

1997-98 SESSION
COMMITTEE HEARING
RECORDS

Committee Name:

Senate Committee on
Agriculture and
Environmental
Resources
(SC-AER)

Sample:

- Record of Comm. Proceedings
- 97hrAC-EdR_RCP_pt01a
- 97hrAC-EdR_RCP_pt01b
- 97hrAC-EdR_RCP_pt02

- Appointments ... Appt
-
- Clearinghouse Rules ... CRule
- 97hr_SC-AER_CRule_97-043_pt03
- Committee Hearings ... CH
-
- Committee Reports ... CR
-
- Executive Sessions ... ES
-
- Hearing Records ... HR
-
- Miscellaneous ... Misc
-
- Record of Comm. Proceedings ... RCP
-

Statement given by James Stoltenberg at the Legislative Committee hearing in Madison on October 1, 1997, in response to the proposed rule revisions regarding pesticides in the groundwater.

What have we learned about abuse and degradation of our resources?

If surface water, such as our lakes and rivers, is an example, can we imagine dumping Atrazine and other chemicals into the Wisconsin River, the Plover River, the Wolf River, the Tomorrow River, or Sunset Lake which is now at the PAL level.

Isn't our groundwater of the same importance to our citizenry and necessary to protect? It belongs to all of us and if contamination is being perpetuated to the degree it is dangerous and detrimental, shouldn't the governing board be foresighted enough to put a stop to this contamination.

The history of the Wisconsin river is a good example of abuse and degradation. Can you remember when we couldn't swim, fish, or even go near the water without knowing it was no longer a valued resource? It was a remarkable event when the citizenry of this state rose to condemn the pollution coming from the mills and industry, and they were heard and they were supported by many organizations and leaders who rose to the occasion and cleaned up the river. What do we have today? We have a great river that is a great resource for all to use and the mills and industry are the major beneficiaries. This came about because our leaders had the vision and the courage to do what they knew was right. But where are our leaders today?

Does our ground water not merit the same concern? Do we have to destroy it before we take steps to stop this nonsense? Haven't we learned our lesson of stewardship? This step to open the doors of contamination again is wrong. Let me give you another fact that scares us. There are nine new cases of cancer in our area of contaminated wells in the Town of New Hope (see map). There are four who are currently taking radiation or chemotherapy. Have we no concern about this obvious correlation? It affects lives. One is a young student at a local high school and can you predict what lies in the future for our citizens?

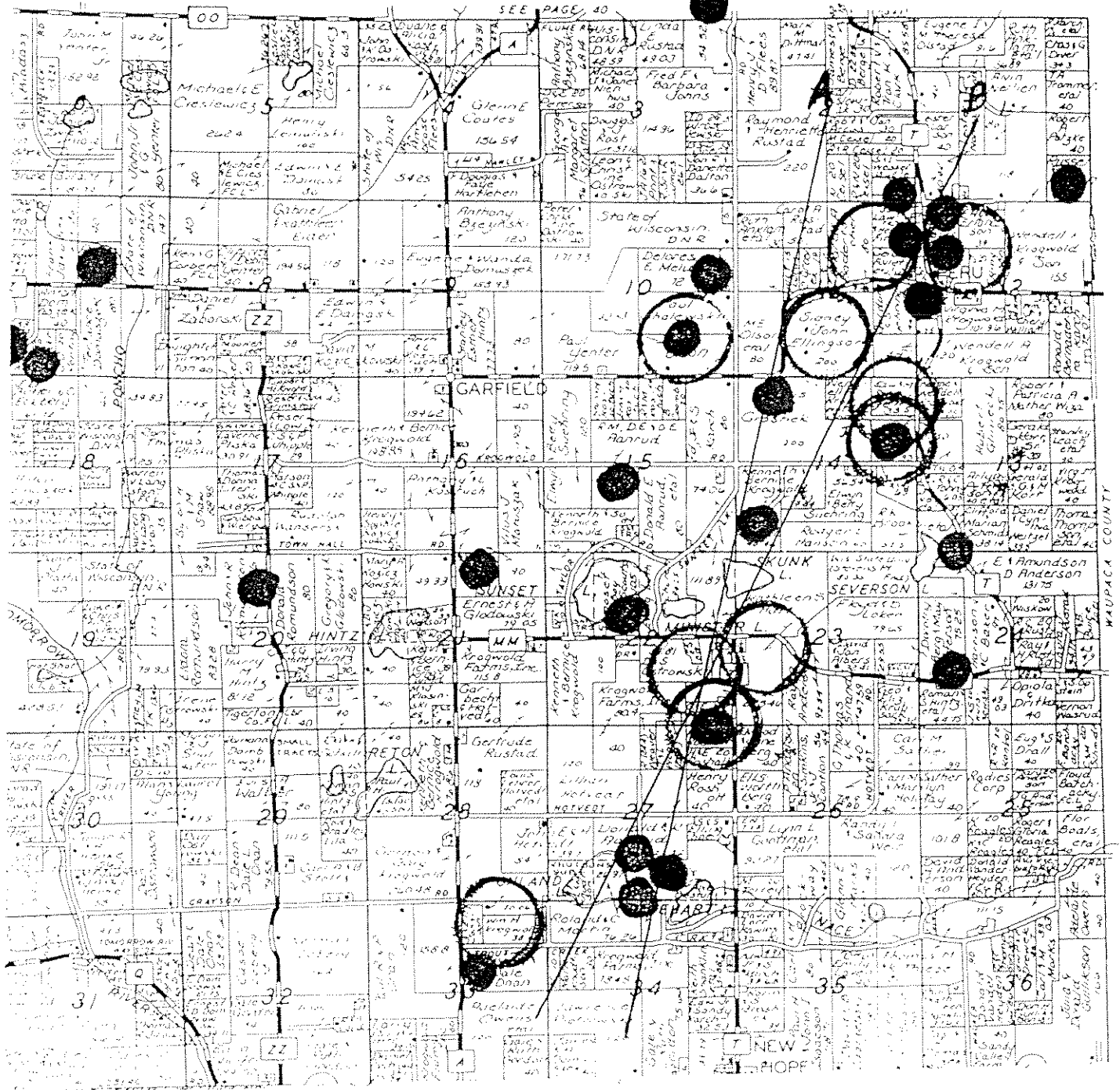
Does it take a class action suit to bring our facts and our concerns to your attention? Didn't our message come through several years ago? Who are these individuals who are pressing for changes in the standards? Do they have the welfare of the community at heart or is their only concern one of making bigger profits regardless of costs to the health and welfare of the community?

