



December 18th, 2017

Natural Resources Board
PO Box 7921
Madison WI 53707-7921

Re: NR 151 Targeted Performance Standards

Chairman Hilgenberg, and Natural Resources Board members:

Our organizations represent tens of thousands of citizens across Wisconsin who are looking to the Board to address water pollution issues in Northeast Wisconsin. In 2014, Clean Wisconsin, Midwest Environmental Advocates, Clean Water Action Council of Northeast Wisconsin, and local citizens petitioned the US EPA for emergency action to address the drinking water contamination in Kewaunee County. In the three plus years since that petition, we have been diligently engaged with EPA and DNR to try to improve the dire situation in the area, where over 30% of well water is undrinkable. Several of our groups have participated in lengthy working groups formed in response to that petition to find solutions to address the contamination.

While rules proposed this past summer will not solve the drinking water contamination problem in Kewaunee County and elsewhere in NE WI, they are a step in the right direction, and they should be approved without being weakened and implemented as quickly as possible. We are increasingly concerned that special interests are seeking to degrade or derail this modest rule from moving forward, and we urge you to take a strong stand to prevent this.

The NR 151 targeted performance standards as presented in July contain extremely REASONABLE and MODEST manure management practices to begin to address the unprecedented drinking water contamination levels some people are facing, including:

- The prohibition on the application of manure within 250 feet of a private well as well as the prohibition on manure application within 300 feet upslope or 100 feet downslope of other groundwater contamination points like sinkholes. These are modest additional protections for vulnerable geological features that can help reduce the contamination that is occurring even with the current setback requirements in place.
- The prohibition on manure application on areas with less than two feet of soil above the bedrock. These are the riskiest areas to apply manure at any time of year and prohibiting manure application is the most prudent action.
- The restrictions on when, how, and how much manure is applied are critical. We must work to reduce or eliminate manure applications at the most vulnerable times of year and we must put less manure on the most vulnerable parts of the landscape, which include areas with up to 20 feet soil depth to bedrock. While we believe the per application

634 W. Main St. #300, Madison, WI 53703
608-251-7020 | www.cleanwisconsin.org



maximum volumes allowed on the shallowest soils should be more stringent, we nonetheless support DNR's modest effort to address the water contamination risk on these shallow soils from excessive manure spreading.

- With manure spreading requirements in areas up to 20 feet depth to bedrock, this rule provides an estimated 24,693 wells, and the families that rely on them, with stronger well protections. **Reducing the sensitive area this rule covers to five feet would eliminate these stronger protections for over half of these wells, potentially putting thousands of Wisconsin citizens' wells at greater risk of contamination.**

Finally, these rules are proposed to cover only about 15 percent of agricultural lands in a particularly vulnerable part of the state, the Silurian dolomite bedrock in NE Wisconsin, but they leave out other parts of the state vulnerable to groundwater contamination. DNR must commit resources to intensively study SW Wisconsin and other shallow carbonate bedrock areas in the state to better understand the nature and extent of contamination, as existing research presented during technical advisory committee meetings shows contamination is occurring. Additionally, DNR should work with counties to better understand how well existing standards have been implemented, and, if necessary, work to more effectively implement existing NR 151 performance standards. If the lack of existing performance standard implementation is justification for not expanding the geographic scope of the rules, which numerous groups stated during Technical Advisory Committee meetings, then DNR, the agricultural community, and counties owe it to citizens in other parts of the state to better utilize existing tools to reduce groundwater contamination. WI DNR must work to prevent SW Wisconsin from becoming the next Kewaunee, and the NRB should direct DNR to study current levels of performance standard implementation, work to improve implementation of these standards, and initiate an in-depth study on well contamination in SW Wisconsin.

We are very concerned that the delay in the NRB taking up the proposed rules could result in the rules being weakened at the behest of special interest groups. We were extremely disappointed with the tenor of some of the comments to the draft rule proposing to weaken it. It is disheartening to see some in the agriculture community opposing the modest actions proposed to address this enormous problem. **If the sensitive area definition is revised downward to include only areas with less than five feet depth to bedrock or if manure application setbacks around private wells are shrunk, as has been suggested in comments, this rule package will become meaningless** and offer no real solutions for the people of Kewaunee county who have been fighting for over three years to be able to drink the water coming from their taps. It would eliminate new protections for thousands of well owners as we highlighted above.

In past discussions of the Natural Resource Board, members have expressed a strong desire to bring relief to the people dealing with these manure issues to address what one judge called a "massive regulatory failure." **And with recent reports showing that homes near large dairy operations in Kewaunee County are selling 13% below their assessed value, the time has never been more important** for the state to demonstrate that it will protect citizen's rights to clean drinking water and property rights. Don't allow the hard work of the citizens of Northeast Wisconsin, dozens of stakeholders and DNR staff to be undone by a few special interests.

634 W. Main St. #300, Madison, WI 53703
608-251-7020 | www.cleanwisconsin.org



These rules are already only a modest step to address an urgent drinking water contamination problem; any moves to weaken them will amount to a failure of government to adequately address this problem. Citizens in Northeast Wisconsin deserve a serious, committed response to livestock pollution in their wells and a focused effort to implement these rules quickly so they are on a path to having access to clean drinking water again.

Thank you for your time and attention to this important matter.

Sincerely,

Clean Wisconsin
Clean Water Action Council of Northeast Wisconsin
Midwest Environmental Advocates
River Alliance of Wisconsin
Wisconsin League of Conservation Voters

Cc: DNR Secretary Dan Meyer
Members, Assembly Agriculture, Small Business and Tourism Committee
Members, Assembly Agriculture Committee
Members, Joint Committee for Review of Administrative Rules
Members, Assembly Environment and Forestry Committee
Members, Senate Natural Resources and Energy Committee

634 W. Main St. #300, Madison, WI 53703
608-251-7020 | www.cleanwisconsin.org

