

Kewaunee Groundwater - Compliance Workgroup
FINAL AGENDA & MEETING NOTES
 Tuesday, December 15, 2015, 9am-12pm
 Luxemburg Fairgrounds Expo Center
 625 Third Street, Luxemburg, WI 54217

Bold items from agenda – *notes in italics*

Attendance - Workgroup members present: Bill Phelps, Mark Jenks, Davina Bonness, Russ Rasmussen, Judy Polczinski, Marty Nessman, Heidi Schmitt-Marquez, Lee Luft, Sarah Geers, Jodi Parins, Dean Hoegger, Cheryl Burdett, Dean Maraldo, Paul Cornette, Nick Guilette, Ryan DeBroux, Dale Konkol and Casey Jones

Time	Item
9:00 AM	Convene Meeting, Agenda Repair – Casey Jones
9:10 AM	<p>Review Team Recommendations</p> <ul style="list-style-type: none"> • Answer any team member questions on what the recommendation means • Discuss any clarification language to be added • Discuss pros and cons if necessary with focus on water quality benefits of recommendation • Record team member votes after each recommendation <p><i>See attached summary of final recommendations and ranked recommendations. Note: After meeting, a survey was sent out to team members to rank the (consensus or near consensus) recommendations based on their potential for protecting or improved groundwater quality.</i></p>
11:30 AM	Discuss any additional recommendations that the team has discussed but was not included in list
12:00 PM	Adjourn

Note: A Communication Team has been formed to develop the following:

- **Formatting of final team recommendations reports (for all groups)**
- **Communication plan for team recommendations**
- **Development of implementation and outreach strategies (timelines, methods, etc.)**

The first Communication Team meeting is Wednesday, December 16, 2015 at 12:30 PM in Luxemburg

Ranked list of final recommendations from compliance team January 2016

Ranked in order of those recommendations perceived to have high potential for improving/protecting groundwater quality listed first with recommendations lower on the list perceived to have less potential for improving/protecting groundwater (15 members participated in the ranking).

Note: Consensus/Near Consensus Recommendations (11 total) and Recommendations with 2/3 Majority in agreement (3 total) were included for ranking.

- 1) Conduct more land application hauling audits/oversight in sensitive areas (DNR and County).
- 2) Staffing - Add compliance staff position(s) (DNR Agricultural Runoff/Nonpoint Specialists) to conduct improved compliance oversight (examples listed below) of existing regulations regarding agriculture in sensitive areas. Fill vacancies in a timelier manner. Additional EPA, DATCP, County, NRCS staff may also be relevant to fulfilling some of the duties below.
 - Voluntary training and outreach/education for farmers, citizens, haulers, crop consultants, landowners, etc.
 - Review new maps, rules and regulations, and best management practices
 - Summarize and discuss land application audit findings
 - Spill prevention and response planning
 - Joint-agency training (EPA, DNR, NRCS, DATCP, County) for consistency and efficiency
 - Review nutrient management plans (CAFO)
 - A minimum of 10 detailed reviews/audits per year
 - Confirm all land is under agreement
 - Ensure all direct conduits to groundwater are mapped
 - Confirm there are no overlapped fields in multiple CAFO NMPs
 - More frequent inspections of land application sites
 - Target before, during, after rains, first snows and night time spreading
 - Include medium farms
 - Use well testing research information to determine which areas to focus
 - Do audits in mapped shallow soils areas
 - Do both scheduled and unannounced inspections
 - More frequent production site inspections of CAFO farms (1/year) by DNR.
 - Verify permit conditions are being met.
 - Verify no changes have occurred since last inspection that are adversely affecting surface or groundwater.
 - More thorough review of permit-required record-keeping regarding CAFO production sites by DNR (annual reports, spill response plans, evaluations, etc.)
 - Inspection of medium sized livestock production sites not yet inspected by County LWCD.
 - This would be to identify potential surface or groundwater discharge issues at the production site.
 - May determine if any medium farms require a CAFO permit.
 - More timely complaint response and enforcement.
- 3) More stringent review of CAFO emergency land spreading variances (DNR).
 - Do they have adequate storage (or need to build more or reduce herd size)
 - Store instead of land apply
 - Only for emergencies, not poor weather conditions

Note: Recommendations 2 & 3 were tied in ranking average.

