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# JOEL KITCHENS

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STATE REPRESENTATIVE • 1<sup>ST</sup> ASSEMBLY DISTRICT

**Testimony for the Assembly Committee on Agriculture  
Assembly Bills 727 and 728  
Wednesday, Jan. 5, 2022**

Thank you Chairman Tauchen and committee members for holding a public hearing and giving me the opportunity to testify on Assembly Bills 727 and 728, bipartisan legislation that takes a multi-pronged approach to protecting our state's water from excessive nitrates and other contaminants.

Since I was first elected to the Assembly almost eight years ago, my philosophy in dealing with complex environmental issues has always involved bringing both sides together to find common interests and work on a compromise. I think it is important to include both environment and agriculture groups in the conversation.

It is vital to the future of our state that we protect our natural resources, while also preserving our farm economy. This collaborative approach has led to more positive outcomes. I do not believe we will meet our environmental challenges without involvement and buy-in from the agricultural community.

I am proud to say that Assembly Bills 727 and 728 follow that same philosophy. This is evident by the list of groups that support this legislation.

I would like to point out that many of the provisions in these bills are based on policy recommendations made by the 2019-20 Speaker's Task Force on Water Quality and the Nitrate Work Group. As such, many of you are likely familiar with most of the proposals.

In short, Assembly Bills 727 and 728 would do the following:

- Create a Commercial Nitrogen Optimization Pilot Program where farmers can receive grants for implementing new and innovative practices that optimize the application of commercial nitrogen
- Provide cover crop insurance premium rebates to help offset the costs of planting cover crops
- Establish a three-year hydrogeologist position within the UW System to develop localized groundwater resource data and to work with local stakeholders on interpreting and using that information
- Update the existing Well Compensation Grant Program so that it can be better utilized by lower income residents
- Allow recipients of Producer-Led Watershed Protection Grants to also participate in the competitive Surface Water Grant Program

- Authorize the Department of Agriculture, Trade and Consumer Protection to take into account factors with the weather when considering the allocation of County Conservation Department Grants

Many of the programs that we are addressing in these bills have proven to be successful in helping us protect our state's invaluable water. They also give us the most bang for our buck, which is why it is so important that that we put our resources here.

We are also making calculated changes to most of the programs to ensure our taxpayer dollars are being spent wisely while also allowing us to make significant progress toward solving our water pollution problems.

Nevertheless, what I am excited about the most with this legislation is the creation of Commercial Nitrogen Optimization Pilot Program in our state.

It is critical that we protect our water from excessive nitrates because of the impacts to human health. For almost 75 years, physician and public health professionals have known that exposure to high levels of nitrates can lead to "blue baby syndrome," a condition in which a baby's skin turns blue due to decreased hemoglobin in their blood.

Nitrate exposure during pregnancy can also result in increased cases of intrauterine growth retardation, cardiac defects, central nervous system defects, Sudden Infant Death Syndrome (SIDS) and miscarriage.

According to the U.S. Environmental Protection Agency, exposure to higher levels of nitrates also has been associated with increased incidence of cancer in adults, and possible increased cases of brain tumors, leukemia and nose and throat tumors in children.

Because farmers are some of the most responsible stewards and conservationists of our land throughout Wisconsin, it only makes sense to take advantage of their vast knowledge and get them further involved in lessening the levels of nitrates in our water.

I would like to thank you for taking the time to listen to my testimony and I hope you consider supporting Assembly Bills 727 and 728. I am now happy to answer any questions if you have them.



**Testimony in Support of Assembly Bills 727 and 728**  
**Assembly Committee on Agriculture**  
*January 5, 2022*

Chair Tauchen, Vice Chair Oldenburg, and members of the committee, I appreciate the opportunity to testify in support of Assembly Bills 727 and 728, legislation to improve our state's water quality by promoting and incentivizing thoughtful practices to reduce nitrate runoff and contamination.

Last session, the Speaker's Task Force on Water Quality participated in 14 public hearings across the state and heard from people across Wisconsin about the water quality challenges facing their communities. We built on the public's input by collaborating to draft and pass ten bipartisan water quality bills unanimously through the State Assembly. However, due to the Covid-19 pandemic, none of those bills became law. Since then, various bills from the task force have been introduced or passed through the budget, and the bills before you today are a continuation of our work.

First, Assembly Bill 727 creates a commercial nitrogen optimization pilot program where the Department of Agriculture, Trade and Consumer Protection (DATCP) would award grants to farmers for implementing projects that reduce nitrogen loading and nitrate leaching. The bill provides \$1 million in grant funding per year to provide grants of up to \$50,000, and it prioritizes farmers looking to use innovative practices not currently funded by other state or federal programs. The bill requires farmers to work with a UW System institution onsite for at least two growing seasons. The idea behind this bill is to reward farmers who want to experiment with nitrogen loading, while helping them absorb any risk attached with changing their commercial nitrogen application practices.

Nutrient management plans were designed with primarily an agronomic focus to promote the efficient use of nutrients and maximize yield and profitability. While reducing nutrient loss and loading is part of the process, nutrient management plans have mostly focused on phosphorus rather than nitrogen-nitrate leaching into groundwater. The commercial nitrogen optimization pilot program will give farmers and UW System researchers the opportunity to innovate in sensitive regions of the state when it comes to protecting water quality while ensuring yields that help their bottom line.

Assembly Bill 727 also requires DATCP to create a new program, in cooperation with the Risk Management Agency at the U.S. Department of Agriculture, to provide a crop insurance premium rebate of \$5 per acre to farmers who plant cover crops. This is similar to Iowa's successful program. Cover crops improve soil health, reduce soil erosion, and reduce nutrient runoff and leaching while improving water quality. This new cover crop insurance rebate will help offset the cost for farmers to plant cover crops, encourage more to do so, and increase the total cover cropped acreage in the state, strengthening the state's water quality and helping farmers' bottom-line.

Finally, AB 727 also creates a three-year project position for a full-time state hydrogeologist to focus primarily on groundwater resource information at the county and local level. Many of us represent communities who have begun or continued well sampling programs, and as more communities start testing private wells, they will need to draw on the expertise of hydrogeologists to help them interpret the data. The state hydrogeologist

position will help counties and municipalities better understand local hotspots for nitrate contamination and plan to mitigate it.

Next, Assembly Bill 728 broadens the eligibility for the Department of Natural Resources' well compensation grant program. This program provides grants for replacing, reconstructing, or treating contaminated wells, and grants may also be used to pay the costs of filling and sealing a well or connecting to a public water supply. I was pleased that this program received a significant cash infusion through the state budget this biennium, but without also expanding its eligibility criteria, few Wisconsinites will qualify.

