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(FORM UPDATED: 08/11/2010)

WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

2005-06

(session year)

Senate

(Assembly, Senate or Joint)

Committee on Natural Resources and Transportation...

COMMITTEE NOTICES ...

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

INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

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

* Contents organized for archiving by: Stefanie Rose (LRB) (June 2012)

Senate

Record of Committee Proceedings

Committee on Natural Resources and Transportation

Senate Bill 467

Relating to: well drilling, pump installing, well inspection and abandonment, granting rule-making authority, and providing a penalty.

By Senators Kedzie, Olsen, Risser, Cowles, Stepp and Zien; cosponsored by Representatives Hahn, Kerkman, Ott, LeMahieu, Gunderson, Krawczyk, Nass, Musser and Molepske.

December 06, 2005 Referred to Committee on Natural Resources and Transportation.

February 1, 2006 **PUBLIC HEARING HELD**

Present: (5) Senators Kedzie, Stepp, Kapanke, Wirch and Breske.
Absent: (0) None.

Appearances For

- Neal Kedzie — Senator, 11th Senate District
- Gene Hahn — Representative, 47th Assembly District
- Curt Pawlisch — WI Water Well Association
- Terry Farago — WI Water Well Association
- Jill Jonas — WI Department of Natural Resources
- Mark Putra — WI Department of Natural Resources
- Greg Anderson — WI Water Well Association
- Michael Berkholtz, Windsor
- Kevin Olson — WI Water Well Association
- Gary Kuhn — WI Water Well Association

Appearances Against

- Terry Marshall — Marshall Well Drilling
- Laurie Kobza — Municipal Environmental Group - Water Division
- Trisha Vukodinovich — Aqua
- Jeff Haughian, Cameron
- Dennis Quinnell — Quinnell's Septic and Well
- John Heink — Heink Well Drilling Inc

Appearances for Information Only

- None.

Registrations For

- Greg Hubbard — Waste Management
- Peg Lautenschlager — Attorney General, WI Department of Justice
- Richard Peterson — Water Watch Inspections
- Jeff Kramer — Sams Well Drilling

Registrations Against

- Missy Carnes — Tri County Pump, Inc.
- Eileen Crowell, Delafield
- Susan Wojtkiewicz — Aqua-Service, Inc.
- Todd Roos, Oxford
- Tom Roos, Oxford
- Dennis Crow — Water Compliance Specialists

February 15, 2006

EXECUTIVE SESSION HELD

Present: (5) Senators Kedzie, Stepp, Kapanke, Wirch and Breske.

Absent: (0) None.

Moved by Senator Wirch, seconded by Senator Breske that **Senate Amendment 1** be recommended for introduction and adoption.

Ayes: (5) Senators Kedzie, Stepp, Kapanke, Wirch and Breske.

Noes: (0) None.

INTRODUCTION AND ADOPTION OF SENATE AMENDMENT 1
RECOMMENDED, Ayes 5, Noes 0

Moved by Senator Breske, seconded by Senator Wirch that **Senate Bill 467** be recommended for passage as amended.

Ayes: (5) Senators Kedzie, Stepp, Kapanke, Wirch and Breske.

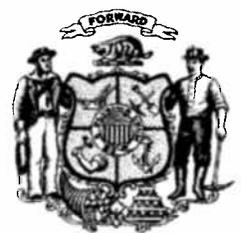
Noes: (0) None.

PASSAGE AS AMENDED RECOMMENDED, Ayes 5, Noes 0

Dan Johnson
Committee Clerk



WISCONSIN STATE LEGISLATURE



**Chairman's Notes: Senate Committee on
Natural Resources and Transportation
Executive Session – January 31, 2006**

Senate Bill 162 (Joint Legislative Council)

Relating to: creating a Council on Transportation Infrastructure in the Department of Transportation.

- **MOTION FOR INTRODUCTION AND ADOPTION OF LRB 2072/1 AS SA 1**
- **SECOND**
- **DISCUSSION**
- **ROLL CALL**

- **MOTION FOR PASSAGE OF SB 162 AS AMENDED**
- **SECOND**
- **DISCUSSION**
- **ROLL CALL**

ASSEMBLY BILL 20 (AINSWORTH/ZIEN)

Relating to: displaying attractions on highway specific information signs.

