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Details: Multi Page Testimony (w/dividers)

(FORM UPDATED: 07/12/2010)

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

### 2005-06

(session year)

### Assembly

(Assembly, Senate or Joint)

### Committee on ... Agriculture (AC-Ag)

#### COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**
- Record of Comm. Proceedings ... **RCP**

#### INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

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



Ralph Jr. & Sharon Bredl  
C1956 Riviera Drive  
Stratford, Wisconsin 54484  
(715) 687-4236

August 23, 2005  
Attention: Tom Bauman  
Subject: comments on NR243



Hello Mr. Bauman:

I am a dairy producer in Southwestern Marathon County. My family operates a dairy operation that would be classified as a medium CAFO. We are members of DBA and PDPW and wholly support the comments they have forwarded to your office.

I attended the hearing held in Wausau on August 22<sup>nd</sup> but did not offer verbal comment. Thank-you and the agency staff for your hard work in preparing the rules to date and for the excellent informational session that preceded the hearing.

Observing the comments made by other attendees of the hearing was quite enlightening and confirmed an array of feelings I have specific to the proposed NR243 rule.

It is very disconcerting to hear a member of the TAC voice his reluctance to endorse the proposed rules as written and does not create a confidence among the potential regulated that the DNR will accomplish it's stated goals through the implementation of NR243. A variety of inconsistencies with the proposed rules surfaced during Mr. Buelow's testimony regarding Phosphorus, record keeping and several other issues. His points seemed very valid and well researched. All facets of the enforcement of this rule hinge upon the acceptance of agreed upon definitions. What is liquid, what is solid, what is an animal unit? The fact that the definition for an animal unit is subject to change by one agency once again does not create confidence among the regulated that other definitions will not change in the future. Such changes have a dramatic impact upon the implementation of a well designed business plan. Last week I attended a meeting designed to present the harsh reality of the NR243 rule revision. The full extents of the criminal and civil penalties contained in the rule were discussed. This rule will have very serious ramifications for those who fall prey to something as simple as an inadvertent mishandling of the myriad of record keeping required.

But the most disconcerting issue is the DNR's use of absolutes to define the best management practices required across a geographically and socially diverse state such as Wisconsin. Six months of storage, no solids spreading February and March, no liquid spreading on frozen ground and the list goes on. What a huge disappointment!

A better approach? The establishment of general guidelines that would enhance and encourage the entrepreneurial spirit of individual businesses to identify and

implement creative strategies and tools specific to their climate and geography to meet and/or exceed the State of Wisconsin's water quality objectives. This scenario would require an educated, informed and cooperative staff who would become more of an ally and partner than an adversary to be feared and fooled. How unfortunate a more creative thought process could not have evolved from the many man hours invested in the pursuit of this rule revision.

Our dairy's growth has been driven by one basic force – to ensure that the business can provide for the needs of the current and future owners. Each of us plays an important role in society. Teachers, construction workers, health care providers, manufacturers and regulators all play an invaluable role in the fabric of our society. You need to understand that we take our role of providing a safe and economical food supply for our fellow citizens very seriously and ask that we be allowed to continue to perform this important societal role.

Thank-you for this opportunity.

Respectfully submitted

A handwritten signature in cursive script that reads "Ralph Bredl".

Ralph Bredl, Jr., owner  
Harmony-Ho Holsteins



## Ruby, Erin

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**From:** Rep.Ott  
**Sent:** Thursday, June 15, 2006 10:07 AM  
**To:** Rep.Ainsworth; Rep.Gronemus; Rep.Hines; Rep.Loeffelholz; Rep.Molepske; Rep.Nerison; Rep.Parisi; Rep.Petrowski; Rep.Steinbrink; Rep.Suder; Rep.Towns; Rep.Vruwink; Rep.WilliamsM; Rep.Ziegelbauer; 'Rep.Ziegelbauer(1)'; Anderson, John; Bauknecht, Jason; Berken, Nathan; 'Christopher, Marc'; Cross, William; Deering, Bonnie; Emerson, Anne; Gaston, Geoff; Hilton, Stephanie; Holsinger, Eric; Hutkowski, Hariah; Junck, Linda; Kostelic, Luanne; Kraak, Maureen; Langan, Casey; Loomans, Scott; Mueller, Virginia (Legislature); Parrott, Douglas; Patronsky, Mark; 'Peterson, Eric'; Pfohl, Mike; 'Polzin, Cindy'; Redell, Carol; Shea, Heather; Whitmore, Lori; Zutz, Toby; OBrien, John; Perlich, John H.  
**Cc:** Amy Winters; Ben Miller; Bill Oemichen; 'Brad Legreid'; Brian Swingle; 'Country Today'; 'Daryll Lund'; 'Dave Crass'; 'dave.flakne@syngenta.com'; 'dhamm@nfo.org'; 'dntbeef@mhtc.net'; 'Dwantland@growmark.com'; Ferron Havens; 'fgbyerly@jennie-o.com'; 'foleary@farmprogress.com'; 'ghubbard@broydrick.com'; 'grendahl@wvma.org'; Henderson, Patrick - Office of Governor Jim Doyle; 'Jan Shepel (WI State Farmer)'; 'Jason Johns'; 'Jeff Lyon'; 'Jeremey Shepherd'; 'Jim Massey (Country Today)'; 'John Manske'; 'John Petty'; John Umhoefer; Jordan Lamb; 'jwf@beeftips.com'; 'karls@wisoybean.org'; 'Kathleen Vinehout'; 'Laura Riske'; 'Laurie Fischer'; 'Matt Stohr'; 'Mike Austin'; 'Mike Carter'; 'Mike Semmann'; mike.krutza@farmcredit.com; Moll, Keeley A DATCP; 'Nick George'; 'Paul Zimmerman'; 'PCC@quarles.com'; Plona, Katie - Office of Governor Jim Doyle; Pollek, Chris; 'Rick Stadelman'; Ron Kuehn; 'Sabrina Gentile'; sanstadt@charter.net; Second Look Holsteins; Shelly Mayer; 'tlochner@wctc.net'; Tom Thieding; 'Tony Langenohl'; 'wfca@choiceonemail.com'; 'wfusueb@charter.net'; 'Wheeler'; 'Wisconsin Ag Connection'; 'Wisconsin Corn Growers Association'; 'wisfarmer@charterinternet.net'; WisPolitics, Staff; 'wistax@wistax.org'; 'drframe@wisc.edu'  
**Subject:** Clearinghouse Rule Referred to Assembly Committee on Agriculture  
**Attachments:** NR 243 Report to Legislature (69 pages).pdf; NR 243 Rule Text (72 pages).pdf

The following Clearinghouse Rule has been referred to the Assembly Committee on Agriculture for a 30 day review period:

**Clearinghouse Rule 05-075:** Relating to animal feeding operations (NR 243).

A copy of the rule is attached. The first document is the "Report to Legislature" (69 pages). The second document is the rule language (72 pages).

Please contact my office if you have any questions. **It is anticipated that a hearing will be held on this rule.**

The initial 30 day deadline for committee review is Monday, July 17, 2006.



NR 243 Report to  
Legislature (...



NR 243 Rule Text  
(72 pages).pd...

DATE: June 15, 2006

TO: Erin Ruby

Committee on Agriculture

FROM: Patrick E. Fuller, Assembly Chief Clerk

RE: Clearinghouse Rules Referral

The following Clearinghouse Rule has been referred to your committee.

### **CLEARINGHOUSE RULE 05-075**

AN ORDER to repeal and recreate chapter NR 243, relating to animal feeding operations.

Submitted by **Department of Natural Resources**.

Report received from Agency on **June 6, 2006**.

To committee on **Agriculture**.

Referred on **Thursday, June 15, 2006**.

Last day for action - **Monday, July 17, 2006**.