In fact, the DNR reports that from fiscal years 2008-2021, an average of 9 people in Wisconsin per year were successful in utilizing the well compensation grant program. As of December 16, 2021, the DNR states that they do not currently have any active well compensation grants. The last grant was awarded was over a year ago, on October 29, 2020. The restrictive eligibility criteria make it very difficult to qualify for this grant.

This bill addresses barriers to accessing the well compensation grant program by removing several current requirements that often stand in the way of people with contaminated private wells: the requirement that the contaminated well be used for livestock and that its nitrate levels test over 40 ppm. For context, the federal health standard for nitrate in drinking water is 10 ppm. The bill also requires the DNR to prioritize the most contaminated wells first and allows for less expensive methods of remediation, like reverse osmosis for wells between 10 and 25 ppm, while ensuring that more people can access the program for bacterial contamination that are harmful to their health. These much-needed changes are similar to last session's bill that passed unanimously in the Assembly.

Assembly Bill 728 also makes changes to the Producer-led Watershed Protection Grant Program administered by DATCP: clarifying that grants may be awarded to producer-led watershed groups that span multiple adjacent watersheds and allowing these producer-led groups to qualify for Lake Protection Grants and River Protection Grants administered by DNR. Finally, AB 728 also specifies that when DATCP is determining whether a county land and water department took appropriate steps to meet their land and water resource management plan, the agency shall consider externalities such as weather that may have impacted that work. These changes will ensure more farmers will be able to work together across watersheds, lakes, and rivers to support water quality. They'll also support our land and water conservation departments, the boots on the ground to protect water quality and help farmers with conservation practices.

We owe it to the people of Wisconsin to ensure everyone has access to clean drinking water and to do everything we can to reduce and prevent nitrate contamination. These bills will help farmers access more resources to invest in practices that support water quality. They also will ensure more people across Wisconsin can remediate their contaminated drinking water source and finally access clean drinking water from their taps. I appreciate that so many organizations have already registered in support of these bills, and sincerely thank everyone who has co-sponsored and helped to advance them. The amendments before the committee on each bill are, similarly to the bills themselves, the product of significant and thoughtful bipartisan collaboration. They further refine the legislation, and I encourage the members of this committee to support and prioritize the passage of these bills with their respective amendments to ensure that they continue to move forward through the Legislature. Thank you for your consideration, and I welcome any questions you may have.

## Testimony on 2021 Assembly Bill 727

Senator Robert Cowles  
Assembly Committee on Agriculture  
January 5th, 2022

Thank you, Chairman Tauchen and Committee Members, for holding a hearing and allowing me to testify on 2021 Assembly Bill 727. This bill creates and funds two new programs run by DATCP and provides one project position for a hydrogeologist to the UW-System to help address Wisconsin's nitrate contamination concerns.

Clean waterbodies are as much a part of the foundation of our great state as agriculture. For decades, farmers have been a substantial part of efforts to maintain and improve water quality throughout the state. Farmers and other rural residents understand the concerns that high nitrates levels can pose better than most. For humans, studies from government and academic institutions have shown that high nitrate levels can lead to serious health outcomes such as blue baby syndrome for infants, birth defects for pregnant women, and in adults, studies have tied increased risks of thyroid disease, diabetes, and certain types of cancer to an overconsumption of nitrates.

For surface waterbodies, the runoff of pollutants from fields or contaminated groundwater that spring feeds a surface water can also have negative outcomes, leading to increased instances of algal blooms and more fish kills, according to many studies, therefore leading to less of an ability to enjoy recreating in that surface water. But with tight margins on many farms and constantly evolving knowledge about the best land practices to protect ground and surface water resources, Wisconsin's rural residents and agricultural producers are asking for partners to grow their ongoing efforts and begin new initiatives that promote sustainability.

Building on investments made in the bipartisan 2021-23 State Budget and borrowing elements from the 2019-20 Speaker's Task Force on Water Quality, we've introduced this bill to continue advancing beneficial land practices and cleaner ground and surface water throughout our state. Passing this bill would help farmers implement new land and water conservation strategies to store more nutrients in soil and prevent pollutant leaching and runoff, improve our knowledge about localized water quality throughout the state, and provide more opportunities for farmers to lead the solutions of tomorrow.

Specifically, Assembly Bill 727 provides Nonpoint Account SEG funding and statutory language for the following items:

- *Commercial Nitrogen Optimization Pilot Program:* To explore new and innovative ways to optimize the application of commercial nitrogen like fertilizer, this legislation creates a two-year, \$1 million per year pilot program to award grants of up to \$50,000 to farmers who work with a UW-System institution to propose implementing creative projects on their farms.
- *Cover Crop Insurance Premium Rebates:* Similar to successful efforts in neighboring states, this legislation creates a crop insurance premium rebate program where farmers not receiving funding from other state or federal programs may receive \$5 per acre to help offset the costs to plant cover crops. This program is funded at \$400,000 per year, beginning in the next fiscal year.

- *Hydrogeologist Position with the UW-System:* To help develop localized groundwater resource information and to work with local stakeholders on interpreting and using this information, this legislation creates a three-year project position for a full-time hydrogeologist at the Geological and Natural History Survey which is part of the Division of Extension at UW-Madison.

To help address items brought up by the Department of Agriculture, Trade and Consumer Protection (DATCP) during their testimony in the Senate hearing and in follow-up discussions, we've introduced Assembly Amendment 1 to this bill. The amendment is largely technical, but addresses four items, all in the cover crop program, that DATCP feel can help to improve the program, create a more widespread distribution of awards across the state, and ease some of the implementation and program management burdens for Department staff.

According to estimates from the Groundwater Coordinating Council, about 10% of private well water samples exceed the public health-based standard for nitrates, and municipal water systems have already had to spend tens of millions of dollars improving their infrastructure to achieve the water quality standards for nitrates. Addressing nitrate contamination requires a long-term and community-based approach, which is why I believe the support we're seeing from agricultural and environmental groups behind this bill is so important.

In short, Assembly Bill 727 makes targeted efforts to address nitrate leaching and runoff, ensuring that more farmers can implement new practices. No single approach can solve our water pollution problems, but concerted efforts such as these can make a noticeable impact for the state's agricultural producers, rural residents, and those who enjoy recreating on Wisconsin waters.





