

## **Luther S. Olsen**

STATE REPRESENTATIVE • 41<sup>ST</sup> ASSEMBLY DISTRICT  
P.O. Box 8953, Madison, WI 53708-8953

### **TESTIMONY BY STATE REPRESENTATIVE LUTHER OLSEN REGARDING ASSEMBLY BILL 380**

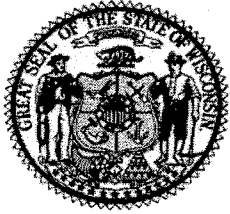
Senate Committee on Agriculture, Financial Institutions and Insurance  
January 13, 2004

Good morning, Chairman Schultz and committee members. Thank you for allowing me to testify on Assembly Bill 380. I introduced this bill because more and more people are storing large amounts of bulk agrichemicals. This bill updates the current statutes to protect Wisconsin's groundwater from improperly stored bulk fertilizers and pesticides. This bill is about the environment, and helping to ensure we pass on to future generations a Wisconsin that is clean and able to sustain our agricultural base and heritage. It makes the law applicable to everyone who has bulk storage.

First, I would like to provide some background into this bill. Current law requires the Department of Agriculture, Trade and Consumer Protection to create and enforce rules for the storage of bulk fertilizer and bulk pesticides to protect the waters of the state from contamination. Bulk fertilizer is fertilizer distributed in nonpackaged form. Bulk pesticides are liquid pesticides in containers larger than 55 gallons and solid pesticides in undivided quantities greater than 100 pounds. Under current law, the rules apply to any person who manufactures or sells bulk fertilizer or bulk pesticides. This bill provides that the rules for the storage of bulk fertilizer and bulk pesticides also apply to persons who store those substances for 45 days or more.

With that said, the issue, first and foremost, we are dealing with is safety. Part of being a farmer is also being an environmentalist, since the environment is the basis for the industry. According to the Wisconsin Agricultural Statistics Service, more than 1.5 million pounds of Atrazine and 1.1 million pounds of Acetochlor, commonly known as Harness or Supreme, were applied to the 3.65 million acres of corn planted in the state last year. Nearly two million pounds of other herbicides and insecticides were applied as well. On Wisconsin's 1.5 million acres of soybeans, more than a million more pounds of herbicides were applied, including 924,000 pounds of Roundup, the common name of Glyphosate. Hundreds of thousands of pounds of other herbicides, pesticides and fungicides are applied each year to Wisconsin's many other vegetable and crop fields.

There were a number of farm spills over the past five years that could have been at least partially contained if this bill was law. These spills, consisting mostly of fertilizer, range in size from a mere ten gallons to as much as 18,000 gallons spilled and potentially headed into the aquifers and groundwater of Wisconsin. Of course, there are other spills



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that may not have been properly noticed and recorded, so this problem is likely more acute than the numbers I have been referencing.

An amendment, proposed by Representative Amy Sue Vruwink, is part of this bill. The amendment, which I support, exempts two types of storage containers possessed by farmers from the secondary containment requirements. These exemptions include what are commonly known as mini-bulk containers. They have capacity from 55 to 300 gallons of liquid or 100 to 2,500 pounds of dry material. Containers of liquid fertilizer that have a capacity of 1,650 gallons or less are also exempt if they are possessed by a person who is not a manufacturer or distributor and the person doesn't have more than one such container per 40 acres. This portion of the amendment addresses the concerns of farmers who use the center pivot system.

In conclusion, I feel this is a bill that closes a loophole in the current laws, does not create an overwhelming burden that be justified in light of the safety issue, and protects our environment. I thank this committee for its time and consideration, and I welcome your questions on the bill at this time.



State of Wisconsin  
Jim Doyle, Governor

Department of Agriculture, Trade and Consumer Protection  
Rod Nilsestuen, Secretary

**Testimony in Support of AB 380  
Secondary Containment Requirements for Farmers  
Storing Bulk Pesticides and Fertilizer**

My name is Nicholas J. Neher. I am Administrator of the Agricultural Resource Management Division of the Department of Agriculture, Trade and Consumer Protection. I am providing testimony in support of Assembly Bill 380. The Department supports the Bill on the condition we are provided the resources needed to effectively implement and enforce the regulatory provisions of the Bill, as we identified in the fiscal impact statement that we prepared for the Bill (LRB 03-2597/1).

Our experience suggests that even small releases of pesticide and fertilizer products can lead to significant contamination issues, strongly supporting the need for passage of the Bill. Secondary containment of bulk pesticides greatly reduces the potential for releases to impact groundwater and surface waters resulting in human and livestock health and/or environmental concerns. Secondary containment also facilitates recovery and reuse of pesticides which can result in a considerable cost savings, given the high value of these products.

The same is true related to unintentional fertilizer releases. Since 1995 we have responded to 22 reported spills of bulk fertilizers at farmsteads. These spills resulted in the total release of almost 140,000 gallons. Clean-up costs for one of these spills exceeded \$200,000. Costs exceeded \$15,000 each for six of the remaining spills. These costs do not include the value of the product lost during the spill. Two of the 22 spills occurred within the last three weeks. Secondary containment could have prevented the resulting environmental impacts from these spills and allowed recovery and reuse of the product. There are likely many more spills that go unreported each year and never get cleaned up.

Many of the large farms currently storing bulk fertilizers and pesticides store larger quantities of these products than the smaller agricultural dealers that are required to have secondary containment. Many of the bulk fertilizer tanks on farms have been obtained from dealerships after the tank's life expectancy has been exceeded. This situation compounds the environmental concern by removing an old tank from within a containment structure and placing it on a farmstead without containment. Twenty out of the 22 fertilizer spills that were reported were caused by faulty and old equipment.

We propose implementation and enforcement of these provisions using an approach comparable to the regulations currently in place for commercial dealers of bulk pesticides and fertilizers. The Department would develop these rules over the next year. As indicated in our fiscal impact statement, the costs for installing adequate containment structures on farms would be in the range of \$1,000 to \$15,000 depending on the amount of product stored and size of the structure needed. These costs are far less than the cost of the clean-ups described above.

Nicholas J. Neher  
Testimony in Support of 2003 AB 380  
January 13, 2004

We continue to be concerned about the proposed exemption of mini-bulk pesticide containers and fertilizer containers storing less than 1650 gallons. These containers can also fail and have resulted in both environmental harm, as well as significant clean-up costs. We realize that the exemption was proposed because of issues identified during the Assembly hearing process and is supported by farm groups. In spite of our concern, we view the proposal as a positive step forward and support passage.

# FRONTIER FS

222 East Puerner Street • P.O. Box 359 • Jefferson, WI 53549-0359 • (920) 674-7000 • FAX (920) 674-7013

January 13, 2004

To Whom It May Concern:

I am Bruce Barganz, operations manager for Frontier FS Cooperative, which is an agricultural supply and grain marketing cooperative employing 140 people at twelve locations serving thirteen counties in southern Wisconsin. This cooperative serves over 6500 patrons in this area. Frontier FS Cooperative is very concerned about our environment, especially in the communities where our employees work and live. We all want clean water - we also want economic crop production for farmers with rules that are fair to the environment, the farmer and all others affected by crop production.