We also have examples of wells that were high before the ban and went down after the ban was instituted but now are high again. We are tired of this yo-yo effect. Our church is one of those places. We have to warn our parishioners and visitors that our water is unsafe to drink, and what do we do when we have to serve funeral luncheons? We have

to bring in water for those occasions. This is a great inconvenience and expense that we shouldn't have to bear.

I'm citing these examples to show the human side of this issue which often becomes obscured by statistics and numbers. I strongly recommend that the PAL be used as the degradation level and I also urge you to send the rule proposal back to DATCP for further study and revision.

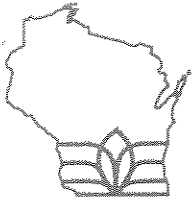
Submitted by James Stoltenberg
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The 10 open circles show the location of wells that exceeded the health risk standard for Atrazine of 3.0 ppb.

The 26 solid circles represent locations of cancer occurrences in the past 18 years. Fifteen of those occurred within the last 10 years

The "best fit" lines to the data suggest a correlation between the groups of data which should be investigated. (Data is updated from the 1994 map)



Wisconsin Agribusiness Council, Inc.

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SOME ATRAZINE FACTS

After more than 35 years of manufacture and use as labeled, and after generating more than 600 safety, environmental, and exposure studies, there have been no adverse health effects to humans through food, drinking water, or as a result of handling or manufacturing.

Atrazine is not genotoxic. (Doesn't damage genetic material.)

Atrazine is not estrogenic. (Doesn't mimic estrogen.)

Atrazine doesn't have any animal reproduction effects, ie. Decreased fertility, birth defects etc.

Since no other state uses metabolites to calculate their health advisory, no other state would have considered most of our atrazine prohibition areas to have exceeded the drinking water standard.

Atrazine is classed by the U.S. EPA as a category C "possible" carcinogen.

Atrazine has this very tough standard because one gender of a single strain of test rat, when fed a diet containing 70,000 ppb of atrazine for their lifetime, developed mammary tumors at an earlier age than did those fed a regular diet.

This same response was not noted in any other strain of female rats or mice, nor in any of the many other species of animals which have been used to test the safety of this product for the past 30 years. Minnesota does not consider atrazine to be a "possible" carcinogen.

When 10,000 ppb of atrazine was fed, no observable defect was detected, not even in the particular strain of female rats which also develop high numbers of mammary tumors when ingesting regular diets.

The WI enforcement standard (ES) of 3ppb is 3333 times less than EPA's "no observable defect level" (NOEL), a number established when atrazine is fed to test animals for their lifetime.

The Enforcement Standard (ES) established by the WI Department of Health & Social Services and implemented by the WI DNR contains an ample safety factor to protect WI citizens from any risks due to atrazine exposure. At the Enforcement Standard of 3 ppb, a human would need to drink 21,000 gallons of water per day (that's 14.6 gallons/minute!) for a lifetime to reach the **no effect level** in test animals!

If all the liquid a person consumed, 2 liters per day for 75 years, contained atrazine at 3 ppb, the total atrazine consumption would equal ½ of a 5-grain aspirin tablet spread over 27,393 days - and aspirin is twice as toxic as atrazine.

From a presentation by *Floy Lilley, J.D.

October 22, 1993

Data from U.S. OMB 1992 budget information

1990 Dollars

Cost To Avert a Premature Death

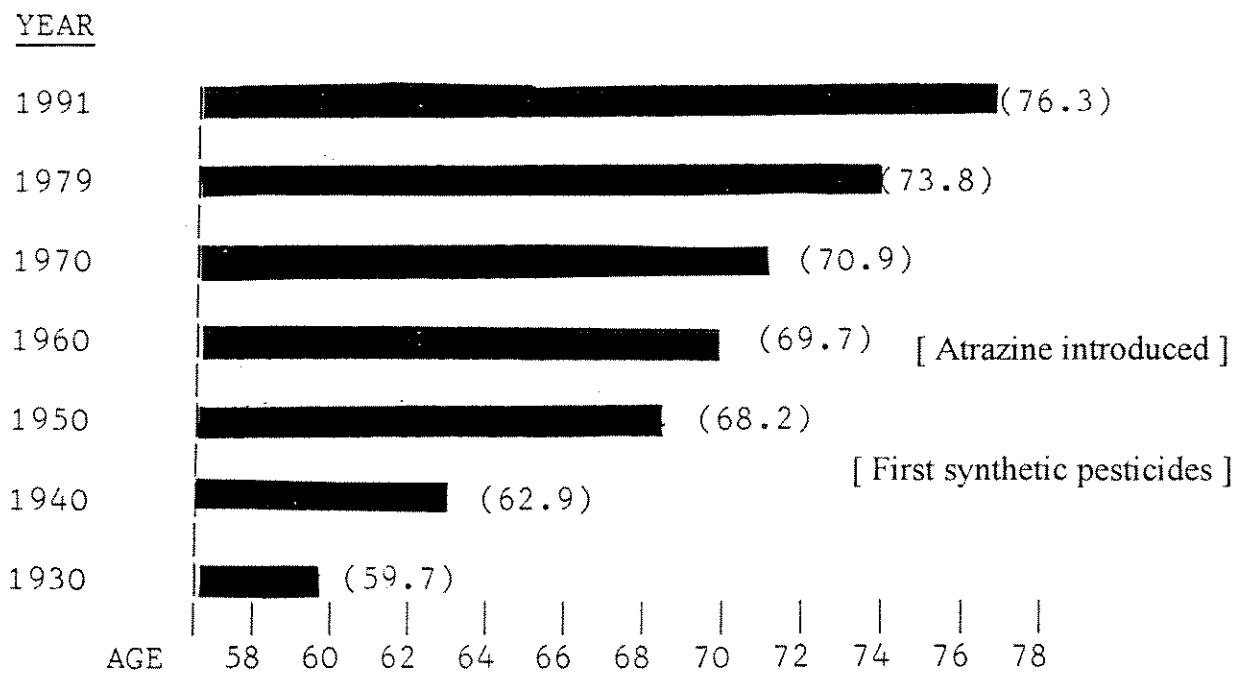
Aircraft cabin fire protection	\$ 100,000.	Based on actual deaths
Auto fuel-system integrity standard	\$ 400,000.	
Trenching and excavating standard	\$ 1,500,000.	
Asbestos ban	\$ 110,700,000.	
Hazardous waste disposal ban	\$ 4,190,400,000.	
Proposed solid waste standards	\$19,107,000,000.	
Atrazine/alachlor drinking water standard	\$92,069,700,000.	← Theoretical- no deaths