Under section 227.19 (4) of the Wisconsin Statutes, your committee has 30 days to take action or get an extension. The day **after** the official referral date is day one of your review period. Therefore, the 30th day should fall four weeks and two days after the referral date. For example, for Clearinghouse Rules referred on a Monday, a Wednesday would be your 30th day. For Clearinghouse Rules referred on a Tuesday, a Thursday would be your 30th day. For Clearinghouse Rules referred on a Wednesday, a Friday would be your 30th day. For Clearinghouse Rules referred on a Thursday or Friday, your 30th day would fall on a weekend. Therefore, your time would expire on the next working day (Monday) as provided for in s. 990.001 of the Wisconsin Statutes. Also, if the 30th day falls on a legal holiday, time would expire on the next working day.

Section 227.19 **requires** you to notify each member of your committee that you have received this Clearinghouse Rule. Although some committee chairs choose to do so, you are not required by law or rule to send a copy of the text of the rule to each member at this time. Instead, your notice could state that members should contact you if they wish to receive a hard copy of the rule. Another option would be to email the rule to members. **(Please note that the text of Rules beginning with the prefix "01" is available online in the Clearinghouse Rules infobase in FOLIO.)** Please put a copy of your official notification memo in the rule jacket.

Three copies of the Clearinghouse Rule and its accompanying documents are contained in the jacket. If you wish to have your Legislative Council attorney review the Clearinghouse Rule, send him/her a copy. I only need one copy remaining in the jacket when you report it out of committee at the end of the review period.

The identical process is happening simultaneously in the Senate. Keep track of their action on the rule.

For assistance with the Clearinghouse Rule process, please consult Kay Inabnet (6-5550) or your Legislative Council attorney. If you wish to learn more on this subject, read *Review of Administrative Rules* which is part of the Legislative Council's Wisconsin Legislator Briefing Book series, section 227.19 of the Wisconsin Statutes or part 2 of the *Administrative Rules Procedures Manual* written by the Revisor of Statutes Bureau and the Wisconsin Legislative Council staff.





# WISCONSIN ASSOCIATION OF LAKES, INC.

is a nonprofit group of citizens, organizations, and businesses working for clean, safe, healthy lakes for everyone.

One Point Place, Suite 101 • Madison, WI 53719-2809  
608-662-0923 • 800-542-5253 (in WI) • FAX 608-833-7179  
wal@wisconsinlakes.org • www.wisconsinlakes.org

August 2, 2006

To Senator Dan Kapanke, Chair Committee on Agriculture and Insurance  
To Representative Alvin Ott, Chair Committee on Agriculture

## **Re: Proposed revisions to Manure Management Discharge Rules (NR 243)**

Members of the Senate and Assembly Agricultural committees:

The Wisconsin Association of Lakes represents more than 350 lake organizations and 100,000 waterfront property owners working to keep Wisconsin's 15,000 lakes safe, clean, and healthy for everyone.

The quality of our lakes is dependent on the health of their watersheds. Nothing has a more profound effect on our lakes than the decisions we make on how we use the land that surrounds them. We need everyone's help within the watershed to keep our lake's water quality safe and pleasant to enjoy and use. It is important all farmers practice sound manure management to protect our watersheds and lakes.

Wisconsin's largest farms produce disproportionately more manure and can therefore cause more severe impacts in the event of a spill. Updating manure standards for our largest farms is necessary to address public health and natural resource damage caused by manure spills. Most of the largest farms already take many of the steps called for in the proposed revision: the changes would bring operations that lag behind in their practices up to the same standards their farming neighbors have put into practice.

Manure runoff from fields and/or detention ponds can cause short-term and long-term problems for our lakes.

### ***Manure runoff: short-term effects, long-term problems***

A sudden flood of nutrients from manure runoff events can trigger fish kills, and provide the fuel for reoccurring, smelly algae blooms. Dramatic changes in water quality can choke out native species and open up the door for invasives—such as Eurasian water milfoil—to become established in the lake<sup>1</sup>.

Spreading manure on saturated lake watershed soils can cause water quality decline that can be difficult, and sometimes impossible to reverse. Like balancing a scale, a chronic source of extra nutrients can tip lakes from clear water into a murky, eutrophic state that makes recreation unpleasant and drags down lakefront property values.

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<sup>1</sup> Elena Bennett and Steve Carpenter. *P Soup*. World Watch. March/April 2002.

A recent study on Squaw Lake<sup>2</sup> found that 40% of the phosphorus load entering the lake was coming from winter spread manure. This is a problem that has a solution, but we need good rules like proposed NR 243 to help us work together towards healthier lakes.

### ***Undermining public and private investment***

Manure pollution undermines the private and public financial investments in stream and lake improvements property owners and taxpayers are making to keep our lakes clean, safe, and healthy. Property owners bear an undue burden when their lake quality and property values decline because of pollution elsewhere in the watershed.

Unfortunately, there are many examples across Wisconsin where nutrients from manure sources are contributing to lake water quality and property value decline.

### **Dane County: Dorian Creek (Tributary to Lake Mendota)**

In February 2005, a manure runoff event from one eighty acre field contributed enough phosphorus to Lake Mendota to produce 1.2 million pounds of algae.

The manure was spread on frozen ground, and it is estimated all of that manure ran off the field during the rapid thawing and rain events that spring, dumping into Dorian Creek. Virtually all the phosphorus from that manure runoff event ended up in Lake Mendota.

This **one** runoff event into **one** lake was the equivalent of the amount of phosphorus that Dane county's lawn fertilizer phosphorus ban prevents from entering **all** of the county's lakes.

Dane county is making significant investments to reduce the amount of phosphorus entering the lake system. Between 1997 and 2004, the agricultural community has received \$692,000 cost shared dollars<sup>3</sup> to install best management practices to limit runoff. Dane county park staff estimate 80% of the County's limited weed harvesting program (\$188,560) is spent on Madison's lakes.

For Lake Mendota alone, the cost of eutrophication has been estimated to be about \$50 million in lost recreation and property values.<sup>4</sup> Almost 55% of the phosphorus entering the Lake Mendota watershed comes from fertilizer, which includes manure.<sup>5</sup>

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<sup>2</sup> Squaw Lake is located in St. Croix County. This study identified all sources of phosphorus inputs to the lake. Agricultural cropland and winter spread manure accounted for almost all of the phosphorus inputs into the lake. When the watershed farmers changed how they handled their manure and changed their dairy herd's diet the phosphorus contribution to the lake was reduced to 0%.

<sup>3</sup> Note these figures represent state and federal cost share dollars paid out to farmers. They do not include County staff time to administer the program, nor the amount farmers are contributing to complete runoff control projects.

<sup>4</sup> Elena Bennett and Steve Carpenter. *P Soup*. World Watch. March/April 2002.

<sup>5</sup> Elena Bennett, et al. *A Phosphorus Budget for the Lake Mendota Watershed*. Ecosystems. 1999.

## **Vernon County: Jersey Valley Lake**

In March 2005, a manure runoff event transformed Jersey Valley Lake from a popular fishing and recreation spot to a dead zone. Liquid manure was spread on seven inches of fresh snow; then it rained.

The resulting manure runoff depleted the amount of oxygen in the water by two-thirds, suffocating all the lake's fish. Visibility, usually 18 feet, was reduced to less than a foot. Subsequent tests found the lake contaminated by coliform and E-coli bacteria. The swimming beach became a public health risk rather than a summer destination.

The County was forced to draw down the lake. What was a 52 acre 32 foot deep lake is now a 5 acre mud puddle. Once a popular fishing spot with abundant large mouth bass and panfish<sup>6</sup>, the manure runoff event killed all Jersey Valley Lake's fish<sup>7</sup>.

Jersey Valley Lake was one of the few publicly available bodies of water in Vernon County. A county survey found that local people used to log more than 300 recreation hours a day in the summer at the lake. Now the lake and the park are closed. As one Vernon County employee commented, "There aren't any grandpas fishing with their grandkids there anymore. How do you measure that?"

## **Dodge County: Lake Emily**

Lake Emily, located in Dodge County, used to be a beautiful lake, but not anymore. In the spring of 2002, a local farm applied 1 million gallons of liquid manure without knifing it in to the fields.