Assembly bill 380 is about common sense. It is about protecting not only the environment, but also about protecting the producer's right of free choice for the inputs they use to produce the safest and most economical food supply in the world. Wisconsin's bulk storage rules were written to minimize the effect of a spill or leak of bulk fertilizers or chemicals, for all the right reasons. This bill extends that protection to the farmyard.

With the significant increase in farm size and the proliferation of bulk storage tanks on the farm, it is very important for this state and it's producers to provide secondary containment for these products. If we continue to ignore this need, there is a very real possibility of negatively affecting our environment and this could certainly lead to the possible restriction of the very products that producers need to economically grow their crops. Should we take this gamble? I think not.

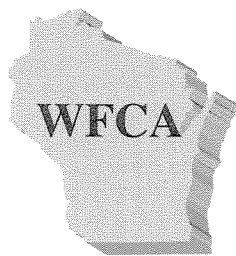
There are seventeen other states that have already passed legislation similar to this and there are currently three states considering legislation. Wisconsin's track record on these types of legislation would suggest that we should be leading other states to protecting our industry and environment, not following. I submit that this legislation needs to go forward. This is just common sense.

Sincerely yours,

FRONTIER FS COOPERATIVE



Bruce Barganz  
Operations Manager



# WISCONSIN FERTILIZER & CHEMICAL ASSOCIATION

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WI Agribusiness Council  
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January 13, 2004

Good Morning, I am Betsy Ahner, Executive Director of the WFCFA. The Wisconsin Fertilizer and Chemical Association is a trade association serving the agricultural fertilizer and crop protection industry. The backbone of our association are the ag retailers who provide products and services to Wisconsin's farmers.

Just about a year ago our board started to discuss the concerns they had about fertilizer and chemical storage on their customer's farms. It is a difficult topic for WFCFA members because without those customers they would cease to exist. Yet they were deeply concerned that they were seeing what they considered to be "disasters waiting to happen."

As you know over ten years ago Wisconsin passed a law that all bulk fertilizers and chemicals stored by dealers, manufacturers, and distributors had to be held in secondary containment. At that time farmers were exempted from the rule. Since that time farms have grown larger and I am told by our members that some farms handle more product than our smaller dealerships do.

Our board and legislative staff has spent a considerable amount of time working with other agricultural organizations to craft a rule that we think provides significant protection to the environment and Wisconsin's ground water.

I urge you to support AB380.



OUR ENERGY COMES THROUGH™

# GRAND RIVER COOPERATIVE



225 E John St. ~ PO Box 268 ~ Markesan WI 53946-0268

January 12, 2004

Senator Dale Schultz  
18 South, State Capitol  
Madison, WI 53702

Attention: Senate Agriculture, Financial Institutions and Insurance Committee

Dear Senator Schultz,

This letter is to register my support of the Assembly Bill 380 regarding bulk fertilizer and pesticide storage on farms in Wisconsin. I am employed as Agronomy Manager at Grand River Cooperative in Markesan, in south central Wisconsin. A few months ago, I was asked to estimate the number of liquid fertilizer tanks that were used on farms in my trade area for storage for more than ten days. For our dealership, this number is thirty four. The number of fixed storage tanks is over twelve, with most fixed tanks holding more than three thousand gallons of product when full. Most growers have storage capacity for a full semi-tanker load full of product, approximately five thousand gallons, with some growers storing many more gallons when full. Some farms have storage for several semi loads of product. The request I received for information also asked for the number of farms that store bulk pesticides on a semi-permanent bases, that is, for more than the few weeks a grower might be applying a herbicide, and that number is seventeen in our trade area alone. I am sure that there are more storage tanks in our trade area that belong to growers I don't currently service.

It is my opinion that crop producers are great environmentalists, and employ many practices to save the resources of our planet. I also know that the potential for environmental pollution around an unprotected tank in a growers' yard or on the edge of one of their fields is tremendous. All our employees attend training annually on the safe use and storage of pesticides, and yet we are all vulnerable to true accidents and vandalism. I believe that providing secondary containment around fixed tanks of liquid fertilizer and crop protection products is critical, and that growers that temporarily store bulk products should also protect them with a dyke of some kind. I believe the cost of installing dykes is good insurance for the ability to recapture a spilled product, both from an environmental impact, and from considering the value of the herbicide.

Thank you very much for your consideration of my letter. Please vote in favor of Assembly Bill 380, to provide secondary containment that will protect our natural resources.

Very Sincerely,

Grand River Cooperative

Rachel Mueller

Agronomy Manager

James (Jim) Shelton  
General Manager  
Landmark Agronomy Services Cooperative  
Juda, WI 53550



January 12, 2004

Senate Committee on Agriculture  
Public Hearing on Assembly Bill 380  
July 24, 2003

Chairman Ott and Members of the Committee,

Thank you for this opportunity to testify on Assembly Bill 380, pertaining to the Bulk Storage of Pesticides and Fertilizer.

My name is James (Jim) Shelton and I am the General Manager of Landmark Agronomy Service Cooperative.

Landmark operates 10 Ag Retail operations in the Wisconsin and Northern Illinois area, and our plants currently store bulk pesticides and fertilizer.

I have been involved in Ag Retail and the handling of bulk fertilizer since 1974, and bulk pesticides since the early 1980's. I have been in plant management operations since 1980 as well.

In 1988 Ag Retail dealers found it necessary to comply with legislation passed regarding the handling and storage of bulk fertilizer and pesticides. This was a huge undertaking for the Ag Retail businesses in Wisconsin, which ended operations at many plants throughout the state.

However, while it was a major undertaking and expense for Ag Retailers, it was the right thing to do. Today, Ag Retailers should be proud of their improved record with environmental protection. Vast improvements were made in 1988, and they continue to be made. Without the legislation that forced dealers to protect the environment, many more problems would exist today.

Now it is time to make the next logical step with Assembly Bill 380 on Bulk Storage of Pesticides and Fertilizer. For the last 15 years, as I drive around the countryside of Wisconsin, I have seen hundreds of farm tanks sitting at farm sites, unprotected. These tanks are without containment, without impervious load pads to conduct in load and out load operations on, and many are filled and never looked at again until using them the following spring.

Many of these same tanks are of questionable integrity, unpainted, rusty, and have sub-standard plumbing with no protection from vandalism.

The State of Illinois enacted rules for bulk storage of fertilizer and pesticide for Ag Retailers in the early 1990's. They already have rules in place that will affect farm storage, which starts now and continues through the next 3 years for final completion. While behind Wisconsin for Ag Retailer bulk storage, they are way ahead of Wisconsin on farm bulk storage.

One also needs to consider what is, and what will continue to happen to farm size in the State of Wisconsin. As much as we hate to admit it, the actual numbers of active farmers (those with a majority of their income derived from farming operations) are shrinking. While the number shrinks, the remaining farm operations continue to get larger and larger. The number of acres farmed is not changing significantly, except for urban sprawl. However the remaining farmers operate a larger and larger number of acres.

As farm operation sizes continues to grow, so will the need of bulk storage on the farm. While today a large farmer may have a couple of tanks on his farm, in the future the number of tanks needed, will grow even larger.