* Dr. Lilley is Program Manager of the Chair of Free Enterprise at The University of Texas at Austin.

For a copy of this page of the OMB budget document contact:

Russ Weisensel at the WI Agri-Business Council

U.S. LIFE EXPECTANCY



Atrazine Prepacks

Many of today's popular herbicides are prepacked with atrazine. Some are even touted as "atrazine alternatives". Here is a list of the more popular atrazine prepacks. (Home and garden products not listed)

Year	Brand	Manufacturer	Atrazine prepacked with:
1997	Basis Gold	DuPont	rimsulfuron and nicosulfuron
1997	Bicep II Magnum	Novartis	s-metolachlor
1997	Bicep Lite II Magnum	Novartis	s-metolachlor
1997	Bromox-at	Microbio	bromoxynil
1997	Fultime	Zeneca	acetochlor
1997	MON 58420	Monsanto	glyphosate and acetochlor
1997	Moxy-at	Terra	bromoxynil
1996	Shotgun	Platte (UAP)	2,4-D
1995	Bicep Lite II	Novartis	metolachlor
1995	Harness Xtra	Monsanto	acetochlor
1995	Surpass 100	Zeneca	acetochlor
1994	Guardzman	BASF	dimethenamid
1994	Harness Xtra 5.6L	Monsanto	acetochlor
1992	Bicep Lite	Novartis	metolachlor
1991	Bicep II	Novartis	metolachlor
1991	Contour	AmCy	imazethapyr
1990	Simazat	Drexel	simazine
1989	Buctril-atrazine	Rhone-Polanc	bromoxynil
1989	Bullet	Monsanto	alachlor
1989	Laddock	BASF	bentazon
1987	Marksman	BASF	dicamba
1986	Extrazine	DuPont	cyanazine
1986	Lariat	Monsanto	alachlor
1985	Conquest	DuPont	cyanazine
1983	Ramrod-atrazine	Monsanto	propachlor
1983	Sutazine	Zeneca	butylate
1982	Lasso-atrazine	Monsanto	alachlor
1979	Bicep	Novartis	metolachlor

EPA Risk Model

*Linearized Multi Stage Model/Q**

Based on Rat Studies With Aspirin
LD50 (Humans) \approx 250 Tablets

People	Tablets	# Expected Deaths
1,000,000	250	500,000
1,000,000	25	50,000
1,000,000	2 1/2	5,000
1,000,000	1	2,000
1,000,000	1/2000th	1

EXCERPTS FROM:

CANCER FACTS & FIGURES—1997

What Is the National Cancer Death Rate?

There has been a steady rise in the cancer mortality rate in the US during the past half-century. The age-adjusted rate in 1950 was 158 per 100,000 population. It rose to 172 in 1993. The major cause of this increase has been lung cancer. Death rates for many major cancer sites have leveled off or declined over the past 60 years. When lung cancer deaths are excluded, cancer mortality shows a decline of 16% between 1950 and 1993.

Can Cancer Be Prevented?

All cancers caused by cigarette smoking and heavy use of alcohol could be prevented completely. The ACS estimates that in 1997 about 174,000 cancer deaths are expected to be caused by tobacco use and an additional 19,000 cancer deaths are related to excessive alcohol use, frequently in combination with tobacco use. Many cancers that are related to dietary factors could also be prevented. Scientific evidence suggests that up to one-third of the 560,000 cancer deaths that are expected to occur in the US this year are related to nutrition. In addition, many of the 900,000 skin cancers that are expected to be diagnosed in 1997 could have been prevented by protection from the sun's rays.

Unproven Risks

Public concern about environmental cancer risks often focuses on risks for which no carcinogenicity has been proven or on situations where known carcinogen exposures are at such low levels that risks are negligible. For example:

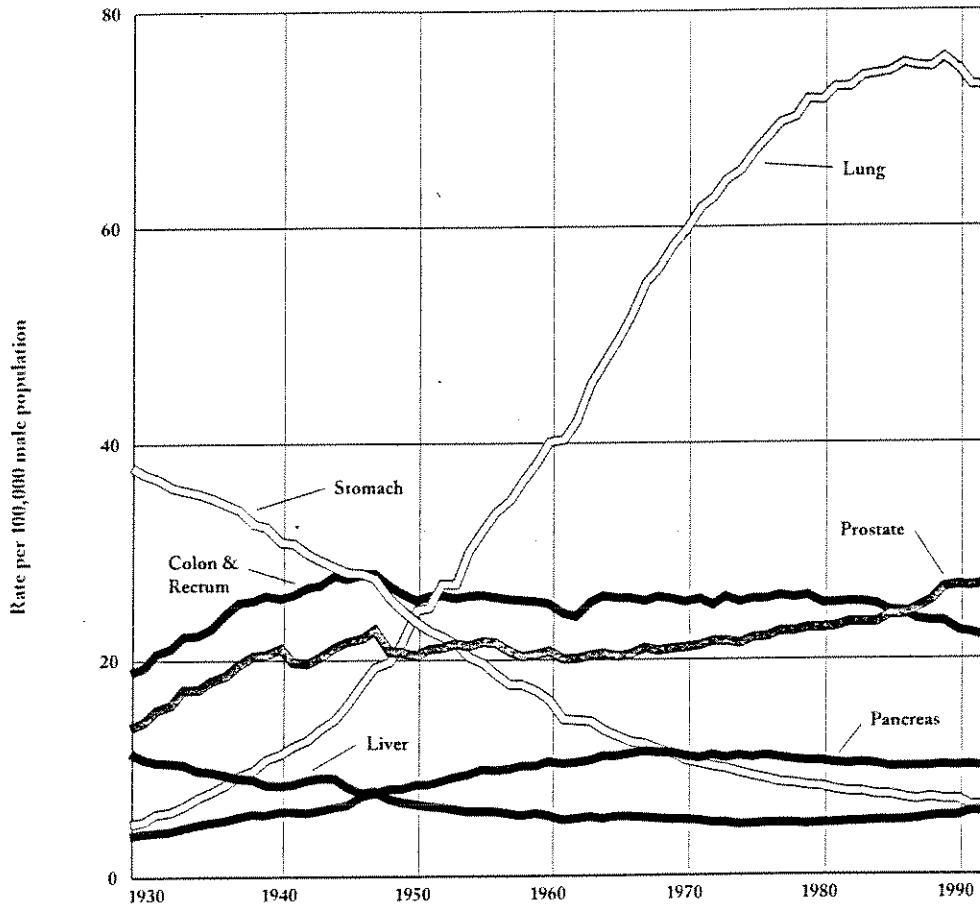
Pesticides

Many kinds of pesticides (insecticides, herbicides, etc.) are widely used in producing and marketing our food supply. Although high doses of some of these chemicals cause cancer in experimental animals, the very low concentrations found in some foods are generally well within established safety levels. Environmental pollution by slowly degraded pesticides such as DDT, a result of past agricultural practices, can lead to food chain bioaccumulation and to persistent residues in body fat. Such residues have been suggested as a possible risk factor for breast cancer. Studies have shown that concentrations in tissue are low, however, and the evidence has not been conclusive.

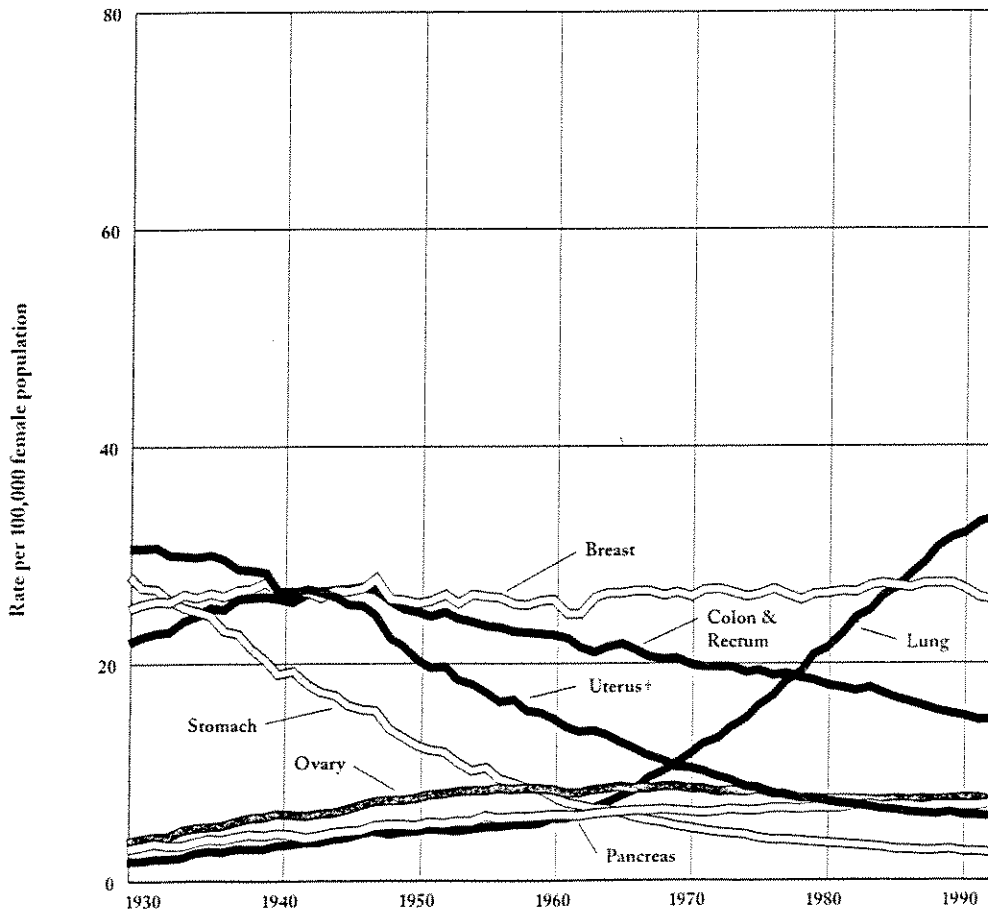
Continued research regarding pesticide use is essential for maximum food safety, improved food production through alternative pest control methods, and reduced-pollution of the environment. In the meantime, pesticides play a valuable role in sustaining our food supply. When properly controlled, the minimal risks they pose are greatly overshadowed by the health benefits of a diverse diet rich in foods from plant sources.



Age-Adjusted Cancer Death Rates,* Males by Site, US 1930-1993



Age-Adjusted Cancer Death Rates,* Females by Site, US 1930-1993



*Rates are per 100,000 and are age-adjusted to the 1970 US standard population. †Uterine cancer death rates are for cervix and corpus combined.

Note: Due to changes in ICD coding, numerator information has changed over time. Rates for cancer of the uterus, ovary, lung, colon and rectum are affected by these coding changes. Denominator information for the years 1930-1959 and 1991-1993 is based on intercensal population estimates, while denominator information for the years 1960-1989 is based on postcensal recalculation of estimates. Rate estimates for 1968-1989 are most likely of a better quality.

Source: Vital Statistics of the United States, 1993.



