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(FORM UPDATED: 08/11/2010)

WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

2003-04

(session year)

Assembly

(Assembly, Senate or Joint)

Committee on Agriculture...

COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

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) (August 2012)

HEARING ON LRB-3453

Legislation drafted by Senator Schultz and Representative Ward
February 23, 2004 - Madison, Wisconsin

My name is Betty Wolcott. I am speaking on behalf of THE WOODLANDS, a retreat-education center and land preserve near Osseo, WI. I am also speaking for the JUSTICE, PEACE AND INTEGRITY OF CREATION COMMITTEE of the Sisters of St. Francis of Assisi whose Motherhouse is on South Lake Drive in Milwaukee, WI.

I have read LRB 3453 and while I have little legal expertise I do understand that this proposed legislation would effectively deny us local folks of our right to make a decision about whether or not we wanted a factory farm in our neighborhood--which I might add, extends far beyond two miles of where we live. A local community's decision-making power would be handed to a select board of five persons at the State level.

I must admit I approached this proposed legislation with a bit of resentment. After all we local folks were mandated to develop comprehensive land use plans for our townships and counties. I served on my township committee and it was a wonderful experience of democracy at its best. The input from our community focused on what we cherished and wanted preserved for future generations. And what did we cherish? To name a few things: we cherish the smell of fresh breezes and clothes hung on the line filled with that same freshness; clean waters in our lakes, wells and streams and beneath our land, and meat and food products that are produced with respect for the whole of the environment and the nature of living beings. Local folks resist the siting of factory farms in their midst because they violate all those things we most value.

In the draft 93.90 (1) addresses "uniform regulation of livestock facilities." Since the topography of Wisconsin is so varied how can there be uniform regulations when areas are so diverse and the needs so different?

The proposed bill states that "The secretary shall appoint a committee of experts to advise the department on the promulgation of the rules under para. (a)." As much as I revere study and learning, I suggest that the kind of experts needed are those who actually know an area because they live in it. As the great land ethicist, Aldo Leopold, said and I paraphrase: the land is a community to which we belong, not a commodity that belongs to us, and he adds, that whole community must be loved and respected. Most local folks understand that.

92.11 and 92.15 state that "...a political subdivision may not disapprove or prohibit a livestock facility siting or expansion unless" and here is one of those 'unlesses': "(It) bases the requirement on scientific findings of fact...that show that the requirement is necessary to protect public health or safety." How do you measure quality of life, the peace and beauty of the countryside, the effects of polluted air, water and land? The harm ~~to those~~ builds over periods of time and can't be measured on the spot. Often science can only predict. That is why the nations of the world worked years on creating the U.N. Earth Charter, approved in 2002, in which they state: "(We) must prevent harm as the best method of environmental protection and, when knowledge is limited, apply a precautionary approach." The Precautionary Principle, adopted by the United Nations in 1992 and defined right here in Wisconsin in 1998 at the Wingspread Conference in Racine, states: "When an activity raises threats of harm to human health or the environment, precautionary measures should be taken, even if some cause-and-effect relationships are not fully established scientifically. In this context, the proponent of an activity, rather than the public should bear the burden of proof." According to this principle the one seeking to set up a factory farm and the five person state board should have to bear the burden of proof. Can the factory farmer guarantee that the concentrated animal operation will not undermine the quality of life for the whole of the community--human and other than human? Can the five member board? This proposed bill needs to be rewritten with the burden of proof shifted from the local community to the factory farmer and

the proposed state oversight board.

Another consideration is raised by the U.S. Catholic Bishops in their Statement on Agricultural Policy issued on November 13, 2003. They write: "Studies for the past 50 years show a correlation between growing concentration in agriculture and a loss of businesses and civic society in rural towns. Fewer farmers and ranchers mean fewer agricultural support services and farm-related businesses, since larger and more intensive farms can deal directly with national or global agribusinesses."

There are many folks who would be here today to tell you the same things I am, but they had chores to do or they had to be at some other job. Madison for some of us is a long drive. Since the health and democracy of local communities are at stake in this proposed legislation, it would have been appropriate to hold hearings in places and at times when those who will be most affected by LRB 3453 could actually be present.

Finally, as more and more people are becoming aware and concerned about how food is produced, about how animals and natural resources are treated, and the increasing use of growth hormones and antibiotics, they are beginning to seek out more ethical and earth-friendly sources of meat products. Factory farming is a step backward, not forward. This proposed legislation does not support the aspirations and rights of local communities and I and the groups I am speaking for oppose it.

Thank You.



Betty Wolcott, OSF

N47475 Woodland Lane, Osseo, WI 54758

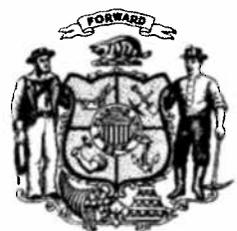
THE EARTH CHARTER: Values and Principles for a Sustainable Future. www.earthcharter.org

THE PRECAUTIONARY PRINCIPLE: www.ci.sf.ca.us/sfenvironment/aboutus/policy/legislation.htm

U.S. BISHOPS' STATEMENT ON AGRICULTURE, FOOD...: www.usccb.org/bishops/agricultural.htm



WISCONSIN STATE LEGISLATURE



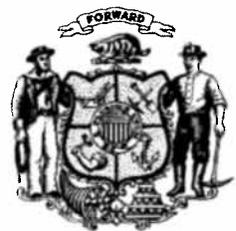
DATCP POSITION ON CHANGES TO AB 868 (2/25/04, 4:00 p.m.)