- **MOTION FOR CONCURRENCE OF AB 20**
- **SECOND**
- **DISCUSSION**
- **ROLL CALL**

Assembly Bill 509 (Rep. Albers and Senator Breske)

Relating to: liability of cities, villages, towns, and counties for damages caused by an insufficiency or want of repair of a highway. (FE)

- **MOTION FOR CONCURRENCE OF AB 509**
- **SECOND**
- **DISCUSSION**
- **ROLL CALL**

Senate Bill 467 – Authored by Senator Kedzie and Representative Hahn

Relating to: well drilling, pump installing, well inspection and abandonment, granting rule-making authority, and providing a penalty.

- **MOTION FOR PASSAGE OF SB 467**
- **SECOND**
- **DISCUSSION**
- **ROLL CALL**

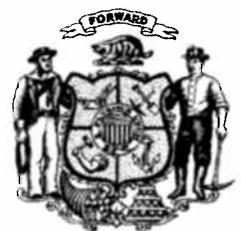
Assembly Bill 229 – Authored by Rep. Musser and Senator Stepp

Relating to: assignment of a landowner's eligibility to apply for a turkey hunting license.

- **MOTION FOR CONCURRENCE OF AB 229**
- **SECOND**
- **DISCUSSION**
- **ROLL CALL**



WISCONSIN STATE LEGISLATURE



Chairman's Notes: Senate Committee on Natural Resources and Transportation Public Hearing – February 1, 2006

- Welcome to today's hearing of the Senate Committee on Natural Resources and Transportation.
- Committee Clerk will take Attendance. The roll will be left open for members who have yet to arrive.
- I would like to remind individuals wishing to testify to fill out a hearing slip and give it to the member of the Sergeant's Staff.
- It is my intent to take up the items in the order listed on the hearing notice, and will take up Companion bills at the same time.

Senate Bill 84 (Assembly Bill 120) – Authored by Sen. Olsen and Rep. Petrowski

Relating to: restrictions on the operation of motor vehicles by persons holding instruction permits or probationary licenses and providing a penalty.

Summary: This bill creates an additional restriction that a probationary licensee who is under 18 years of age may not, during the first nine months following issuance of the probationary license, operate a "Class D" vehicle while using a cellular telephone, except to report an emergency. The same exceptions that apply to existing restrictions on the licensee also apply to this new restriction. The bill also stipulates that a person operating a motor vehicle under an instruction permit may not operate the motor vehicle while using a cellular telephone.

Assembly Action – AB 120:

- Passed Assembly Committee on Highway Safety on a 7-1 vote.
- Passed the Joint Committee on Finance on a 10-5 vote.
- Passed the Assembly on an 89-6 vote.

Senate Bill 467 – Authored by Senator Kedzie and Representative Hahn

Relating to: well drilling, pump installing, well inspection and abandonment, granting rule-making authority, and providing a penalty.

Summary:

- First, it creates a register and licensing system for well drillers and pump installers. Under the bill, only licensed well drillers and pump installers may be registered with the DNR.
- Second, it requires that well drilling be performed by, or under the supervision of, a licensed well driller or pump installer.
- And finally, the bill requires that well abandonment be done by a licensed well driller or pump installer, or is supervised by a licensed well driller or pump installer.

Assembly Bill 229 – Authored by Representative Musser and Senator Stepp

Relating to: assignment of a landowner's eligibility to apply for a turkey hunting license.

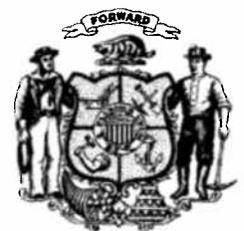
Summary: Under the bill as amended, a qualified resident landowner may assign his or her eligibility to apply for a wild turkey hunting license to a minor, but the landowner cannot receive consideration for an assignment. In addition, the bill also fixes a drafting error in AB 166, relating to wildlife damage abatement, and specifies that 2005 Wisconsin Act 82 will take effect on January 1, 2006.