State of Wisconsin
Tommy G. Thompson, Governor

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HEARING TESTIMONY

PROPOSED CHANGES TO CHAPTER ATCP 31, GROUNDWATER PROTECTION RULE (Clearinghouse Rule No. 97-043)

before the

SENATE AGRICULTURE AND ENVIRONMENTAL RESOURCES COMMITTEE

October 1, 1997

Chairman Clausing and Committee Members:

My name is Nicholas J. Neher and I am Administrator of the Agricultural Resource Management Division of the Wisconsin Department of Agriculture, Trade and Consumer Protection.

Chapter ATCP 31 provides a generic mechanism for the department to prohibit the use of pesticides in local areas where use of the pesticide has been found to contaminate groundwater at concentrations greater than an established groundwater enforcement standard. This mechanism has been used by the department to prohibit the use of specific pesticides to protect groundwater in several areas of the state. Use prohibition areas have been created for pesticides including aldicarb, atrazine and metolachlor. These prohibitions have been implemented through the development of pesticide specific rules.

The current rule does not, however, provide a clear mechanism to repeal an existing prohibition area, even if it can be shown that renewed use will not lead to renewed contamination in violation of the standard. The proposed rule provides such a mechanism. The proposal was developed by the department in consultation with an advisory group made up of groundwater experts. The proposed process provides three generic criteria that must be met before repeal of a prohibition area can be considered. These criteria require that scientific data provide the basis to show that:

1. The well(s) originally contaminated above the standard are now in compliance with the standard.
2. Surrounding wells in the local area are also in compliance with the standard.
3. Renewed use of the pesticide is not likely to result in violation of the standard.

The attachment describes the provisions of the proposed rule in greater detail. Repeal of a pesticide specific prohibition area would require an amendment to the appropriate pesticide specific rule. In summary, the proposal provides a science based mechanism to repeal existing use prohibition areas while maintaining protection of the groundwater resource.

Thank you for your attention to this important matter.

ATCP 31: Groundwater Protection

Repeal of Pesticide Prohibition Areas

How will ATCP 31 change?

Rule changes propose a process for removing pesticide prohibition areas. Repeal of specific pesticide prohibition areas would require changes to pesticide-specific rules (such as ATCP 30, Wisconsin's "Atrazine Rule").

What are the repeal steps?

Three steps must be met before the department will consider removing a prohibition area:

REPEAL STEPS	REASON
Step 1: Pesticide levels in all wells that were above the enforcement standard in a prohibition area must fall to or below the pesticide-specific level set by the department (see attached chart).	A downward trend of pesticide levels in the well(s) shows that the well(s) will consistently comply with the enforcement standard.
Step 2: Water samples (if any) taken during the same time period from other wells in the prohibition area must show that pesticide levels are at or below the pesticide-specific level.	These samples show that groundwater in the surrounding area complies with the enforcement standard.
Step 3: Research on farm fields shows that renewed use of the pesticide, under provisions of the current pesticide-specific rule, will not cause pesticide levels in the well(s) in the prohibition area to rise again above the enforcement standard.	Evidence shows that a total prohibition of pesticide use is not required to protect groundwater.

When will the first prohibition areas be repealed?

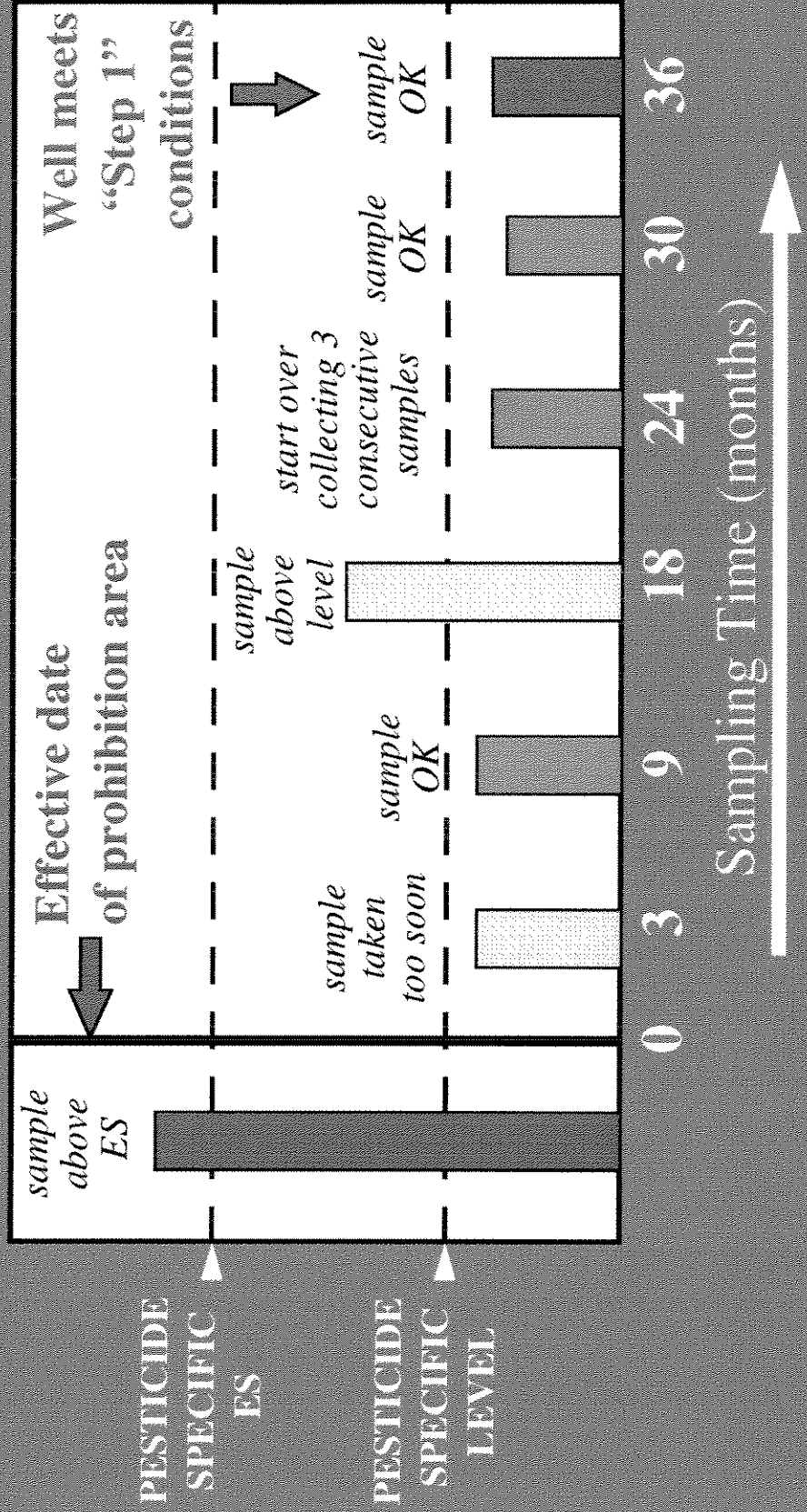
No sooner than three years. If the conditions of all three steps are met, the department will consider removing the pesticide prohibition area. The department would amend the pesticide-specific rule and gather public comments on the proposed repeal.