State of Wisconsin  
Governor Tony Evers

**Department of Agriculture, Trade and Consumer Protection**  
Secretary Randy Romanski

January 5, 2022

**RE: AB 727 nitrogen optimization program, cover crop rebate program, and hydrogeologist position and AB 728 allowing nitrates under the well compensation program; eligibility for producer-led watershed, lake, and river protection grants; and the annual allocation plan for county conservation grants**

Chairperson Tauchen and members of the Assembly Committee on Agriculture. Thank you for the opportunity to provide information about AB 727 related to a pilot grant program for farmers to optimize commercial nitrogen applications and use as well as the creation of a cover crop rebate program and AB 728 related to edibility for producer-led watershed grants and the annual allocation plan for county conservation grants. My name is Sara Walling, and I am the Administrator of the Division of Agricultural Resource Management at the Department of Agriculture, Trade and Consumer Protection. I will describe how AB 727 might impact the work of the department with regards to conservation practice implementation and nutrient management planning and how AB 728 might impact DATCP in providing resources to farmers for the purposes of implementing nutrient management and conservation practices.

Throughout the Water Quality Task Force hearings, we heard several consistent messages about the important role that agriculture plays in the future of Wisconsin's water resources, and DATCP stands ready to provide farmers with the resources they need to meet that challenge. We look forward to opportunities to discuss with you more DATCPs vision for further developing this technical and financial assistance and expanding the technical resources we offer to our agricultural community.

#### **Comments on AB 727:**

##### **Creating a commercial nitrogen optimization pilot program**

If enacted, this bill would require DATCP to administer a pilot grant program for farmers to voluntarily collaborate with a University of Wisconsin System institution to optimize the application of commercial nitrogen. For example, grants would help farmers offset costs of using nitrogen inhibitors, cover crops, and split applications of nitrogen. This bill also requires each participating farmer to work with a University of Wisconsin System institution to monitor the grant project on-site and assess the efficacy of the practices. Farmer participants will be awarded up to \$50,000. A portion of the funding, no more than 20 percent of the total amount awarded, would be given to the collaborating University of Wisconsin System institution to conduct the associated research components of this program. The bill provides \$1 million in each of the two funding years for this purpose.

##### **Providing crop insurance rebates for cover crops**

AB 727 also authorizes DATCP to create a program for Wisconsin farmers to incentivize farmers who are not currently participating in other programs to implement cover cropping practices via crop insurance rebates. The incentive would come in the form of a \$5/acre reimbursement for crop insurance on those acres that were planted in cover crops. The bill includes a prohibition on acres that funding is available from specific state and federal programs, including a producer-led watershed protection grant, the soil and water resource management program, the federal Environmental Quality Incentives Program, or the federal Conservation Stewardship Program. A maximum of 80,000 acres would be eligible for this program.

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### **Assembly Amendment 1 to AB 727 – Crop Insurance Rebates**

The proposed amendment adds two provisions (c) and (d), to the proposed 93.65 (2) related to DATCP authority for rulemaking. DATCP supports the proposed additions. These provisions will allow DATCP to establish by rule, the maximum amount of acres an applicant can receive funding for in a year where the demand for funds exceeds the total funding available. In order to determine and implement the acreage cap, we will need to establish by rule an application period and deadline, for which the authority is granted in the new proposed (d). DATCP supports the change from “available” to “provided” for the reference to payments to applicants for cover crops from the listed programs. It is important to note that due to the complexity of the various other state and federal rebate programs listed, DATCP will likely need to include landowner self-certification in the future process. DATCP staff do not have access to federal databases and are unlikely to receive access, so it may be difficult to verify whether a payment were received from all listed programs. DATCP also supports the clarification language in (4) related to the process being set by rule, and the removal of the proposed 93.65 (5).

With current staffing levels, DATCP will be challenged to meet the 90-day emergency rule requirement to launch the nitrogen optimization program and to create an emergency rule for the cover crop rebate program, as well as providing the invaluable technical support and expertise to assist our farmers in implementing the practices identified by this effort. Additional staff funding would ensure meeting these deadlines, delivering timely and quality service to program participants, and ensuring the best, most efficient and effective use of our state’s resources. Given the connection of these programs to DATCP’s goals of serving farmers while helping to meet water quality goals, these proposed grant programs would support our goals and our state’s agricultural operations in a number of ways.

### **Comments on AB 728:**

#### **Eligibility for producer-led watershed protection grants**

Under current law, the Department of Agriculture, Trade and Consumer Protection administers a program to provide watershed protection grants to producer-led groups made up of farmers located in one watershed. The bill allows grants under the program to be awarded to producer-led groups that include farmers located in adjacent watersheds, thereby expanding the area a producer-led group would work within to larger-scale watersheds and regions of the state. One potential result of this change is that the geographic extent of the funded watersheds could increase so significantly that the funding cap of \$40,000 per group per year would be spread thinner across the expanded watersheds. Additionally, when the program was created in 2016, one of our main goals to ensure locally driven conservation implementation priorities and practices. Allowing the size of the watersheds to become too expansive could result in a diminished localized approach and make it more difficult to reach its water quality improvements goals over time. The program also does not allow multiple watershed groups to operate in the same watershed. The proposed change may make it more difficult for new groups to launch in areas of the state already reasonably covered by current producer-led groups. Importantly, while the proposed eligibility requirement may create even more competition for the funds available, it may push groups to continue increasing innovation, collaboration, and the implementation of conservation practices to remain competitive for funding new farmer participation.

### **Assembly Amendment 1 to AB 728 – Producer Led Grant Eligibility**

DATCP supports the proposed amendment 1 to SB 678. Amendment 1 defines a watershed as HUC 12 scale watersheds. This will ensure consistent implementation for determinations of adjacent watersheds. Amendments 2 and 3 impact portions of the legislation that are not managed by DATCP.



**Allocation plan for soil and water resource conservation grants**

Related to DATCPs role in the annual soil and water conservation grant process, current law enables county LCDs to request funding for conservation projects that address statewide soil and water conservation priorities, and activities necessary to implement their county land and water resource management plans by submitting an annual grant allocation application to DATCP. This bill would ensure that when making funding decisions through the annual allocation DATCP considers not just the county's demonstrated commitment to implementing the county's approved land and water resource management plan but also externalities, such as extreme weather conditions that may have impacted the county's ability to implement those projects and accomplish its goals in the previous funding cycle. Since these considerations are already part of the decision-making process at DATCP, we see no impediments to assuring this is a perennial component of our assessment.

Thank you for the opportunity to provide information on AB 727 and AB 728 and proposed amendments. I would be happy to answer any questions committee members may have.



