear Senator Kedzie,

As lakefront property owners on a seepage lake in Wisconsin's 11th Senatorial District, we urge you to support the Groundwater Protection bill (LRB 4094) that is the subject of today's public hearing.

As revisions to Wisconsin's groundwater laws are being considered, spring returns. With the welcome thaw, we think of the ancient glacier that once blanketed much of our state, and how thankful we are that Wisconsin's winters aren't year round! We are also thankful for what that overgrown iceberg left in its midst, the interconnected natural system of groundwater and surface water, and the colossal importance of that system.

Please take action today to proactively manage our hydrologic system of groundwater and surface water in an environmentally responsible, sustainable way. Protecting and preserving the quantity and quality of clean water in Wisconsin, both above and below ground, is imperative to securing the health and prosperity of all Wisconsinites for future generations to come.

We feel the initiatives proposed in SB 620 offer the critical integration of sound methods, analysis, and oversight to safeguard Wisconsin's irreplaceable water resources in a balanced, forward-thinking approach.

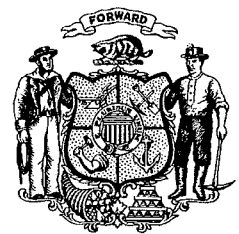
Please continue to provide leadership on this vital issue by supporting this responsible legislation the Groundwater Protection bill today.

Sincerely,

*Jessica B. Rice*

*Nathaniel A. Rice*

Silver Lake, Waukesha County  
37803 Valley Road  
Summit, WI 53066





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*(Formerly Wisconsin's Environmental Decade)*

**Senate Bill 620 Testimony  
Amber Meyer Smith, Program Director  
Clean Wisconsin**

Senate Environment Committee – March 23, 2010

Clean Wisconsin is the largest state environmental organization with thousands of members across the state, and was founded as Wisconsin's Environmental Decade. We focus on clean air, clean energy and clean water issues, and will celebrate our 40<sup>th</sup> anniversary in 2010.

Clean Wisconsin supports Senate Bill 620 and Assembly Bill 844, and would like to thank the authors and cosponsors for their work. I would also like to thank Senator Kedzie for leading the efforts on the 2004 Groundwater Protection Act, a good first step that is the reason we are all sitting here today.

As the authors of the 2004 Groundwater Protection Act, Senator Kedzie and Representative Johnsrud stated that it was a first step, and envisioned the formation of a Groundwater Advisory Committee to make "recommendations to the Legislature for continued long use planning goals for Wisconsin's groundwater." Their vision was realized, and the GAC made recommendations in 2006 and 2007.

In July 2009, the Senate and Assembly Committees held a joint hearing to discuss those recommendations and hear from members of the GAC. Then, in the fall of 2009, Representative Black and Senator Miller convened the seven-member Groundwater Working Group, which met throughout the fall and early winter to learn about the issues and potential solutions for Wisconsin's groundwater issues.

The whole point of both the 2004 law and the bill before you today is to protect Wisconsin's precious groundwater. Three-fourths of Wisconsin citizens use groundwater daily for their domestic needs and 95% of municipalities use groundwater for their public water supplies. Almost all water for agriculture in Wisconsin – livestock, irrigation, and dairy operations – comes from groundwater, as does one-third of industrial water and half of commercial water use. Yet current law leaves our vital resources without the necessary protections to ensure that ALL Wisconsinites will have adequate supplies of groundwater into the future.

It is unacceptable that rivers, lakes, streams, springs, and wetlands would still be allowed to dry up in Wisconsin. It is equally unacceptable that DNR currently cannot even consider environmental impacts of high capacity wells if they are outside of a groundwater protection area. That leaves the vast majority of the state's lakes, rivers, and springs unprotected. These gaping holes in current law must be addressed, and SB 620 does that.

Key components of SB 620 and AB 844:

- **Creation of Groundwater Management Areas (GMAs)** - Clean Wisconsin supports the provisions in the bill defining processes for the creation of Groundwater Management Areas—areas of the state where water use is seriously out of balance with the available resources—and Groundwater Attention Areas, where problems related to overuse are on the horizon but there may still be a chance to proactively to prevent a crisis. Senator Kedzie's first groundwater quantity bill, in 2004, envisioned a follow-up bill to flesh out the way water management could happen through a state-local partnership in Groundwater Management Areas. This section of the bill comes straight out of the recommendations

of the Groundwater Advisory Committee that the original bill created. It sets up a way for locals to make decisions as to how exactly water use in a problematic region will be brought back into balance with the available resource. The process for establishing GMAs relies first on technical experts who bring forth recommendations on areas that meet the criteria established in the law for designation as a GMA, and then works through DNR rulemaking to actually establish an area as a GMA. This process includes legislative review.