Will all pesticide prohibition areas be repealed eventually?

Probably not. Research shows that some prohibition areas, such as the Lower Wisconsin River Valley, are very susceptible to groundwater contamination by pesticides and may never meet the conditions of the three repeal steps.

ATCP 31: Groundwater Protection

“Step 1” in the generic repeal process requires that pesticide levels in all wells that exceeded the enforcement standard (ES) in a prohibition area fall to or below the pesticide specific level set by DATCP.



Personal views given by Ed Seefelt before the legislative review committee, in Madison, Wisconsin, on October 1, 1997, regarding the proposed rule revisions.

In addition to what I just read I want to give you some additional personal views about what is wrong with the proposed revisions:

1. The present language calls for three consecutive groundwater samples to be taken from well sites in the prohibition area that exceeded the enforcement standard. Each of the three readings must fall below the degradation level for that chemical before the ban is lifted and the use of that chemical is re-authorized. That part of the language we find acceptable provided the degradation or substance-specific level has been selected from scientific data and not arbitrarily as was the case for the 50% level for Atrazine.

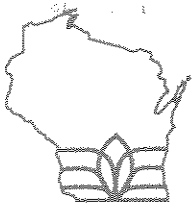
What isn't acceptable in this proposal is that there is no specific language that tells us when and how to re-institute the ban, if the level of contamination begins to rise after re-use, before it reaches the enforcement level. The purpose of the second level (degradation level) is to prevent the level of contamination from again reaching the enforcement standard and creating a yo-yo effect.

2. Section #3 of the DATCP review entitled, **rule modification after public hearing**, states that testimony suggested that the 50% level would be under-protective for pesticides with a low enforcement standard (e.g. 1 part per billion or less), and over-protective for pesticides with a high enforcement standard (e.g. 100 parts per billion or more). The department believes that the 50% figure is the appropriate figure for Atrazine. Using the department's logic, the enforcement standard for Atrazine of 3.0 ppb is closer to 1 ppb than 100ppb and therefore the 50% level is not appropriate for Atrazine because it "would be under-protected for pesticides with a low enforcement standard." Therefore the PAL would seem to be an appropriate degradation level for Atrazine.
3. Finally, I believe the research protocol is wrong. What the department intends to do is to establish substance-specific degradation levels for each chemical studied. They will use an arbitrary level such as the 50% level for Atrazine and test its validity by varying the application rates of the pesticide at the test well sites. They are trying to find the appropriate level for a given pesticide and they're using an arbitrary level as the **constant** and the application rates as the **variable**. The sought after level should be the **variable** and the application rate should be the **constant**. The present protocol will not give them the information they are seeking. It will tell them only what the proper application is for the level they have predetermined. We're not attempting to discover what rate of application is least contaminating for a given level. That is a different question. We're trying to discover what the degradation level is for a chemical with a given enforcement standard.

I recommend that the committee send the proposal back to the department for further study and revision.

I also recommend that the Wisconsin Groundwater Advocacy representatives work with DATCP to develop an acceptable alternative

Submitted by Edward R. Seefelt
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October 1, 1997

To: Senate Agriculture & Natural Resources Committee From: Russ Weisensel, Director Legislative Affairs

Representing both the Wisconsin Agribusiness Council and the American Crop Protection Association.

We strongly support AB 5 as amended.

The Assembly Committee on Agriculture, JCRAR and the State Assembly have a clear record strongly objecting to the imposition of an atrazine Prohibition Area (PA) at this particular site. (The original bill, as introduced by JCRAR following an objection to Clearinghouse Rule 95-147, was inappropriate for it prohibited DATCP from ever creating an atrazine PA on those 2400 acres surrounding the Taylor site in Grant County.) Under AB 5, any new test on the Taylor property or neighboring properties which exceeds the Wisconsin Enforcement Standard (ES) for atrazine would result in a PA.

The DATCP board seriously questioned the establishment of this particular PA (see map and 11/14/95 minutes) for several reasons: The atrazine level in this well dropped 19% and was below the ES of 3 ppb when re-tested. Of the 12 other wells tested in this proposed PA only 3 had a detect; their average just 0.3 ppb.

The bill as amended is clearly in keeping with both the letter and spirit of our groundwater law.

Section 160.25 of the groundwater law relates to responses for specific sites when the **enforcement standard** is exceeded. It states:

"160.25 (4) If compliance with the enforcement standard is achieved at the point of standards application, s. 160.23 applies."

Clearly the second test of this well showed that the enforcement standard was achieved.

Note that both the "parent" atrazine and its metabolite (breakdown compound) level declined.

Section 160.23 then applies. It relates to responses for specific sites at the (PAL) **preventive action limit**. Section 160.23 (4) states that a regulatory agency may not impose a prohibition on a substance, activity, or practice unless certain criteria, including "**Determining...that no other remedial action would prevent the violation of the enforcement standard.**" is applied.

Does not the August 9, 1995 official test by DATCP, and the extremely low levels of atrazine found in area wells, provide "credible evidence" that the atrazine level in this area will stay below the ES of 3 ppb?

Why didn't DATCP re-sample the Taylor well on November 20, 1995? 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 rescind 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, AB 5 needs to pass.