Now let's talk about where the nitrogen industry is going. The natural gas crisis in the US has put extreme pressure on the nitrogen industry. Natural gas has moved to new record levels and is predicted to move even higher through the upcoming winter months. There is no short-term fix for the natural gas problem with increased dependence on it for electrical power generation, which will keep this product under pressure.

Nitrogen is made from natural gas and air. The huge increase in natural gas pricing has moved nitrogen to new record high price levels. The most economical natural gas for manufacturing nitrogen is available during low heat demand during the summer months. As gas moves from the \$5.00-\$6.00 level during the summer to \$10.00-\$12.00 during the winter, nitrogen pricing nearly doubles as well.

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For farmers, the correct time to fill is now, and let the product sit in storage until spring. This pricing pressure will increase the needs for on-farm storage, and again brings more liability to the soil and water resources of Wisconsin.

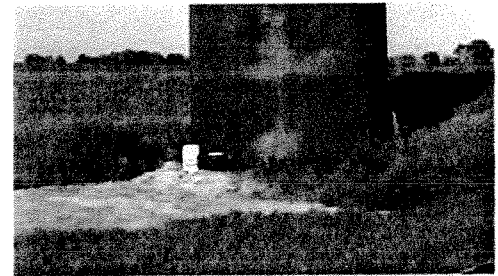
As farm size becomes larger, in some cases, on-farm storage exceeds that of many Ag Retailers today. These Ag Retailers have had containment for 15 years. Currently there are on-farm storage tank farms that exceed that of Landmark locations.

The following is a number of photos of typical on-farm storage tanks with comments on the challenges they present to the State of Wisconsin soils and water resources.



Current Checklist For On-Farm Storage

- ✓ No Secondary Containment- OK
- ✓ Rusty unpainted tank- OK
- ✓ No Security- OK
- ✓ Loading over unpaved surface- OK
- ✓ Cheap \$20, 2" Poly ball valve- OK
- ✓ No lock on valve- OK
- ✓ No plug in cam lock- OK
- ✓ Burned vegetation- OK
- ✓ Tank directly adjacent to road- OK



From the above photos you can see that placing rusty tanks within secondary containment is just part of this issue.

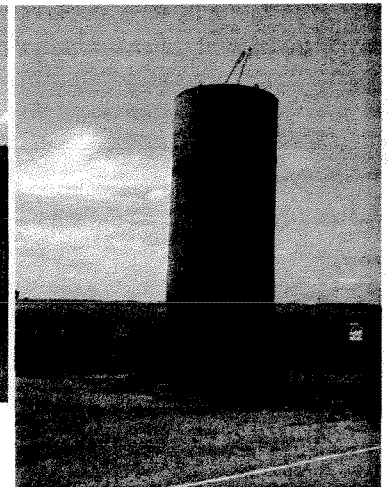
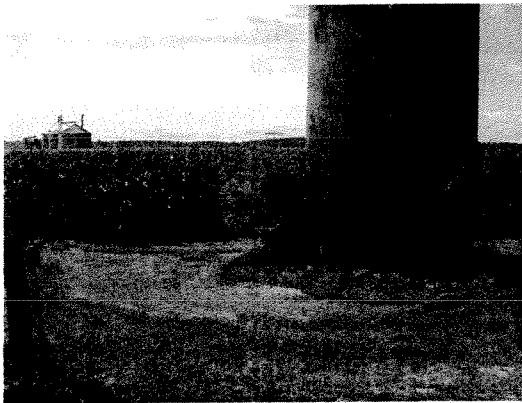
From the looks of the burnt and dead foliage, soil contamination exists from loading and unloading of bulk fertilizer and or pesticides. This operation should take place over an impervious pad that will prevent runoff and capture spills.

Security since 9/11 has been on everyone's mind. How does this tank promote improved security?

The tanks to the right are again typical photos of on-farm bulk storage tanks currently out in the country unprotected.

Many of these storage tanks are located on the farm, sometimes as much as 20 miles away from the main farming operation. Catching a leak before it becomes a serious problem would be very unlikely.

As you can see, the in loading and out loading that occurs at this site has likely caused soil contamination as well. This reinforces the use of impervious load pads.



I appreciate the time you have given me for testimony in support of Assembly Bill 380. It is the next logical step to further protecting the environment in Wisconsin.

Respectfully submitted,

*James Shelton*

James (Jim) Shelton  
General Manager  
Landmark Agronomy Services



To: Wisconsin Senate Agriculture, Financial Institutions and Insurance  
Committee

From: Vince Michalski  
Account Manager – Agriliance, LLC  
2906 Greenbrier Road  
Green Bay, WI 54311  
920-469-8971

As the account manager for 25 of the largest retailers of Northeast Wisconsin, I have a good feel for the impact that Assembly Bill 380 will have in the state. I also am the chair of the Wisconsin Fertilizer and Chemical Association's Legislative Committee and have heard the comments and opinions of the retailers of this state. My opinion and the overwhelming opinion of the retailers in Wisconsin is to support AB 380.

The retailers and most farmers of this state have a genuine interest in doing what is right for the environment. AB 380 is the right thing for the environment since it will require all significant storage of bulk fertilizer and chemicals to follow this states bulk storage rules. Many of the on farm storage tanks currently used are of poor quality and can pose an environmental risk.

Bulk storage, especially of liquid fertilizer, has a real economic payback to the producers. There is a reason that they store product on the farm and some years the payback is greater than others. For the past 2 years we have seen tremendous price appreciation, especially of nitrogen, that can amount to greater than \$35/ton over an August fill versus an April fill of bulk nitrogen. This can be a huge payback if the producer has the proper on farm storage. This storage needs to be properly diked since the exposure will be for a long period of time before use.

There are 22 other States with similar storage laws in place including all of our Midwestern neighbors. Please vote yes to AB 380. It is the proactive and right choice for the agriculture industry.

Sincerely,

Vince Michalski



Senate Agriculture, Financial Institutions and Insurance Committee, 10:00 AM, January 13th, 2004.

Mr. Chairman and Committee Members,

Thank you for allowing my testimony on Assembly Bill 380. I am voicing my support and asking for your support on this important environmental legislation.

I own and operate Kaz's Flying Service, Ltd. located in Lodi Wisconsin which has been in business in Wisconsin for over 50 years. We apply agricultural products to family farmer's crops, help to protect human health and the economy in Wisconsin with our crop dusting airplanes. While doing my job for the past 19 years, I have flown over just about every square mile in southern Wisconsin if not the whole state. I have seen things behind barns or in the back 40's that most people don't see, may never see and quite frankly should never see.