- 4) Require that all land applicators have, at minimum, one set of spreading restriction maps and written instructions present for land application sites where manure is actively being applied (DNR & County).
 - Inform haulers and farmers of requirement
 - Discuss any equivalent options in lieu of multiple maps (field markers, tillage, etc.)
- 5) Targeted focus on proper well abandonment of non-compliant wells or wells no longer used (DNR).
- 6) Further evaluation and review of existing enforcement processes (DNR, County, EPA). Considerations:
 - Second offense for same violation should move to Notice of Violation stage not another Notice of Noncompliance letter (DNR).
 - Noncompliance with County regulated state programs (NR151, Farmland Preservation, etc.) results in County enforcement notice and potential loss of tax credits.
- 7) Fill currently vacant DNR conservation warden position in Kewaunee County.
- 8) Continue and improve communications and outreach to farmers/landowners from agencies (DATCP, NRCS, County LWCD) regarding:
 - Winter (frozen or snow-covered ground) spreading
 - Explain why winter spreading is a concern.
 - Explain best management practices if winter spreading is necessary.
 - Provide resources for grant funding or technical assistance.
 - General cropland best management practices
 - Explain benefits of no till, cover crops, filter strips, etc.
 - Cost share funding
 - Technical assistance
 - Spreading on sensitive areas
- 9) Develop guidance that defines and explains “substantial compliance” requirement for CAFO permit reissuance. May include: inspection checklist updates; staff training, template reporting resources, and clearer permit conditions (DNR, EPA).

Note: Recommendations 8 & 9 were tied in ranking average.

- 10) Resources/Technology for agricultural compliance staff use and efficiency (internal/non-public) – database of information electronically accessible for multiple compliance agencies (EPA, DNR, County)
 - Nutrient management plan information
 - Pending compliance/complaint response status
- 11) During land application complaint response, DNR and County shall encourage having all associated parties present during complaint inspection (farmer, hauler, crop consultant, complainant).
 - Promote understanding / communication
 - Copy all on follow-up letters and reports
 - Not required as not always practicable

Note: Recommendations 10 & 11 were tied in ranking average.

- 12) Develop communication plan for all landowners who rent land for application of wastes (County/Local groups). The communication plan may include:
- Information on regulations regarding land application of wastes
 - Example landowner agreements between farmers and landowners
 - Any potential liabilities of landowner
- 13) Improve review and approval process of offsite waste distribution by non-agricultural waste generators into agricultural waste storages (DNR & County LWCD).
- Develop guidance / communication plan between DNR wastewater and DNR CAFO programs to ensure any approvals for acceptance meet all standards/conditions.
 - Develop guidance / communication plan between DNR wastewater and County LWCD to ensure storages proposed to accept offsite wastes are built to standards protective of groundwater.
 - Review by County and DNR should include whether nutrient management plans address how additional waste volumes taken will be land applied according to standards.
 - Development of additional resources for tracking compliance (funding dependent).
 - GIS tracking system
 - Template forms
- 14) Develop communication plan for public regarding compliance and enforcement activities being conducted by DNR (agricultural, industrial and septage).
- Discuss how to report/what to report (factsheets)
 - How to share complaint resolution / findings with public
 - Online accessible database
 - CAFO permits and application information
 - CAFO nutrient management plans
 - CAFO engineering information
 - Stepped enforcement actions
 - Enforcement letters (NON, NOV, etc.)
 - DOJ referral case summaries and outcomes once completed/settled