- **Regional Water Management** - Once a groundwater management plan has been approved for a GMA, all new high capacity well approvals must be consistent with that plan. Existing well approvals could be subject to modification in a GMA once a groundwater management plan is complete if water issues persist. DNR may also designate Groundwater Attention Areas (GAAs), where groundwater quantity issues are emerging and expected to become significant in the future.
- **Petition Process** - We also think the petition process for review of high capacity wells is an important part of SB 620. Short of a statewide framework for considering whether proposed wells would adversely impact the environment, like the State of Michigan's system, we see this process as a fair and reasonable one to address that gap in current law that most of our state's valued surface water bodies fall through. The requirements here are not unlike requirements around other permitting processes in current Wisconsin law and allow all parties—the well owner, nearby property owners, and those interested in the protection of connected surface waters—an opportunity to provide input into the DNR's decision on how to process the well approval. The petitioner must provide evidence of such a risk in order to request a review, which insulates well owners from frivolous petitions.
- **Water Conservation and Efficiency** – Similar to provisions in the Great Lakes Compact that cover the Great Lakes region, this provision requires a new or increased water withdrawal be accompanied by plans to implement conservation measures to ensure the water is being used efficiently. Under SB620, this provision applies to the Mississippi River basin for withdrawals of over 1 million gallons for 30 days. SB 620 also requires PSC consider water rate structures, and Department of Commerce write rules pertaining to the use of gray water.

I would especially like to focus on the water conservation and efficiency aspects of SB 620. First of all, Clean Wisconsin supports pro-active steps by the Public Service Commission to not only review the effectiveness of conservation measures that have already been put in place in the state, but to also encourage more communities to adopt conservation measures as outlined in SB 620. In fact, we have been taking a lead on encouraging effective water conservation measures in several recent water utility rate cases at the PSC, including in Madison, Milwaukee, Waukesha and Janesville. While these are important steps forward, they are small steps, and any legislative encouragement to ensure that increased or new water use should have a plan for using that water efficiently would be useful.

Water conservation is a key component of overall water resources planning. It means using water more efficiently by reducing consumption, preventing loss and recycling. The Great Lakes Compact requires conservation measures within the Great Lakes basin on new or increased withdrawals over 100,000 gallons per day. In one-third of the state, this is already the law. While we had hoped that SB 620 would extend these provisions to the rest of the state, it merely requires conservation for new and increased withdrawals above 1 million gallons per day for thirty consecutive days outside of GMAs. We would still like to see this provision exactly mirror the Compact language. Using 2009 numbers, this extended provision would only affect 11 additional wells. The way SB 620 is worded, conservation and efficiency measures will really only apply to the biggest of the large water users – it makes perfect sense that these large water users should be ensuring they are using this water in an efficient way so overuse doesn't cause problems down the line.

There has been some confusion as to what water conservation actually means. DNR is currently in the process of rule-making for the water conservation portions of the Compact to exactly outline what conservation and efficiency will mean for agriculture, industry and public water supply. That rule-making focuses on



“environmentally sound and economically feasible water conservation and efficiency measures.” There was a series of stakeholder meetings last week, and DNR is moving fast to finalize a draft rule for public hearings this summer. These rules must be in place by December 2010.

Water conservation and efficiency will decrease residential water bills, benefit the environment, and result in energy savings and improved supply reliability.

**Decreased residential water bills** - In communities that have adopted conservation-oriented rates, where users get charged more for using more water, estimates are that 60% of customers save money.

**Environmental benefits** - Less water production means less greenhouse gas emissions, as outlined by “The Carbon Footprint of Water” publication issued by the River Network.

**Energy Savings** – Thirteen percent of U.S. electricity consumption is water related.

A California study showed that 95% of its energy efficiency goals could be met simply by implementing water conservation measures – at 58% of the costs of other efficiency programs.