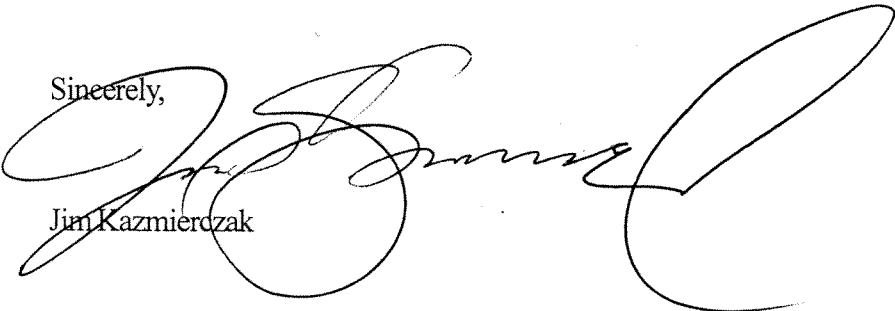
Like most family farms, we are a small business with a narrow profit margin. We, like them, instinctively reject and fight any new regulations forced upon us. But sometimes after close examination, we realize in the long run this new regulation may in fact save us a lot of grief, money and help to protect our environment; which we all are concerned about. We believe Assembly Bill 380 is one of these needed regulations. Even though forced upon someone, it may in the long run, not only save them money, but it could help to protect our environment in the event of a problem.

As of now, if my business stores bulk quantities of fertilizer, I have to have a secondary containment system to protect the environment in case of a spill or leak. But my neighbor, the family farmer, can store the same amount of fertilizer and he does not have to have secondary containment for environmental protection. So, if this bill does not pass and we both have leaks, I will be protecting the environment, but his leak will get into the environment; but that's ok, just because he is a farmer? **This is not right.**

Farmers have options just like us: we don't have to store bulk quantities of agricultural products; so we do not have to pay to comply with this regulation. But if we choose to store bulk agricultural products, we both should have the same requirements; **because the risk is the same.**

Thank you, I'd be glad to answer your questions.

Sincerely,

  
Jim Kazmierczak

MONSANTO



Dan Uppena  
Retail Sales Manager

MONSANTO COMPANY  
2894 HIDDEN HOLLOW RD  
OSHKOSH, WISCONSIN 54904  
daniel.r.uppena@monsanto.com  
<http://www.monsanto.com>

Dear Wisconsin Legislators:

I am writing in support of legislative bill AB 380 - regarding the expansion of containment regulations to extend to anyone keeping fertilizer or pesticide products on-farm and in-bulk.

My employer, Monsanto, has been a longtime member and supporter of the agribusiness community in Wisconsin. As a Wisconsin Fertilizer and Chemical Association member, we have consistently supported the efforts of the organization to advance environmental stewardship among its members.

Our agribusiness retail partners in Wisconsin have used fertilizers and chemicals responsibly for over 25 years. We have gone to great lengths to educate and support our customers in proper handling and storage. Our retail partners have made a substantial investment in time, education, and, most importantly, dollars to ensure they comply with all containment regulations imposed by the state.

As a steward of herbicides in Wisconsin, and someone with a vested interest in enhancing our industry's environmental image, the thought of storing more than 350 gallons of herbicides without secondary containment is extremely disconcerting. Can you imagine the financial and environmental problems if 1,000 gallons of an atrazine-containing product spilled directly into surface waters, due to a point source of contamination? Manufacturers of chemicals, especially detectable products such as alachlor, will not take the risk to keep products registered in states where stewardship can be an issue. Wisconsin has long been a leader protecting surface and ground water. Most of the surrounding states in the Midwest have already acted on requiring secondary containment - it is essential that we follow their example.

Three years ago, the patent for Roundup expired. Market demand for Roundup in the United States is increasing, and consequently, generic offshore materials have entered the market. We don't discourage this added competition, but of concern is the way these products are being stored and sold. To obtain a lower cost position, these products are being packaged in large (250 gallon or more) plastic containers and shipped throughout the state. These containers are sometimes inferior in quality to branded product manufacturers' time-tested shuttle equipment. We are concerned that these containers would not pass a drop-test - and would therefore be very susceptible to spills in transport and storage.

Not unlike current licensed resellers of bulk herbicides and fertilizer, there will be additional up-front costs to build secondary containment for growers that desire to purchase bulk fertilizer and chemicals. However, growers purchasing in bulk will benefit from volume buying and will quickly recover costs of containment.

Our support for requiring secondary containment for all products is grounded in two key areas: (1) concern for a major spill that is not contained and poses an environmental threat, (2) support for fairness and a level playing field among all resellers of pesticides and fertilizer throughout the state. We feel all those that benefit from reselling fertilizer or pesticides should be held subject to the same standards and responsibilities of business conduct.

Thank you for your consideration of this issue.

Respectfully,

Daniel Uppena, Retail Sales Manager, Monsanto Company, Oshkosh, Wisconsin



January 13, 2004

Mr. Chairperson / Members of the Committee

My name is Dan Hartung. I am President of Hartung Brothers, Inc. Hartung Brothers; Inc. is a Wisconsin based Agri-Business. Today I am representing our Wholesale Fertilizer Division. It operates Liquid Fertilizer terminals in Arena (Iowa Co.), W. Almond (Portage Co.), Oshkosh (Winnebago Co.), Kaukauna (Outagamie Co.), as well as Winona MN.

I am here today in support of AB 380.

Many of our Dealers we service have customers who have on farm storage that is currently exempt from the containment rules in effect for Dealers. Many of these tanks are old and in poor repair and are disasters waiting to happen. As farms continue to get larger this will only become a bigger problem.

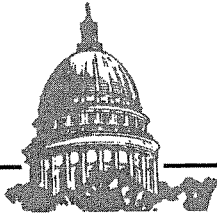
If the goals of the current Containment laws are to protect the waters of the State then AB 380 will only help give the Department more tools to work with.

Thank you for your consideration.

Sincerely

A handwritten signature in black ink that reads "Dan Hartung". The signature is written in a cursive style with a large, sweeping initial "D".

Dan Hartung  
President



WISCONSIN STATE SENATE

**DAVE HANSEN**

SENATOR – 30TH DISTRICT

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State Capitol P.O. Box 7882 Madison, Wisconsin 53707-7882 Phone: (608) 266-5670

## Testimony by State Senator Dave Hansen on Assembly Bill 380

Senate Committee on Agriculture, Financial Institutions and Insurance  
January 13, 2004

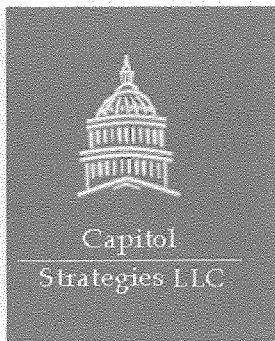
Thank you Chairman Schultz for bringing this bill before the committee today. I appreciate your scheduling Assembly Bill 380 for a public hearing and for the opportunity to speak in favor of this legislation. Assembly Bill 380 expands current DATCP rules for storage of bulk fertilizer or pesticides beyond manufacturers and distributors to farmers that store these products. This bill will help protect Wisconsin's groundwater from contamination through improper storage or defective containers. As farming operations grow and more farmers install bulk storage facilities, the need for secondary containment and safety measures becomes more important.

Last October, the Assembly committee on Agriculture met and amended this legislation to exempt "mini-bulk containers" and pivot irrigation systems. The Department of Ag, Trade and Consumer Protection, Wisconsin Fertilizer & Chemical Association, Wis. Federation of Cooperatives, and the Wisconsin Farm Bureau supported this bill in the Assembly. Assembly Bill 380 was unanimously recommended for passage

by the Assembly Committee on Agriculture and passed the Assembly on a voice vote.