**Extension**

UNIVERSITY OF WISCONSIN-MADISON

## **Assembly Committee on Agriculture**

*2021 Assembly Bill 727*

*Creating a Hydrogeologist Position at WGNHS*

*January 5, 2022*

Good morning, Chair Tauchen and members of the Assembly Committee on Agriculture.

My name is Ken Bradbury and I serve as the State Geologist and Director of the Wisconsin Geological and Natural History Survey (WGNHS) which is located within the UW-Madison Division of Extension. Thank you for the opportunity to submit written testimony in support of Assembly Bill 727, which, amongst other things, creates a hydrogeologist position at WGNHS.

The Wisconsin Geological and Natural History Survey was created by the Wisconsin Legislature in 1897. It is the descendant of earlier state surveys in Wisconsin, which date back to 1854. The WGNHS is an interdisciplinary organization that conducts natural resources surveys and research to produce information used for decision making, problem solving, planning, management, development, and education. *Survey* is defined to include resource inventory and basic and applied research and analysis. Maps, data, records, and reports—including interpretations and recommendations—produced by the WGNHS provide basic data for resource, land-use, and environmental management. The WGNHS has no specific regulatory or enforcement responsibilities.

The WGNHS is a unique state organization that produces and provides maps, reports, technical studies, and technical assistance about Wisconsin's groundwater and geology. Maps and data developed at the Survey are used constantly by local, state and federal agencies, planning departments, crop consultants, water well drillers, engineering firms and others to support decision making. Most of our groundwater investigations are targeted at County and local scale problem solving.

Due to previous cuts in the state budget, we currently only have three hydrogeologists on staff and these individuals are fully committed to ongoing projects, outreach, and service. We frequently receive new requests for studies and service for counties and local governments and we are currently unable to meet these needs. Adding an additional hydrogeologist, with

supporting funding, to our staff will significantly add to the Survey's capacity to address groundwater questions and produce local groundwater inventories and models.

This position will focus on applied hydrogeologic studies at the county and local scale. It is important to note that providing this base capacity will allow the Survey to leverage other federal, state and local funds in developing cooperative groundwater studies.

On behalf of UW-Madison, I would like to thank the authors, Representative Kitchens and Senator Cowles, for introducing this much-needed legislation. Thank you for your time and for allowing us to detail the important work being done by WGNHS and the Division of Extension.

Ken Bradbury

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DAIRY BUSINESS ASSOCIATION | DAIRY FORWARD

January 5, 2022

## Assembly Committee on Agriculture

*Testimony in favor of Assembly Bill 727 and Assembly Bill 728*

Good morning, Chairman Tauchen, Ranking Member Considine and committee members. Thank you for the opportunity to provide testimony today in support of Assembly Bill 727 and Assembly Bill 728.

My name is Chad Zuleger. I am the associate director of government affairs representing the Dairy Business Association. Our membership includes dairy farmers, processors and a variety of affiliated businesses that help ensure producers are successful in our state and, that the products we produce remain delicious, nutritious, desired and available around the world.

We appreciate the leadership of Representatives Kitchens, Novak, Tranel and Shankland, as well as Senators Cowles, Testin and Ballweg in authoring this legislation. We also want to recognize the support of cosponsors, the efforts of DATCP and the DNR and, all of the stakeholders who provided valuable input and insight while working hard to get these bills here before you today.

These bills continue the efforts begun by the bipartisan Speakers Task Force on Water Quality and furthered with bipartisan support in the 2021-23 state budget. We appreciate the efforts of both political parties, with a measured approach, to address concerns regarding water quality in our state. While these bills won't solve every problem, they will move us forward on a path toward constant improvement.

Assembly Bill 727 contains provisions that address nitrate runoff and groundwater infiltration. First, AB 727 establishes a nitrite optimization pilot program at the Department of Agriculture, Trade and Consumer Protection (DATCP). The program will provide \$1 million each year in grant funding to farmers who engage in projects, for at least two growing seasons, that monitor and optimize the application of commercial fertilizers. Grant requirements include collaboration with the UW System, which will monitor the projects. Individual grants would be capped at \$50,000 with a maximum of 20% available to a participating university.

Second, the bill creates a cover crop insurance premium rebate to encourage and incentivize the practice of planting cover crops. Similar to rebate incentives in Illinois and Iowa, we expect this program to be very popular and help promote the state's use of cover crops that among other established benefits, keep residual fertilizer/nutrients in the field, provide reduced nutrient runoff and leaching, mitigate soil compaction, provide weed control, reduce wind and water erosion and often provide a food source for livestock. AB 727 provides \$400,000 each





year, beginning in year two of the biennium. The program is administered by DATCP with a verification process to identify and exclude federal cover crop program recipients.

Third, AB 727 creates a three-year project position for a state hydrogeologist, housed at UW-System. The position will focus on developing groundwater resource information and working with stakeholders, members of the public and, government entities to interpret and apply the information garnered. The position is funded at \$75,000 in the first budget year and \$150,000 in the second. Mapping land and soils will help us understand where and how to employ conservation practices. This greater understanding of our soils will guide efforts and encourage best practices locally where it makes the most sense.

Assembly Bill 728 makes several technical changes to existing programs. First, AB 728 makes statutory changes to expand access to existing, but underutilized, funding under the Well Compensation Grant Program. No new dollars. Some these common-sense revisions include removing requirements that funds be provided only if a well is a) nitrate-contaminated and used for livestock, b) used at least three months in a year and c) providing more than 100 gallons of water per day. This simple technical change will allow more existing funds to be dispersed and, more contaminated wells to be tested and remediated.

Second, AB 728 makes a change in statute to allow DATCP, when considering a county's demonstrated commitment to land and water planning, to also consider external circumstances, potentially impacting a county's results, when allocating funds under the Soil and Water Resource Conservation Program. Such a circumstance would include extreme weather events like drought, flooding, etc.

Third, the bill makes another simple, but consequential, change that will allow producer-led watershed groups that are comprised of farmers in adjacent watersheds, to apply for grant funding under the current program. Again, no new dollars. As currently written, producer-led groups must be comprised of members entirely within one watershed. This change is commonsense. We should be promoting collaboration between farmers who share information and best practices to improve application and mitigation efforts, maybe even mor.

To conclude, Assembly Bill 727 and Assembly Bill 728 promote real progress in our combined efforts to improve water quality for residents of our state while promoting conservation methods that farmers can practically employ. These bills provide measurable objectives and reporting, promote collaboration across agencies and, provide oversight to ensure compliance and improvement. DBA supports these bills and urges this committee to approve them for consideration by the full Assembly.

Thank you, Chairman Tauchen, Ranking Member Considine and committee members for your time and consideration today.