Assembly Action:

- Passed the Assembly Committee on Natural Resources on a 13-0 vote
- Passed by the Assembly on a voice vote



WISCONSIN STATE LEGISLATURE





STATE OF WISCONSIN
DEPARTMENT OF JUSTICE

PEGGY A. LAUTENSCHLAGER
ATTORNEY GENERAL

Daniel P. Bach
Deputy Attorney General

114 East, State Capitol
P.O. Box 7857
Madison, WI 53707-7857
608/266-1221
TTY 1-800-947-3529

STATE OF WISCONSIN LEGISLATURE
BEFORE THE SENATE COMMITTEE ON
NATURAL RESOURCES AND TRANSPORTATION

TESTIMONY OF
WISCONSIN ATTORNEY GENERAL PEG LAUTENSCHLAGER
IN THE MATTER OF SB 467
WELL DRILLING AND PUMP INSTALLATION

FEBRUARY 1, 2006

Thank you for the opportunity to comment on this bill, which I support and urge you to pass on to the full Senate for adoption.

Senate Bill 467 would:

- require licensing of qualified individuals as well drillers and water well pump installers,
- require that only qualified individuals may close wells, and
- provide the Wisconsin Department of Natural Resources (DNR) with authority to issue citations for violations of rules relating to registration, disinfection, sampling, reporting requirements, pre-1991 non-complying wells, and well abandonment.

I support this bill because it protects human health and safety, and provides a more efficient and fair process of enforcement of violations of our well codes and laws.

Chapters 280 and 281 provide for the protection of drinking water and ground water, respectively.

The Legislature has long recognized in Section 280.11(1) of the Wisconsin Statutes that the DNR "shall . . . enforce minimum reasonable standards and rules and regulations for . . . the obtaining of pure drinking water for human consumption and the establishing of all safeguards deemed necessary in protecting the public health against the hazards of polluted sources of impure water supplies intended or used for human consumption . . . and shall do and perform any act deemed necessary for the safeguarding

of public health." Under the authority of these laws, DNR has adopted regulations governing the drilling of wells and pump installation.

These regulations are necessary for several reasons. Bad wells, shoddy pump installation, or poor or no disinfection, sampling or reporting all threaten people who drink the water from those wells. Bad wells can become conduits for pollution to groundwater that serve as drinking water supplies. Homeowners are cheated when they pay for shoddy work that violates codes, requires repairs, and endangers their families' health. Honest and qualified well drillers and pump installers are undercut by those who deliver slip-shod work and products to consumers.

I know this first-hand as a result of the enforcement actions I have brought against well drillers and pump installers who have cut corners, installed bad wells, falsified test results, improperly closed wells, and cheated their customers. In some of those cases customers were left with water that was unfit to drink.

SB 467 reinforces DNR's existing regulation by statutorily codifying the requirements to assure that only qualified well drillers and pump installers perform these crucial tasks, and that registered operators work under the supervision of qualified licensed people.

I support this bill for another very important reason. Efficient and fair administration and enforcement of these laws are crucial if the important interests of human health, the quality of our groundwater resources, the protection of consumers, and fair competition by honest and ethical operators, are to be protected.

In a time of limited state resources, we need a more efficient system for enforcing both minor and major violations of the law -- and a system that does not potentially sacrifice the enforcement of one type of violation over another.

Currently, violations of our well laws and regulations, regardless of their seriousness, only can be enforced by the DNR by referral to the Attorney General for enforcement in a court of law. In the past three years my office has obtained hundreds of thousands of dollars in forfeitures and restitution for violations, ranging from a pattern of constructing bad wells that threaten human health and the environment, to failure to sample water or to file reports that may or may not cover up a water quality problem.

Fairness to law-abiding operators who comply with these crucial requirements also demands consequences for those operators who violate them. That is why it does not surprise me that the well drilling and pump installing industry supports this bill. It's a sound business strategy.

However, for "minor" cases, I question whether the full enforcement resources of the Department of Justice should be brought to bear when the equivalent of a ticket can better send the appropriate message to the violator. Fairness to violators also demands

proportionality along with accountability. Neither the DNR nor the Department of Justice should not be in the position of having to forego enforcement because the violation may not warrant the expenditure of limited state enforcement resources that are being devoted to demonstrably more serious cases.

SB 467 strikes the appropriate balance between those violations that may warrant an enforcement citation and those that should be referred to the Attorney General for action.

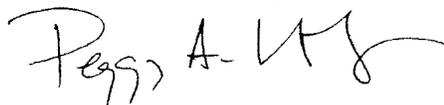
The failure of our environmental protection laws to distinguish between enforcement of minor and significant violations, and to provide DNR and DOJ the flexibility to take proportionate and cost-effective enforcement actions that are commensurate with the severity of violations, is not unique to the well codes.