Reducing our water consumption will similarly help Wisconsin meet our goals for energy efficiency.

**Improved Supply Reliability** - In Georgia, a state with a very similar water resources to Wisconsin, they are experiencing severe water shortages, due in large part to lack of planning and conservation. Georgia’s situation has gotten so severe that it is predicted that within 2-3 years businesses there will not have the water resources they need to operate, which has some businesses there re-evaluating their options.

What are the potential water conservation and efficiency measures being discussed under the Compact rule-making?

For public water supplies:

- Conservation rate structures – Most communities currently charge users less per unit the more water they use – these rate structures are called “declining block rates.” Of the 586 public water utilities in Wisconsin, only 6 communities (Waukesha, Allouez, Janesville, Fitchburg, Weston, Franklin) are now employing “inclinining block rates,” or conservation rate structures, that charge users more per unit the more water they use. Such structures incentivize wise water use through a market mechanism.
- Toilet rebates - A few communities have offered residents a rebate for buying low flow toilets. Mary Ann Dickinson from the Alliance for Water Efficiency spoke before the Groundwater Working Group of a community that was able to defer the need for a \$500 million water plant simply by spending \$6 million for a toilet rebate.
- Regular meter inspections to ensure accuracy
- More frequent billing intervals, so water users have better cost information on which to base their water use decisions
- Fixing leaks in water infrastructure
- Alternate watering days, and smart lawn watering timing

For Agriculture:

- Recycling and reuse of gray water
- Leak detection and repair
- New pumping and sprinkling technologies

For Industry:

- Recycling and reuse of gray water
- Leak detection and repair
- New process technologies

As you can see, these are common-sense solutions that can have huge economic and environmental benefits. Water conservation is the simplest and most cost effective way to protect future water supply and prevent groundwater shortages and other environmental harms. When water levels drop too low because of overuse,

radium and other contaminants get in our drinking water, as was the case in Waukesha. Once contaminated, it takes tens of millions of dollars to cleanup up contaminated groundwater.

I have heard this bill criticized as a job killer, and nothing could be further from the truth. This statement totally ignores the 25,000 individuals directly employed through Wisconsin's fishing industry alone. Without healthy lakes, rivers and streams, those jobs and the \$2.3 billion fishing industry will most certainly be in jeopardy. Indeed, the tourism sector as a whole, Wisconsin's third largest economic sector, would be threatened if we regularly allow adverse impacts to our waters without oversight. When streams and lakes begin running dry, it's a signal that we must manage our groundwater supply more effectively, and this bill will give local communities, in partnership with the state, the tools they need to ensure our drinking water stays healthy and plentiful for generations to come.

I urge you to support SB 620, and act expeditiously to approve this bill. It is clear the time to act is now, and that the next step for groundwater protection is due. I appreciate your time and attention to this important issue.



# WISCONSIN STATE LEGISLATURE



Public Hearing – Committee on Environment – Senate Bill 620 – March 23, 2010

Thank you for letting me address Senate Bill 620, a bill relating to Groundwater Management, Water Conservation, and Granting Rule-Making Authority.

My name is Steve Suchomel and I'm from the Township of Little Black, Taylor County.

While Wisconsin is called water rich, my central part of the state, including the Township of Little Black, is a water poor area. Our crystalline rock aquifer does not have the sustain ability to allow unlimited high capacity wells. This is confirmed in the 1974 Water Supply Paper 2022.

There is a current water supply shortage in the nearby towns of Abbotsford, Colby and Unity to the south of us and Curtiss to the west. There has been discussions of constructing a water pipeline from Wausau to alleviate this shortage.

We are in a water poor area in a water rich state.

Senate Bill 620 is unique. It is a piece of pro-active legislation which is promoting prevention of groundwater depletion. It is not restricting any industry or trade or agriculture. It is simply saying that the resource must be available before the new users commence their application.

Our township is faced with the prospect of a 4000 cow CAFO being established over this crystalline rock aquifer. First and foremost, I am pro-agriculture. However I am pro-sustainable agriculture. Various water modeling has shown that the aquifer can sustain increased usage of perhaps a 900 dairy cow production water intake, at one site. The 4000 cow CAFO will consume upwards of 220,000 gallons per day. Our nearby village of Stetsonville is constructing a municipal well system due to water pollution issues and they will use only 40,000 gallons a day.