**Testimony of Erik Kanter, Government Relations Director  
Assembly Bills 727 and 728  
Assembly Committee on Agriculture  
January 5, 2022**

Thank you for the opportunity to testify on Assembly Bills 727 and 728. My name is Erik Kanter; I am Government Relations Director at Clean Wisconsin.

Clean Wisconsin is a non-profit environmental advocacy group focused on clean water, clean air and clean energy issues. We were founded over fifty years ago and have over 30,000 members and supporters around the state.

We support AB 727 and AB 728 as small steps towards confronting our collective failure to address nitrate contamination of drinking water and meeting one of the State's most basic responsibilities to its residents; the provision of clean drinking water. We appreciate the leadership of Representative Kitchens and the other co-sponsors in drafting and advancing these bills.

We must, though, recognize the context in which these proposed policy changes exist. The scale, scope and persistence of this problem in Wisconsin, despite our awareness of it for decades, dwarf these proposed solutions. The small but important steps these bills take towards providing relief to families with contaminated water and reducing continuing nitrate pollution of our water resources must be accompanied by bolder, sustained investments in confronting this public health and agricultural challenge.

Conservative estimates place the number of private wells in Wisconsin that exceed the nitrate health standard of 10mg/L at around 40,000,<sup>1</sup> but because of highly inadequate resources to help homeowners test their wells, we cannot know the true number. The Department of Natural Resources projects the cost of replacing the lower estimation of nitrate contaminated wells at over \$400 million.<sup>2</sup>

About 90% of the incidence of nitrate contamination of drinking water is the result of agricultural practices.<sup>3</sup> Wisconsin has had some minimum conservation standards for all farms since 2002, but, as of this year only about 40% of our agricultural acreage is meeting those standards despite extensive technical assistance devoted to that effort.<sup>4</sup> We know that many of the conservation practices outlined in these standards, like nutrient management plans and

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<sup>1</sup> Wisconsin Groundwater Coordinating Council. 2018. Report to the Legislature: Fiscal Year 2018. p. 125.

<sup>2</sup> Wisconsin Groundwater Coordinating Council. 2018. Report to the Legislature: Fiscal Year 2018. p. 125.

<sup>3</sup> Wisconsin Groundwater Coordinating Council. 2018. Report to the Legislature: Fiscal Year 2018. p. 128.

<sup>4</sup> Wisconsin Department of Agriculture, Trade and Consumer Protection. 2020. 2020 Nutrient Management Planning Data. p. 1.



responsible manure spreading, reduce nitrate contamination of drinking water. Yet in some of the most vulnerable areas of our state, like the Central Sands and Southwest Wisconsin, these practices are not widely adopted, and nitrate contamination of drinking water is extensive.

In conjunction with the Dairy Business Association, The Nature Conservancy and the Wisconsin Land and Water Conservation Association, our organization put forth a proposal to spend \$50 million annually on well testing and remediation and nitrate pollution prevention efforts. That type of financial commitment is commensurate with the scale and scope of this widespread and persistent water pollution problem. Our four organizations recognize that we are all in this together and that we must all work together, supporting families and the farm community, in this effort.

Without additional efforts to increase well testing, help families with contaminated drinking water and reduce nitrate pollution, the promises of clean drinking water for all Wisconsin families that accompanied the Speakers Task Force on Water Quality and have echoed through countless hearings ring hollow. The burden of polluted drinking water that our inadequate action places on Wisconsin families becomes only more unjust as we learn more about the health risks nitrate contamination poses to all segments of the population and our knowledge and technological capacity to reduce nitrate contamination from agricultural practices grows.

We know many innovative farmers are already taking steps to reduce nitrate pollution from their farms. We can fix this problem and we can do it in ways that strengthen our agricultural industry for the future, but it will require changes to how we farm and what we ask of our farmers to get there.

We are ready to stand with and support the agricultural community in this transition. However, maintaining the status quo, where agricultural practices result in drinking water pollution, is not acceptable. Arguments by some in the agricultural industry to preserve the status quo are tantamount to saying they must be allowed to pollute drinking water in order to turn a profit.

We support AB 727 and 728 as the beginning of a bigger, bolder and broader commitment to helping Wisconsin's families burdened with nitrate contaminated drinking water and engaging the agricultural community to reduce nitrate pollution of our water resources.

## CLEAN WATER FOR ALL

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### WHAT CAN THE STATE DO?

#### FULLY FUND COUNTY CONSERVATION

County conservationists work directly with farmers to improve land management practices to protect water and other natural resources. WFU supports increasing funding for county conservation from \$9.4 million to \$12.4 million annually. The state should provide the baseline funding of \$75,000 per county and fund county conservation staffing grants at 100% of the first position, 70% of the second position, and 50% of the third position.

#### SUPPORT FOR GROUNDWATER RESEARCH, TESTING, MAPPING, AND EDUCATION

A coordinated system of statewide groundwater testing and mapping would give counties and residents a better understanding of the quality of their water and any future risk of contamination. WFU supports adding one position at the Wisconsin Geological and Natural History Survey to conduct groundwater mapping. We also support grants for counties to study groundwater quality in private wells, assess the extent and type of contamination, and/or notify the public of the results. The results of these studies should be shared with the UW-Stevens Point Center for Watershed Science and Education so all citizens, stakeholders, and agencies can access the same data.

#### INCENTIVES FOR GRAZING AND COVER CROPS

Grazing livestock on perennial pasture is highly effective at retaining water in the soil, controlling erosion, and preventing agricultural runoff. It is also an effective climate mitigation and adaptation strategy. WFU supports creating a grazing program at DATCP aimed at increasing the number of acres of managed pasture. We also support state incentives for cover crops to maintain continuous cover on cropland.

#### EXPAND PRODUCER-LED WATERSHED PROGRAMS

The Producer-led Watershed program helps farmers share information and collaborate on solutions to protect local water resources. WFU supports funding for the producer-led watershed grant program of at least \$750,000/year. We further support expanding eligibility for lake protection grants to producer-led watershed groups.

#### IMPROVE WELL COMPENSATION PROGRAM

DNR's well compensation program helps households offset the cost of remediating contaminated wells. We support increasing funding for the well compensation program to \$1 million and raising the income cap from \$65,000 to \$100,000, with priority given to lower income households. We support removing the eligibility requirements that wells must be used for livestock and must be contaminated only with nitrates. A Well Compensation Grant Program Administrator position should be created at DNR.