A couple of days of rain followed. According to residents, the roads were so full of manure that driving was difficult. The manure runoff went into a retention ponds and Lake Emily.

Lake Emily is a small, shallow lake that used to be really clear. Now residents describe their lake as a weedbed so thick that cranes can walk across it. The weeds have caused boating problems: motors can't chop through the thick beds.

Accessing the shoreline is so difficult that people are having trouble fishing, however the fish population has declined with the water quality. Large mouth bass were abundant and northern pike common<sup>8</sup> before the runoff event; now residents observe a marked reduction in the number of fish in their lake.

The dramatic change in water quality has also changed the plants able to survive in the now nutrient laden lake. Both curly leaf pondweed and Eurasian water milfoil—aquatic invasive

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<sup>6</sup> Wisconsin Lake Book. Available online at <http://dnr.wi.gov/org/water/fhp/lakes/list/#lakebook>

<sup>7</sup> Matt Johnson. *The death of Jersey Valley Lake: No recreation for two years*. April 20, 2005 Vernon County Broadcaster. Available online at <http://www.midwestadvocates.org/archive/manure%20on%20frozen%20ground/media/4-20-05%20jersey%20lake.htm>

<sup>8</sup> Wisconsin Lake Book. Available online at <http://dnr.wi.gov/org/water/fhp/lakes/list/#lakebook>

species—have become established. Both Curley leaf pondweed<sup>9</sup> and Eurasian water milfoil thrive in lakes receiving phosphorus laden runoff<sup>10</sup>.

The local lake association is small, and does not have the funds for the costly management it will take to change the water from a pond of pea soup back into a clear lake. In 2005, three years after the spill, private property owners were spending more than \$500 each to chemically treat weeds so their properties are usable.

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<sup>9</sup> Wisconsin Department of Natural Resources online invasive species factsheets, available online at [http://dnr.wi.gov/invasives/fact/curlyleaf\\_pondweed.htm](http://dnr.wi.gov/invasives/fact/curlyleaf_pondweed.htm)

<sup>10</sup> Wisconsin Department of Natural Resources online invasive species factsheets, available online at <http://dnr.wi.gov/invasives/fact/milfoil.htm>

## ***We support strong manure management discharge rules.***

Manure runoff is a problem that has a solution, but we need strong Manure Management Discharge Rules (NR 243) to help us work together towards healthier lakes. On behalf of the Wisconsin Association of Lakes, we support the following to help Concentrated Animal Feeding Operations (CAFOs) better manage their manure and protect Wisconsin's waters:

1. **We have waited long enough.** The DNR's rulemaking process has lasted almost four years - it is time to stop delaying, finalize these rules, and implement them as soon as possible so that Wisconsin can begin to effectively prevent contaminated drinking water and fishkills.
2. **Wisconsin's proposed rules are *not* more stringent than those of other states.** Wisconsin does *not* regulate CAFOs more stringently than other states. Like Wisconsin's proposal, many states have restrictions on manure spreading on frozen and snow-covered ground; several states require 6 months of manure storage; and several states have retained the mixed animal unit calculation method.
3. **Permits prevent pollution.** All Large CAFOs currently must apply for Wisconsin Pollutant Discharge Elimination System permit because of actual groundwater contamination, and the risk of surface water contamination. This is a long standing practice - since 1984 - that works, is used by other states, and needs to be continued. If permits are no longer required, the legislature will be threatening Wisconsin's rural families with the increased risk of manure-laden tapwater and destroyed fisheries.
4. **Don't weaken the ban.** Agribusiness concerns and interests were taken into account and are reflected in the proposed rule. The DNR's winter manure spreading restrictions are reasonable and should *not* be modified or weakened any further.
5. **Make every cow count.** The DNR's proposal to retain the mixed animal unit calculation - that counts all animals at the CAFOs - should *not* be watered-down. Refusing to count some cows and not others makes no sense, disregards almost 25 years of experience by the state, and ignores Wisconsin's uniquely diverse farms and water resources.
6. **Don't bet on the weather.** The DNR should remove the agricultural stormwater exemption, a confusing provision that exempts manure spills from enforcement when those spills were caused by rain - and the CAFO complied with its manure management plan and DNR rules. That means a CAFO's compliance with the law will depend, in part, on the weather. Anyone who knows Wisconsin weather also knows that this could make compliance and enforcement a confusing and uncertain process for the public, the DNR, and CAFOs.

Respectfully submitted,

Peter Murray, Executive Director



**Kraak, Maureen**

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**From:** Karl Klessig [saxon1@tds.net]  
**Sent:** Thursday, August 03, 2006 11:30 AM  
**To:** Rep.Ott  
**Cc:** 'Laurie Fischer'  
**Subject:** NR243 testimony  
**Attachments:** To Senate Ag Committee.doc

Dear Rep Ott,

Please record my comments as part of today's Senate and Assembly Agriculture Hearing on the provisions of proposed NR243.

Thanks you,

*Karl Klessig*  
Saxon Homestead Farm LLC  
6111 Cleveland Rd  
Cleveland WI 53015

Email: [Saxon1@tds.net](mailto:Saxon1@tds.net)

Phone: 920-693-3360  
Cell: 920-377-0902

August 3, 2006

To Senate Ag Committee & Assembly Ag Committee:

My name is Karl Klessig, along with two partners I own and operate Saxon Homestead Farm, LLC. We are a pasture based dairy and spring seasonally calve 425 cross-bred dairy cattle. Our farm is located in south eastern Manitowoc County where we graze our cattle within 3 miles of Lake Michigan. We are one of two farms in the Manitowoc County Discovery Farm Project Area and every acre of the land we farm is tiled.

I have concerns in the revision of NR243; my primary concern is with tile-lines. As you know tiles drain sub-surface water from much of eastern Wisconsin's farmland; without tile this productive farmland would certainly become less productive agriculturally. The revisions in NR243 make the farmer responsible for any and all 'manure or process wastewater that leaves the site' (their farm). This seems logical at first blush but we live in fear every time we apply liquid manure over our tiled fields. We never really know if the manure we are applying won't somehow, under certain environmental conditions end up on our neighbor's land or worse yet in the waters of Lake Michigan. The problem is best stated by Eric Cooley, Outreach Specialist, Eastern Wisconsin UW-Discovery Farms Program in the March 2006 Discovery Farm newsletter, The Tree.

"The data collected from the subsurface tiles are relatively new and unique because they have not been monitored extensively in Wisconsin. We really don't know how much water and nutrients they can remove from agricultural settings."

Because the tile-line issue is so poorly understood it seems that the NR243 rule changes regarding tile line discharge are premature and place unusual burden on the dairy farmers of our state that farm on tiled farmland. Please allow programs like Discovery Farms to give us time to test different manure management practices and tile line equipment that will minimize the chance of environmental contamination before making rule changes like those in NR243. Don't 'throw the Baby out with the wash water.'

Please consider changing the tile-line language or removing it completely from NR 243 until there is time to study the tile-line issue and offer best management practices to farmers that will assure protection of our ground and surface water as well as assure a thriving and successful animal agriculture community in the state of Wisconsin.

Thank you.

