

# Capitol LINK

**CURRENT ISSUES AFFECTING WISCONSIN AGRICULTURE & AGRI-BUSINESS**

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**March 26, 2010**

## **Groundwater Legislation Introduced – Hearings Underway**

*By Jordan Lamb, DeWitt Ross & Stevens*

Senator Mark Miller (D-Monona) and Representative Spencer Black (D-Madison) have introduced SB 620 and AB 844, identical bills that propose revisions to Wisconsin's groundwater law with regard to use of high capacity wells and surface water diversions used for irrigation.

The Senate Environment Committee, chaired by Senator Miller, held a hearing on SB 620 (the Senate version of the bill) on March 23, 2010. The Assembly Natural Resources Committee, chaired by Representative Black, will hold a public hearing on AB 844 (the Assembly version of the bill) on March 31, 2010 in Madison.

The following changes made to Wisconsin law by AB 844 / SB 620 are of interest to Wisconsin farmers:

- 1. Takes power from the Legislature to designate “Groundwater Management Areas” and transfers that power to a subcommittee of the Groundwater Coordinating Council.** Under current law, the Legislature designates an area as a “groundwater management area,” (*i.e.*, an area that deserves special water use restrictions.) Under this legislation, this authority is transferred to a subcommittee of the Groundwater Coordinating Council, which is not an elected body, followed by administrative review by DNR.
- 2. Grants counties (or groups of counties) the power to regulate groundwater and surface water.** This legislation requires a local “groundwater management council” consisting of county officials, to develop “groundwater management plan” for GMA's that must be protective of surface water and groundwater. Although parameters are established for the plans, there is no additional legislative or administrative rule oversight of these plans. The DNR does “approve or disapprove” the plans, but the legislature does not review them and they do not go through formal administrative rulemaking.
- 3. Allows “any person” to file a petition with DNR requesting environmental review of a proposed high capacity well that may affect a surface water.** This legislation grants *any citizen* in Wisconsin the power to initiate a request for an environmental review for a high capacity well that may adversely affect a surface water. It does not require the person to have any connection to the well or the property or the watershed.
- 4. Eliminates protection for EXISTING high capacity wells.** This draft legislation *requires* the DNR to review existing high cap well approvals in a GMA to ensure consistency with a groundwater management plan. The bill grants DNR the authority to modify the approval of an existing high cap well to be consistent with that plan. This is a shift from current law, under which existing high cap well approvals remain in effect indefinitely as long as they are in compliance with their approvals.

(Note: A high capacity well is defined under Wisconsin law as “a well, together with all of the other wells on the same property, has the *capacity* [to pump] more than 100,000 gallons per day.” Wis. Stat. § 281.34(1)(b).)

A copy of the legislation is available online at: <http://www.legis.state.wi.us/2009/data/AB844hst.html>.

## **Karst Legislation Introduced – Public Hearing Held**

*By Jordan Lamb, DeWitt Ross & Stevens*

Also on March 23, the Senate Environment Committee heard testimony concerning SB 632, known as the “Karst Legislation.”

This bill, introduced by Senator Dave Hansen (D-Green Bay) requires DNR, in consultation with DATCP, to promulgate rules to limit pollution of groundwater caused by the spreading of any kind of waste, including animal waste, septage, sewage sludge, and industrial waste, on land in certain areas with carbonate bedrock that are susceptible to groundwater contamination and that are not sufficiently protected by the current rules concerning nonpoint source water pollution. The rules promulgated under this bill apply to susceptible areas in covered counties, which are Brown County, Calumet County, Door County, Kewaunee County, Manitowoc County, and any other county that opts to have them apply. The bill also requires DATCP to make its existing rules concerning nutrient management consistent with the new DNR rules concerning land spreading on susceptible lands in covered counties.

A copy of the legislation is available online at: <http://www.legis.state.wi.us/2009/data/SB-632.pdf>.

## **DNR Proposes General Permits for CAFOs**

*By Casey Langan, Wisconsin Farm Bureau Federation*

Last month the Department of Natural Resources (DNR) released two proposed general permits for Concentrated Animal Feeding Operations (CAFOs) under the state’s point source pollution program, the Wisconsin Pollution Elimination Discharge Permit System (WPDES). Under current law, all livestock operations over 1,000 animal units are required to obtain an individual WPDES permit. DNR has proposed two different general permits:

- \* One general permit for dairy operations with 1,000 to 5,720 animal units would require them to meet the same water quality standards used in the individual permits. DNR would retain the ability to write individual permits when staff determines it is necessary to protect public health and lakes, rivers, wetlands and groundwater.
- \* A second general permit for smaller livestock operations that have had past manure problems and which have fewer than 1,000 animal units. This permit would be used in limited instances.

To review a copy of the written materials associated with two proposed permits, go to the DNR’s web page at <http://dnr.wi.gov/runoff/ag/permits.htm>.

The DNR has scheduled public hearings on these two proposed general permits during March and April at the following times and locations. Each of these hearings will begin at 1:00 p.m.

- **March 26 - Wausau**, Northcentral Technical College, Center for the Health Sciences Building Auditorium, 1000 West Campus Drive
  - **April 1 - Grand Chute**, Grand Chute Town Hall, Board Room, 1900 Grand Chute Boulevard
  - **April 6 - Viroqua**, Firehouse Restaurant and Lounge, Lower Level, 804 South Main Street
  - **April 8 - Eau Claire**, Ramada Inn Convention Center, Lower Ballroom, 205 South Barstow Street
  - **April 13 - Fitchburg**, Fitchburg Community Center, Oak Hall, 5520 Lacy Road
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