- more -

Mr. Taylor and his neighbors are caught in a bureaucratic and statutory quagmire. Unless both houses of the legislature act affirmatively on the JCRAR bills, DATCP will impose this PA. Even if the proposed DATCP rule to rescind atrazine PA's is promulgated next year, Mr. Taylor, since his original well has been abandoned, would need to install a monitoring well, at his own expense, to obtain the data to rescind this PA; **a PA which should never have been imposed!**

Mr. Taylor also believes his contamination may have been from a point source, not field usage. (His theory is certainly plausible given the fact that on Dec. 6, 1996, his well was found by the DNR to be non-complying because of: "Shallow Casing Depth; Poor Casing Condition; and Stovepipe Casing" installed over a 4-inch steel pipe.) DATCP does not impose a PA if the atrazine in the groundwater is believed to have been caused by a point source.

We need to remember that atrazine has been widely used in our state for some 30 years. Wisconsin had no groundwater law until 1984, no atrazine groundwater standards until 1988, and no atrazine rule until March, 1991. Since then we've added numerous restrictions on this product. The application rate has been severely curtailed. (Even in eastern Wisconsin counties where little or no atrazine has been detected.) It may only be applied by certified (trained) applicators/farmers. Strict regulations are in place for mixing and loading of atrazine. Fall applications are prohibited. These strict regulations will, in many areas of Wisconsin, allow atrazine to be used without impairing the quality of our groundwater. They are working in this area without establishing a PA.

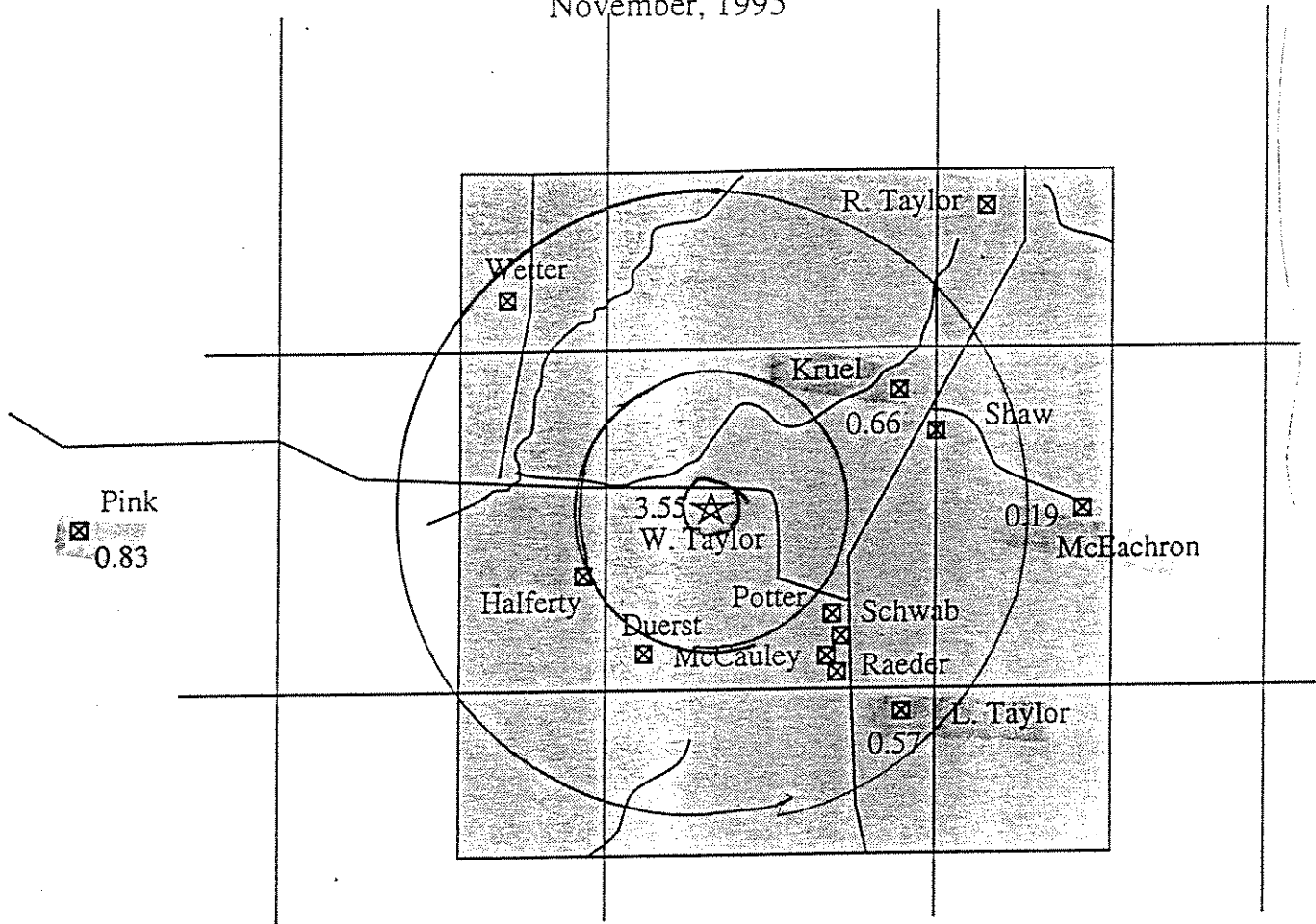
Nationally, based on current test data, the EPA changed its atrazine reference dose, the formula used in animal studies to assess risk. **Minnesota, noting this change, has since established 20ppb as its health risk for private wells.** Wisconsin not only maintains the current enforcement standard at 3ppb, our DNR included atrazine metabolites in calculating this enforcement standard. Neither the EPA, nor any other state has this restrictive formula. Minnesota also **does not** consider atrazine to be a possible carcinogen!

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 enforcement standard.