The current situation provides Wisconsin townships, localities and rural citizens no tools to prevent the overuse of our groundwater supplies before we have problems. In areas that have already experienced problems such as the Central Sands region and Waukesha, Senate Bill 620 provides a framework to resolve the conflict between competing water uses to ensure that we are preserving our ground waters for the long term.

There are probably many lobbyists who will testify today who wish to have no restrictions over Wisconsin's resources. I personally wish we were back at the time in the past when we didn't need the restrictions. But the resources are limited. It is a different era we are now in. Like it or not, we are in a multiple use or multiple consumption of resources whether it is industry, recreation or quality of life. The resources are limited in certain areas. It is not a one size fits all. It is not uniform groundwater resources across our great State of Wisconsin.

Senate Bill 620 is unique. It is preventative maintenance, not crises clean-up. Why is this unique? Don't we have other agencies in the State which can protect our ground water, such as the Department of Natural Resources?

I wish that I could say Yes, but we don't have any current protections. Getting back to the proposed 4000 cow CAFO in my township. Our local well driller, who happens to be a third generation well driller (all generations in our county), was first hired to drill wells. He could not find sufficient water and informed the CAFO owners that it wasn't a matter of time if they would run out of water but merely when they would run out of water. Their reply was to hire a new well driller. When asked specifically what they would do when the water ran out, their reply was and I quote, "We'll drill more wells and at a deeper depth".

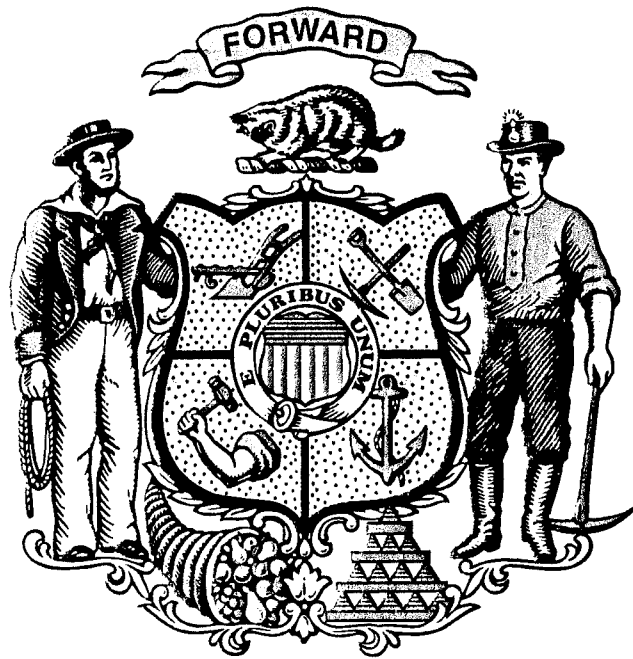
Senate Bill 620 establishes Ground Water Attention Areas. Our township and the crystalline rock aquifer under it and the surrounding area would be a Ground Water Attention Area. It would require a management plan consistent with available potential consumption. It would recognize multiple users.

In fact, until this legislation is enacted or at a minimum of having a site specific ground water study of our water poor aquifer as identified in the 1974 Water Supply Paper 2022, a moratorium on all new high cap wells in our area should be enforced.

Personally, I wish we didn't have the environmental situations that necessitate this legislation. It is a different world we live in these days. Unlimited consumption at the cost of other users is not only unfair but should be illegal.

Senate Bill 620 is for sustainable-agriculture and it is for sustainable-industry and it is for sustainable rural housing development. It is for the legacy of Wisconsin to have sustainable ground water resources.

Please support Senate Bill 620.



# Testimony of Wisconsin Farmers Union

Presented by Darin Von Ruden, WFU President

## Senate Committee on the Environment

Tuesday, March 23, 2010

### Groundwater Protection Bill

Thank you, Senate Committee on the Environment members, for giving me this opportunity to discuss Senate Bill 620 and its potential effects on Wisconsin's groundwater and on the state's family farmers.

I'm Wisconsin Farmers Union President Darin Von Ruden, and I'm here to register the Wisconsin Farmers Union's support of Senate Bill 620 and Assembly Bill 844.