The same factors described here, bearing on fairness and efficiency in law enforcement – fairness to law abiding businesses, proportionality of enforcement for violators, efficiency of government enforcement – apply to our other environmental protection laws.

For these reasons, I support efforts by the DNR and legislators to provide for citation authority to enforce relatively minor violations of other environmental laws in a fair and proportionate manner consistent with the balance being struck in SB 467.

I urge the Chair and this Committee to seriously consider making it a priority in the next legislative session to provide citation authority for the enforcement of many more of our environmental regulations.

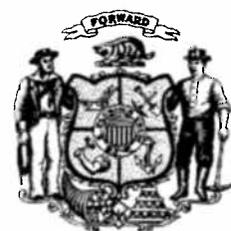
Thank you for the opportunity to comment on this important piece of legislation.

A handwritten signature in black ink, appearing to read "Peggy A. Lautenschlager". The signature is fluid and cursive, with a long horizontal stroke at the end.

Peggy A. Lautenschlager
Wisconsin Attorney General



WISCONSIN STATE LEGISLATURE





MEG MUNICIPAL DRINKING WATER
A Division of the Municipal Environmental Group

P.O. Box 927
Madison, WI 53701-0927
Telephone (608) 283-1788
Facsimile (608) 283-1709

February 1, 2006

Senate Natural Resources & Transportation Committee
Senator Neal Kedzie, Chairperson
Senators Cathy Stepp, Dan Kapanke, Robert Wirch, and Roger Breske
P.O. Box 7882
Madison, WI 53707-7882

RE: Opposition to Citation Authority of SB 467

Dear Chairperson Kedzie and Committee Members:

The Municipal Environmental Group-Water Division (MEG-Water) **opposes** the provisions of SB 467 that would give the **Department of Natural Resources authority to impose citations** on municipal water systems for alleged violations of sampling or reporting requirements, or for water systems that were installed before February 1, 1991.

Municipal water systems -- like other entities -- are heavily regulated. Environmental regulations applicable to municipal water systems -- like other entities -- are enforced by the attorney general in accordance with § 299.95, Stats. In addition under § 281.99, Stats., public water systems may be issued a forfeiture by the DNR if an alleged violation creates an acute risk to public health or safety; represents a pattern of noncompliance; or continues to exist after an opportunity to correct the violation has been given. Therefore, the DNR already has more enforcement tools with regard to public water systems than they do with other regulated entities.

SB 467, however, would go even farther. It would give the DNR the right to issue a citation to a public water system for a violation, even if the violation was corrected and posed no acute risk to public health or safety. MEG-Water, a state association of Wisconsin municipalities with water utilities, opposes this expanded citation authority for three reasons.

First, MEG-Water believes water systems should be treated like other regulated entities except where there is good reason for doing something different. Enforcement of environmental regulations by the attorney general under § 299.95, Stats., is the norm for the vast majority of regulated entities. MEG-Water believes that is the proper enforcement tool except in the limited situations covered by § 281.99, Stats. We believe that it is unfair to subject water systems to a broad citation authority when other regulated entities are not subjected to such authority.

Second, the citation authority provided by AB 467 is very broad. It allows the DNR to issue citations for violations of sampling and reporting requirements. Sampling and reporting requirements for water systems are set forth in NR 809, Wis. Admin. Code, which consists of 111 pages of regulations.

Third, with regard to water systems installed prior to February 1, 1991, MEG-Water is concerned about giving the DNR the authority to issue citations for rule violations applicable to existing water systems because of disagreements between the DNR and municipal water systems regarding what the applicable requirements for such wells are. NR 812.42, which governs installations installed prior to February 1, 1991, recognizes that existing installations are to be evaluated on an individual basis, according to the requirements in effect at the time they were installed. In the Village of Bangor the DNR initially issued an order requiring the Village to abandon an older well that had always tested safe because the DNR claimed the well did not meet current construction standards. The Village objected and requested a contested case hearing because it contended that its well met the existing standards at the time the well was installed. Ultimately the DNR backed off its position. However, this case points out the concerns in allowing the DNR to issue citations based upon its interpretation of the rules.