GRANT COUNTY

Results of Sampling in Proposed PA

November, 1995



	Atrazine	DEA ¹	DIA ¹	DAA ¹	TCR ²
Duerst	ND	ND	ND	ND	ND
Halferty	ND	ND	ND	ND	ND
Krueel	0.309	0.352	ND	ND	0.661
McEachron	0.186	ND	ND	ND	0.186
McCauley	ND	ND	ND	ND	ND
Pink	0.252	0.580	ND	ND	0.832
Potter	ND	ND	ND	ND	ND
Raeder	ND	ND	ND	ND	ND
Schwab	ND	ND	ND	ND	ND
Shaw	ND	ND	ND	ND	ND
L. Taylor	0.186	0.386	ND	ND	0.572
R. Taylor	ND	ND	ND	ND	ND
Wetter	ND	ND	ND	ND	ND
W. Taylor	2.06	1.49	ND	ND	3.55
July 6, 1994	1.54	1.34	ND	ND	2.88
August 9, 1995					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 from 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).



Date: October 1, 1997

To: Committee on Agriculture and Environmental Resources

From: Pamela Porter, Executive Director

RE: *AB 5 - Relating to the authority of DATCP to prohibit the use of atrazine in a specified area in the town of North Lancaster, Grant County*

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Member of



We oppose AB 5 as it represents a weakening of the atrazine rule and the Wisconsin groundwater law. We believe DATCP has acted responsibly to protect public health when it imposed a prohibition on the use of atrazine in the town identified in AB 5. The Assembly Agriculture Committee asked the board to reconsider this prohibition which it did in March of 1996. The board for the second time determined that the ban on atrazine was appropriate.

We agree with how DATCP has handled this case and oppose AB 5 for several reasons:

1. The measure sets a bad precedent by potentially weakening the groundwater law. If AB 5 is passed, you would be allowing a special exemption from the groundwater law that protects the environment, human health and the safety of our drinking water. If this bill passes, every prohibition area could potentially be subject to similar legislative challenges.
2. This measure sets a bad precedent by allowing special exemption for a landowner. While over 1 million acres are protected by the atrazine prohibition areas, AB 5 has the distinct appearance of putting politics of one special constituent back home before the health and safety of neighbors who own adjacent property, as well as all people in the state of Wisconsin.
3. The measure overturns a fair process which DATCP uses to establish its Prohibition Areas. The Assembly Agriculture Committee objected to DATCP's action claiming that it was "arbitrary and capricious." We disagree. Wisconsin's groundwater law (sec 160.25, Wi Stats) has a mechanism to protect against arbitrary DATCP action. The groundwater law requires that DATCP show, "to a reasonable certainty, by the greater weight of scientific evidence" that some alternative response other than the prohibition will achieve compliance with the enforcement standard. Such as showing was not made in the case before you. On the other hand, the scientific evidence of the harmful nature of atrazine, including its carcinogenic effects and now its suspicion as an endocrine disrupting substance is steadily mounting. There is a general

expectation that EPA will phase out triazine chemicals, especially atrazine in the near future.

4. The measure overrides the groundwater laws recission mechanism. Currently, the groundwater law clearly states that using a contaminant such as atrazine again in a prohibition area can only be allowed if "credible scientific data that renewed use will not contaminate groundwater has been submitted to DATCP by the manufacturer and reviewed by a nonpartisan, scientific body showing that renewed use will not contaminate groundwater. Ceiba Geigy has never submitted this kind of data and we believe it does not exist.

To protect the health of Wisconsin's citizens, preserve natural resources like our drinking water, we urge you to oppose AB 5.



Date: October 1, 1997

To: Committee on Agriculture and Environmental Resources
From: Pamela Porter, Executive Director

Re: ATCP 31/ CR 97-043: Generic recission process for groundwater

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We understand and agree with the need for the state to have a generic process for repealing prohibition areas so that in special cases, a landowner is allowed a fair process to return to using a pesticide in a responsible manner. In general, we support the steps that DATCP has outlined for initiating this process. However, in our opinion, the trigger for initiating a repeal be the Preventative Action Limit (PAL). If the PAL were established in the generic rule as the trigger, we would support this generic recission rule.

The argument has been made by some that the committee should pass this generic recission process as is and then deal with trigger levels on a chemical by chemical basis. We believe it is a better idea to ensure that the PAL be identified as the trigger in this generic process. Using the PAL is smart. The PAL and ES are concepts negotiated into the groundwater law debates in the early 1980's. After nearly 15 years, people are used to thinking of the PAL as a "yellow light" and the ES as a "red light." Adding a third level will make the process more arbitrary, potentially politicize the process and add unnecessary confusion to a sometimes confusing process. Finally, using the PAL will ensure that future recission processes be streamlined because the trigger level for each chemical will already be established.

In conclusion, we oppose CR 97-043 in its current form and ask that the Committee send this rule back to the agency. We ask that the rule be modified so that the PAL becomes the trigger level for initiating the repeal process, rather than a level that would be established for each chemical. The Enforcement Standard is the "red light" that once on, should stay on until there is credible evidence that the PA is no longer needed to assure groundwater protection.

Member of



COMMITTEE
ON AGRICULTURE
AND ENVIRONMENTAL RESOURCES

Oct. 1, 1997

State Senator Alice Clausing, Chair
Agriculture and Environmental Resources
100 North Hamilton, Room 308
Madison, WI 53707-7882

Dear Senator Clausing:

I'm Writing this letter in regards to the proposed atrazine ban proposed for North Lancaster Township, Grant County WI. I Rent ground and buildings from Wm Pink, some of which lies in the proposed area. From all of the information that I have told and what I have read about this area, I feel that a ban would be the wrong action to take and would be damaging to the farmers affected by such ban. I personally limit the amount of the product that I use, I have it professionally applied by my local agronomy center with the uses of state of the art equipment that is calibrated several times a year, and ran by only state certified custom applicaters, and I am also a state licenses private applicator, we are not dummys out here that don't know what we are doing, I also have a college education in agriculture. I personally split my weed control over two Passes about a Month apart, thus reducing the risk of contaminating water and using only the products necessary to control the weed pressure that is present. I have also considered going to satalite guided spray application to futher reduce my spray usage.

As you can see, farmers have items available to them now that wasn't available in the past to made chemical applications safe and enviromentally friendly. So if Atazine was contaminating water, which I highly dispute in this case, the new methods of application and product blends prevent it from being a problem in the future. This is not to mention the economic effects This ban would have on us farmers.

Thank you for your time
Jim Rech
Dairy Farmer
Lancaster, WI 53813