Amendment	DATCP position	Explanation
LRB2317	Support	<p>1. Review board size. Expand the size of the board to include two additional public members. <i>DATCP Advisory committee recommended a board of 5-7 members.</i></p> <p>2. Definition of Expansion. We should leave the "expansion" definition as it stands in AB868 but should address substantive concerns in the body of the legislation. This is done in the LRB2317 in the following ways:</p> <ul style="list-style-type: none"> • Grandfathering "existing" facilities (with up to 20% increase). • Clarifying how the size of a facility is measured, so that normal annual fluctuations are not considered to be an "expansion." • Modify proposed s. 93.90(3)(e) to address cost-sharing concerns. We do not believe that the provision, as originally drafted, actually restricts any current rights to cost-sharing. But to eliminate any uncertainty, s. 93.90(3)(e) will be limited to facilities over 500 animal units (it would then have no possible impact on purported cost-share rights of smaller facilities). <p>3. Building codes. Provide clarification.</p> <p>4. Scientific. Changes to read "reasonable and scientifically defensible".</p> <p>5. Clarify "site". Facility where animals are concentrated.</p> <p>6. Timelines. Clarify that should there be an appeal, local governments should have 30 days to certify its decision-making record and submit to the Review Board. Provide 60 days for the Review Board to perform its responsibilities.</p> <p>7. Public Health or Safety. Include in DATCP's consideration of proposed standards.</p>
LRB 2295	Support points 2&3	"Protective of public health and Safety" now included in LRB 2317 -- see above
LRB 2323	Do Not support	These issues have been recently addressed in NR 151 and ATPC 50 (non-point rules)
LRB 2298	Do Not support	DATCP advisory committee felt strongly about this definition -- which is to be used solely for purpose of a siting of a livestock facility. After sited, should a violation occur, current law including definition of

			"aggrieved party" will be used.
Appellant to pay costs and attorney fees if the board upholds, on appeal, a local decision granting a siting permit.	Do Not Support	We believe that this would be unfair to appellants. Because the Board reviews the local decision based on the local record that is already compiled, there should be no significant costs.	
Prohibit new or expanded livestock facilities in extraterritorial areas	Do Not Support	Never discussed by DATCP Advisory Committee. AB 868 does not appear to be the best mechanism to achieve objective proposed by the Realtors at the 2/23/04 public hearing.	
Provide notice to property owners of any public hearing related to approval of the application	Do Not Support	It appears AB 271 is a better vehicle for this provision proposed by the Realtors at 2/23/04 public hearing.	



WISCONSIN STATE LEGISLATURE





WISCONSIN LEGISLATIVE COUNCIL

*Terry C. Anderson, Director
Laura D. Rose, Deputy Director*

TO: MEMBERS OF THE ASSEMBLY COMMITTEE ON AGRICULTURE
FROM: Mark C. Patronsky, Senior Staff Attorney
RE: Draft Amendment (LRBa2317/1) to 2003 Assembly Bill 868
DATE: February 26, 2004

This memorandum contains a brief summary of the changes made by a draft amendment to 2003 Assembly Bill 868, the livestock facility siting bill. The amendment is LRBa2317/1.

Livestock Facility Siting Review Board Membership

The board created by the bill has five members nominated by the Secretary of Agriculture, Trade and Consumer Protection and confirmed by the Senate. Four of the members represent the Wisconsin Towns Association, the Wisconsin Counties Association, environmental interests, and livestock farming interests. The board includes one "other" member. The amendment increases total membership on the board to seven, by providing for three "other" members.

New Siting Standards

The bill requires the Department of Agriculture, Trade and Consumer Protection (DATCP) to consider certain issues in proposing standards for livestock facility siting other than those that are incorporated into the state standards by cross-reference. One of the issues is that the new standards must be "designed to promote the long-term viability of animal agriculture in this state." The amendment substitutes "growth and" for "long-term." Also, the amendment adds a consideration for the new standards requiring that the standards be protective of public health or safety.

Compliance With Building Codes

The bill provides that a political subdivision (city, village, town, or county) may not disapprove or prohibit a livestock facility siting or expansion unless one of several conditions applies. In the bill, one of these conditions is that the facility violates a state or local building or sanitary code or other generally applicable ordinance. The amendment deletes the provision regarding "other generally applicable ordinances." The amendment provides that the political subdivision may base its decision to

disapprove or prohibit a livestock facility site or expansion on a building, electrical, or plumbing code that is consistent with the state building, electrical, or plumbing code for that type of facility. (Note--the state plumbing code is uniform. The state building and electrical codes are minimum codes, and the state building code generally exempts agricultural buildings.)

Deletion of Less Stringent Local Setbacks

The bill requires that the state standards be incorporated into a political subdivision's ordinances. The amendment deletes the requirement for adoption of the state standards by ordinance, and deletes provisions of the bill that allow a political subdivision to require compliance with local setback requirements that are less stringent than state standards.

Local Findings of Fact

The bill provides in three provisions that a political subdivision may have ordinances more stringent than the state standards, and in one provision that a political subdivision may have a zoning ordinance with agricultural districts in which livestock facilities are prohibited. In each of these provisions of the bill, the political subdivision must base the requirement on scientific findings of fact that show that the requirement is necessary to protect public health or safety. The amendment changes the terminology of each of these required findings so that the requirement must be based on "reasonable and scientifically defensible findings of fact, adopted by the political subdivision, that clearly show that the prohibition is necessary to protect public health or safety."

Cost-Sharing Limitation

The bill provides that a political subdivision that requires compliance with state standards is not required to determine that cost-sharing is available to the operator for facilities or practices needed to comply with the standards. The amendment restricts this provision to new or expanded facilities that have 500 or more animal units.

Expansion of Livestock Facilities

The bill refers to new and expanded livestock facilities, and defines the term "expansion" as an increase in the number of animals fed, confined, maintained, or stabled. The amendment provides that for a newly adopted regulation, a political subdivision may only require a special exception or conditional use permit for the expansion of a livestock facility that exists when the requirement for a special exception or conditional use permit takes effect, if the expansion involves at least a 20% increase in the largest number of animal units that are at the livestock facility for at least 90 days in the 12-month period before the requirement takes effect.

Calculation of the Number of Animal Units

The bill applies various provisions based on the number of animal units, but does not specify how the number of animal units is calculated. The amendment provides that the number of animal units that are fed, confined, maintained, or stabled at a livestock facility is the largest number of animal units that are at the livestock facility for at least 90 days in any 12-month period.

Appeal to Siting Board

The bill provides that a person who lives within two miles of the site at which a livestock facility is proposed to be sited or expanded, or who owns land within this area, may appeal the decision of a political subdivision regarding a livestock facility to the siting board. It is not clear in the bill where this distance is measured. The amendment makes it clear that the measurement is from the livestock facility, which is defined in the bill as a feedlot or facility, other than a pasture, where animals are kept.

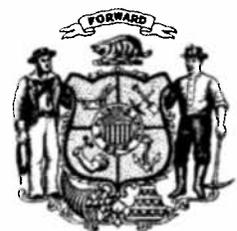
Time Limits on Appeal

The bill requires a person who wishes to appeal the decision of a political subdivision to request review within 30 days after the decision is issued. The amendment adds a provision requiring the local government to certify the written record to the board within 30 days after the board receives the request for an appeal, and requires the board to issue its decision within 60 days after receiving the certified record. The board may extend the 60-day time limit for good cause.