It would be too easy as a Wisconsin farm organization to make a shoot-from-the-hip assumption that any legislation with the potential for limiting any farmer's groundwater use is a shot at limiting all farmers' rights. By supporting this legislation, the Wisconsin Farmers Union family-farmer members instead are taking a more challenging route that ultimately will benefit them by helping assure a long-time groundwater supply.

While the legislation might present some challenges for a handful of farmers, it also serves as a throttle to control the potential for a single corporation or individual to control Wisconsin's most valuable resource. That's especially important to have available as some farm owners plan massive animal-agriculture expansions.

In years past, we had not done a good enough job in keeping our groundwater clean from organisms and chemicals found on farms. Great strides have been taken in that regard during recent years, but we must continue to improve controlling that potential for polluting groundwater. Likewise, we must find ways to assure that the very supply of Wisconsin's groundwater continues to be available for all of us.

There also was a time when high-capacity wells were limited to a few large irrigated-crop operations and municipalities. But that's changed drastically in recent years, especially with the advent of some dairy and livestock farms increasing by many thousands the number of animal units.

As the number of extremely large-scale dairy and livestock numbers increases, so increases the threat of over-pumping groundwater supplies. Concerns about such over-use can be found in places such as the Taylor County town of Little Black, where rural neighbors of a proposed dairy-farm expansion have evidence that groundwater needs for that single farm could bring great stress to that rural community's groundwater resources.

The Wisconsin Farmers Union doesn't oppose expansions of dairy and livestock farms and certainly

doesn't oppose wells used to pump irrigation water onto Wisconsin's crops. But little recourse has been available when high-capacity wells for those purposes – and for municipal water uses – are drilled in areas where they shouldn't be drilled in Wisconsin.

As pointed out in a recent state Groundwater Work Group report, Wisconsin has certain areas in which the potential for groundwater depletion is high. That makes it important to designate state groundwater management areas and groundwater attention areas, in which the permitting and regulation of high-capacity wells will be most closely monitored.

It's encouraging to have the Public Service Commission required to push for municipal utility-use groundwater conservation measures – especially in those areas where groundwater supplies are most vulnerable. Also encouraging is language that tightens high-capacity well requirements for when more than 95 percent of pumped water won't be returned to the well's source aquifer.

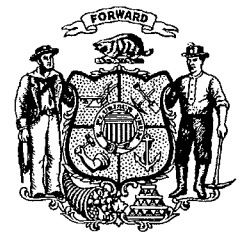
The Wisconsin Farmers Union believes care must be taken so agencies and committees charged with monitoring groundwater management areas and groundwater attention areas use judgment friendly to agriculture when monitoring farm-related groundwater use and animal-waste management. But we understand the importance of finding ways to assure that overuses of Wisconsin's groundwater don't occur.

Groundwater is our life-blood. It's far more valuable than any other resource available to humanity. Wisconsin has been blessed with an adequate supply of clean groundwater, but in fewer than 200 short years we've done much to damage and deplete that valuable resource. Legislation such as that before us today should go far in reducing groundwater losses while not being overly-burdensome to Wisconsin's family farmers.





# WISCONSIN STATE LEGISLATURE





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To: Senate Committee on Environment  
From: Curt Witynski, Assistant Director, League of Wisconsin Municipalities  
Date: March 23, 2010  
**Re: Concerns about SB 620, Groundwater Management**

The League of Wisconsin Municipalities has concerns about the negative impact SB 620 might have on the ability of municipalities to provide safe, sufficient and affordable drinking water to their residents and businesses. We oppose the bill as it is currently drafted. While we support the goal of protecting the state's groundwater resources, we urge you to not take action on SB 620 until it has been modified to assure that municipalities, especially those located in groundwater management and groundwater attention areas, will be able to continue to provide safe, reliable, and affordable drinking water to their residents.

At a minimum, language must be added to the bill that protects or gives preference to existing municipal high capacity wells.

I've attached a memo from the Village of East Troy that further outlines the concerns of Wisconsin municipalities. The League also endorses the joint written testimony provided to the committee by the communities of Plover, Whiting, and Stevens Point.

Thank you for considering our concerns.

Date: March 23, 2010  
To: Senate Committee on Environment  
From: Bill Loesch, Village of East Troy President  
Re: Proposed Groundwater Legislation (AB884/SB620)

The Village of East Troy was just made aware of the proposed legislation. Our most recently drilled well appears to be located in or certainly close to one of the mandated groundwater management areas "in and adjacent to Waukesha County". After a quick reading of the proposed legislation, I was left with a number of questions and concerns. While it is important to protect the waters of the state it is also critical to have sources of safe drinking water for municipalities.

