



Midwest  
**Environmental**  
Advocates



# Speaking Up For Clean Water

**A Citizen's Guide to Protecting  
Wisconsin's Most Valuable Resource**



## ABOUT MIDWEST ENVIRONMENTAL ADVOCATES

As a non-profit environmental law center, Midwest Environmental Advocates provides legal and technical support to those who are working to uphold Wisconsin's strong tradition of safeguarding public health and natural resources for current and future generations.

Protecting water is at the heart of our work. Since 1999, MEA has used its legal expertise to protect public rights to Wisconsin waters and to ensure that government is held accountable for protecting groundwater and surface waters.

Prior to MEA's founding in 1999, the dual functions of government watchdog and champion of public rights had been performed by the Public Intervenor's Office. For decades, the Public Intervenor served the people of Wisconsin by defending citizens' legal rights under the Public Trust Doctrine. The Public Trust Doctrine is a constitutional guarantee by the State of Wisconsin to protect the quality of Wisconsin's waters.

When the Public Intervenor's Office was dismantled in 1995, Midwest Environmental Advocates was founded in order to fill the void. MEA continues to vigorously defend the Public Trust and to act as the leading environmental watchdog for Wisconsin's groundwater and surface waters.

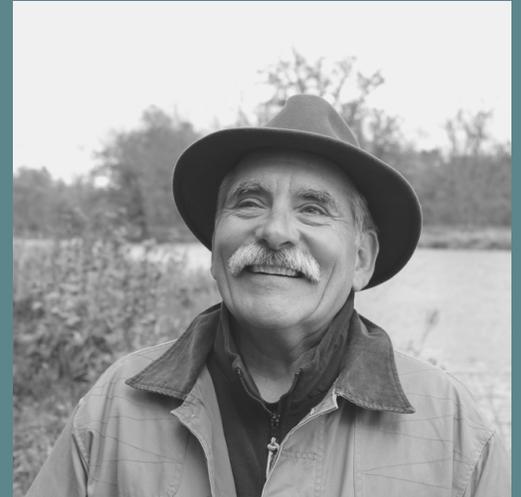
# CITIZEN VOICES MATTER

At Midwest Environmental Advocates,  
we believe every citizen has  
the power to make a difference.

Wisconsin is rich in water resources, yet too many families lack access to safe drinking water. This guide is designed to help you understand the factors that have contributed to Wisconsin's water challenges and the steps that will be necessary to improve the situation. Most importantly, this guide is designed to make it easier for you to speak up and be heard by elected officials.

Citizen engagement is a critical tool for holding government accountable to its promise of improving water quality. For 20 years, Midwest Environmental Advocates has been committed to supporting citizens around the state who have stepped in when government has failed to act. It is critical that elected officials hear directly from Wisconsin families, especially those who have been impacted by drinking water contamination.

Wisconsin is at a clean water crossroads. Groundwater contamination is an urgent problem that demands immediate action. While there's no denying that the issue requires further research and study, there are concrete solutions our state government can implement immediately to improve water quality. This guide lays out some of those solutions.



# LEGAL FRAMEWORKS FOR WATER PROTECTION

## **The Public Trust Doctrine**

The Public Trust Doctrine is a source of legal authority rooted in ancient Roman law and enshrined in the Wisconsin Constitution. It requires government to intervene to prevent the impairment of public waters and their uses. While these uses were once understood to include only access to public waters for navigation and commercial purposes, the public trust is now understood to encompass public rights to water quantity and quality, recreational uses and scenic beauty. Over the last century, state courts have consistently upheld and strengthened this constitutional responsibility to protect Wisconsin's lakes, streams, and rivers.

## **The Federal Clean Water Act**

The Clean Water Act (CWA) was passed in 1972 to resolve growing concerns over water degradation in the United States. The Act effectively gives authority to the Environmental Protection Agency (EPA) to regulate all pollutant discharges to the waters of the United States. While a national regulatory scheme is in place, the Clean Water Act also allows the EPA to delegate its authority to individual states. Under the CWA, the Department of Natural Resources has been entrusted with the administration and enforcement of Wisconsin's water pollution permitting program.