MCP:jal:rv



WISCONSIN STATE LEGISLATURE



Ladies and Gentlemen of the Wisconsin Legislature:

Allow me to introduce myself:

I am a member of the friends of the earth. 7

I am a Family Farm Defender

I have in my 81 years organized and helped organize and manage more farm cooperatives than anyone in this room. I am great believer in the right for responsible local government control. I am a farmer and an environmentalist. Our family has farmed on the same land settled by my great grand father in 1854. We are the longest, continuous farm family operation in that area. When my wife and I started dairying there in 1945, there were 14 active dairy farms on the 7 mile stretch of Fisherville road on which we resided. Today there are none. Our farm which our son resides on finishes about 150-250 head of cattle per year.

All have fallen victim to changing economic times, but then so has the local store, cheese factory, grocery, school house, blacksmith shop and elevator. Our local township government was once dominated almost in its entirety by working farmers, today neither our two local townships has one full time farmer on their board. Times do change. Today's farmers only make up 2% of our nations population. We have literally no voting clout.

In 2002, our family, 4 sons, their wives, my wife and I decided to incorporate a family farm and establish a 5,000 head cattle feedlot. We were properly zoned agricultural. This was not to be a conventional feedlot. It was to be the most technologically, environmentally most modern feedlot not only in Wisconsin but in the United States. It was to be a showplace for visitors to come to view, from all over the U.S. but also to be a showcase to the world. The Beef Company I worked for at the time exported Wisconsin dairy beef to 26 countries around the globe.

We applied for all of the required permits and we received WPDES permits, from the WDNR, from the soil & water conservation service, park and planning service, and the recommendation of the Manitowoc county attorney that such a

grant be given to us. This after having had 4 informational meetings which were attended by several hundred people, It was denied to us by the Manitowoc County Board of Adjustments and an Appeals Court. So after the expenditure of over 100,000 thousand dollars on permits, engineering fees, attorney fees plus weeks of effort our mission came to an end. This would have been the largest tax payer in the township, the largest local business and it became history.

This confinement feedlot was to have had an automatic continuous removal of animal excrement to an anaerobic digester that was designed to generate the electrical equivalency to supply power to 250 homes. It removed literally all of the odors. It dried the digester sludge to be used as bedding or compost. And the remaining liquids were to be used as a fertilizer and we had the technology to take the liquids and recycle them to drinking water. Our family has the most successful anaerobic digester building system in the Midwest and as this is being spoken of is completing the second digester operation on a 4,000 cow dairy operation in Indiana.

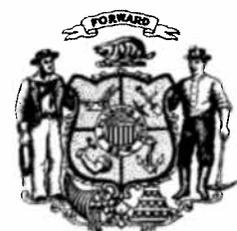
Now what went wrong? Fear, misinformation, Rumor, Hatred all super sedced good science and objectivity. The not "in my backyard" syndrome is one of the greatest obstacles to the agricultural development and siting today. It is thus one of the greatest obstacles to the preservation of our future food supply and yes energy supply. This legislation is good legislation. You put together a task force of representatives of town, county, state governments. You included the DNR, the Soil & Water Conservation Service, The Wisconsin Department of Agriculture. The University, consumer and environmental groups to draw up the legislation to be fair and equitable yet allow responsible farmers the right to farm. The export of American jobs is a real issue. The export of Wisconsin Agriculture to other state and other countries is just as great of an issue.

We thank you for the support – you are willing to give to this bill to support the cause of a viable and needed agriculture. You alone are the body able to do this.

NORMA DORAK
1116 N. 6th St
Manitowoc Wisc



WISCONSIN STATE LEGISLATURE



The Saga of the Dvorak Beef Farms LLC. Feedlot

During the summer of 2002 The Dvorak Family's 4 sons their wives and my wife and I began putting together the Prospectus, the Engineering Drawings and a Business Structure to develop in the County of Manitowoc what we hope to be not only Wisconsin's but The Nations most modern and technologically correct cattle feedlot. This feedlot was to be a totally confined lot with attached processing and hospital pens. These facilities were to take care of any animal health problems. The animal nutrition and care was carefully programmed. This state of the art facility was to be the show place for the demonstration for how cattle should be raised in response to a processing industry that wished to have an addition. (200,000 head fed in the State of Wisconsin). It was to be a prototype for adding another 2 billion dollars to our states GNP.

The waste from the animals was to be moved continuously to an anaerobic digester under controlled temperatures. These wastes would be decomposed by anaerobic bacteria which generated methane gas which in turn would be burned in a reciprocating engine attached to an electric generator. Several advantages accrue from such a system. The air is left literally odor free, enough electricity would be generated to fuel a total of about 250 homes. The sludge would be dried from the waste heat of an engine and used as an odor free bedding or compost and we had the technology to convert the remaining liquids to drinkable water for the animals.

Did we have the know how to do this? Yes for our son, Steve and his wife own GHD Environmental Engineering Co. which has built 5 digesters in Wisconsin. Two, 4,000 head dairy farms in Indiana with another one being currently developed in Illinois, California, Washington and Vermont that are pending.

We made the proper permit applications to our township only to find that if we were asking for a permit for 5,000 dairy cow operations, we met all of the requirements that would have to be met but because the request was for a cattle feedlot, we would require a conditional use permit from the County

We applied for the forms for the permit from the DNR. This soil water conservation service, The Manitowoc County Park & Planning Service and held 5 public meetings explaining our business venture.

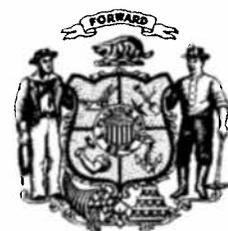
Quickly I wish to point out the cooperation with the regional and local DNR (except for one person) could not have been better. The soil water conservation department personnel were most helpful in guiding us through the permitting process as well as the park and planning department and the county attorney who recommended to the county board of adjustments that the permit be granted to us in view of our having satisfied all of the necessary agency requirements.

So after 8 months of hassle the county board of adjustments on a 3 to 2 votes to deny us a permit and under a judicial appeal a judge ruled not on the merits of our proposal but on the rights of the adjustment board to make a decision. So after expenditures of well over \$100 thousand dollars in permit, engineering, attorney fees we decided that our family which had farmed on that acreage since 1854, that had provided the most comprehensive program for a growth livestock agriculture was beaten and that the only recourse was the State Legislature. We ask you to restructure the laws relating to siting and permitting as you are currently doing and we commend you on it for the affect it will have on the future of Wisconsin livestock agriculture. Good Science, not fears, emotions and the not in my backyard syndrome need to be the governors of Wisconsin Agriculture Industry.