Sincerely,

Karl Klessig  
Saxon Homestead Farm, LLC  
6111 Cleveland Rd  
Cleveland WI 53015

920-693-3360 (office)  
920-377-0902 (cell)





**DOOR COUNTY**  
**Soil & Water**  
**Conservation Department**

421 Nebraska Street  
Sturgeon Bay, Wisconsin 54235  
(920) 746-2214  
FAX (920) 746-2369  
Email: swcd@co.door.wi.us

## Memorandum

**To:** Representative Alvin Ott, Assembly Committee on Agriculture Chair  
Senator Dan Kapanke, Senate Committee on Agriculture and Insurance Chair

**From:** Greg Coulthurst, Conservationist III

**Date:** August 3, 2006

**Re:** NR 243 (Clearinghouse Rule 05-075) Comments

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The Door County SWCD has reviewed the Revisions to NR 243 (Clearinghouse Rule 05-075) and would like to submit the following comments:

1. The Door County SWCD supports the proposed rules as a whole since it is a small, but positive step forward towards protecting Wisconsin's water resources.
2. Door County has dealt with animal waste and winter spreading issues through watershed programs for over 20 years. It is well known that Door County is highly susceptible to groundwater contamination from various surface activities due to the thin soils and rapid water transfer conduits in the dolomite bedrock. The Upper Door Priority Watershed was the first priority watershed in Wisconsin to address groundwater protection, and a primary tool to accomplish this was to build long term manure storage systems for both liquid and solid manure to essentially eliminate winter spreading of manure. It was obvious to the SWCD that storing manure during winter months was working, simply because complaints of contaminated wells decreased where manure storages were installed. It was even more obvious when watershed contracts expired and these same participants started to expand and begin winter spreading again, which resulted in immediate complaints of contaminated wells within these same areas. The philosophy to store manure for the entire winter has been and will remain a consistent goal for animal waste projects in Door County.
3. The proposed rule changes dealing with prohibiting manure applications on shallow soils to bedrock or groundwater especially during winter periods, and the requirement to have a minimum of 180 days of liquid storage are consistent with activities promoted in Door County's program efforts. If these proposed requirements were already in place the outbreak of well contaminations in Brown County's Town of Morrison would likely have been prevented.

(Data?)

4. Door County supports the requirements to prohibit surface applications of manure when significant rainfall is predicted. This is simply good planning to prevent manure runoff related events.
5. Door County supports the requirement to have a minimum liquid storage capacity of 180 days, however it should be required much sooner than 2010 for existing CAFOs. It is also unfortunate that this requirement is only for the permitted farms. Door County has historically promoted and cost shared additional storage up to 210 days to also address wet field conditions in the Spring and Fall that prohibit proper incorporation of manure.
6. Door County supports the combined animal unit calculation methods proposed. When the SWCD works with a farmer through a watershed project we are obligated to address all potential non-point sources of pollution since we are using tax payer dollars to protect the water resources. Counting only a fraction of the animals at a site would equate to addressing only a fraction of the problem.
7. Again Door County supports the proposed revisions to NR243, however the SWCD believes that the rules have not gone far enough toward providing the necessary tools to protect Wisconsin's unique and precious water resources.



**NR 243 Testimony**  
**Mike Wehler on behalf of the Wisconsin Pork Association**  
**August 3, 2006**

Thank you for the opportunity to present comments on this proposed rule. My name is Mike Wehler. I am the a member of the legislative committee for the Wisconsin Pork Association (WPA). Wisconsin pork producers support reasonable rules that protect our waters. However, the WPA does not support this rule. We urge you to send it back to DNR for revisions.

Wisconsin's 51 billion dollar livestock industry is essential to the state's economy and we strongly urge you to support a rule that allows our producers to be not only good environmentalists, but also competitive within our respective industries. The pork industry is an excellent example of what happens in a state when competitive factors become disproportionate in a region. Wisconsin ranked in the top 10 hog states just 20 years ago. Today it is about 17<sup>th</sup>.

During that same 2 decade period of time, the National Resources Inventory (NRI) of soil erosion on U.S. cropland, decreased 43%. The Missouri and Upper Mississippi Basin which includes Wisconsin had the most significant reduction among the regions.

I find it very interesting that no one is telling the story that Wisconsin farmers are among the best at reducing erosion. One would think that if you reduce erosion, that you are also reducing the impact on our lakes and streams. On the other hand, I have heard many times the story about how we had a number of runoff events in this state. Did any one of those events kill less fish than the recent Wal-Mart bass fishing tournament in LaCrosse?

Its our belief that the thriving livestock industry is much more environmentally friendly than an agriculture industry that is based solely on row crops or fencerow-to-fencerow agriculture. Manure is an organic nutrient source that adds organic matter and essential nutrients to the soil. I think it would be interesting to know how many more tons of chemical fertilizer we would have to import to this state if our livestock industry were to leave if the cost of rules and regulations put our industries at a competitive disadvantage.

WPA supports those sections of NR 243 that bring our state into compliance with EPA rules. We also support regulation where peer reviewed research that has been done at Discovery Farms indicates the environment is at risk. We do not support the parts of this rule that handcuff Wisconsin producers from using practices that have resulted in significant erosion reduction over the last two decades.

We know that research (Good, Bundy) at UW-Madison indicates there may not be a proportional relationship between Phosphorus (P) runoff and soil test levels of P. We think the good management practices implemented by producers over the last two decades will continue because they are tied to a reward system. We firmly believe programs using that approach will accomplish our goals sooner and cost less than the approach DNR takes with this rule.

This regulation will only work if we have the testing capability to determine the nutrients in our soil, feed and manure. Those of us who have sent the same sample to different labs know how variable the results can be. We have to work with application equipment for manure that can vary significantly as well. Doing the required testing is expensive and following recommendations based on faulty testing is a significant problem.

Accordingly, we urge you to send this back and ask the DNR to make modifications in the following areas:

- Animal Units: Wisconsin's mixed animal unit method puts our pork producers at a 10% disadvantage compared to states that use the federal method. We support the federal rule.
- Duty to Apply: Wisconsin's rule assumes all pork producers, even those with 100% concrete or above ground storage, are discharging to waters of the state. The federal rule does not assume discharge and should be used in Wisconsin.
- Nutrient Management issues that go beyond the NRCS 590 Standard;
  - Ponding of manure or processed waste water needs to be exempted during the first 48 hours.
  - Runoff via subsurface drains in Wisconsin needs more research and should not be addressed until 2010 or later.
  - P application limits in fields between 100-200ppm should apply to fields above a 6% slope and applications limits in fields above 200ppm should apply to fields above 3% slope.
  - Producers should be allowed to spread solid or liquid manure during February and March if the ground is not frozen, saturated, or the manure can be incorporated and the land is ready to be prepared for spring seeding.
  - Predicated precipitation; This should only apply when the ground is saturated.
- Cost sharing: This rule must be consistent with NR 151, all medium and small operations must be offered cost sharing before an NOD is issued.
- Mandatory Minimum Storage: We support substituting "adequate storage" because one-size does not fit all.
- Record Keeping: We support the annual federal record keeping reporting requirements,, rather than the quarterly reporting in NR 243.

Thank you for the opportunity to present testimony on behalf the Wisconsin's 3 billion dollar pork industry. We look forward to working with you to resolve these issues in this rule.

Respectfully submitted,

Mike Wehler  
Director, Member Relations  
Wisconsin Pork Association  
608-544-4033



**Testimony of Terry Quam**  
**Wisconsin Cattlemen's Association**  
**Senate/Assembly Agriculture Committee Hearing on NR 243**  
**August 3, 2006**

Thank you, Chairman Ott, Chairman Kapanke and committee members, for allowing me to testify today. My name is Terry Quam. I am the chairman of the Wisconsin Cattlemen's Association (WCA) Legislative Committee and I am here today to testify in **opposition** to this draft of NR 243 on behalf of the WCA. The WCA would like this rule to be sent back to the DNR for further modifications.

**A. Animal Unit Calculation**

The animal unit calculation that is included in proposed NR 243 allows computation of animal units using *either* a combined animal unit calculation or the federal single species animal unit calculation. However, both calculations use the same equivalency factors for cattle, which provides that 1.0 animal unit equals 1 steer or cow 400 lbs. to market.

This is a change from the current rule, which provides that 1.0 animal unit equals 1 steer or cow 600 lbs. to market. Lowering this equivalency factor and maintaining the combined animal unit calculation is a problem for cattle producers because it limits the time in which producers have to market calves and still stay under the 1,000 animal unit threshold. For example, if you are raising calves and they reach 400 lbs. in July, you may be forced to market them then in order to stay below the mandatory duty to apply threshold of 1,000 animal units. Increasing the equivalency factor for calves would allow more time to market and provide more opportunity for profit for cow-calf producers. The other solution is to follow the federal single species animal unit calculation, which would not require aggregation of the calves on the farm with the other livestock. Accordingly, we request reconsideration of the animal unit calculation section of the rule.