One other change MEG-Water would like to see to SB 467 is that the abandonment of a well be allowed to be done under the supervision of a certified water operator, in addition to being allowed to be done under a certified well driller or pump installer. This change would be made on page 11, line 17.

For the reasons set forth above, MEG-Water asks the Senate Natural Resources and Transportation Committee to (1) reject or revise the citation authority contained in SB 467, and (2) allow well abandonment to be done under the supervision of a certified water operator. Thank you for your consideration.

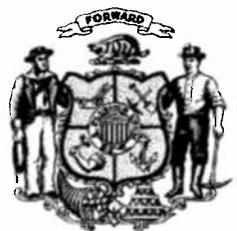
MUNICIPAL ENVIRONMENTAL GROUP
- WATER DIVISION


Lawrie J. Kobza, Legal Counsel

cc: MEG-Water Members (via e-mail)



WISCONSIN STATE LEGISLATURE



**Testimony of the Department of Natural Resources
Relating to Senate Bill 467
Committee of Natural Resources and Transportation
February 1, 2006**

**By Jill D. Jonas and Mark Putra
Director, Bureau of Drinking Water and Groundwater
Chief, Private Water Section**

Thank you for allowing us to be here today. We are pleased to testify in support of Senate Bill 467.

The Department of Natural Resources (Department) has worked with the Wisconsin Water Well Association (Association) Executive Board, and taken a new approach to this 20 year old discussion. In the much older versions of this bill the Department sought to combine statutes for all aspects of the private water supply and public water supply programs. Due to significant program changes in the public water supply program over the past 10 years, those changes are no longer applicable and have been dropped from the bill.

Over the past year and a half the Department has worked collaboratively with the Association's Executive Board and we have greatly narrowed the scope of the bill to "agreed upon" common items of interest. This bill builds on the cooperative relationship the Association and Department have established in the area of continuing education, and creates a new opportunity for a combined effort to train and prepare drill rig operators to become licensed well drillers. The outcome of this new training effort will serve as a building block for future negotiations on registrations and licenses.

This bill is a step forward in our efforts to discover and fill unsealed and unused wells. Currently, when a buyer or financial institution requests a well and water system inspection for a real estate transaction, the inspection may be performed by a variety of private individuals and businesses with a wide range of credentials (or no credentials at all). Also, there are no codified standards and procedures. This bill limits private individuals and businesses conducting this part of real estate inspections to licensed pump installers and well drillers. It does not mandate that an inspection be performed. This change provides consumers a more uniform and consistent inspection, improves the detection of unsealed wells, and better protects the groundwater resource and drinking water consumers.

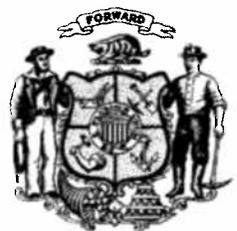
Contacts:

Jill Jonas-Director, Bureau of Drinking Water and Groundwater - 608-267-7545

Mark Putra - Chief, Private Water Section of the Bureau of Drinking Water and Groundwater - 608-267-7649



WISCONSIN STATE LEGISLATURE





TESTIMONY OF TERRY FARAGO TO THE SENATE COMMITTEE
ON NATURAL RESOURCES AND TRANSPORTATION

February 1, 2006

I am Terry Farago, President of the Wisconsin Water Well Association testifying in support of SB 467. I have been a well driller for more than 25 years and currently own Farago Drilled Wells.

The Wisconsin Water Well Association represents over 300 registered well drillers and pump installers. Its purpose is to increase the industry's knowledge and understanding of proper drilling, pump installation, and well abandonment techniques; work with the appropriate state agencies in the protection of Wisconsin's groundwater; and increase the public's awareness of the importance of and involvement in groundwater efforts.

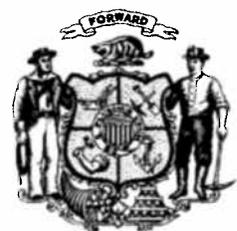
During the past year, our association has sought to work out our differences with the Department of Natural Resources on a number of issues addressed in this bill. We came to an agreement. Some members of our Association think the bill doesn't do enough, some think it does too much, and some members hold both views at the same time. We can't please everyone in our Association and our industry, but we believe the time to move forward with SB 467 is now.