NORVAL DVORAK
1116 N. 62ND ST
CANTON, WIS.



WISCONSIN STATE LEGISLATURE



Proposed Livestock Facility Siting Review Board

I've come here today in two capacities to firmly oppose these siting rules for large livestock facilities. I oppose them first of all as director of Churches' Center for Land and People. Our 16-year-old center is supported by people of Lutheran, Catholic, United Methodist, Presbyterian, Episcopal, Unitarian and Quaker faiths. The Center was organized during the farm crisis of the 1980s. We're ecumenical, a licensed nonprofit, working for earth stewardship, community and justice for farming people. We're based in southern Wisconsin, and we serve 4 states.

Two weeks ago, our board of directors from supporting denominations authorized me to oppose the making of these guidelines into state law and their provisions preempting local decision-making. We're gravely concerned that safe drinking water, property values, air quality, viability of family farm businesses, rural harmony, local food security are all threatened by large scale animal confinement operations. These rules threaten earth stewardship, undermine community and perpetuate injustice in agriculture and our countryside. We oppose them, and we intend to do all we can to inform people of faith about their implications for our state, its people and the land.

Yet it's also occurred to me since I first started following progress of these rules in task force formation last summer, that my rural neighbors and I are responsible for these rules having been conceived and perpetrated. Well, here some of us are. We're the guilty parties. We're the reason the big dairy and livestock industries, and their legal representation, and their allies in appointed places have come up with this plan to squelch dissent, erode democratic process, undermine local decision-making and pave the way to virtually unlimited large scale livestock production in Wisconsin.

Let me introduce the guilty parties. Here's *Verne Wilke*. He's a veteran and proud to have served his country. He came back from military duty years ago and began working as a dairyman and farmer in western Rock County. He and his wife Rosie raised their family on that farm and continue to rent out the land. Rosie's still working in her 70s off-farm to help meet farm and living expenses. Here's *Dick Massen*, who for many, many years farmed more than 200 acres of ground and worked full time in a factory in Janesville. He's still putting up hay and harvesting crops. And here's some of *my family*, my wife Dela and youngest son Micah. We've worked 3 and sometimes 4 jobs at a time for 10 years to establish a fresh produce operation and small-scale livestock farm. After 9 years of hard, hard work we got within 85 percent of self-sufficiency just last growing season.

For each of us our land, our little farms, our life and rural community in western Rock County are absolutely all we have and the most dear possessions to us. We love our homes, our work, our soil, our quality of life. We love each other. Across the road from Verne, below the hill from Dick, and in full view 2 miles distant from our barn yard, an incorporated farm has built a 1200-animal unit livestock facility and huge slurry to contain millions of gallons of animal waste.

With a strong majority of our neighbors in the vicinity of this operation, we opposed issuance of a conditional use permit for this facility. In a long series of meetings over many months, the local town zoning board, the town board and at first an appeals board listened to those most affected by this facility and said no. In December 2002, however, apparently believing they were facing possibility of expensive litigation against the Town of Magnolia, two members of a 3-person Board of Adjustment voted to grant the permit with conditions the applicant proposed or negotiated. Our families drew together and filed an appeal in Rock County Circuit Court. A judge has taken filings from both parties in this case and will render a decision in April.

So what are we guilty of? We're guilty of not wanting a huge confinement operation in our area. We're guilty of voicing our opinions, exercising our rights, trying to look out for each other, trying to protect life's most vital resource – clean water. We're guilty of working within the framework of local ordinances, which a whole lot of people before us over hundreds of years carefully put into practice to protect our rural community and quality of life. We're guilty of drawing on what wisdom of the ages and common sense tell us about health and safety for the land, our water and our people.

We opposed the facility's construction, its massive liquid manure slurry (which will hold millions of gallons of animal waste) and its plan to pump this waste in hoses 2 miles along ditches and creeks to other farms in neighboring Green County. We feared this operation could negatively impact both Norwegian Creek and the Sugar River. We believed conditions attached to the permitted facility are inadequate. We believed risks associated with possible groundwater contamination, phosphorus loading in soils, surface water runoff, and disruption of the rural character, scenic beauty and community harmony of Western Rock County far outweigh any benefits that may be associated with this massive industrial agricultural operation.

100 cows can generate the same volume of waste in one year as a city of 35,000 people. Concentrating waste from 1200 animal units on a single farm thus poses a potential economic, environmental and social burden on our rural area and community. A huge dairy already associated with this particular 1200 animal unit heifer operation – in the same township – has had two serious manure management problems. In its very short history of operation, it had an emergency winter spreading of manure and a 30,000-gallon manure spill.

The notion that we can have growth without decay defies everything man knows about our natural world. To permit industrial growth (and its massive scale of inevitable and eventual decay) to take risks beyond what our natural world can bear, is something we felt we must oppose. Citizens have a right to have their interests and their will heard in behalf of our Natural world. But those who oppose our view points, who hold other opinions have grown weary with our objections. They want to silence us, legislate away our concerns, void our local decision-making process..

- The siting and expansion rules spell the *end of democratic freedoms* across our countryside. They take away local decision-making authority. They tie the hands of any independent outside individual, judicial body, even the hands of the proposed law's own review and appeals panel. They do this by narrowly defining what factors citizens can use, what considerations citizens can make in determining relevant issues in their own rural communities. People can no longer decide for themselves whether or not to even have a large-scale livestock facility in their area? This is an outrage.
- The rules presume that the only allowable factors for siting a facility are zoning, health and safety. They ignore *other legitimate considerations* of rural harmony; quality of life; moral, religious and ethical values; simple personal preferences (for instance, the right to choose a course of action in a rural neighborhood for small-scale, direct market, value-added or alternative farming instead of big-scale farming exclusively). Citizens have a right to make these determinations by discussion, local ordinance and majority vote, but the new siting rules strike our rights to make these determinations.
- The rules *force our citizens to acquiesce to "expert" testimony*, research from the large-scale industry and industry-funded bodies of research. They place an undue burden on common citizens to pay for their own expert testimony in an academic and professional atmosphere where independent, unbiased findings are increasingly less common; where research findings are proprietary; where the international community's findings and standards as regards health and safety are largely ignored by American agribusiness.
- The siting rules encourage *tendencies toward monopolistic practices*, industrialization and economic scale that deplete nonrenewable and natural resources, stifle free-market enterprise, block

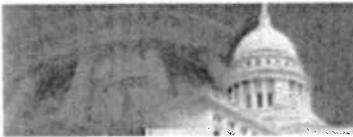
alternative and small farm business enterprise and destroy rural character. These trends have been destroying our communities for more than 60 years. We have a right together as rural neighborhoods and communities to say no to these outside forces.

