Midwest Environmental Advocates and Clean Wisconsin are celebrating two Wisconsin Supreme Court decisions in a pair of environmental cases that many in the environmental law community are calling the most significant Wisconsin court decisions in the last fifty years.

The decisions, issued on July 8th, affirm DNR’s authority to protect water resources. Specifically, the decisions allow DNR to impose necessary conditions on permits for concentrated animal feeding operations (CAFOs) and to consider cumulative impacts before approving high capacity well permits.

The first case began in 2012, when MEA and a group of Kewaunee County residents challenged a permit that had been issued to Kinnard Farms, one of the state’s largest CAFOs.

Our clients challenged the permit because its conditions weren’t sufficient to protect their water and the health of their families. They asked for two modest permit conditions—a limit on the number cows allowed under the permit and a requirement that the farm monitor groundwater quality in areas where manure was spread.

In 2014, an administrative law judge agreed with them, finding that Kewaunee County’s drinking water crisis had been caused by a “massive regulatory failure” and that the requested permit conditions should be included in Kinnard Farms’ water pollution permit. After years of procedural delays and appeals by our opponents, the case eventually reached Wisconsin’s highest court.

In April, the Wisconsin Supreme Court heard oral arguments in the Kinnard Farms case, along with the high capacity well case, which was brought by Clean Wisconsin. MEA represented the Central Sands Water Action Coalition as a friend of the court in the high capacity well case.

In its decision in the Kinnard Farms case, the Court affirmed that groundwater monitoring requirements and a cap on the number of animals are sensible and necessary permit conditions, given the facts presented by MEA and our clients. This decision will finally allow DNR to use commonsense measures to protect water resources in Kewaunee County and around the state.

We are grateful to everyone who has made these victories possible. We know there is more work to do alongside Kewaunee County residents and other communities in Wisconsin. Your support allows MEA to partner with them to secure and protect our right to clean water through victories like these. Thank you!
DEFENDING THE SPILLS LAW & PROTECTING PUBLIC HEALTH

Wisconsin Manufacturers and Commerce is suing the DNR in an attempt to undermine Wisconsin’s Spills Law. With MEA’s help, environmental and public health advocates are seeking to intervene in the case in order to defend this bedrock environmental health protection.

Wisconsin Manufacturers and Commerce, the state’s largest business lobbying group, filed a lawsuit in February against the Department of Natural Resources. The lawsuit seeks to limit DNR’s ability to regulate PFAS and other toxic chemicals under Wisconsin’s Spills Law.

Community leaders say the lawsuit threatens to fundamentally undermine the Spills Law—a key environmental health protection and the only one that gives DNR authority to address PFAS contamination.

On June 14th, MEA attorneys filed a formal request to intervene in the lawsuit on behalf of our clients—Citizens for a Clean Wausau, Clean Water Action Council of Northeast Wisconsin, River Alliance of Wisconsin, Wisconsin Environmental Health Network and Doug Oitzinger, a former mayor of Marinette.

Our goal is to ensure that DNR is able to exercise its authority under the Spills Law to address toxic contamination that threatens the health of our communities and our shared natural resources.

Together, these organizations represent thousands of people across the state who will be directly impacted by the outcome of the case. But our clients aren’t the only ones who would be hurt if WMC prevails. The outcome of this case will have real-world implications for virtually every community in the state.

The Spills Law plays an important part in protecting us from exposure to pesticides, herbicides, VOCs, dioxins, heavy metals, PCBs, PFAS, petroleum products, solvents—and the list goes on.

For communities dealing PFAS contamination, a decision that favors WMC would be particularly devastating. Under the Spills Law, DNR is currently providing critical assistance to people in Marinette, Peshtigo, La Crosse and elsewhere to help them deal with PFAS contamination.
If WMC prevails, that assistance would vanish. The required well testing, the orders for cleanup and remediation—it would all come to a halt.

The idea that the Spills Law could be gutted and that we could return to a time when polluters weren’t held accountable for cleaning up contaminated soil and water is unthinkable. Unfortunately, that’s exactly what’s at stake in this lawsuit.

One thing that is certain is that WMC and its corporate backers will face fierce legal opposition. We will not stand by and allow WMC to gut one of Wisconsin’s bedrock environmental and public health laws. Together we will defend our rights to clean air and water.

**WITH YOUR SUPPORT**

**WE WILL DEFEND**

**OUR RIGHTS**

**TO CLEAN AIR AND WATER**

WMC’s big-money corporate donors are funding an unprecedented attack on one of Wisconsin’s fundamental environmental protections.

If WMC succeeds in undermining the Spills Law, we’ll lose our most effective tool for protecting communities from toxic contamination.

**We need your help to make sure that doesn’t happen.**

Your support is critical to sustaining the kind of strong legal efforts that are necessary to stand up to corporate lobbyists like WMC and to fight back against assaults on our health and our shared natural resources.

Please make a donation today using the enclosed envelope or by visiting midwestadvocates.org/donate.

Thank you!

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**COMMUNITY VOICES >**

“Our request to intervene in this case is about defending the legal protections that keep Wisconsin families safe. Responding to hazardous substance spills and cleaning up contaminated soil and groundwater is critical to protecting public health.”

- Beth Neary, M.D., Wisconsin Environmental Health Network

“if WMC prevails in this lawsuit, all the assistance provided to my neighbors in Marinette could disappear—bottled water, well testing, cleanup and remediation. No other law gives DNR authority to require responsible parties to clean up the contamination.”