**B. Nutrient Management Standard**

The proposed draft of NR 243 contains a *different* version of nutrient management standard, NRCS 590, than the version that is contained in ATCP 51, the livestock facility siting rule, or ATCP 50, the Department of Agriculture's nutrient management regulation. It is also different from the version of NRCS 590 that was used to prepare the brand new comprehensive nutrient management plan for my farm.

The nutrient management provisions in this draft of NR 243:

- prescribe **mandatory minimum storage requirements** for both liquid and solid manure;
- **prohibit the application of manure when "the National Weather Service predicts**, within 24 hours of the end of the application, a 70% chance or greater of 0.5 inches of rain during non-frozen or non-snow-covered ground conditions

or a 50% chance or greater of 0.25 inches of rain during frozen or snow-covered ground conditions”

- **prohibit the application of solid manure on frozen or snow-covered ground during February and March;**
- **prohibit the appearance of any manure in a tile line.**

We understand that these provisions only apply to CAFOs that are required to obtain a WPDES permit, and we acknowledge that most WCA members will not have the automatic duty to apply for a permit because they do not have more than 1,000 animal units. However, we are concerned about these provisions because subchapter III of the rule provides for mechanisms whereby small and medium-sized CAFOs can be pulled into the WPDES permitting program and be required to comply with these nutrient management provisions.

If a small or medium sized producer has a point source or nonpoint source runoff event (including if manure is found in that producer’s tile line) he or she may be brought into the WPDES permitting program and may be required to comply with the rule, including these nutrient management provisions.

**This is problematic for the following reasons:**

- Compliance with these additional nutrient management provisions, if required as a result of NR 243 event, will be required **without cost-sharing assistance**. This is contrary to the underpinnings of the agreements which were made when some of the underlying legislation was developed.
- Taking advantage of the **headland stacking operations, which eliminates the ability to winter spread**, is problematic for beef operations because applying all of the nutrients at once may violate an operation’s nutrient management plan. In my nutrient management plan, March and April are the most vulnerable times for the soil. I need to store in March and April, not in February and March. My conservation and nutrient management plans allows for winter spreading. Under NR 243, instead of 2 mos. of headland stacking, I would have to stack for 6 mos. This results in spreading of too many nutrients at once and at the wrong time of year for my nutrient management plan.
- Requiring a mandatory minimum amount of storage for every producer is costly and **does not take into account site-specific criteria.**
- If these requirements are imposed on one small operation, we anticipate that either through citizen suits or other mechanisms, **these requirements will effectively become the best management practices** for livestock operations of all sizes in the State of Wisconsin.

Although we agree that meeting a water-quality standard is important, we strongly oppose this “one-size-fits-all” approach. NR 243 should be amended to allow for a variety of mechanisms whereby producers are not required to take action unless they cause or contribute to a violation of a water quality standard.

Requiring a minimum amount of storage on every operation is very expensive and may not be the best way to meet the water quality standard in every situation – especially for small or medium-sized CAFOs. We do not believe that the fiscal note for this rule takes into account small or medium-sized CAFOs that may be required to comply with NR 243 storage requirements.

### **C. Duty to Apply**

The WCA supports the other livestock groups in opposing the automatic duty to apply for a WPDES permit for operations over 1,000 animal units. WCA believes that the federal approach of requiring a permit for those that actually discharge or who proposed to discharge is adequate.

### **D. Conclusion**

Although we have been told that we should not be concerned about NR 243 because this rule is primarily designed to regulate 1,000 animal unit operations, believe that NR 243 will be used to aggressively regulate operations under 1,000 animal units as well. We believe that NR 243 will eventually become the best management practice for all farms that raise livestock in Wisconsin. Accordingly, this rule needs to recognize that no two livestock operations are alike.

The WCA believes that the rule needs to contain more flexibility and provisions that take into account site-specific conditions and criteria. We request that the Committees send this rule back to the Department for further modifications that address our concerns.

Thank you for your time. I would be happy to answer any questions.

Terry Quam  
Marda Angus  
N706 Hwy 113  
Lodi, WI 53555  
Phone: 608-592-3649



Written Testimony of Judy Tremel  
Homeowner in the Town of Luxemburg, Kewaunee County, Wisconsin

Before the Joint Committee on Agriculture

August 3, 2006

Thank you for the opportunity to sit before you all today. A day long in the works and a day, that if you all choose to pass NR 243, would be a win/win for everyone.

You see the way I see it is I'm not sure how these regulations could be a loss for anyone. Not the rural homeowners who obtain their drinking water from private wells, and not the CAFO operator. While my numbers for the cost of additional manure storage may not be accurate down to the penny, I'm told that additional manure storage (per pit) is roughly \$100,000. Could be more could be less, depending on the size of an operation and what their current manure storage facilities are. That \$100,000 is a far cry from the amount of money it would cost a CAFO to defend itself in the event it had a runoff incident in where private wells were contaminated and rivers and streams polluted. \$50,000 to \$150,000 are some of the fines that have been levied by the state in cases that were brought before the attorney general's office. Those fines were ON TOP of the cost of additional manure storage that was required in the settlements as well compensation to the homeowners whose wells were contaminated. Now add into those costs attorney's fee's and well, the \$100,000 manure pit doesn't sound to bad.

As it sits now in Wisconsin a CAFO is regulated by the DNR and a WPDES permit. But as in the case in Dodge County you could see first hand how current regulations don't work. The CAFO operator said he followed the nutrient management plan which is part of his WPDES permit. He said they did "everything according to those plans" He said that "there were maps that were drawn up and submitted to the DNR that were approved" and that all the locations that the spread on were approved. He went on to say problems arose when the area sustained a two inch rain in winter and sent manure off the land. He stated that the plans were "set up to fail" and that 99% of the mistakes that went wrong on my farm are directly related to the mistakes of the DNR". "They forced me to spread in the winter". "I submitted all the plans, they approved them and then something went wrong. We had rain and the manure moved off target". Moved off target is an understatement. 6 wells were polluted and of the wells he polluted was a family with 3 small daughters. Some got sick.

So as you can see, these regulations proposed by the DNR not only could have prevented those wells from being contaminated, but it would have saved that CAFO operator hundreds of thousands of dollars in additional costs. These regulations banning winter spreading would have saved my family tens of thousands of dollars in property damage and it would have saved me, my husband and my 3 girls the devastation of having to live in a house that reeks of a dairy barn, endure the symptoms of Ecoli poisoning and worry that our 7 month old could possibly die from the contact she had with the contaminated water. I gave her a bath...in good faith...in good standing with the State Lab of Hygiene, who of February 4, 2004 sent us a report that our water was "Bacteriologically SAFE". They went on to recommend that we test annually or in the event there was a change in the color or odor. What it didn't tell us was that our water could be laced with Ecoli bacteria and still look clear and not smell. That's what happened to us. That's what happened to the 70 or so homeowners in the the town of Wayside this year. That's what happened to the 11 families in the town of Lark and that's what happened to the 11 families in the town of Franklin in Manitowoc County in 2005. And that's what going to continue to happen each and every year in Wisconsin if you don't approve these regulations.