Verne and Rosie Wilke, Dick and Darlene Massen and the Tony and Dela Ends family have a right with our neighbors to decide the fate of our rural community. We have a right to a difference of opinion about what types of farming are humane, healthful, best for our local economy and ecology in the long run. We have a right to base our decisions in favor of strong standards of safety and health on common sense rather than have our standards weakened by expert testimony someone has more money than we do to pay for. We have a right to follow the dictates of our conscience and ethical values. We have a right to use the information we read from agricultural publications (which tell us volume production is depressing prices and hurting farmers). We have the right to protect our property values and natural resources as best we see fit. We have the right to finish out our days breathing fresh air, rather than overwhelming stench. We have the right to have our service to country, our honest, hard work, our faithfulness to values in a democracy rewarded – not swept away.

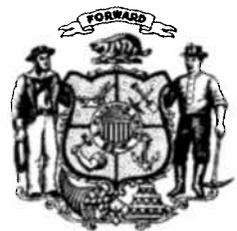
Please do not take away our democratic rights. Please turn back these guidelines, tear them up and let our present systems for local decision-making stand.

Testimony submitted by
Tony Ends
910 Scotch Hill Road
Brodhead, Wis. 53520

608 748-4411, ext 205
cc1p@mwci.net



WISCONSIN STATE LEGISLATURE



Livestock siting legislation hearing

It's great that this issue – the siting of large concentrated animal feeding operations or CAFOs – is being brought up. The way it is done now is woefully lacking. With the isolated authority the DNR has been given regarding the WPDES permit, it has no jurisdiction over odor, water quantity, traffic, noise, road damage, economic devaluation, loss of property rights and more.

This issue now deserves particular and devoted attention with input from all who could be affected. Unlike a “not in my backyard” concern, large concentrated animal feeding operations are a “this hits us where we live, work and play” concern.

The decisions you make on this proposal will impact rural residents and rural businesses as well as towns, villages and counties. That impact will spread to owners of family farms, owners of stables and hobby farms, direct market farmers, tourists and beyond.

The full implications of CAFOs are just starting to be realized. Studies are showing the negative health impacts on workers and nearby residents, the problems with traffic, odor and noise, the negative impact on nearby property values, the negative impact on water quality and water quantity, the negative impact on rural communities. In my own county of Calumet, where I have lived for more than 22 years on an old farmstead, I have learned of the negative impact of CAFOS on a small business, a young dairy farmer and many rural property owners.

For an industry to so boldly push for legislation that basically eliminates our democratic process of government, takes away our property rights and severely limits the rights of those wronged to be heard, it must be very desperate, desperate to gain control before there is more realization about its impacts.

Something does need to be done. However, the suggestions in this proposal would hit at the heart of our republic. It would take away the citizens' right to decide through duly elected local representatives. As those who fought to create this country noted: Taxation without representation is tyranny. Local elected boards must decide how to site CAFOS because they will be the ones living with the results. A non-representative appointed state panel of “stakeholders” – a term that regularly excludes the average taxpayer – should not decide our futures.

The draft proposal also appears to be another example of uncompensated regulatory takings of private property – although not one for the common good but purely for the economic advantage of one industry.

As you know, in the U.S., it is not property but the rights of the property that are owned. The rights of the property are the right of use and enjoyment, right of exclusion and right of transfer. A necessary condition of property valuation is that a property owner has the right to enjoy his or her property and to transfer some or all of these rights voluntarily. That fact is well-based in appraisal theory and market reality.

The right of exclusion provides that those who have no claim on property should not gain economic benefit from enjoyment of the property. For example, if “A” trespasses on land owned by “B,” then “A” will be guilty of a crime and a possible criminal penalty may be in order, as well as civil damages. Physical impairment, such as the odor or flies of a CAFO, in effect is a trespass on property rights and violates the right of exclusion. Society places a high value on the right of exclusion, for justifiable reasons. Exclusion provides that both the current benefits of ownership as well as future benefits accrue only to the rightful owner, and his/her successors and assigns. In the absence of exclusion, the right of use is under constant threat of nullification without just compensation. In an economy without the right of exclusion, property owners would adopt short-term strategies for use, rather than long-term strategies. The right of exclusion carries with it a significant societal

good and recognized value. The right of transfer provides the owner with the ability to swap one resource for another. An impairment restricts the right of transfer, and may destroy the right of transfer altogether.

Property rights are important to us. To own your own home, your own property, is the American dream. For most of us, it is our biggest investment. It is our nest egg when we get old.

If we can no longer enjoy our property because of a large livestock operation, we are harmed. If we can not sell our property or must take a sharply reduced price for our property because of a large livestock operation, we are harmed. Property rights must be taken into consideration. Property rights must be maintained for the good of society, not for the good of corporate interests.

If the state wants to give some shape to livestock siting, let it first consider all factors that come into play and set minimum standards to guide towns and counties. The state should then direct local governments to set up representative and duly elected local boards to decide local requirements. It should require conditional use permits so adjustments can be worked out locally.

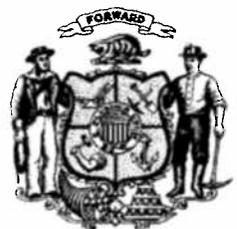
Do not sell out our representative form of government and our rights to the highest bidders.

#

Maureen Blaney Flietner
Monday, Feb. 23, 2004



WISCONSIN STATE LEGISLATURE



Livestock Siting, What Next?

Kenneth M. Lezow

Pardeeville FFA Chapter

Advisor Calvin Bouwkamp

Everything seems perfect at your new home; cows grazing on a lush hillside pasture, the neighborhood family farm is mom, dad, and children working side by side, fresh clean air, abundant wildlife, only the sounds of an occasional tractor working the fields. Life is good, almost heaven. But, then the word gets out. People are knocking on your door asking you to sign a petition. The neighbor one mile on the other side of your property has decided to build a new 1,000 cow dairy complex. People are concerned about air and water quality, increased truck traffic, and who is going to work on this farm. What is going to happen to our quality of life? We moved out here for the peace and quiet and now it is going to be gone, forever!