I would first like to outline a little history of the approval process for our last well.

In 2000 the DNR advised the Village of East Troy that we were out of compliance with respect to NR 811.33(1) in that our source capacity was not adequate to meet current and future demand. My understanding of the deficiency is that with the highest capacity well out of service our remaining wells are unable to meet the single highest demand day of the previous year. I would like to point out that during the process of bringing a new well on line we had two of our three wells, including the highest capacity well, out of service for a period of several weeks and had no trouble meeting demand without having to resort to rationing.

We began working with our engineering firm to locate potential sites in early 2001. After reviewing several alternatives we located a promising site, drilled a test well and got DNR approval to proceed. This site was in close proximity to Lake Beulah and there was a concern regarding impact to the lake.

Due to that concern we contracted with Ruekert & Mielke and got Dr. John Jansen involved in determining potential impact of the well on the lake. He determined there was a confining layer in the aquifer which should prevent any impact to the lake since our well was drilled through the confining layer.

Due to concerns about the impact of the well, the Village also sited monitoring wells close to the lake and volunteered to limit pumping during the first two years of operation. So far, after more than two years of operation, the monitoring wells have shown no impact on the lake.

Engineering and construction costs exceeded \$1,150,000 and that figure does not include the additional funds expended with Ruekert & Mielke.

There were some delays on the project and we were notified by the DNR that we were subject a \$5,000 per day fine for not having the well on line. We were required to come up with a plan for water conservation and a mutual aid agreement with a near-by municipality to provide water in the event of an emergency.

I was just made aware of the draft bill on proposed groundwater legislation (AB884/SB620). In a quick read of the proposed legislation I found it is sometimes difficult to determine whether reference to a high capacity well includes or excludes municipal wells. I think the language regarding groundwater management areas and groundwater attention areas should be very clear as to the impact on high capacity municipal wells. I would also suggest operating municipal wells already located in a GMA or GAA should be "grandfathered". Any attempt to limit pumping on an established municipal well could well result in the DNR determining the municipality now does not have sufficient water supply for the public and require an additional well at significant additional expense.

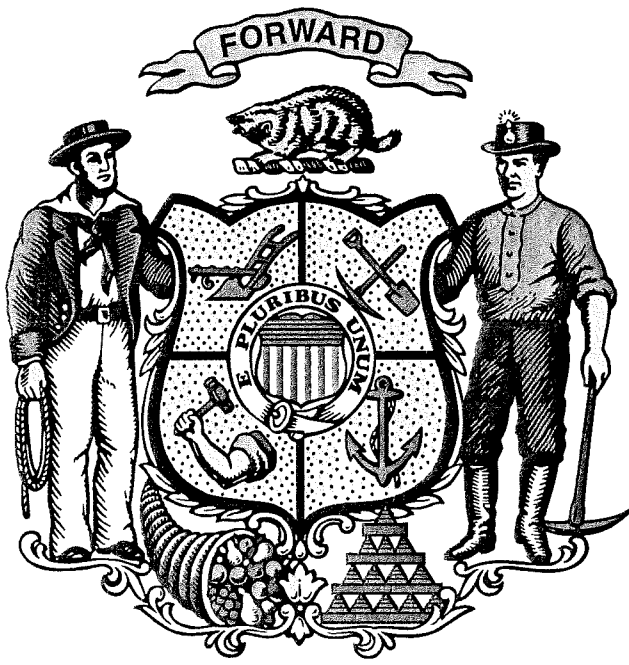
What happens to a municipality which is located entirely within a GMA and needs a new municipal well? How much will this process delay the approval time and how much additional will be added to the cost of the well? All of these additional costs are ultimately passed on to our constituents.

There is language on page 15 which indicates the DNR may modify or rescind an approval. Does this apply to municipal wells and, if so, who reimburses the municipality for the costs associated with drilling a new well?

I would also point out that language in this bill will make it more difficult for municipalities to site new wells. One individual can file a petition on a new municipal well (page 11) thus delaying the process further. This language does not even specify the individual has to be a resident of the GMA/GAA or even a resident of the state.