Again, thank you for holding a hearing on Assembly Bill 380. I appreciate your attention and ask for your support of this important legislation.

I'd be happy to answer any questions.



# Capitol Strategies, LLC

*Government relations and Public Policy Consulting Firm*

## **Senate Agriculture, Financial Institutions and Insurance Committee January 13, 2004**

### ***Testimony of Amy Winters, contract lobbyist for the Wisconsin Fertilizer and Chemical Association and CropLife America.***

Chairman Schultz, members of the committee, thank you for the opportunity to testify on Assembly Bill 380 pertaining to the bulk storage of pesticides and fertilizers.

The Wisconsin Fertilizer and Chemical Association surfaced this issue as a top priority due to concerns about how fertilizers and pesticides are being stored at non-commercial facilities.

Many changes have occurred in agriculture since the bulk storage laws were established, including a substantial increase in farm size. Increases in the number of producers installing or considering the addition of bulk-storage facilities on their farms has also increased due to increased efficiency and cost savings by purchasing and storing inputs in bulk quantities.

Assembly Bill 380 addresses the need for environmentally responsible and economically reasonable containment requirements to ensure that stored products are not released to the environment in the event of a storage container failure.

Although the cost of compliance is not insignificant, in the event of a tank or valve failure, the cost of containment can pay for itself, since producers are able to recover the fertilizer or pesticide, prevent environmental contamination and avoid the expensive clean-up costs associated with losing thousands of gallons of product.

Since 1994, the year the Agricultural Chemical Cleanup Program began, the Department of Agriculture has recorded 21 on farm spills totaling 109,430 gallons of fertilizer at a cleanup cost **far in excess** of \$239,090.00 the amount paid for only 9 of the 21 sites. Cleanup costs have ranged from \$6,000 to \$67,000 per occurrence (which does not include the loss of product), a far cry from the cost of containment measures.



Would Wisconsin be alone in requiring secondary containment at non-commercial sites? Not at all, all the states surrounding Wisconsin already have on farm bulk storage regulations. Minnesota, Illinois, Iowa, Michigan, Indiana, Ohio and South Dakota all have laws in place.

There is never a good time to increase regulations on an already stressed industry, but we strongly believe that this is a needed, proactive approach that will save money and resources in the long run. This is an issue that will not go away and is better to address it now, proactively, before we have greater costs due to spills.

This bill is not meant to limit choices or efficiencies for farmers, it is meant to protect the public and the environment. The entire fertilizer and chemical industry and all of agriculture **MUST BE PROACTIVE AND RESPONSIBLE** in how we handle our products, otherwise we subject ourselves to criticism and regulations that could truly inhibit our ability to judiciously store and apply agrichemicals.

This bill is a reflection of the crop protection industry's commitment to the safe storage and handling of its products and we ask for your support. Thank you.

*“Assembly Bill 380 is not meant to limit choices or efficiencies for farmers, it is meant to protect the public and the environment. The entire fertilizer and chemical industry and all of agriculture **MUST BE PROACTIVE AND RESPONSIBLE** in how we handle our products, otherwise we subject ourselves to criticism and regulations that could truly inhibit our ability to judiciously store and apply agrichemicals. This bill is a reflection of the crop protection industry’s commitment to the safe storage and handling of its products and we ask for your support”*

*-Amy Winters-*

## **Assembly Bill 380 - Questions & Answers**

### **What Does Assembly Bill 380 Do?**

The bill expands Wisconsin's law pertaining to the storage of bulk quantities of pesticides and fertilizers to everyone who manufactures, distributes or stores them. Currently, only those who manufacture or sell bulk fertilizer or bulk pesticides are required to have secondary containment and other safety measures in place.

### **Why is the Law Change Needed?**

Many changes have occurred in agriculture since the bulk storage laws were established, including a substantial increase in farm size. Increases in the number of producers installing or considering the addition of bulk-storage facilities on their farms has also increased due to increased efficiency and cost savings by purchasing and storing inputs in bulk quantities.

Assembly Bill 380 addresses the need for environmentally responsible and economically reasonable containment requirements to ensure that stored products are not released to the environment in the event of a storage container failure

### **What are Bulk Fertilizers and Bulk Pesticides?**

Bulk fertilizer is fertilizer distributed in non-packaged form greater than 55 gallons or 500 pounds. Bulk pesticides are liquid pesticides in containers 56 gallons or larger and solid pesticides in undivided quantities greater than 100 pounds.

### **Isn't This an Added Burden to an Already Struggling Industry?**

Although the cost of compliance is not insignificant, in the event of a tank or valve failure, the cost of containment can pay for itself, since producers are able to recover the fertilizer or pesticide, prevent environmental contamination and avoid the expensive clean-up costs associated with losing thousands of gallons of product.

Since 1994, the year the Agricultural Chemical Cleanup Program began, the Department of Agriculture has recorded 21 on farm spills totaling 109,430 gallons of fertilizer at a cleanup cost **far in excess** of \$239,090.00 the amount paid for only 9 of the 21 sites. Cleanup costs have ranged from \$6,000 to \$67,000 per occurrence (which does not include the loss of product), a far cry from the cost of containment measures. It is also estimated that farmers who buy fertilizers and pesticides in bulk quantities save up to 50% in the cost of the product giving further justification for the ability to afford to store it correctly.

### **Do Other States Have On-Farm Bulk Storage Laws?**

Yes! 17 other states already have laws in place including the majority of the Farm Belt. (See attached map)

### **How Are These Products Being Stored Now?**

Some farmers have already recognized the importance of sound tanks, secondary containment and security procedures and have already put measures in place. Others use containers such as old petroleum storage tanks that are no longer sound and have a high risk of leaking.

### **What if a Farmer has a Small Quantity Left of Product in a Bulk Container, Would They Still Have to Comply?**

It is not uncommon for farmers and other pesticide end-users to transfer pesticides from original containers to other containers. It is allowable for a farmer to transfer a non-bulk quantity of pesticide from a bulk container to a non-bulk container for future use by the same farmer on the farmers land. This non-bulk container would not be subject to bulk containment requirements, but would have to be stored in a secure manner, similar to any other pesticide.

### **How Long Would Farmers Have to Comply with the New Law?**

If Assembly Bill 380 passes, the Department of Agriculture, Trade and Consumer Protection would have to promulgate rules to put the law into affect. This could take up to a year and would allow industry input as to how the law is applied and enforced.