What is the real story? This is a family farm, two sons have returned from college and want to take up the profession of dairy production. They realize to be competitive in the future they cannot rely on the practices of the past generations. Dairy farming is a business, a stable \$18.5 billion part of the Wisconsin economy.

I am going to discuss several issues facing agriculture today. These issues include why the dairy industry is important to the State of Wisconsin, the rules governing siting of animal operations, and how this legislation will affect us in the future.

First of all, how the dairy industry affects the Wisconsin economy. Agriculture is the largest industry in Wisconsin and dairy is its largest segment dating back to 1925. Currently there are 16,028 dairy herds in Wisconsin which include 1.25 million cows (Jesse, 2). We produce 27% of the total U.S. cheese production (Jesse, 4). According to the Department of Agriculture, Trade, and Consumer Protection (DATCP) there are 202 dairy plants in Wisconsin. Ninety percent of Wisconsin milk goes into cheese and ninety

percent of that cheese is sold outside of the state (WMMB, 2). Almost two thirds of Wisconsin's total farmland acreage is devoted to dairy (Joyce, 4).

So, how does all this affect the Wisconsin economy? Dairy brings \$18.5 billion annually which equates to \$51 million a day or \$35,200 per minute (Joyce,2). Dairy accounts for roughly 5.1% of all employment in the state at more than 174,000 jobs (Deller, 2). These jobs include on-farm production, processing, marketing, and business support. In all, over 300 types of careers are linked to the dairy industry (Joyce,2). Somehow almost every sector of the Wisconsin economy is linked to dairy.

This brings us to point number two, the rules governing siting of animal operations. The biggest challenge we face as an industry is that the rules for expansion of dairy operations are not uniform and consistent throughout the state. Often emotions play a major role in the decision to allow expansion. This is why we need to consider livestock siting legislation.

Having uniform standards will improve this problem, as many producers have met opposition on their way to expansion. A recent AgriView newspaper article quoted Harold Stanislawski from the Minnesota Department of Agriculture as stating, "The main reasons people do not want feed lots are it will ruin the view, more flies, it will alter the family farm, wreck our roads, not help the local economy, and will pollute the water and air (Sanstadt, A6)." These are all viable issues that need to be addressed when developing the Livestock Siting Legislation, but how do we decide if a farm can expand? And do we as individual citizens or neighbors have the resources to make these decisions?

We know that part of the Smart Growth Law requires local units of government to do land use planning. With Jefferson County being the first Wisconsin County to devise a Smart Growth Plan, they were also the first county to try and devise a plan for farming expansion. State Representative David Ward, District 37 who lives in Jefferson County and is a dairy producer, was the man that started this resolution. One month after the Jefferson County Board approved the land use plan, a farmer with 300 cows wanted a Conditional Use Permit to go to 700 cows. The Town Board turned him down for reasons unrelated to the facilities standards or environmental concerns. However, the County Zoning Board accepted his request. This inspired Representative Ward to draft legislation that said if you meet non-point regulations, such an expansion could not be blocked. This proposal started a discussion that brings us to the Wisconsin DATCP Livestock Siting Recommendations.

The twenty-one member DATCP Proposal Committee developed a list of forty plus recommendations. A summary of the recommendation's major points are that the county and municipalities will retain the authority to decide whether to approve or deny a farmer's application to expand or site a livestock farm. Their decision will have to be based on the State's Best Management Practices and Performance Standards (BMP). These standards will be developed by DATCP with input from an expert panel. If a local unit of government denies an application and restrictions are imposed, the producer can appeal to a state committee that will base their decision on scientific standards, not on emotions. Local government may apply more stringent standards only if the provisions are necessary for public health or safety, but this has to be supported by scientific facts.

These rules are aimed at operations of over 500 animal units. These recommendations will be evaluated by key legislators who are leading the siting legislation.

On a personal note I am the fourth generation living on a 170-cow dairy farm near Wyocena. We farm 575 acres along a main highway corridor to Madison. Urban sprawl is a main issue that affects our operation daily. Being located 30 miles north of Madison we are in a very scenic area where many people wish to re-locate and build new homes. It is already starting to affect how we farm. If the present trends of land development continue, it will make it more difficult to run our operation. This trend has increased the price of property and taxes in our area.

My goal is to attend UW-Platteville, to major in Dairy Science and return to the family farm. The issues of Smart Growth and the current Livestock Siting Legislation are measures that will assist me some day to become a dairy producer. The Siting legislation, though not perfect, is a step in the right direction. It is a compromise allowing producers to have a chance to expand and grow. I live and work on my farm and want to be sensitive as to how any expansion could possibly affect me personally. I drink the water from my own well, breathe the air, and actually live where I work. In no way do I, or for that matter any dairy producer, intentionally want to jeopardize any living conditions for anyone.

By allowing the Siting Legislation to become law it would allow decisions to be made using sound scientific data. As agricultural leaders we need to become more involved in this legislative process. With more and more people exiting the profession we are finding fewer farmers serving on our town and county boards. We must use this process to replace emotional sentiment. The Livestock Siting Recommendation will be a

step in the right direction for animal agriculture. Let's keep Wisconsin strong by maintaining a robust dairy industry.

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WISCONSIN STATE LEGISLATURE



Dear Senate and Assembly Agriculture Committee,

Our \$18.5 billion dairy industry must be able to grow in this state. Consistent regulations have been a roadblock to this growth. The Siting Legislation will help our dairy industry by:

- Providing predictable, consistent and environmentally sound standards for dairy and livestock businesses to grow
- Assisting local governments by providing standards and best management practices to review expansion proposals while allowing them to maintain local control
- Providing a timeline to producers so they will know when they will be able to start their projects, which are key economic investments in this state
- Keeping milk in Wisconsin for our state's well established milk processing infrastructure.

I am a dairy veterinarian and owner of Animart, a veterinary animal health product distributor located here in Wisconsin. Many of our customers have gone through extreme and unnecessary financial and psychological stress attempting to expand their business. Other dairymen hear of these challenges and decide not to grow their business because of these obstacles. This is hurting our cow numbers, our milk supply, our infrastructure and ultimately our state because our 18.5 billion dollar industry cannot grow.

I believe the Siting Legislation is an important step in the right direction for our state. Thank you in advance for supporting this legislation. It is a huge step toward ensuring the future of dairying in Wisconsin.