- Doug Oitzinger, former mayor of Marinette
PROTECTING WILD RICE IN WISCONSIN

Wild rice (or “manoomin” in Ojibwe) is of key ecological and cultural importance in Wisconsin. In recognition of this fact, the State of Wisconsin recently initiated a process—known as a strategic analysis—to improve policies for protecting and encouraging the growth of wild rice.

The strategic analysis process allows all of us to provide input—members of the public, Tribal governments and other stakeholders. Throughout the process, MEA attorneys have been using their expertise in water law to identify important issues that deserve greater scrutiny, including threats to wild rice waters associated with pipelines, metallic mining, and climate change.

MANOOMIN PLAYS AN IMPORTANT ROLE WHEREVER STANDS CAN BE FOUND IN WISCONSIN—BOTH IN AND OUT OF THE CEDED TERRITORY.

- Michael J. Isham, Jr.
  Great Lakes Indian Fish and Wildlife Commission
PREVENTING WETLAND DESTRUCTION IN SHEBOYGAN COUNTY

Another victory for Friends of the Black River Forest! A Sheboygan County Circuit Court judge refused to reinstate a wetlands fill permit that a DNR administrative law judge previously invalidated. The permit has been struck down because it was based on a lack of information and did not do enough to protect local water resources.

REDUCING LEAD POISONING IN MILWAUKEE

In a continuation of our ongoing work with the Coalition on Lead Emergency (COLE) in Milwaukee, MEA helped COLE develop an ambitious proposal to reduce lead poisoning in Milwaukee. The proposal involves investing in job training for lead abatement work and lead water service line replacement. These workforce development programs will equitably improve the health and economic wellbeing of communities most impacted by lead poisoning. Milwaukee City Council member José G. Pérez has incorporated the COLE proposal into a resolution that will be considered by the City Council this summer.

BACK 40 MINE GOES BACK TO THE DRAWING BOARD

The Coalition to Save the Menominee River and other organizations working to stop the proposed Back Forty Mine say they are pleased that a decision denying a wetlands fill permit will stand. Mining company Aquila Resources has withdrawn its appeal of an earlier decision by an administrative law judge to deny the permit. Environmental advocates warn, however, that continued vigilance will be necessary as Aquila says it may submit a new application that includes plans for underground mining. MEA is working with other interested groups to urge federal authorities to exercise their jurisdiction to ensure full scrutiny of the Back Forty proposal.

PROPOSED HOG FACILITY CONTINUES TO FACE OPPOSITION IN THE DRIFTLESS

Crawford Stewardship Project continues to organize in opposition to a proposed hog confinement facility overlooking the Kickapoo River. After DNR signaled conditional approval of the facility, local residents made their voices heard at a June public hearing. Many community members feel the terms and conditions included in a draft wastewater permit for the facility are inadequate to protect groundwater and surface water. Meanwhile, the DNR has yet to respond to a request submitted by MEA on behalf of more than 200 local residents who have urged the DNR to prepare a full Environmental Impact Statement.
At MEA we believe achieving a clean and healthy environment starts with transparent and accountable government. That’s why we created a new Open Government Guide to help you exercise your rights under Wisconsin’s open meetings and open records laws.

The guide will help you:

☑️ Understand your right to government access & transparency

☑️ Participate in government decision-making

☑️ Advocate for environmental issues in your own community

The Public Records Law guarantees the public’s right to view and copy government records. Under Wisconsin’s open records law, state agency employees and other custodians of agency records have a responsibility to serve the public by providing documentation of our government’s activities.

The Open Meetings Law promotes democracy by ensuring that all state, regional, and local governments conduct their business with transparency. The open meetings law requires that officials give public notice before any government meeting takes place.

The full guide is available on our website at www.midwestadvocates.org/open-government-guide.
MEA is guided by a Board of Directors comprised of environmental, health, business, and social justice leaders. We’re thrilled to announce that three talented and experienced individuals recently joined our board.

**Tricia Zunker** is an Associate Justice of the Ho-Chunk Nation Supreme Court. She has served in various leadership roles in education, including as Dean of Faculty at California Law School. Tricia’s sense of duty to protect the environment stems from her Indigenous understanding of the need to protect the environment for generations to come. Tricia says that her involvement with MEA is a meaningful way to use her legal background to help fulfill her duty to protect the environment.

**Rafael Smith** is the Climate and Equity Director at Citizen Action of Wisconsin, where he focuses on the way climate change disproportionately impacts people of color on the north side of Milwaukee. Rafael is a past recipient of MEA’s Environmental Justice Award. In presenting the award to Rafael in 2020, Lt Governor Barnes (an alumnus of the MEA board) said, “Rafael’s organizing is motivated by his own experiences with injustice, and that’s part of why he’s such an effective advocate. People like Rafael will be the ones who lead us to a more just, equitable and sustainable world.”

**Jamie Ferschinger** is the Director of Environmental Health and Community Wellness at Sixteenth Street Community Health Centers in Milwaukee. She leads a variety of programs related to lead poisoning reduction, health equity, environmental justice, and community empowerment on the south side of Milwaukee. Jamie is active in other organizations, serving on the boards of Preserve our Parks, Teens Grow Greens, and Fund Milwaukee.
Call for nominations!
Do you know someone who deserves to be recognized for their work to advance environmental justice in Wisconsin?

The Bill Iwen Environmental Justice Awards is an annual event hosted by Midwest Environmental Advocates. It’s an opportunity to honor local leaders who make a lasting difference in Wisconsin by advocating for the rights of all people to live in a clean and healthy environment.

MEA is seeking nominations for the third annual Bill Iwen Environmental Justice Awards. Awardees will be honored at the Environmental Justice Awards Event on October.

The nomination deadline is August 31st.

For details about the nomination process, visit midwestadvocates.org/2021-environmental-justice-awards.