## **The Federal Safe Drinking Water Act**

Under the Safe Drinking Water Act (SDWA), the EPA sets science-based standards for drinking water to protect public health. While the focus of the law is mainly on public drinking water systems, it also gives the EPA the power to intervene when state and local governments are unwilling or unable to address groundwater contamination that presents an imminent and substantial threat to public health. In 2016, northeastern Wisconsin's drinking water crisis had become so acute that Midwest Environmental Advocates and other environmental organizations filed a legal petition asking EPA to exercise emergency powers under the Safe Drinking Water Act. Although this led to modest improvements, the problem is ongoing and requires comprehensive and lasting solutions.

# WHAT'S IN OUR WATER?

## common contaminants and their sources

Wisconsin's public water supply systems and private wells are vulnerable to a host of threats, including agricultural runoff, lead from aging infrastructure and emerging contaminants such as PFAS.

94k

rural Wisconsin families drink from wells contaminated with unsafe levels of nitrates

### NITRATES

Nitrates in Wisconsin's groundwater come from 3 main sources-- agricultural fertilizers, manure, and residential septic systems. It is estimated that 10% of wells across the state have unsafe levels of nitrates. In areas where agriculture is the dominant land use, the percentage of contaminated wells can be much higher. A recent study in rural southwest Wisconsin revealed that 42% of private wells tested positive for unsafe levels of nitrates or bacteria.

81

public water systems in Wisconsin have tested above EPA's allowable lead levels

### LEAD

At least 176,000 Wisconsin homes and businesses receive water from aging lead service lines, including many daycare facilities and schools. Thousands of children in Wisconsin have elevated levels of lead in their bodies. Lead exposure can result in irreversible damage to the brain, kidneys and nervous system. Lead poisoning is a statewide problem that affects families in the cities of Menasha, Milwaukee, Racine, and Watertown and the counties of Buffalo, Green Lake, Pepin, Richland, Rock, and Sheboygan.

1%

of Wisconsin's municipal wells have been tested for PFAS

### PFAS

PFAS (pronounced "p-fass") are synthetic chemicals found in firefighting foams and household goods such as non-stick cookware. PFAS move quickly through groundwater and have been linked to a range of serious health concerns. Communities with known PFAS contamination include Marinette, Manitowoc, Milwaukee, Madison, Baraboo, Sparta and Camp Douglas. The true extent of the problem is unknown, as most public water systems have yet to be tested for PFAS.

# ROOM FOR IMPROVEMENT

## clean water monitoring & enforcement

Between 2012 and 2017, lawmakers cut \$59 million from DNR's budget and eliminated nearly 200 positions, including half of its science researchers.

Clean water can't be achieved without meaningful regulations, inspections and enforcement of water pollution permits. In Wisconsin, the Department of Natural Resources is charged with these regulatory and enforcement responsibilities. DNR oversees a permitting program for municipal, industrial and agricultural polluters. Over the last two decades, DNR's ability to effectively regulate water pollution has declined as a result of budget and staffing cuts and political interference in science-based decision making.

### A TROUBLING TIMELINE

In 2011, the U.S. Environmental Protection Agency sent Wisconsin's Department of Natural Resources a letter detailing 75 specific ways in which Wisconsin's pollution permit program failed to comply with federal law. EPA ordered Wisconsin to start making changes to bring the program back into compliance with the Clean Water Act.

Four years later, Wisconsin DNR had failed to address many of the 75 deficiencies identified by EPA. As a result, 16 citizens represented by Midwest Environmental Advocates filed a 2015 Petition for Corrective Action. The petitioners asked EPA to either step in and take corrective action or rescind Wisconsin DNR's authority to issue pollution permits.

A 2016 report by Wisconsin's nonpartisan Legislative Audit Bureau confirmed that numerous deficiencies remained in the pollution permit program. The report documented a significant decline in DNR enforcement actions between 2005 and 2015. According to the report, notices of violations were issued to polluters in just 33 of 558 instances serious enough to warrant citations under DNR policies.

By 2019, Wisconsin's failure to effectively regulate water pollution led to the creation of a statewide legislative task force to address the problem.

2011

2015

2016

2019



# MAKE YOUR VOICE HEARD

attend a water quality hearing in your community

For decades, Wisconsin families have been concerned about the safety of their drinking water. Unfortunately, lawmakers have been slow to act, even when confronted with clear evidence of a growing crisis. When a 2018 study revealed that 42% of private wells sampled in southwest Wisconsin were contaminated with unsafe levels of nitrates and bacteria, the crisis could no longer be ignored.