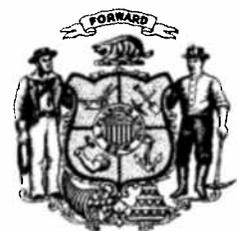
Please contact me at 920.210.4822 if you have any questions or need further information.

Thank you,

James R Metz DVM
Animart
900 Green Valley Road
Beaver Dam, Wisconsin 53916



WISCONSIN STATE LEGISLATURE



To: the Wisconsin State committee on large-farm sitings
From: Edward Rappe, 1st District Supervisor, Manitowoc County
Re: The State Siting of Super Farms

Sirs,

In lieu of the fact that there is to be only one hearing on the process of siting super-farms by your committee, I am asking Robert Rasmussen, a fellow supervisor, to give this letter to you due to prior commitments.

It is with surprise that I became aware of your committee's sudden recommendation that the state is thinking of taking control of the permitting of siting of super-farms. We in Manitowoc County have been struggling with this problem for about nine months and are trying to come up with a just and equitable for super-farms to be permitted in our county. We have found the task very complex in that any large feedlot has with it a host of new problems dealing with water quality, odor and accompanying problems. One of the main problems is that these feedlots cause severe problems for nearby residence. Although I have voted very often to restrict urban sprawl in Manitowoc county, I find that to not consider the wishes and needs of rural residence is unfair and economically damaging to this group whose main assets are tied up in their homes. This would be unfair if a committee in Madison made this decision when they are so far from the problem and many persons would find it difficult to take time from work and travel to any committee hearings which they might not be aware of in the first place.

Further, I would say that local land and water experts would probably have a much clearer view of the problem of siting with the known variables of soil and water courses. Added to this one would have to consider the demographics of the area. Who would be located in relationship to prevailing winds and what the underground water table is like would be much better understood by local agents and citizens than a committee outside of the area.

Lastly, I can relate two instances of the effect of bad locations of super feedlots. The first is the case of an individual who was about to buy a building structure in the town of Osman who upon seeing a super-farm one half mile down the road dropped the idea of purchasing. The second is my own district which is in the southeast corner of the city of Manitowoc. Each spring and fall the whole district is invaded by the smell of manure slurry for a period of two or three days each in which it is difficult to sit in one's back yard. The wind is generally coming out of the southwest and the farmer in that area is a person whose farm is a constant odor problem in his own area off I-43.

Therefore, gentlemen, I ask you to refrain from taking the siting permits for these super-feedlots out of some local controls.

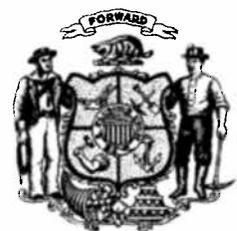
Yours respectfully,



Edward C. Rappe
1st District Supervisor
Manitowoc County



WISCONSIN STATE LEGISLATURE



John Shafer
W3430 650th Avenue
Spring Valley, WI 54767
715-778-5653
gshafer@svtel.net

Testimony Opposing AB 868

I want to thank you for your time by allowing me to express my opinion. I am against this Proposed State Legislation that Replaces Local Democracy with State Bureaucracy. I find this Bill by Republican State Senator Dale Schultz (R-Richland Center) and by Republican State Representative Dave Ward (R-Fort Atkinson) incredibly flawed, anti-democratic, anti-environment, anti-family farmer, anti-community, anti-family values, and anti-free market.

This legislation is just a simple kick back, pork loaded bill to satisfy the interests of the big money agribusinesses and factory farmers. It will not help the farming communities that have been devastated by low milk prices, low commodity prices, and high costs of production. I am not speaking as a simple concerned citizen but as a family farmer myself, as a teacher, an expert on local, state and federal government issues, and as a person who has a bachelor's degree in Environmental Sciences.

This legislation is based on the idea that bigger is better myth. IF bigger farms are better than why are our rural communities suffering? The problem is this legislation has been based on the incredibly flawed Bigger is Better Theory. The fact is bigger factory farms are not more efficient than smaller family size farms. They are so inefficient that these factory farms require more subsidies from the local, state and federal governments. AS a taxpayer and farmer myself I don't want my money to be used to subsidize something that is inefficient. Factory farms were very prevalent in the Former Soviet Union and they failed. Why are we trying to copy their failed ideology? Maybe it is because we have too many elected officials like Senator Schultz and Rep. Ward who like the Soviet style of control over other people. This proposed bill proves their lust for control over other people, people whose ideas differ from Sen. Schultz and their followers and are imposing their will because they abuse the power seats they hold in the Wisconsin Legislature.

This bill would go against the democratic will of the people. Our government was founded on the simple principal; *A Government of the People, by the People, and for the People*. IT has now become a government of the Special Interests, by the Special Interests, and for the Special Interests. I never thought this state or this country would be more interested in protecting the special interests rather than protecting the interests of the people. How could the state of Wisconsin become more concern about the interest of the large agribusiness at the expense of everyone else? Maybe because the fund these elected officials and in return the elected officials give them what they want. A great reason why this state and nation needs real campaign finance reform so we can have a real democracy again.

This bill is very Anti-environment. Local officials know how their surrounding environment responds to changes in weather, land use, and climate. These local officials and residents have to live in it. They know what is the common in their area is not always common in the rest of the state. I live in an area that is dominated by limestone and dolostone geology. These rocks are very dissolvable and are very poor filters. We have to worry about sink holes and ground water pollution. If a manure lagoon leaks, especially the clay lagoons we will not only have ground water pollution but sink holes that are created by incredible acidic manure. Acid dissolves limestone and since manure is acidic, the danger of sink hole formation is increased. Also my area is very susceptible to nitrate ground water pollution according to the EPA. A one size fits all plan will not help. Also my area has beautiful rivers like the Rush River but the river systems in my area are known for flooding and flash flooding. This river also goes into the Miss. River which is an endangered river. A local official would know what would be the best way to handle this and that is by enacting local zoning.

Currently the state DNR does not have sufficient funding or staff to handle these large facilities. In fact the political corruption from the state legislature has prevented the DNR and other regulatory agencies from doing their job which is to protect the health, safety, morals, quality of life and the environment. Instead the DNR and other agencies have started something that I feel is not good. Instead of trying to work out differences between different groups of people with different viewpoints they decided to handle problems like this with a simple but wrong solution. That solution is "Let's offend the group of people that we think would be the least offended if we decide against them." Since the DNR and other agencies don't want to offend the big agribusinesses and big money interest they have defaulted and decided to offend the people, the people who they were meant to protect.