#### INCREASE CAFO MONITORING AND OVERSIGHT

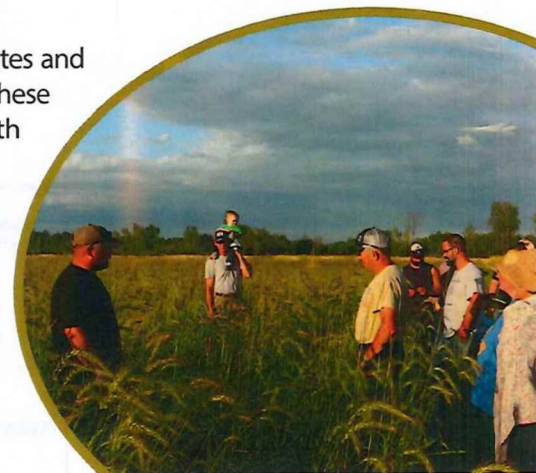
WFU supports increased DNR staffing, funding and authority for CAFO monitoring and oversight to make sure we are holding the farms that pose the greatest risk to our water accountable. We support increasing CAFO permitting fees to a level consistent with surrounding Midwest states. We further support updating the state Livestock Siting rule with increased setbacks to property lines, replacing the odor score calculator, requiring period inspections of all manure pits, and verifying that CAFO operators own or rent enough acres for spreading manure.

#### EXPAND NR-151 TO SENSITIVE AREAS OF THE STATE

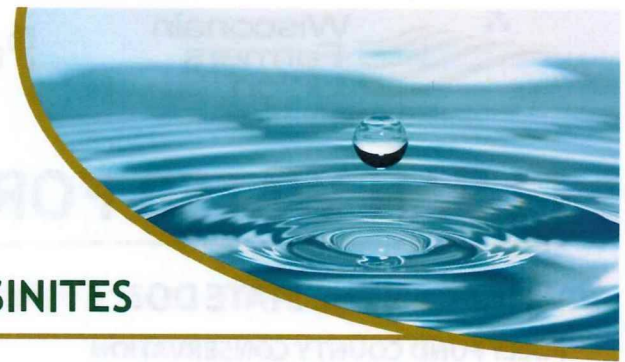
WFU supports changes to NR-151 that restrict manure and other waste application rates and spreading of these materials on frozen soils in areas of the state deemed sensitive areas. These sensitive areas include places with shallow soil depth above Karst bedrock, areas with sandy soils, and areas where groundwater quality standards are not being met.

*All Wisconsinites should be able to drink clean, safe water straight from their taps. For too long, we have been presented with a false choice between agriculture and clean water. Wisconsin Farmers Union believes that it is possible to have clean water, thriving family farms, and vibrant rural economies, and that farmers can be champions in this effort. All of us have an interest in ensuring our water is clean and safe for ourselves, our environment, and future generations.*

*Updated March 2021*







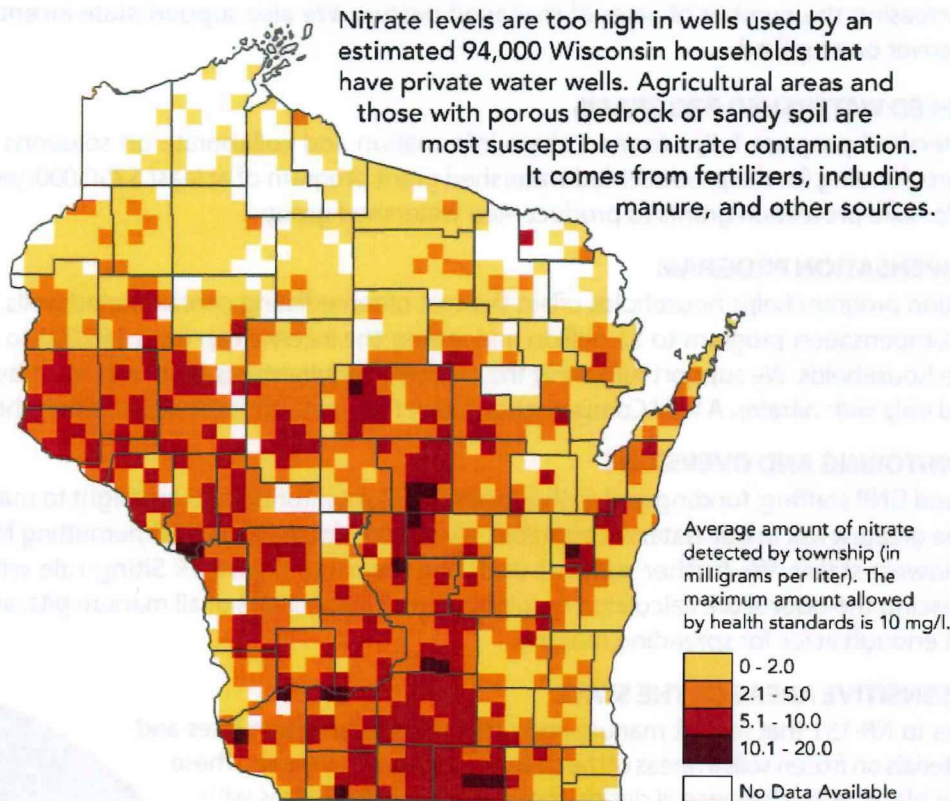
## CLEAN WATER FOR ALL

### ENSURING CLEAN WATER FOR ALL WISCONSINITES

The state of Wisconsin is abundant in water. It borders the Great Lakes, which contain 20% of the world's fresh surface water, and we have rich groundwater resources running below our feet. There is more than enough water available for drinking, recreation, wildlife, and business. However, growing concerns over the public health and ecological impacts of agricultural and industrial pollutants in our water mean we must reevaluate how we manage water resources in Wisconsin.

Agricultural runoff is a major cause of water pollution in this state. Wisconsin has over 1,500 impaired waterways, and between a quarter to half of private wells in Wisconsin do not meet safe drinking water standards due to excess bacteria or nitrates. Bacteria such as E. coli and Cryptosporidium can sicken humans and livestock, and nitrates are known to cause certain cancers, spontaneous abortions in cattle, and "blue baby syndrome" in infants. Excess nutrients in surface water cause toxic algae blooms which threaten humans and wildlife and destroy the tourism and recreation industries.

## Nitrate in drinking water around Wisconsin



CREDIT: Katie Kowalsky/Wisconsin Center for Investigative Journalism

SOURCE: Well Water Quality Viewer, University of Wisconsin-Stevens Point's Center for Watershed Science and Education. Private Drinking Water Quality in Rural Wisconsin, Journal of Environmental Health, 2013.