The bill provides that future well drillers come from the ranks of registered drill rig operators. In order to write their exam to become well drillers, they will first have to have been registered drill rig operators for two years and gone to continuing education classes. The bill also gives the DNR the ability to seek forfeitures—rather than pass on violations for criminal prosecution to the Wisconsin Department of Justice. The bill provides that only licensed well drillers and pump installers should be hired to do well abandonment and to do property inspections for abandoned wells if an inspection is required at the time of a real estate transfer.

These are all good provisions that will help protect Wisconsin's groundwater, and I urge you to pass the bill.



WISCONSIN STATE LEGISLATURE



no date

Respected committee members:

I am here today in support of the bill presented before you. I am a licensed pump installer and third generation well driller. I have also been a board member of the WWWA for the past five years.

I support this bill because I believe at its core it helps to further the goal of my ambitions, as well as the mission of the WWWA, which is to provide and protect Wisconsin's ground water.

In requiring only professionals to abandon wells we are reaching for a standard that every well that needs to, will be abandoned correctly. Currently, homeowners are allowed to abandon their own unused or illegal wells. I'll admit that in the past I have sold materials to people to abandon these wells. We discontinued that practice, though, a few years ago after a homeowner stuffed newspaper a few feet down his well and sealed the top thinking that it was good enough. He even submitted the report to the county that way, and when questioned, claimed that we told him that was an acceptable way to do it. Needless to say, we went back and properly abandoned that well. That is just one example from one contractor, and I can guarantee that every contractor in this room can give you similar, if not worse, stories of wells that should be, or abandonments that have gone terribly wrong, requiring extra work or even a drill rig to fix the problem so that they could be abandoned correctly. Ten years ago or so I had to drill a well back out for DNR field staff who tried to abandon a well on state property. There was something stuck halfway down the well and they realized that they hadn't used enough material to seal the whole well. After I cleaned out the sealing material and the obstruction we could then abandon it. A homeowner more than likely would not have realized or been concerned about the amount of bentonite used on a well like that. Licensed contractors have the experience and equipment required to do this work correctly and efficiently.

Another issue in this bill is the requirement for drill rig operators to be registered. Personally I think it only makes sense to have a qualified and educated person running the rig to provide the water people will drink for the rest of their lives. While I or many other drillers would not consider sending out someone that we don't completely trust to drill a well, I think that there are also those in ours as well as any other industry that will do whatever it takes to get the job. As it stands currently, only the license holder is required to get yearly education. If the licensee doesn't drill anymore, and runs the business end, that means the guys in the field don't get to keep up with the code changes or new practices they can learn at

continuing education. The other aspect I see in favor of registration is that hired guys will drill and do what their boss tells them, even if its wrong. With education, hopefully they will at least know its a violation if they are taught incorrectly. It simply puts another layer of responsibility into the process.

We are also seeking well inspections to be done by a licensed individual. Getting a safe water sample for a real estate sale is very important, but making sure the well is properly located and safe from future contamination problems is equally important. Only licensed professionals can assuredly inspect and gauge system health and repairability. I live and work in Chippewa county. Chippewa and Eau Claire Counties have required county well permits for a long time. This means that there is staff who inspect new sewers when they are being installed and they also inspect our wells, either when they are drilled or shortly thereafter. You would expect that these county employees would therefore know what to look for and be able to address problems. One of these inspectors in Chippewa County does sewer and well inspections on the side for real estate sales. I don't believe he is a licensed well professional. A few years ago he inspected a property for sale and took a water sample. The sample came back bacteriologically safe, but he never did find the well head, and passed the system. After the sale went through, the people decided that they needed new blacktop on their driveway. When the blacktop company came in and tore up the driveway, they knocked off the top of the well that was imbedded in the middle of the driveway. We drilled a new well for these people in their front yard. Had the well been inspected by a licensed professional, they may have negotiated a well into the sale or at least have known not to tear up their driveway until absolutely necessary.

As for citation authority, I feel that as long as there is a fair process to correct problems before monetary fines come into play, then I am okay with that.

As with any piece of legislation, there are people on both sides that do not like parts or all of this bill. I see it as politics. You can never get everything you want in one bill. I sincerely hope that this bill is just a good start for future productive groundwater policy and legislation.

Thank you for your time

Kevin Olson