### **Would it be Better to Wait Until the Farm Economy Improves?**

There is never a good time to increase regulations on an already stressed industry, but we strongly believe that this is a needed, proactive approach that will save money and resources in the long run. This is an issue that will not go away and is better to address it now, proactively, before we have greater costs due to spills

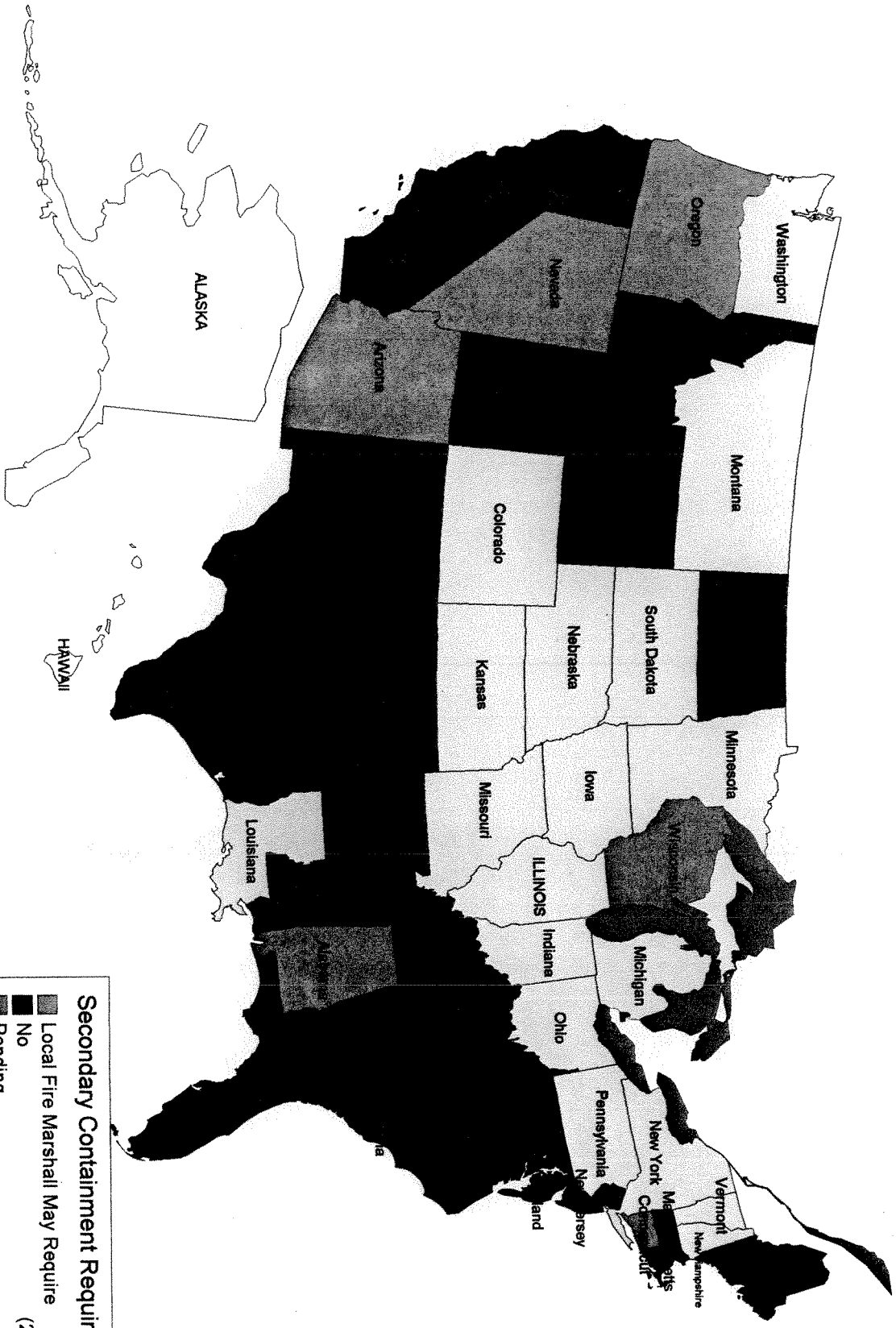
### **What Does Assembly Amendment 3 Do?**

Assembly Amendment 3 to AB 380 exempts mini-bulks containers (liquid pesticides up to 300 gallons) and liquid fertilizer containers that are 1650 gallons or less from secondary containment requirements under the bulk storage law. This amendment addresses concerns from vegetable growers on having unreasonable costs for having secondary containment at center pivots as well as addresses the fact the mini-bulks have not had a history of having problems in storage, most spills occur in the transportation or mixing and loading of the chemicals.

### **Who is Supporting the Legislation?**

Agriculture Retailers, Cooperatives, Chemical Manufacturers, farm groups, Wisconsin Agribusiness Council, Wisconsin Fertilizer and Chemical Association, CropLife America and the Federation of Cooperatives; The Department of Agriculture, Trade and Consumer Protection is also advocating the legislation.

# On-Farm Bulk Storage Laws for Pesticides and Fertilizers



**Secondary Containment Required**

Local Fire Marshall May Require	(4)
No	(24)
Pending	(2)
Yes	(18)

## ON FARM SPILLS

DATE	LOCATION	SPILL AMOUNT	COST
01/31/94	Cronelli Kip/Green Giant Co-Beaver Dam	250 GAL	
09/29/94	William Mc Fall – Rewey	3,800 GAL	
05/03/96	Mathews Farms Inc.	2,000 GAL	
05/20/96	Joe Draxler	9,750 GAL	\$19,048
07/25/96	Allen Reise/Terra	16,000 GAL	
09/29/96	Runde Farms	8,500 GAL	\$9,051
01/22/97	Bay Lakes Coop – Rybicki	800 GAL	
03/14/97	Stoney Brook Farms	15,000 GAL	\$7,373
04/21/97	RJR Enterprise LLC – Adams	3,000 GAL	\$66,930
02/15/98	David Shaw	14,000 GAL	\$16,971
03/10/98	David Hahn	4,000 GAL	\$49,270
04/24/98	Cottage Grove Coop – Sharpee Farm	350 GAL	
05/18/98	Elko Solutions Inc. – Elkhorn	300 GAL	
05/20/98	Williams Lloyd	200 GAL	
06/01/98	Hartung Farms Cooperative – Arena	2,300 GAL	
06/02/99	Jerome Peterson – Baldwin	10 GAL	
05/04/00	Cottage Grove Coop - Waunakee	50 GAL	
04/30/01	Stephen Luther – Baraboo	10,000 GAL	\$44,447
06/04/01	Hyke Gary – New Auburn	30 GAL	
04/26/02	Allen Van de Hei - Seymour	1,100 GAL	\$6,000
12/02/02	Anfang Farms Inc. – Sullivan	18,000 GAL	\$20,000++*

\* Still being submitted



# GRAND RIVER COOPERATIVE



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225 E John St. ~ PO Box 268 ~ Markesan WI 53946-0268

January 12, 2004

Senator Dale Schultz  
18 South, State Capitol  
Madison, WI 53702

Attention: Senate Agriculture, Financial Institutions and Insurance Committee

Dear Senator Schultz,

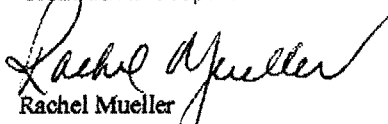
This letter is to register my support of the Assembly Bill 380 regarding bulk fertilizer and pesticide storage on farms in Wisconsin. I am employed as Agronomy Manager at Grand River Cooperative in Markesan, in south central Wisconsin. A few months ago, I was asked to estimate the number of liquid fertilizer tanks that were used on farms in my trade area for storage for more than ten days. For our dealership, this number is thirty four. The number of fixed storage tanks is over twelve, with most fixed tanks holding more than three thousand gallons of product when full. Most growers have storage capacity for a full semi-tanker load full of product, approximately five thousand gallons, with some growers storing many more gallons when full. Some farms have storage for several semi loads of product. The request I received for information also asked for the number of farms that store bulk pesticides on a semi-permanent bases, that is, for more than the few weeks a grower might be applying a herbicide, and that number is seventeen in our trade area alone. I am sure that there are more storage tanks in our trade area that belong to growers I don't currently service.