But what is scarier is this anti-environmental legislation could become a horrible Pandora's Box like using this concept to promote more urban-sprawl or put Spent Nuclear Waste into Wisconsin. If you didn't know this just north of Wausau, WI the federal government has thought about putting a nuclear waste repository in an area just outside the Wolf River. This legislation could be used to as a reason to by-pass local control. Would you like to have a nuclear repository or a nuclear power plant placed right next to your home and community? Would you like to see the property values go down and you would have no say in this matter? Think about it, we could be putting the health of the state in jeopardy by this short-sighted thinking.

But since Senator Schultz and Rep Ward and their supporters are so supportive of promoting factory farms and other land use conflicts that maybe they should ask a factory farmer to place a nice big factory farm by their home. See I know these people don't want to have these rules apply to them. They are o.k. with factory farms going in and other land use conflicts as long as they don't have to put up with it. Heck, I knew one factory farm supporter who wanted a factory farm for his friends but when one person decided to put one next to his home he cried fowl. This legislation is just taking the easy way out but taking the easy way out is no longer an option we can use. WE need to work things through. Taking an extra month or year is a short time when you consider the impact these factory farms have on our landscapes forever.

This legislation won't help family farmers or small communities. WE don't need more cows, what we need is good prices and regulation of anti-competitive practices. That is the real problem. I was told by many of these factory farm proponents that we need more cows to make more money. I have a message for them. It is not what you make or gross it is what you have left after all the expenses. I watch has factory farms in my area make more money but they have more expenses. Money Grossed – expenses = net income. I don't think we know enough about net income because all we here is the money gross part but not the expenses or net income.

It is anti family values because are we suppose to make this a better place for our children to live? Isn't it the American way to help make life better for all people? Why not make life better for family farmers by helping them secure fair prices for what they raise and help young people become family farmers.

Finally this bill is anti-free market. Factory farms are not market driven. They are a form of corporate greed by large agribusinesses according to Dr. John Ikerd, an Ag Economist from Southern Missouri State University. People are not demanding food from factory farms but because of concentration of the AG people are given less choices for food. When these pro-factory farm advocates claim these factory farms are market driven I have asked them "do you know Adam Smith?" They said "what the hell does he have to do with this." I respond that he is the father of the free market and capitalism. His book was titled "Wealth of nations" not Wealth of Corporations." Smith stated that excessive profits and greed were not part of the free market and it shows that the market is being interfered. This legislation interferes with the free market.

As a teacher, I don't let children who are misbehaving control the class room nor do I allow that child to keep changing the rules to make it easier when this keep going wrong. Sounds like this legislation is written by adults acting like misbehaving children who keep changing the rules to benefit themselves only.

Sincerely,

John Shafer



WISCONSIN STATE LEGISLATURE



Siting Legislation Testimony

My name is Gary Tauchen and I'd like to testify on behalf of my family in support of this siting legislation. Tauchen Harmony Valley is a family operation of Herbert and Marlys Tauchen and their four sons located in Shawano County. I'd like to relate the modernization experience of our farming operation.

In 1996 we built a 500-cow free stall barn, milking parlor, and facilities. We had plans to add a second barn to fully utilize the facilities. Expanding to full capacity required a WPDES permit from the DNR. Our family applied for a permit in 1999 and on February 1, 2000 received our WPDES permit. We also had approval of Shawano County's Animal Waste Permit. The conditions of the permits were acceptable. Best Management Practices have always been part of our operation.

In February, after receiving Shawano County and DNR permits, Wisconsin Environmental Advocates contested our permit, charging the DNR violated state and federal laws when issuing our permit. We were scapegoats in a test case where their objective was to change language and requirements in permits. As an example, WEA wanted all permit requirements completed prior to issuing a permit. This was an unreasonable demand since producers need to know they'll receive their permit and not put their multi-million dollar investment at risk.

Because our farm was used as a test case, we believed it was in our and other producer's best interest to hire an attorney to protect agriculture's interests. Our attorney and DNR attorneys worked harmoniously to resolve the issue. Our lawyer's fees alone were in the \$40,000 range. The delays, meetings, time lost, frustrations, and added construction costs due to winter construction were uncalled for. In the end, we did only what we had planned to do but accelerated the schedule for completion. We made no additional changes in management to meet permit requirements.

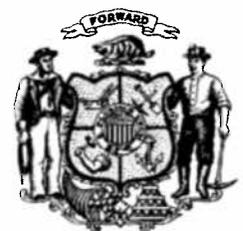
During this time, Shawano County was revising its Animal Waste Ordinance. We needed to enlarge our manure pit to accommodate the manure from 500 additional cows. The town board was talked into hurriedly adapting a town manure management ordinance, so it would be done prior to the counties. It had some unreasonable requirements and the town zoning committee delayed a decision for more than 5 months because they wanted

more information, even though the DNR and county had granted permits from the same information. They then denied our permit for expanding the manure storage facility because part of the pit would have been within the 1000-foot setback from a property line. They would not grant any variance. Finally, the town board appointed a knowledgeable appeals committee, who had a hearing and granted the permit.

This is an example of a township action where siting legislation could have improved the situation.



WISCONSIN STATE LEGISLATURE



One Farmer Instead of Twenty

One farmer instead of twenty, to work so hard and give us plenty
Of fruit and corn and milk and beans, it looks so great it surely seems
The way it ought to be and all, but when one farmer starts to fall
That one farmer instead of twenty, then there could surely be less plenty
I mean, I mean, I mean I mean....and no farmers instead of nineteen

A paradox for sure my friend, and all the more for if and when
There are so many many folkses who want to eat and yet the joke is
All around there's all this soil, and no one who can spin and toil
Yes, a paradox for every nation, for us and at least the next generation
I mean, I mean, I mean I mean....with no farmers instead of nineteen

Keeping the farmer on the land, 'tis so simple to understand
Simply a matter of enough money to make ends meet it's sad not funny
A national policy of cheap food sucks wealth from the land it's lewd
The issue here is economics, will we read about us in the comics?
I mean, I mean, I mean I mean....when there's no farmers instead of nineteen

And so it is and so it goes, while winter's white turns spring's red rose
Sure, it's hard to say just what might be, it might not happen, so let's just wait and
see
And watch these few farmers farm the land, with more and more and more hired
hands
That's alot of work to do the work of twenty, as we start a brand new century
I mean, I mean, I mean I mean....do we want just one farmer....or maybe nineteen?

August, 1998