

CITIZENS (WOOD COUNTY) GROUNDWATER GROUP MEETING

DATE: Monday, January 17, 2022
TIME: 2:00 p.m.
LOCATION: Teleconference via WebEx

Present: Ray Bossert, Rhonda Carrell, Bill Clendenning, Scott Custer, Bruce Dimick, Gordon Gottbeheut, Dave Homb, Tamas Houlihan, Kim Keech, Bill Leichtnam, Rob Lee, Robert Sorenson, Cecile Stelzer Johnson.

1. **Call Meeting to Order:** Chair Bill Leichtnam called the meeting to order at 2:01 p.m.
2. **Public Comment:** None.
3. **Speaker – Rob Lee, “Wisconsin Spills Law”**
Rob Lee is an Attorney with Midwest Environmental Advocates.

Highlights of the “Wisconsin Spills Law” presentation:

- Two Main Requirements
 - a. Notice: Any person who possesses or controls a hazardous substance or who causes the discharge of a hazardous substance shall notify DNR immediately.
 - b. Remediation: A person who possesses or controls a hazardous substance which is discharged or who causes the discharge of a hazardous substance shall take the actions necessary to restore the environment to the extent practicable and minimize the harmful effects from the discharge to the air, lands or waters of this state. First Step is a site investigation under NR216.
- Hazardous Substance
 - a. Any substance or combination of substances in any form (solid, liquid, gas)
 - b. that may either cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness or pose a substantial present of potential hazard to human health or the environment
 - c. Because of its quantity, concentration or physical, chemical or infectious characteristics
 - d. This term includes, but is not limited to, substances, which are toxic, corrosive, flammable, irritants, strong sensitizers or explosives as determined by the department.
- Discharge – Includes but is not limited to spilling, leaking, pumping, pouring, emitting, emptying or dumping.
- Wisconsin Manufacturers & Commerce versus Wisconsin DNR
 - a. Filed in February 2020.
 - b. Declaratory Judgment Action – Courts must declare the rule or guidance document invalid if it exceeds the statutory authority of an agency or is adopted without adherence to rulemaking procedures.
 - c. Oral ruling: Tuesday, January 18 at 1:30 p.m.
Website link: <https://www.wicourts.gov/courts/livestream.htm>
Navigate to Waukesha County, Branch 1
 - d. Claim #1 – DNR’s regulation of “emerging contaminants”, including PFAS, as hazardous substances under the Spills Law is an unlawful rule that was not promulgated according to rulemaking procedures. If accepted, could restrict DNR’s ability to enforce Spills Law for all contaminants until a new rule is adopted.
 - e. Claims #2 – DNR does not have explicit authority to regulate “emerging contaminants” as hazardous substances under the Spills Law. If accepted, this could remove the only meaningful regulation of PFAS in Wisconsin, which DNR is currently using to help impacted communities like Marinette and Lacrosse.
 - f. Claim #3 - DNR’s “interim policy” to require PFAS testing before issuing Voluntary Party Liability Exemptions is an unlawful rule that was not adopted according to rulemaking procedures. Alternative to Claim #2; same impact as Claim #4 except limited to emerging contaminants.

- g. Claim #4 – SNR must promulgate as a rule a list of hazardous substances and the quantities and concentrations that make them hazardous. Limited to PFAS in VPLE program, could leave state without responsible parties for PFAS contaminated sites.
- h. Potential Impact – Residual authority to regulate water resources under other laws but no soil standards that is important water pollution prevention mechanism. Adverse public health and environmental impacts. Reduce DNR resources and capacity to promulgate other PFAS rules and implement Wisconsin's PFAS Action Plan. Adverse economic impact due to uncertainty in Remediation & Redevelopment Program, decreasing property values and tax revenue.
- Wisconsin AB579/SB568 bill – Would add innocent landowner exception to Spills Law. Does not address contamination at exempt sites. Assembly Committee on the Environment going into executive session on the bill on January 18th and could advance out of committee.

Discussion comments:

- Spills can either be ground contamination or vapor intrusion.
- Regulations are needed for spills
- More steps requires would be difficult for the DNR to do their job.
- Spills Law have exceptions through other regulatory programs such as nitrates.
- Runoff and non-point difficult to regulate.

4. **WCCGG Procedural Re-evaluation:**

- a. Future meetings-Virtual/In-person/Both? Should future meetings be in-person, virtual only or both?
- b. Meeting frequency? Should meetings be every month or every other month?
- c. By-Laws?
Should there be by-laws for the Citizens (Wood County) Groundwater Group? By-laws are in draft form from several years ago. Members should be residents of Wood County for voting purposes.
- d. Involvement in "Water Symposium"? Village of Port Edwards, Ray Bossert to coordinate. Letters to be mailed requesting that villages, towns and cities for monetary support and assistance. Water Symposium will address total assessment, private wells, municipal wells and agriculture runoff.

5. **Correspondence/Updates/Handouts/Reports on Meetings Attended:**

The following was shared:

- a. DNR CAFO Permit Modification – Kinnard Farms, Kewaunee County
DNR has drafted new permit conditions for Kinnard Farms. Proposed permit modifications include an animal unit cap of 21,450 animal units. DNR staff considered the storage capacity of Kinnard's manure pits rather than the sensitivity of the region to drinking water contamination. Public comments are being accepted by the DNR through January 25th.

Email comments to Tyler.Dix@wisconsin.gov or:

Tyler Dix, CAFO Permit Coordinator
Wisconsin Department of Natural Resources
101 S Webster St
Madison, WI 53707

- b. Article:

- "Tyco turns down request to provide bottled water for Peshtigo residents" by Laura Schulte.
Website Link: https://wisconsinrapidsdaily-wi.newsmemory.com?publink=1ccbeef24_13482f9

6. **Action Items proposed to CEED Committee by Citizens (Wood County) Groundwater Group**

Actions proposed by citizens that would go to the Conservation, Education and Economic Development Committee of the Wood County Board. Citizens have access to their board.

7. **Roundtable**

Tamas Houlihan – Guest speaker for the Central Wisconsin Farm Profitability Expos for Producer-Led Watershed.

8. **Announcements of members / visitors (upcoming parallel events / meetings)**

Portage County Groundwater Citizens Advisory next meeting tentatively scheduled for Thursday, February 10, 2022.

Central Wisconsin Farm Profitability Expo is scheduled for Tuesday, February 15th from 9:30 am – 3:30 pm at Mid-State Technical College in Wisconsin Rapids.

9. **Future Speakers:** Please contact Bill Leichtnam or Bruce Dimick with any suggestions for speakers. February – Open

Future Speakers:

Yi Wang, Assistant Professor @ UW- Madison, College of Agriculture & Life Sciences

10. **Agenda Items for next meeting**

Agenda items should be submitted to Bill Leichtnam or Kim Keech by the second Monday of the month.

Agenda Items:

Solar Project

11. **Next Meeting** Meetings will be the third Monday of each month @ 2:00 p.m.

The next regular Citizens (Wood County) Groundwater Group meeting is scheduled for Monday, February 21st at 2:00 p.m. This will be a virtual WebEx meeting.

12. **Adjourn Groundwater Group Meeting** Chair Bill Leichtnam adjourned @ 3:36 p.m.

Notes by Kim Keech, Planning & Zoning Office