In closing, I would state that there are other areas of concern in this legislation. On the whole I guess the question I would ask is are there sufficient safeguards in this legislation for public water supplies, especially in these economic times when local our budgets are already stretched?

If Wisconsin municipal water utilities are not able to ensure our citizens and businesses a safe and adequate water supply, then there may be a significant impact on future economic development.





# Wisconsin Aquaculture Association

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March 30, 2010

Senator Mark Miller  
Chairman, Committee on the Environment

The Wisconsin Aquaculture Association (WAA) is the voice of the Wisconsin aquaculture industry, 100% industry led and producer centered to promote, educate and advocate for the economic viability and environmental sustainability of fish farming in Wisconsin. Wisconsin has a proud private aquaculture history dating back 150 years. WAA has promoted best management practices that provide for environmentally sound and sustainable use of water in the operations of aquaculture facilities. We agree that groundwater is an important resource to Wisconsin but it should be noted that aquaculture in Wisconsin does not withdrawal water in a consumptive use but uses water responsibly and returns it to the aquifer. Aquaculture is water dependent and therefore fish farmers are stewards of the resources.

WAA is against SB 620 and AB 844, as written, for the following reasons:

#### **Takes power from the Legislature to designate "Groundwater Management Areas"**

- Designating an area as a "groundwater management area," an area that deserves special attention with regard to groundwater regulation, is a job for our elected officials.

#### **Grants counties the power to regulate groundwater and surface water.**

- In groundwater management areas, this legislation requires a local "groundwater management council" appointed by a county official to develop a "groundwater management plan" that must be protective of surface water and groundwater.
- Although the draft legislation establishes parameters for these plans, the power to regulate groundwater and surface water uses is a power that belongs at the state level, not the county level.
- We oppose patchwork water regulation. We support statewide consistency with Legislative oversight

#### **Allows "any person" to request an environmental review of a proposed high capacity well.**

- This legislation grants *any citizen* in Wisconsin the power to initiate a lawsuit challenging a high capacity well approval. It does not require the person to have any connection to the well, or to the property or the watershed in which the well is located.
- The standard for granting the review -- "reasonably probable" -- means it is likely that high capacity well permit applicants will find themselves bound up in continuous legal challenges. This standard boils down to "...evidence which makes something more likely than not," and almost certainly means we will be deluged by the varying opinions of technical experts and countless attorneys.
- This is a dangerous precedent, and will only expose Wisconsin businesses to expensive and burdensome legal challenges.

#### **Eliminates protection for EXISTING high capacity wells.**

- This draft legislation *requires* the DNR to review existing high cap well approvals in a groundwater management area to ensure consistency with a groundwater management plan. Further, the bill grants DNR the authority to modify the approval of an existing high cap well to ensure compliance with that plan.
- This is a fundamental shift from current law, under which existing high cap well approvals remain in effect indefinitely. This is, in effect, the retroactive application of a law onto existing high cap wells and must be opposed.
- The provisions in this bill require DNR to review and modify existing plan approvals for high capacity wells in a designated groundwater management area after the groundwater management plan takes effect. The concept of **restricting access to**

**water** after the business plan has been developed, after the business has been built, after the fish are in the pond, and after the business has contracts with customers have been signed, flies in the face of fairness.

- Wisconsin is promoting “green business” but yet this bill will restrict an industry that is already “green” and contributes \$21 million in economic activity.

#### **Creates County by County Standards**

- This legislation explicitly creates **county by county standards** for “target withdrawal quantities” in the same or similar aquifers as a consequence of authorizing an unknown number of different local groundwater management councils and plans.
- The proposed legislation will almost certainly result in members of the same class of end users having their water consumption rights regulated differently based simply on jurisdictional preference and not on proven scientific need.
- State government is better suited to the **development of standards**, and **water allocation shares** which will inevitably come from the establishment of “target withdrawal quantities.”
- Local government is simply not equipped to deal with these decisions and should not be required to do so.
- This is a job for state-level policy makers who are elected to represent the interests of all of our citizens.

WAA would like the bills to be tabled for this session which would allow the legislator to work with stakeholders to find appropriate measures that protect the ground water resource while allowing for economic vitality and growth which are also precious resources for Wisconsin.

Sincerely,

Jeff Taylor, President of WAA