It is my opinion that crop producers are great environmentalists, and employ many practices to save the resources of our planet. I also know that the potential for environmental pollution around an unprotected tank in a growers' yard or on the edge of one of their fields is tremendous. All our employees attend training annually on the safe use and storage of pesticides, and yet we are all vulnerable to true accidents and vandalism. I believe that providing secondary containment around fixed tanks of liquid fertilizer and crop protection products is critical, and that growers that temporarily store bulk products should also protect them with a dyke of some kind. I believe the cost of installing dykes is good insurance for the ability to recapture a spilled product, both from an environmental impact, and from considering the value of the herbicide.

Thank you very much for your consideration of my letter. Please vote in favor of Assembly Bill 380, to provide secondary containment that will protect our natural resources.

Very Sincerely,

Grand River Cooperative

  
Rachel Mueller  
Agronomy Manager



January 12, 2004

Steven Foti  
State Capital: 215 West  
PO Box 8952  
Madison, WI 53708-8952

Dear Representative Foti:

I live near Waterloo, WI and am an agronomist with Landmark Agronomy Services, a cooperative based out of Cottage Grove, WI. Landmark is an agricultural retail supplier to farmers in south central Wisconsin. I am writing to ask for your support of **Assembly Bill 380**. This bill expands Wisconsin's law pertaining to the storage of bulk quantities of pesticides and fertilizers to those who not only manufacture or sell bulk quantities of pesticides and fertilizers, but to everyone who stores them. The current law requires manufacturers and retailers to have sound storage tanks, and adequate containment measures (secondary containment) to protect the environment in case of primary containment failure. I feel this law is very important in preventing chemical spills. The cost of containment is usually less than the cost of cleanup.

Farm sizes have increased substantially in recent years. Many of these large farm operations buy fertilizers and pesticides in bulk quantities to save money and increase their operating efficiency. Some of these operations have bulk storage capacities similar to many retailers. However, farmers are not covered under the current law and do not have to follow any storage containment requirements. Many farmers already have sound storage facilities, but some use tanks not originally meant for chemical or fertilizer storage or are old and subject to failure. Passing Assembly Bill 380 will assure that all bulk storage facilities have measures in place to prevent accidental release of stored products to the environment.

I do not want to burden farmers with additional regulations during a time when farms are struggling. However, I think we as an industry need to take a proactive approach to assuring that we handle agricultural products in a safe and environmentally sound manner.

Again, I would appreciate your support of Assembly Bill 380.

Sincerely,

A handwritten signature in black ink that reads "David A. Buss".

David A. Buss  
(608) 251-9010 x4274





P.O. Box 166, 122 W. Lawton St.  
Edgerton, WI 53534  
(608) 884-3331  
(608) 868-7638  
Fax (608) 884-7827

January 12, 2004

Senate Agricultural, Financial Institutions and Insurance Committee  
C/O Senator Dale Schultz  
18 South, State Capitol  
Madison, WI 53702

Dear Members of the Committee:

I am writing today to ask for your support for Assembly Bill 380, which would expand the law pertaining to the bulk storage of pesticides and fertilizers to include on-farm bulk storage.

The current law requires dealers and manufacturers of bulk fertilizer and pesticides to store primary containers within secondary containment. It also addresses other safety measures that help insure that any releases of products from their storage containers do not reach the environment.

When the original law went into effect, on-farm storage was not addressed, presumably because there was not a significant amount being stored in this fashion. However, as farm size has increased, so too has the amount of fertilizer and pesticides being stored on-farm. This means that the risk of negative environmental impact from failed storage devices has grown, and will continue to grow for years to come. This risk is compounded by the fact that many of the storage tanks currently employed on-farm are aging vessels, often not even designed for the storage of the products that they now contain.

This bill will have costs associated with it, as facilities are required to upgrade to comply with the law. However, these costs will more than be offset by the savings in clean-up expenses resulting from primary storage container failures. In addition, and more importantly, this bill will help to safeguard Wisconsin's environment, and to uphold the image of agriculture as a whole.

For these reasons, I urge you to vote in favor of Assembly Bill 380.

Thank you,

A handwritten signature in black ink that reads "John Busse".

John Busse  
Edgerton Location Manager  
Landmark Services Cooperative

January 9, 2004

Senate Agriculture Financial Institutions  
And Insurance Committee

C/O Senator Dale Schultz  
18 South State Capitol  
Madison, WI 53702

I would like to go on record in support of AB 380 for the following reasons:

On farm storage, in the larger amounts that are apparent today is disaster waiting to happen. Potential spills of these larger amounts of pesticide and liquid fertilizer in uncontained areas will definitely spell financial hardship for most of these farms where such spills might occur. In such instances, requiring containment would greatly benefit the farm operation and its owners economically, and our environment would surely be better protected.

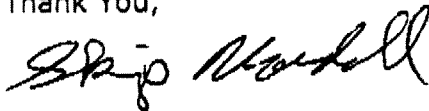
Clean up of a spill at an uncontained site would surely call for use of ACCP funds. I feel these funds should be used to clean up older spill sites and not sites that should now be contained so as to not require or at least limit the amount of funds required by a clean up.

It makes good economic and environmental sense to require spending money for containment of quantities larger than the minimums stated in AB 380 on all farm sites. A spill and cleanup at such a site would surely cost far more than the preventative measure.

And last of all, some of these sites may already be or at least approach the definition of a commercial site. AB 380 would eliminate any question as to containment of these sites and our citizens and environment would be afforded greater protection.

Please support AB 380.

Thank You,



Skip Nordahl  
W 13705 E. Green Acres Rd.  
Hixton, WI. 54635

**MAYVILLE LIMESTONE, INC.**

P.O. BOX 25 • MAYVILLE, WI 53050  
(920) 387-5700



AGRICULTURAL LIMESTONE PRODUCTS  
CONSTRUCTION AGGREGATES

Senate Agriculture, Financial Institutions and Insurance Committee  
C/O Senator Dale Schultz  
18 South, State Capitol,  
Madison, WI 53702

Dear Senator:

Mayville Limestone would like to express its support for Assembly Bill 380 which will expand the law pertaining to the bulk storage of pesticides and fertilizers to include on-farm bulk storage.

Sincerely,

A handwritten signature in cursive script that reads "Greg Smith".

Greg Smith  
Mayville Limestone, Inc.



# GREG'S

## FEED & SEED, INC.

7282 Hwy. 176 N, South Wayne, 53587  
Phone: 608-439-5525

Senate Agriculture, Financial Institutions and Insurance Committee  
C/O Senator Dale Schultz  
18 South, State Capitol,  
Madison, WI 53702

Dear Senator Schultz,

I am writing you this letter to express *my strong support of Assembly Bill 380*. As an industry, we want to be assured that our products are handled responsibly. This bill will help protect our environment by reducing future contamination of ground water. Therefore, I ask that you vote yes to Assembly Bill 380!