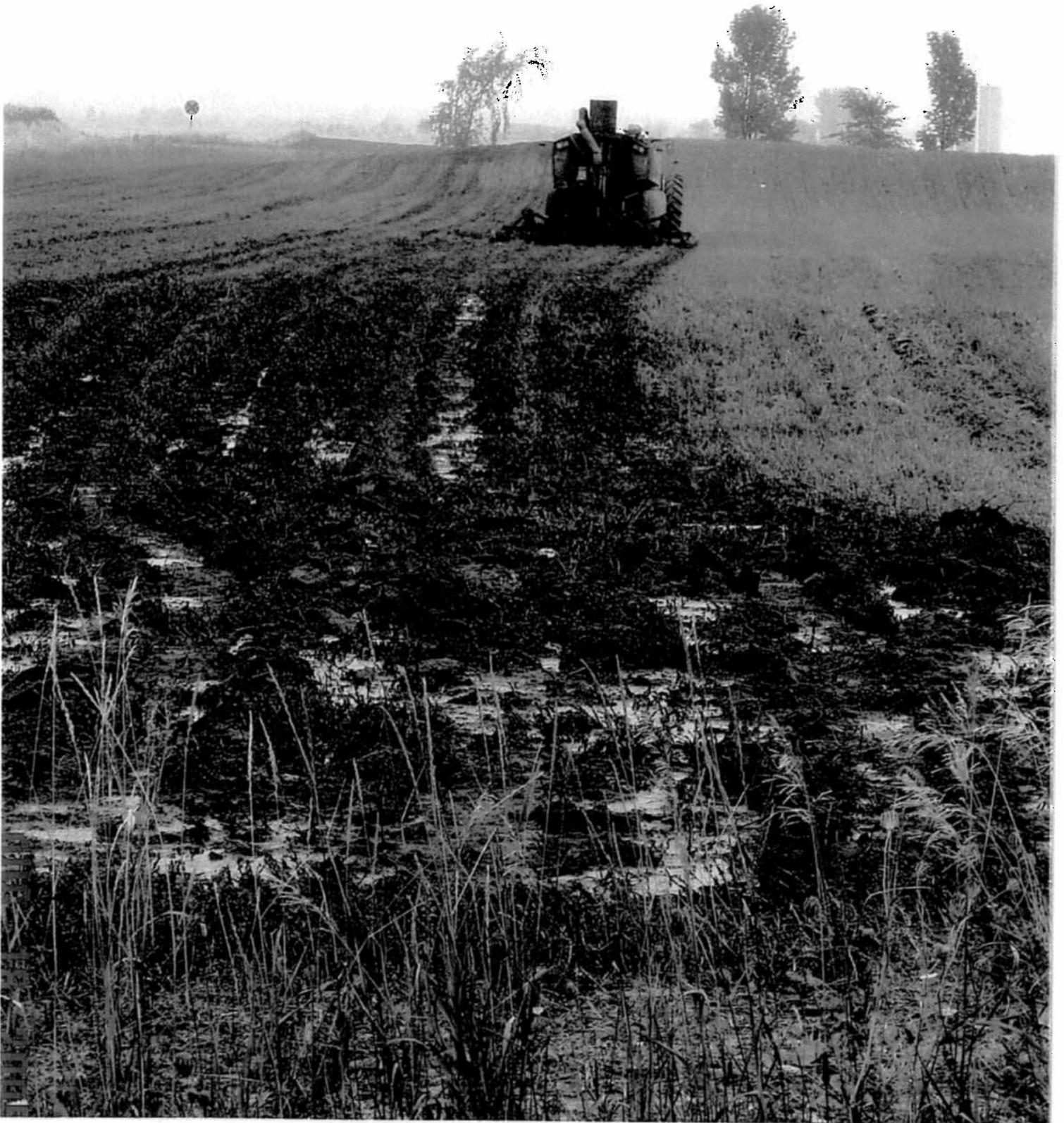
At a few of the hearings that I have attended across the state since our well became contaminated in 2004 I have heard the comment "Well, they got to put their manure somewhere!" I can attest first hand...putting their manure in family's wells is not somewhere! It's in my children. It's in my dinner. It's in my 7 month old daughters bath. That is not where manure was intended to go. Yet each and every year in Wisconsin it is happening to rural families who have done nothing wrong except to live in rural Wisconsin. I've also seen literature that the state health department has drafted since 2004. While it made for some interesting reading material and it provided some facts it doesn't change the fact that a family's well can look clean, smell fine and even test safe in a water test done by the state STILL turn bad, laced with Ecoli as soon as manure is applied to a field in the winter and it runs off.

Predictability has been another excuse.....how could the operator have known it was going to warm up 30 degrees after he applied the manure. Easy answer...he can't. No one can. Not the DNR, that currently cannot tell CAFO operators to not spread manure in the winter, since there are no regulations against it. Not the counties, who know first hand where the hazard areas in their counties are but can do nothing more but send out letters asking them not to spread on those fields in the winter. It does not however bear any weight legally...since there are no regulations banning the practice.

Enclosed at the end of my written testimony are photographs I took at the end of the summer of 2005 over the course of two months. These pictures depict the two types of spreading that would be allowed in these rules. Take a minute to review them and judge for yourself if this type of spreading is acceptable in the winter.

I took the time to attend Senator Alan Lasee's hearing on DNR regulatory reform on Jan 10 of this year. He lamented that he didn't know when we lost our property rights and then he made a comment that made my heart skip a beat. He stated that the "last time I checked the legislature was elected to represent the citizens of this state". I say, I couldn't agree with him more. Please protect my family and the rest of the families in Wisconsin.....without these rules our health and homes are in jeopardy.

# Injection Spreading



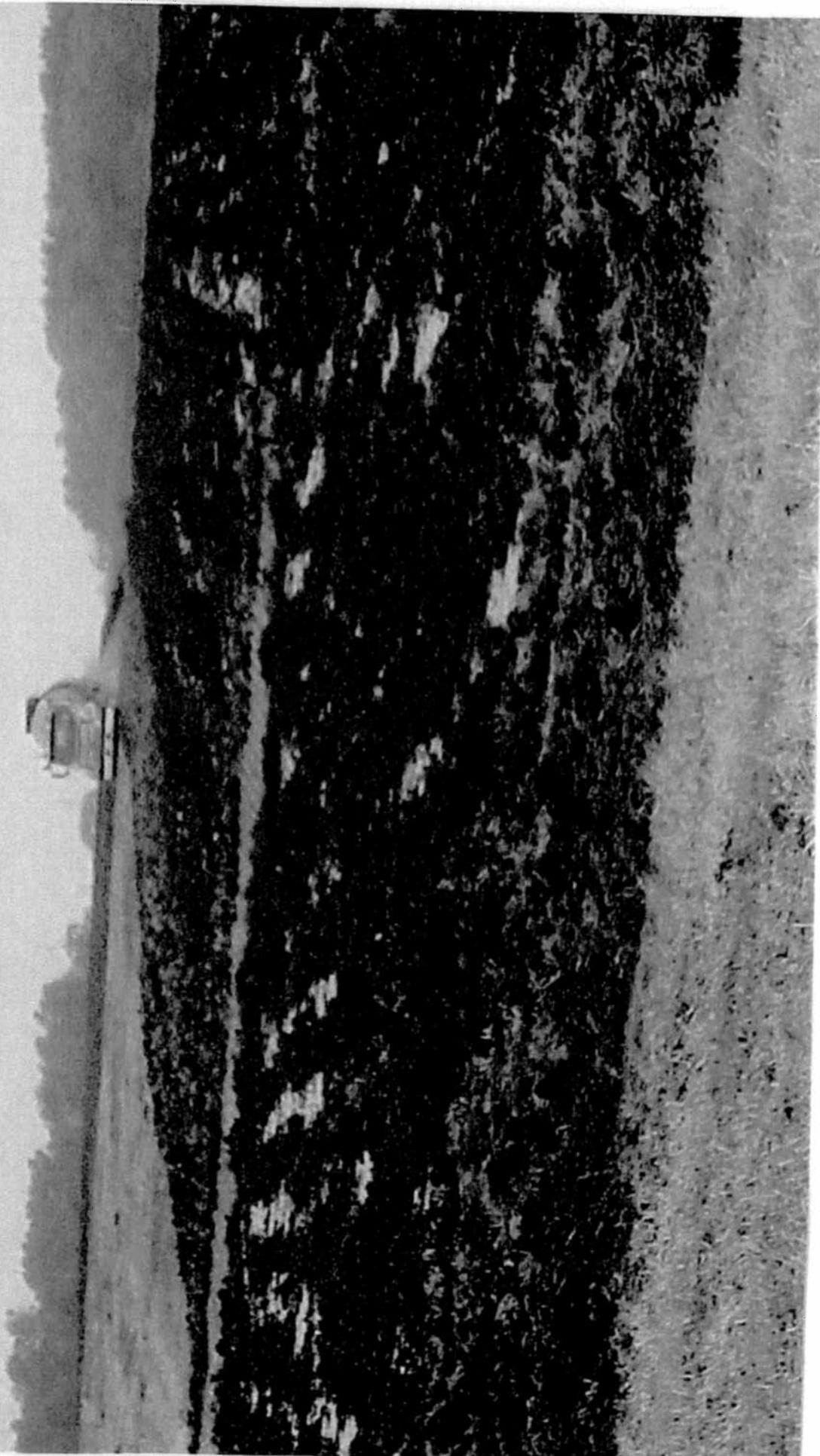
Injection Spreading



# Injection Spreading



Surface Spreading  
Immediate Incorporation



# Nehls Dairy settles environmental suit

By Judy Brown

Regional Editor

Wisconsin Department of Justice officials said July 19 they had settled an environmental lawsuit with Nehls Brothers Farms in Juneau.