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**TO:** Members of the Assembly Committee on Agriculture  
**FROM:** Keith Ripp, Executive Director of Governmental Relations  
**DATE:** January 5, 2022  
**RE:** Support for AB 727 & AB 728 – Agricultural Water Quality Legislation

On behalf of the Wisconsin Farm Bureau Federation, we would like to express our support for AB 727 and AB 728, agricultural water quality legislation. Thank you to the bill authors, Representative Kitchens and Senator Cowles as well as all the co-sponsors listed on these bills.

Wisconsin Farm Bureau Federation has long supported farmer led initiatives toward conservation and best management practices on farms. Farmers are the original and continual stewards of the land and resources. They care deeply about the state of our natural resources for their farms, families, local communities and world.

The provisions included in AB 727 and 728 are consistent with Wisconsin Farm Bureau's support of farmer-led, common sense, on-farm initiatives to find local best management practices that are good for farmers and the environment.

**We support the provisions within Assembly Bill 727**

The commercial nitrogen optimization pilot program is exactly what will help farmers determine what on-farm practices work on their farm to establish best practices for commercial nitrogen application rates, timing, incorporation and type. Creation of this program will allow farmers to try new practices for application of commercial fertilizers on their farm in collaboration with university faculty. This program also provides civil liability for farmers who are part of a pilot research program. This is an important provision to include and support as this will encourage farmers to participate and try new things in order to learn about best practices. The civil liability provision is only limited to the acres enrolled and the practices approved in the pilot program.

Cover crop insurance premium rebates are an important provision to provide a small financial incentive for farmers to invest in a practice that has great conservation and soil health returns. Several other states have state funded premium reimbursement programs for farmers to try the practice of planting cover crops and they have been met with high levels of participation by farmers.

Water has always been an important resource for farmers. Water quality is essential to maintaining human, animal and environmental health. There are many questions related to water and nutrient movement through water in recent years. A hydrogeologist position would be a resource for compiling and distributing scientifically supported resources to stakeholders.

**We support the provisions within Assembly Bill 728**

The well compensation grant program is a program that could be helpful to many rural residents who need financial support to reconstruct, construct a new well, treat the water or fill and seal a well. Currently the provisions to be eligible to receive funds from this program are narrow and therefore, the program has not been utilized, even though there is a need. We support the provisions to change the eligibility standards and provisions within this program so it can be utilized by those that need it.

Producer led watersheds have been a successful initiative for local farmers and stakeholders to collaborate about their local watersheds, determine local issues, come up with local solutions and take ownership of the proactive approach they take to enhancing soil health and water quality. Under the current program requirements, producer-led watershed groups are not able to enroll land that is in an adjacent watershed. Farms don't know geographic boundaries and some farms may be located within more than one watershed. We support the provision to include adjacent watersheds as part of the producer led grant program and support these watershed groups' efforts.

Producer led watershed groups are initiating practices that benefit all water quality. In order to enhance and promote the great efforts that are occurring within the producer led watershed groups, we support the provision to expand the lake and river protection grant eligible recipients to include producer led watershed groups.

In conclusion, we support the provisions included in AB 727 and 728 and appreciate the support these bills show for conservation efforts initiated by farmers. Wisconsin Farm Bureau asks that you **support** AB 727 and AB 728.





TO: Members, Assembly Committee on Agriculture

FROM: Craig Summerfield, Director of Environmental & Energy Policy, WMC  
Lane Ruhland, Government Affairs for VDC & WDA

DATE: January 5, 2022

RE: Concerns with Assembly Bill 727

Wisconsin Manufacturers & Commerce (WMC), the Wisconsin Dairy Alliance, and Venture Dairy Cooperative appreciate the opportunity to testify on Assembly Bill 727. Our organizations are concerned with unintended consequences of this proposal, and are testifying today for information only.

**WMC** is the largest general business association in Wisconsin, representing approximately 3,800 member companies of all sizes, and from every sector of the economy. Since 1911, our mission has been to make Wisconsin the most competitive state in the nation to do business. That mission includes advocating for regulatory certainty for farmers, food manufacturers, and many others that depend on a strong agricultural industry in the state.

**Wisconsin Dairy Alliance (WDA)** represents modern regulated dairy farms in Wisconsin and works diligently to preserve Wisconsin's heritage as the Dairy State. **Venture Dairy Cooperative (VDC)** works to combat unnecessary regulations, reduce government bureaucracy and advance smart policy to support the future of dairy farmers.

To begin, our organizations agree with the bill authors that farmers are some of the most responsible stewards and conservationists of our land in the state. Wisconsin farmers continue to lower the environmental footprint on their farms each year as farming practices, overall herd management and genetics improve. The most recent sustainability data shows that every gallon of milk produced in 2017 used 30.5% less water than 10 years prior. However, the ability to continue to efficiently and sustainably produce more food using fewer resources than ever before depends on continual improvements in agriculture through farmer innovations, not new regulations.

Assembly Bill 727, while certainly a well-intended proposal, includes provisions that are of significant concern to our organizations and members. First and foremost, AB 727 grants the UW System funding for a new hydrogeologist project position for groundwater research. While only one position might seem harmless enough, the dairy industry and especially our members have already expended significant time and resources correcting the record to combat biased research. This new research could ultimately be used as fresh justification by the Department of



Natural Resources (DNR) or the Department of Agriculture, Trade, and Consumer Protection (DATCP) to push new regulations that would harm both crop growers and dairy farmers in the state.

Second, the legislation grants DATCP very broad rulemaking authority. Specifically, AB 727 gives DATCP new emergency rulemaking authority, and specifies that these DATCP emergency rules have a three-year duration. We are deeply concerned about giving DATCP, or any agency, sweeping emergency rulemaking authority that enables agencies to dodge the public participation and legislative oversight safeguards of Chapter 227 requirements – especially for a three-year period – where it is clear that no emergency actually exists.

Third, and finally, we note that the bill includes an appropriation – and thus grants broad partial veto authority to Governor Tony Evers. Our coalition is troubled by the prospect of sending this administration legislation referencing critical issues like commercial nitrogen, new position authority, and broad agency rulemaking authority. These sections of the bill could be radically altered with the stroke of a pen. Moreover, this administration has put forward rules and recommendations that would be very damaging to Wisconsin's farmers and agricultural producers.

Thank you for considering our testimony. We welcome the opportunity to work with the bill authors and the committee chairman to address these concerns, and are happy to answer any questions.

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## Wisconsin Potato & Vegetable Growers Association, Inc.