Sincerely,  
Greg Seffrood

A handwritten signature in cursive script that reads "Greg Seffrood". The signature is fluid and matches the printed name above it.

President/Owner  
Greg's Feed & Seed, Inc.

*Quality and Service at Competitive Prices*

**LANDMARK SERVICES COOPERATIVE**  
**BOX 107**  
**EVANSVILLE WIS. 53536**

To Senator:

As plant food coordinator for Landmark I am responsible for purchasing and storing 80,000 tons of crop nutrients annually. We have just constructed a new 2 million gallon " tank within a tank " storage structure and blend plant in Evansville Wis.. This is and will be one of the most state of the art and environmentally sound facilities in the U.S..

I support legislation regulating on farm storage of pesticides and fertilizer (Bill 380). This is an area that needs attention! These farm tanks are usually old tanks that farmers pick up for little or nothing - then store corrosive 28% nitrogen in. Not being regulated leads to spills that are not reported and contamination of ground water. Even new tanks do not have a long history of life. NOT to regulate is NOT environmentally sound! These tanks should be in dikes as current dealer tanks are.

To add to the concern is that purchases of Nitrogen are being made as far in advance as a year before field application occurs. That's a lot of exposure!

In regards to pesticides the 350 gallon size tank is appropriate. Tanks larger than this would lead to semi-load drops: which would cause potential concern of spills small and large of concentrated pesticides.

Scott J. Smith



**Feed • Grain • Agronomy • Energy Products**

**UNITED COOPERATIVE**  
N7160 Raceway Road • Beaver Dam, WI 53916 (920) 887-1756

January 7, 2004

Senate Agriculture, Financial Institutions and Insurance  
Committee  
C/O Senator Dale Schultz  
18 South, State Capitol  
Madison, WI 53702

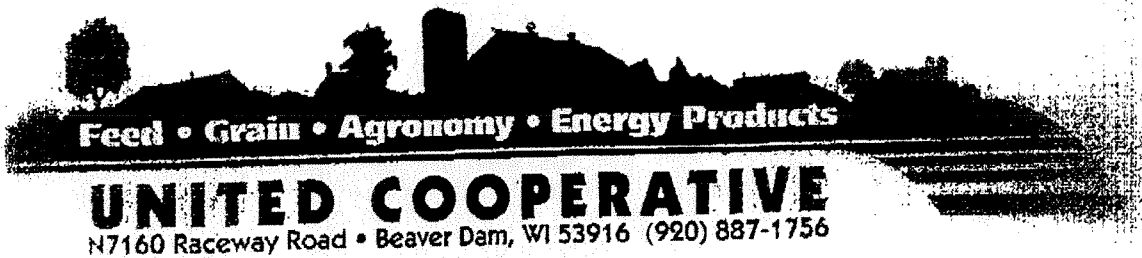
RE: Assembly Bill 380 On-Farm Bulk Storage of Pesticides and  
Fertilizers.

I can not be at this hearing on Tuesday, January 13 2004 in Madison.  
Let this letter show that I support this legislation.

Sincerely,



United Cooperative



January 7, 2004

Senate Agriculture, Financial Institutions and Insurance  
Committee  
C/O Senator Dale Schultz  
18 South, State Capitol  
Madison, WI 53702

RE: Assembly Bill 380 On-Farm Bulk Storage of Pesticides and  
Fertilizers.

I can not be at this hearing on Tuesday, January 13 2004 in Madison.  
Let this letter show that I support this legislation.

Sincerely,

United Cooperative

**COOPERATIVE SERVICES**

DENMARK -- GREEN BAY



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110 Pine Street • P.O. Box 309 • Denmark, Wisconsin 54208 • 863-2171

January 7, 2004

Senate Agriculture, Financial Institutions & Insurance Committee  
18 South, State Capital  
Madison, WI 53702

Dear Sirs,

We would like to support Assembly Bill 380, which would expand the law pertaining to the bulk storage of pesticides and fertilizers to include on-farm bulk storage. Assembly Bill 380 on-farm bulk storage of pesticides and fertilizers bill is vitally necessary to the protection of the ground waters and environment of this state..

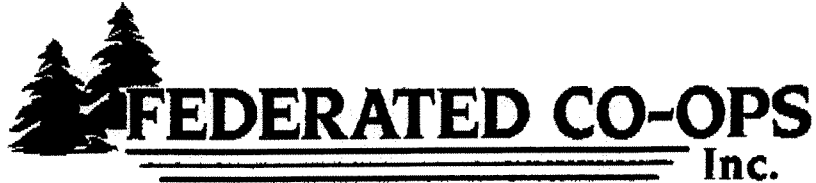
As farm size has grown, so has the amount of bulk herbicides and fertilizers stored on these farms. In many cases, on-farm storage facilities are larger than those of commercial outlets which are already subject to storage rules. These rules should also apply to on-farm storage facilities owned by farmers.

We support Assembly Bill 380 as it is written in order to protect the environment of our state.

Sincerely,

John H. Donaldson  
Cooperative Services  
Denmark, Wisconsin





To The Honorable Dale Schultz

Albertville  
Annandale  
Braham  
Cambridge  
Chisago City  
Danbury, WI  
Elk River  
Foley  
Glen  
Gordon, WI  
Hinckley  
Isanti  
Isle  
McGrath  
Mora  
Ogilvie  
Osceola, WI  
Pease  
Pine City  
Princeton  
Rock Creek  
Rush City  
Sandstone  
Scandia  
St. Michael  
St. Cloud

I am writing to urge you to support AB 380 re; storage of bulk herbicides and liquid fertilizer. On-farm storage is becoming a greater concern because of increased farm size. Many individual farms store as much or more than some retail outlets with little or no secondary containment to protect the environment. I am not looking for more government regulation. But a large spill of liquid fertilizer or herbicide would be damaging to the environment, costly to clean up, and devastating for public trust to all of us involved in production agriculture. Now may be a good time to error on the side of caution in light of what is happening in the beef industry of late. A spill from an unregulated storage facility would know doubt bring about even more regulation to all storage facilities in an ag economy all ready struggling. Please support AB 380.

Sincerely



Tim Stelter  
Ag Center Manager Federated Co-ops Osceola WI

**Amy Winters**

**From:** Mike Carter [mcarter@wisconsinpotatoes.com]  
**Sent:** Wednesday, November 12, 2003 3:40 PM  
**To:** awinters@wisagri.com  
**Subject:** RE: AB 380

Hi, Amy. We're OK. We'd like to see a 2,000 gallon limit, but I things are copasetic. I'm in Madison the next two days, working on WWF stuff, but let's try to talk by the end of the week. Give me a call on the cell if you have a chance.

-----Original Message-----

**From:** Amy Winters [mailto:awinters@wisagri.com]  
**Sent:** Wednesday, November 12, 2003 7:37 AM  
**To:** mcarter@wisconsinpotatoes.com  
**Subject:** AB 380

Good Morning Mike!

Can you tell me what your Board's action was on AB 380? I just want to make sure that I am not misrepresenting your position as this moves to the Senate. Thanks Michael!!

Best regards,

Amy

EASY and FREE access to your email anywhere: <http://Mailreader.com/>

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