The Dodge County dairy will pay to reimburse three well owners for replacing their wells and pay \$150,000 in forfeitures and other costs, according to Attorney General Peg Lautenschlager.

Nehls Brothers were charged following manure incidents in the winter of 2005. Following a state Department of Natural Resources investigation, the farm was cited for several charges relating to spreading manure, allowing leachate from feed to run into a creek, failing to file reports and spreading manure within less than 200 feet of a stream without injecting it into the soil.

Under the settlement's terms in Dodge County court, Nehls Brothers will have its \$150,000 fine reduced by \$100,000 if the farm "uses a disk to integrate its manure spreading into the soil and if it constructs a second manure lagoon to store manure from its dairy operations."

Nehls Brothers is operated by Royce, Greg and Robert Nehls. The dairy farm has about 1,800 cows.

Royce Nehls said the farm's insurance company would pick up the cost of \$42,000 for the wells contaminated by runoff.

However, he said there were other charges that were alleged and never proven.

Mr. Nehls said the farm already had installed a second manure lagoon prior to the settlement.

Royce Nehls said they'd sought to install a second manure lagoon in 2004, but DNR officials didn't approve the necessary permits until

after the manure incidents.

The farm operates under a DNR pollution discharge elimination system permit.

He said the farm followed the nutrient management plan, which also is part of the WPDES permit required by livestock farms with more than 1,000 animal units.

"Everything we did was according to those plans," Royce Nehls said. "There were maps that were drawn up and submitted to the DNR that were approved. All locations that I spread were approved."

The plans allowed winter manure spreading, Royce Nehls said.

He said the problem arose when the area sustained a two-inch rain in winter and sent manure off the land.

"These plans are set up to fail," he said. "Ninety-nine percent of the mistakes that went wrong on my farm are directly related to the mistakes DNR made."

Under Wisconsin's new livestock siting and updated nutrient management rules, winter manure spreading would be banned.

"They forced me to spread in winter," Royce Nehls said. "I submitted all the plans, they approved them and then something went wrong. We had rain and the manure moved off target."

He figured two inches of rain fell over a 10-day period in January and February 2005.

Department of Justice information said the second manure lagoon and purchase of the disk, which it termed "two supplemental environmental projects," cost Nehls Brothers \$400,000.

Neither of those projects was specifically required by existing regulations, DOJ officials said.

*Judy Brown may be reached at [jlbrown@vbe.com](mailto:jlbrown@vbe.com).*

The Country Today  
Wednesday  
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## Wisconsin Federation of Cooperatives

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131 West Wilson Street, Suite 400 • Madison, WI 53703-3269  
Phone 608.258.4400 • Fax 608.258.4407 • www.wfcmac.coop

August 3, 2006

Members, Senate Committee on Agriculture & Insurance and Assembly Committee on Agriculture

**Thank you to Chairman Kapanke and Chairman Ott for scheduling a joint hearing on the proposal to repeal and recreate NR 243 (CR-05-075). I am submitting comments today on behalf of the dairy and Farm Credit cooperative members of the Wisconsin Federation of Cooperatives (WFC).** Our dairy cooperatives process, market and provide milk testing on the vast majority of the milk produced in Wisconsin. Our Wisconsin Farm Credit members consist of AgStar Financial Services, Badgerland Farm Credit Services, FCS Financial Services and GreenStone Farm Credit Services. Together, they are the primary providers of credit to Wisconsin agriculture, providing financing to more than 17,000 members with loans totaling more than \$2.25 billion statewide. Lending for dairy and livestock production makes up over half of the Wisconsin FCS loan activity. **We do not believe that this rule is in an appropriate form to advance, and we request that you return the rule to the DNR for revisions.**

WFC understands that the DNR is, in part, responding to the USEPA's revisions to its regulations for Concentrated Animal Feeding Operations (CAFO) and some proposed NR 243 revisions reflect the need to update state regulations to comply with these federal changes. We will not argue against provisions of NR 243 where we understand the DNR has no flexibility or alternative under the USEPA CAFO regulations.

**However, WFC has several concerns pertaining to proposed NR 243 provisions.** Some provisions are not compatible with Wisconsin statute 283.001 (2) language that gives the DNR authority to maintain a state pollutant discharge elimination system "consistent with all the requirements of the federal water pollution control act." **Our members believe that some provisions are inconsistent with the federal or other state regulations and have the potential to harm the livestock industry in our state and stifle the growth of well-managed modern farm operations.** Our producers compete nationally and they will be placed at a competitive disadvantage when they confront more regulatory costs than do producers in other states. Moreover, the strength of Wisconsin's annual \$20 billion dairy industry is in its diversity in size and production strategy. We believe some of the proposed rule will impact this diverse industry in a negative way. **After so much accomplishment for agriculture during recent legislative sessions, it would be a mistake now to place some of that at risk with a rule that makes excessive demands on many of our producers.**

In particular, WFC points to the mandate of minimum storage duration for manure (180 days for liquid manure; 60 days for solid manure) for permitted operations. This is responsible for the first year cost estimate of \$4.2 - \$33 million the DNR has written on the rule, and is not mandated by federal regulations as they do not spell out prescriptive storage duration requirements. The proposed requirement does not allow for farmers to demonstrate to the DNR that they are capable of managing their manure through less costly approaches.

Another concern relates to the timing of advancing language now that adopts nutrient management criteria at odds with the standards followed by DATCP and by the USDA Natural Resources Conservation Service (NRCS). The uncertainty that this places in the minds of producers is a major road block to what should be state government's interest in consistency across nutrient management standards and regulations. DATCP will soon be advancing the update of their nutrient management rules in ATCP 50, so it seems like extremely poor timing that a different state agency would attempt to advance requirements out of sync with the other state and federal agencies.

WFC appreciates the opportunity to comment on the proposal to repeal and recreate NR 243. **We hope that the members of both legislative committees will direct the DNR to consider eliminating provisions that are rigid, overly burdensome, and out of sync with federal and state regulations.** Thank you for your interest in our comments.

Sincerely,



John Manske, Director of Government Relations



Testimony of Richard Gorder  
Before the Joint Hearing of the Assembly and Senate Agriculture Committees  
On NR 243  
August 3, 2006

Thank you Chairman Ott, Chairman Kapanke, and committee members for the opportunity to appear before you today. My name is Richard Gorder. I am a dairy farmer from Mineral Point and also Vice President of the Wisconsin Farm Bureau Federation. My comments today are on behalf of WFBF.

As a farmer, I have been very active in conservation activities. I represent WFBF on the Natural Resources Conservation Service's State Technical Committee, served on the Joint DNR and DATCP Manure Management Task Force, served on the Standard Oversight Council work group updating NRCS Technical Standard 590 – nutrient management, and represented WFBF in numerous nonpoint redesign meetings. It's with this experience that I relate Farm Bureau's concerns about NR 243 as adopted by DNR.

WFBF opposes NR 243 and respectfully requests your action to send the rule back to DNR for modifications for the following reasons.