In early 2019, Wisconsin legislators announced the creation of a statewide task force to gather more information from stakeholders. Midwest Environmental Advocates encourages all citizens, especially those who have been negatively impacted by the drinking water crisis, to attend a hearing and speak directly to legislators. Citizen engagement is critical to holding government accountable to its promise of improving water quality.



**Hearings begin May 8th. Visit MEA's website to find the date and location of a hearing near you.**

[www.midwestadvocates.org](http://www.midwestadvocates.org)

# MAKE YOUR VOICE HEARD

## tips for attending a water quality hearing

### A Recipe for Success

- **PREPARE:** Take time to think through and write out your talking points.
- **PERSONALIZE:** Be sure to include your personal story AND a possible solution to the problem.
- **PRACTICE:** Tell a family member, coworker or friend what you plan to share.

### Be Respectful, Be Concise and Be Heard

- Remind the task force that everyone has a right to safe drinking water. Families drinking contaminated water can't wait any longer for the legislature to act.
- Ask legislators to support the clean water initiatives in the Governor's proposed budget and outlined in this guide.
- Tell the task force that short-term fixes aren't sufficient. Strategies for preventing future pollution are just as important.
- Most importantly, tell your story. Elected officials need to hear how water pollution has impacted you, your family, and your community.
- If you are asked a question you don't know that answer to, it's ok to say, "I'll look into that and follow up with more information."



# RECOMMENDATIONS FOR THE TASK FORCE

## RESEARCH & MONITORING

Under the public trust doctrine, our state government has a constitutional responsibility to protect our water resources. For years, state agencies have been deprived of the resources and authority they need to adequately monitor and enforce clean water protections and to identify and address new and emerging threats to drinking water. You can help change this by urging lawmakers to restore funding to pay for drinking water research and monitoring.

**+5**

**NEW FULL-TIME SCIENCE  
POSITIONS AT DNR**

**\$75K**

**TO EVALUATE THE SAFETY OF  
DRINKING WATER IN SW WISCONSIN**

## INFRASTRUCTURE

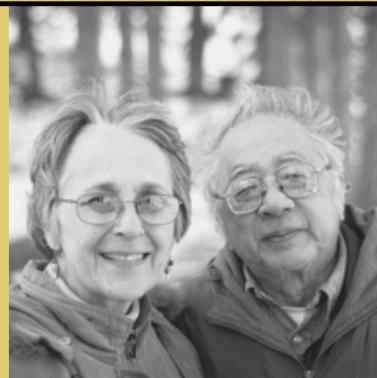
While lead service lines haven't been used in infrastructure projects since the 1960s, there are an estimated 170,000 lead service lines in communities across the state. Wisconsin must upgrade and maintain its statewide water infrastructure. The Governor's proposed budget contains important funding for removing lead pipes, replacing and reconstructing contaminated wells and providing financial assistance to municipal water systems to upgrade water supply infrastructure.

**\$150K**

**TO IDENTIFY & PRIORITIZE  
PFAS-CONTAMINATED SITES**

**\$50K**

**FOR A SURVEY OF PFAS-CONTAINING  
FIREFIGHTING FOAM USE**



# RECOMMENDATIONS FOR THE TASK FORCE

## NONPOINT SOURCE POLLUTION

All industries have a stake in improving and protecting Wisconsin's drinking water. When it comes to reducing nitrate levels in groundwater, the agricultural community has a particularly important role to play. Runoff from farm fields and improper manure application are major contributors to the problem of excess nitrates in our drinking water.

**100%**

**COUNTY CONSERVATION DEPARTMENTS MUST BE FULLY FUNDED IN ORDER TO SUCCESSFULLY WORK WITH FARMERS TO MANAGE THE IMPLEMENTATION OF STATE STANDARDS FOR RUNOFF MANAGEMENT.**

**\$425K**

**ANNUALLY FOR 5 ADDITIONAL DNR STAFF TO MONITOR AND ENFORCE PERMITS FOR CONCENTRATED ANIMAL FEEDING OPERATIONS**

**40% ↑**

**INCREASE IN FUNDING TO HELP FARMERS IMPLEMENT CONSERVATION PRACTICES**