Consensus/Near Consensus Recommendations

- 1) Staffing - Add compliance staff position(s) (DNR Agricultural Runoff/Nonpoint Specialists) to conduct improved compliance oversight (examples listed below) of existing regulations regarding agriculture in sensitive areas. Fill vacancies in a timelier manner. Additional EPA, DATCP, County, NRCS staff may also be relevant to fulfilling some of the duties below.
 - Voluntary training and outreach/education for farmers, citizens, haulers, crop consultants, landowners, etc.
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 - Spill prevention and response planning
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 - Include medium farms
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 - Verify permit conditions are being met.
 - Verify no changes have occurred since last inspection that are adversely affecting surface or groundwater.
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 - Inspection of medium sized livestock production sites not yet inspected by County LWCD.
 - This would be to identify potential surface or groundwater discharge issues at the production site.
 - May determine if any medium farms require a CAFO permit.
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- 2) Fill currently vacant DNR conservation warden position in Kewaunee County.
- 3) Resources/Technology for agricultural compliance staff use and efficiency (internal/non-public) – database of information electronically accessible for multiple compliance agencies (EPA, DNR, County)
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- 4) Continue and improve communications and outreach to farmers/landowners from agencies (DATCP, NRCS, County LWCD) regarding:
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 - CAFO engineering information
 - Stepped enforcement actions
 - Enforcement letters (NON, NOV, etc.)
 - DOJ referral case summaries and outcomes once completed/settled
- 6) Conduct more land application hauling audits/oversight in sensitive areas (DNR and County). Additional info under #1.
- 7) Improve review and approval process of offsite waste distribution by non-agricultural waste generators into agricultural waste storages (DNR & County LWCD).
- Develop guidance / communication plan between DNR wastewater and DNR CAFO programs to ensure any approvals for acceptance meet all standards/conditions.
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- 10) Develop guidance that defines and explains “substantial compliance” requirement for CAFO permit reissuance. May include: inspection checklist updates; staff training, template reporting resources, and clearer permit conditions (DNR, EPA).

11) Targeted focus on proper well abandonment of non-compliant wells or wells no longer used (DNR).

Recommendations with 2/3 Majority in agreement

12) Develop communication plan for all landowners who rent land for application of wastes (County/Local groups). The communication plan may include:

- Information on regulations regarding land application of wastes
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14) Further evaluation and review of existing enforcement processes (DNR, County, EPA). Considerations:

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- Noncompliance with County regulated state programs (NR151, Farmland Preservation, etc.) results in County enforcement notice and potential loss of tax credits.

Recommendations considered, but below 2/3 majority in agreement

15) Septic Systems - Additional funding necessary to:

- Properly identify systems that may be marginally acceptable by performing onsite soils verification by the county and certified soil tester (would determine any necessary upgrades for protection of groundwater)
- Expedite inventory of those septic systems not yet verified/reviewed

16) Perform audits of soil and/or manure test analysis for farms in sensitive areas (DNR or County).

- DNR or County staff to observe sampling and obtain split samples from crop consultants to be analyzed for verification

17) EPA should review all Kewaunee County CAFO nutrient management plans (one-time); Assist DNR with future NMP reviews as necessary.

18) Consideration of cumulative effects of proposed farm expansions that result in increased waste being applied in areas determined to be susceptible for groundwater contamination.

- Additional requirements in permit and NMP for protection of groundwater

19) Revise code NR 243 (CAFO) to be more protective of groundwater (land application).

- Different regulations for land application of wastes in defined sensitive areas (may include special areas of well compensation eligibility)
- Require additional reporting by CAFO farms
 - Condensed and updated spreading plan (NMP) be submitted to DNR and County just prior to manure spreading.
 - More frequent “near-time” reporting of land application activities
- Groundwater monitoring at land application sites
- Clarify or increase emergency winter spreading approval requirements

