



Victory for Kewaunee County Citizens Fighting for Clean Water Water Problems Highlighted in Court Challenge to DNR Water Pollution Permit

FOR IMMEDIATE RELEASE: Thursday, October 30, 2014

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MADISON, WI – Yesterday, the Wisconsin State Division of Hearings and Appeals issued a decision in the water pollution permit challenge by residents of Kewaunee County against the state Department of Natural Resources. The court decision spotlights the widespread groundwater pollution problems in an area of Wisconsin with the highest concentration of industrial livestock facilities.

"In rural Kewaunee County, industrial livestock facilities produce more manure waste than can safely be spread on area fields for disposal," said Sarah Williams, a Midwest Environmental Advocates staff attorney who worked with citizens in the permit challenge. "Nitrates and bacteria from untreated animal waste are polluting local drinking water wells. During the permit challenge proceedings, the overwhelming and moving testimony from Petitioners and local residents about their concerns for their health and their water was reflected in Administrative Law Judge Jeffrey Boldt's decision."

In his decision, he notes that "many members of the public were deeply upset about what could only be described as a crisis with respect to groundwater quality in the area." He continues,

The proliferation of contaminated wells represents a massive failure to protect groundwater in the Town of Lincoln. The Department [of Natural Resources] needs to utilize its clear regulatory authority to require groundwater monitoring to enhance its ability to prevent further groundwater contamination. Many public witnesses testified, under oath, credibly and forcefully about the hardship and financial ruin that this local groundwater contamination crisis has had on their businesses, homes and daily life.

One of the Petitioners, Lynda Cochart, said about the decision "I'm pleased with the additional protections that Judge Boldt put in place. He obviously listened to our testimony and is concerned about our health and welfare. It is unfortunate that we had to go through so much to get this result. I would've liked attention given to our surface water as well as my well water, which I cannot use because it is polluted. No one can live with water like that."

Recent sampling by the USDA revealed that bovine viruses and salmonella, a particularly harmful type of bacteria, were already present in Cochart's private water well. Lynda has to buy bottled water for cooking, baking, washing her hands, and drinking.

The inclusion of groundwater monitoring requirements and an animal unit limit as enforceable permit conditions were two of the most significant victories in the decision. Specifically:

- Kinnard Farms, Inc. must conduct groundwater monitoring at the production area and around at least two landspreading fields. Kinnard must submit a plan to the DNR within 90 days of the decision that includes no less than 6 groundwater monitoring wells. If practicable, at least 2 of those wells must be in locations that monitor groundwater quality impacts from off-site manure landspreading.
- Kinnard Farms, Inc. is now required to put a cap on the number of animals to ensure the facility does not grow beyond its current capacity to store and dispose of the large quantity of manure held on site in multimillion gallon lagoons.

Boldt noted that without required monitoring, the only way for the DNR – or those who live near CAFOs or landspreading fields – to know about groundwater contamination is for a neighbor’s well to become contaminated. Judge Boldt said, “Unfortunately, this has been the all too common state of affairs in the Town of Lincoln and Kewaunee County over the past years.”

Other results from the decision included the requirement for Kinnard Farms, Inc. to take steps to prevent environmental harm from a catastrophic failure of above-ground manure storage lagoons. The pollution permit now also has requirements meant to protect surface water and aquatic life from the facility’s discharges. Unfortunately, these additional conditions are very general and are likely harder to enforce than the numeric discharge limits and monitoring requirements Petitioners sought. The decision also did not require Kinnard Farms, Inc. to reduce the amount of manure it can spread on fields, which the Petitioners believe will contribute to surface water and groundwater pollution.

“The decision is a victory for the people who live near Kinnard Farms, Inc.,” said MEA Executive Director Kimberlee Wright. “However, this is just one of fifteen industrial livestock facilities in Kewaunee County. Last week the local group Kewaunee Cares joined other environmental groups, including MEA, to file a petition to the U.S. Environmental Protection Agency under the Safe Drinking Water Act to get federal intervention in Kewaunee County’s water crisis. This decision is a turning point for Wisconsin water because the problems are too big to tackle in the courts one bad pollution permit at a time. This is what regulatory failure looks like.”

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