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### MEMORANDUM

**TO:** Members of the Assembly Committee on Agriculture  
**FROM:** Tamas Houlihan, Executive Director  
**DATE:** January 5, 2022  
**RE:** **Support for AB 727 and AB 728 – Agricultural Water Quality Initiatives**

The Wisconsin Potato & Vegetable Growers Association (WPVGA) supports Assembly Bill 727 and Assembly Bill 728 **related to improving agricultural water quality in Wisconsin.**

**Wisconsin potato & vegetable growers are committed to working on solutions to improve water quality in our state.** Wisconsin farmers want to be leaders in the development of improved water quality practices on farms. The programmatic changes and new programs that are created in AB 727 and AB 728 support those incredibly powerful and successful farmer-led conservation efforts that we have seen develop across Wisconsin.

Specifically, the **commercial nitrogen optimization pilot program** will incentivize farmers to engage in new practices to reduce nitrogen leaching on farms and share what they learn as a part of those projects with other farmers across Wisconsin. The **cover crop insurance premium rebates** will provide additional support for a practice that has proven to improve agricultural water quality. The **hydrogeologist position** is needed to continue to develop reliable soil depth to bedrock maps in Wisconsin so that cropping practices can be adjusted to meet the geology of particular regions and identify more areas that might be more susceptible to runoff.

The programmatic changes to the **DNR's well compensation program** are necessary for the funding for those grants, which were included in the 2021 biennial budget bill, to be utilized by rural well owners who have elevated contaminant levels in their drinking water wells. The programmatic changes to the **producer-led watershed grant program and the county conservation grant program** are needed to further enhance the utilization of those programs.

**WPVGA supports both AB 727 and AB 728 and urges the committee to recommend these bills for passage this fall.**

### BACKGROUND – OUR INDUSTRY AND COMMITMENT TO RESEARCH

**Wisconsin ranks in the top five nationally in the production of eight major vegetables:** first in snap beans, beets and cabbage for kraut; second in carrots and peas; third in potatoes and sweet corn; fourth in cucumbers for pickles; and in the top 10 for onion production. Together, specialty crop production in Wisconsin is valued at over \$1 billion annually, with an additional \$5 billion in associated economic activity and over 35,000 jobs.

**WPVGA Supports Farmer-Led Water Quality Initiatives.** Assembly Bill 727 creates and funds a commercial nitrogen optimization grant program designed to incentivize farmer-led water quality improvements. We strongly support this new program. The WPVGA and our growers have been committed to water quality research and developing improved practices through our research projects for decades.

Research is the watchword for the entire Wisconsin potato and vegetable industry. The Wisconsin Potato Industry Board (WPIB) spends upwards of \$850,000 annually on research, with a strong emphasis on environmental concerns. The total budget of the WPIB is just over \$2 million annually, so research represents over 40% of the spending.

If you look at agricultural statistics, you will notice there are fewer acres of potatoes grown in Wisconsin than in the past. This is due in part to increased yields from improved varieties, as well as proper water and nutrient management. However, to supply the ever-growing population with a consistent food supply, growers need to increase yields while lowering the inputs used. This can only be accomplished through research.

In the 1970s, the Wisconsin Irrigation Scheduling Program was developed to promote efficient irrigation, prevent the leaching of fertilizer and chemicals into the groundwater, and reduce energy use. Through applied research, soil scientists have fine-tuned plant nutrition analysis techniques allowing them to adjust fertilizer recommendations to meet the needs of the plants and avoid over-fertilization.

The relatively simple act of planting a cover crop has multi-faceted benefits including improved soil health; reduced soil erosion; reduced soil compaction; improved soil organic matter; reduction in weeds; improved nutrient cycling; improved Nitrogen uptake; and protection of water quality and the environment.

**WPVGA Water Task Force Fuels Need for More Research.** In increasing our understanding of the hydrology of the Central Sands, the WPVGA's Water Task Force has initiated a program to measure groundwater depths in privately owned irrigation wells across space and time. We have purchased and installed equipment to continuously monitor groundwater in four areas designated as high risk for surface water impacts. The Water Task Force has also continually funded software maintenance to keep the Wisconsin Irrigation Scheduling Program and the Agricultural Weather Data Service operational.

In irrigation technology, we have developed and implemented new irrigation scheduling software to match water use to crop need; conducted on-farm research with drip irrigation, deficit irrigation and site-specific, precision irrigation; and we are currently conducting multiple on-farm trials in an effort to further reduce nitrate leaching.

In water loss, we have conducted field research on year-round evapotranspiration from crops and natural vegetation and developed digital maps of all vegetation types in Central Sands watersheds to aid in designing landscapes that require less water and increase recharge.

The Water Task Force also funded research looking at nitrate and chloride concentration in irrigation water applied as well as total loads during the growing season in the Central Sands. The research results provide important information for studies investigating nitrogen use efficiency, developing improved nutrient management programs, or those investigating leaching losses to groundwater.

More work is needed in all of these areas, and the outstanding team of potato researchers at UW-Madison does not have the capacity to expand their research focus beyond current programming. There is a great need for more hydrogeology positions in Wisconsin with an emphasis on water quality issues.

**WPVGA also supports the programmatic changes to the DNR's well-testing grant program and the producer-led watershed program contained in AB 728.** The WPVGA worked closely with the Wisconsin Wetlands Association and UW-Extension on a Producer Led Watershed Protection Grant in 2021. Six farms participated in the Little Plover River/Wisconsin River watershed with great success. The Little Plover River continues to flow above the public rights stage and has not dried up in over ten years; irrigated farmland has been converted to a wetland restoration site; a high capacity well near the river was taken out of use; rotational grazing practices are being used along with the extensive use of cover crops, native prairie plantings and pollinator plantings. We've recruited another grower in the region to join the existing Producer-Led group and hope to receive another grant in 2022 to continue the good work in all of these areas.

**Farmers are True Environmentalists.** Most Wisconsin potato and vegetable farms are family-run operations that have been in the family for several generations. Growers live, work, and raise their families on their land. They have a deep, abiding love for their land, and they know they have a responsibility to maintain it and use their resources wisely. In the past 50 years, through funding and applying the results of field research, growers have adopted many practices of precision farming including grid soil sampling, grid fertilization, variable rate irrigation and other environmentally friendly practices that reduce pollution, reduce runoff, reduce costs and increase quality and yields.

Farmers want to be the solution to agricultural water quality issues in our state. These bills go a long way toward helping them achieve that goal. We greatly appreciate the leadership of Senator Cowles and Representative Kitchens and the other legislative co-authors of these bills for supporting efforts to improve rural water quality. Each of these legislative changes complement our growers' ongoing commitment to improving water quality on their farms and in their communities.