- Clarify that multiple CAFOs cannot have the same field in their NMPs
- 20) Revise code NR 243 (CAFO) to be more protective of groundwater and surface waters (production site).
- Require in CAFO WPDES permits compliance monitoring provisions that evaluate conditions in receiving waters on a sampling schedule.
 - Groundwater monitoring at production sites
 - Surface water sampling to wetlands and surface waters.
 - Requirement/clarification that CAFOs shall not accept septage waste in storages. Staff may take samples to verify compliance with this requirement.
- 21) Require CAFOs using permanent manure irrigation systems monitor groundwater at land application sites per NR 214.
- 22) Penalty and forfeitures changes for violations (any regarding waste applications) - Ask legislature to propose increase of penalties /forfeitures for noncompliance. Examples:
- Discharge to waters of the state monetary forfeiture of \$250,000 with \$100,000 held in escrow for “safe water supply fund” to cover both short and long term solutions; \$50,000 to LWCD to cover costs of local enforcement, cleanup and clean water supplies
 - Spreading/spill violations should have monetary forfeitures after one warning
 - More than one permit violation per year prohibits reissuance of WPDES permit
 - Citation issuance for permit violations
 - Increase minimum / maximum permit violation forfeiture amount in Wis. Stat. § 283.91 to increase the deterrent effect.
- 23) Develop and enforce the penalties for crop consultants when nutrient management plans are incomplete or inaccurate.
- 24) Develop requirements and enforce penalties for manure haulers (third-party) when spreading regulations are not followed and/or land application results in runoff to surface waters or contamination of a private well. May include hauler audits scorecard/ranking system and required certification/training program.
- 25) Require third party inspections of land application. Qualified individual/company would inspect and report on land application activities to DNR.
- 26) Bond posting to allow the DNR to hire contractors to quickly address spills and runoff events. May result in more timely response actions in cases where the responsible party was not responding appropriately.
- 27) To better oversee compliance via inspections of land application sites, require pre-notification of planned land application activities by farms when spreading in areas deemed "extremely vulnerable" in the 2007 NE WI Karst Task Force report (< 5' to carbonate bedrock areas).
- Email or phone line notification with who, when, where, how much, etc.
 - Accessible by DNR and County LWCD
 - No obligation for fields to be inspected or additionally approved/reviewed (if already in approved NMP)

Recommendations considered but decided mutually not to carry forward

- 28) Resources/technology for compliance resources for regulated entities – Funds and additional staff (DNR, DATCP, County, Crop Consultants).

- Create field reference template for nutrient management plan restrictions and setbacks for farmer and custom manure applicator use. This resource may include the follow information:
 - Verification of conduits to groundwater on or near land application sites (existing wells, unabandoned wells, rock pile features, etc.)
 - Restricted spreading areas and setbacks on maps
 - Maximum spreading rates listed on map or other reference
 - Required spreading methods (immediate incorporation, limited rates for surface applications, etc.)
 - Equipment calibration methods
- Improve land application restriction map legends to include more information on the requirements of the features/colors identified on maps to assist in compliance with limitations on restricted features. Examples:
 - Rate restrictions (Nitrogen restricted, depth to bedrock or groundwater limitations, etc.)
 - Setback areas (Waste prohibition, limited rates, etc.)
 - Incorporation timeline (immediate, 48 hours, etc.)

NOTE: Team determined that multiple resources exist and are continuing to be improved (example: Snap Plus 15, Snap Maps); team recognized it is also difficult to have one template being that multiple options may work in an equivalent manner depending on personal preferences of users

29) Discipline any crop consultants not abiding by code of ethics (CCA board, DATCP).

NOTE: Team recognized there is a system in place for this recommendation. DATCP stated that no formal complaints have been brought forth and ultimately it would be up to CCA board to decertify.

30) EPA should be lead authority on CAFO farms in Kewaunee County.

NOTE: Recommendation unclear and more of an opinion.

31) Discontinue the DNR practice of addressing exceedances of groundwater quality standards by including alternative concentration limits for production site groundwater monitoring systems in CAFO WPDES permits.

NOTE: Recommendation unclear with no practicable alternatives listed in original recommendation.

32) Require crop consultants to attend annual training/update meeting(s) regarding code of ethics and responsibilities for developing and updating NMPs.

NOTE: Team recognized that crop consultants are already required to obtain continuing education credits. Team recommended that this may be a communication team topic in which to promote that training sessions for crop consultants have some focus on code of ethics.

33) Increase fees for CAFO permits and nutrient management plans to cover the cost of additional staff/resources. Current fee structure:

- CAFO permit application (new or reissue) fee \$0
- CAFO nutrient management plan review fee \$0
- CAFO engineering plan review fee \$0
- Annual CAFO permit maintenance fee \$345

NOTE: Team determined although additional funding is necessary to better promote compliance and protection of groundwater quality, it was not appropriate to determine where that funding comes from.