Nutrient Management:

NR 243 contains nutrient management provisions that differ from those adopted by NRCS in September 2005 in technical standard 590. These revisions were the result of the efforts of the SOC work group which met for almost two years. It should be noted that DNR had two representatives on this work group.

The purpose of the SOC is to review, update and adopt technical standards for conservation best management practices to be utilized by local, state and federal agencies in Wisconsin to ensure that there is consistent application of standards for the agricultural community regardless of the regulatory agency. Historically this has worked. Unfortunately, DNR has abandoned this established process in NR 243.

In NR 243 DNR has differed from NRCS technical standard 590 many times.

For instance, NR 243 reduces incorporation time for manure from 72 hours to 48 hours under certain circumstances, increases the prohibition of manure application over bedrock from 20 inches to 24 inches, prohibits the application of solid manure on frozen or snow covered ground during February and March, prohibits the application of manure if the National Weather Service predicts within 24 hours from the end of application a 70% chance or greater of 0.5 inches of rain during non-frozen or non-snow covered ground conditions or 0.25 inches of rain during frozen or snow covered ground conditions, and changes portions the phosphorous index used to

determine the amount of manure that can be applied to fields with higher than desired phosphorous levels.

The end result of these changes are that farmers could be following nonpoint requirements in either ATCP 50 (DATCP's portion of the state's nonpoint program) or ATCP 51 (DATCP's livestock siting regulations) or cross compliance provisions of the farmland preservation program, but still be considered in violation of NR 243 if the producer unfortunately has a runoff event. This puts the producer in a no win situation.

WFBF and myself included do not want to see run-off events. But the fact remains that we farmers cannot control the weather. All that we ask is that farmers in this state are subject to one consistent set of nutrient management provisions.

#### Animal Unit Calculations:

The federal Clean Water Act requires farms with a 1000 animal units or more to be permitted as a CAFO. U.S. EPA has established a list of how many animals comprise a 1000 a.u. based upon the size and type of species. NR 243 takes this list and requires farmers to add up all the livestock on their farm in determining animal units. This is known as the mixed animal unit calculation. EPA does not require this. The essence is that Wisconsin is more restrictive than the federal requirements.

As you recall, this was a point of contention during the adoption of ATCP 51 this past winter. At that time, you were told that ATCP 51 had to use the mixed animal unit calculation because it was contained in NR 243. This is your chance to review the animal unit calculation process. Do we here in Wisconsin want to be more restrictive than the federal government?

#### Nonpoint End Run

The nonpoint program enacted in 1997 requires producers to receive at least 70% cost sharing in order to comply with nonpoint regulations. Subchapter III of NR 243 contains provisions that allow DNR to require farms less than 1000 a.u. to comply with some, if not all, of NR 243's provisions if they have a run-off event. It appears that DNR is trying to expand its regulatory net without having to provide cost-sharing. It's hard for the producer community to see the state go back on its commitment made less than 10 years ago.

#### Closing

Again, WFBF respectfully requests that you send NR 243 back to DNR for modifications. We are not opposed to updating NR 243 to address new EPA requirements or situations that have occurred here in Wisconsin. WFBF just believes that it is not right for DNR to differ from the regulations adopted by DATCP or NRCS.

Thank you for your time and consideration.



UW Discovery Farms  
Comments on revision to NR243  
Dennis Frame and Fred Madison, Co-directors  
August 3, 2006

Mister Chairman, members of the committee. We appreciate having the opportunity to express to you our thoughts and concerns on the proposed revisions to NR243. While we recognize that the Department of Natural Resources needs to update these rules to comply with changes in Federal regulations, we feel that it is extremely important to establish rules that can be easily understood and adopted by producers all around the state. The goal is to improve water quality. \*The rules won't improve water quality; the effective implementation of those rules by farmers will.\*

Manure handling and management is a year round challenge faced by all livestock producers. If a farmer wants to limit spreading during the critical late winter/early spring period, he or she has to have sufficient storage capacity available. That means that storage facilities need to have been emptied during the previous late summer and fall period to insure that the capacity is there.

If that farmer hauls manure daily, then fields need to be identified that do not have direct conduits to either surface or groundwater so that manure can be applied and potential adverse environmental impacts avoided. If manure has to be stacked during that time period, appropriate sites must be identified and approved in advance.

The Discovery Farms program has water monitoring stations installed and maintained by the United States Geological Survey at 21 selected sites on working farms around the state. Each site typically has a flow-monitoring device, an automated water sampler, a weather station and an instrument to monitor soil moisture. We have been collecting data for up to 5 years on a year round basis. What have we learned that might shed some light on your deliberations on the revised NR243 rules?

- Data from sites where no-till farming systems are being monitored indicate that under those systems rainfall infiltrates very effectively and runoff is minimal. In the proposed rules the definitions of "snow covered ground" and "frozen ground" may force producers to stop hauling manure during the late fall and early winter periods (particularly those employing no-till systems) or to use tillage (thus disrupting the no-till systems) to incorporate manure. Disruptions of these systems can lead to increased sediment and nutrient losses to surface waters as well as increased movement of nitrogen to groundwater.

- Data from a variety of sources (including the Discovery Farms sites) show clearly that there is a period of landscape vulnerability in Wisconsin, probably from about the beginning of February to the middle of March, when manure applied in any form – liquid, penpack, or solid – to bare or snow covered ground will runoff during and after almost any precipitation event – rain, snow or both.
  - + This landscape vulnerability can occur anytime during the winter period when manure is applied on snow that is melting or when it rains on manure that has been applied either on snow or frozen ground. Establishing calendar dates in the administrative rules, however, is not necessary. Last winter (2006) in many parts of the state, manure was applied and incorporated safely in January.
  - + Data from all our sites indicate that around 90% of the nutrient and sediment losses that occur in any given year happen before the 15<sup>th</sup> of June; the bulk of these losses occur in the late winter (snow melt) – early spring (thunderstorm) period.
  - + Producers with manure storage systems must manage their storage systems to ensure that they have adequate capacity to avoid spreading during the critical late winter/early spring period. Mandating greater storage capacity does not necessarily mean that this will happen.
  - + While provisions in the proposed rules that limit spreading solid manure during this critical period might be appropriate; producers, however, should not be forced to build solid manure stacking systems if appropriate sites for land stacking are available.
  
- Discovery Farms data indicate that soil moisture is a critical factor in predicting and reducing nutrient and sediment losses. The definition in the rules of “saturated soils” is of no value to the farm community. There is need to develop an easy and accurate way for farmers to determine soil moisture and to apply that knowledge to their manure management.
  - + One of the Discovery Farms producers looks every day at the soil moisture information collected on his farm as a part of the project monitoring activities to help him make decisions about planting, spraying or applying manure.

- + Requiring (as the proposed rules do) that farmers make manure application plans based on weather reports from the National Weather Service is not realistic. Program data suggest that farming systems, soil moisture status and time of the year are the key factors determining runoff.
- Data collected to date by the Discovery Farms program on tile drainage is preliminary. Further, detailed work is required before any limitations on tile flow are established. Therefore, it is in our judgment, premature at this time to adopt any rules on tile drainage. Tile drainage is not just an agricultural problem.
- \* There is a need to develop a simple risk management tool which helps producers and conservation professionals assess the risk of nutrient and/or sediment losses to surface and groundwater based on field locations, site conditions, time of year, manure type (% moisture) and the soil moisture conditions. This must be a simple tool that can rate the risk of runoff (or loss to groundwater/tile drainage) on a field by field basis and considers seasonal weather conditions (high verses low risk periods).
  - + This tool should help producers prioritize fields and spreading sites at various times throughout the year. Producers need to think about manure management on an annual basis and look for low risk spreading periods on a year round basis.
  - + This tool needs to identify changes in farming practices (tillage, application methods, crop rotations, etc.) that can reduce the potential for nutrient and sediment loss.

Farming by its very nature is a risky business; nothing we do will totally eliminate that risk. Sound manure management programs are designed to reduce the risks involved as much as possible. Regulatory programs should compliment and support sound planning efforts.

Thank you and we are available to answer your questions.