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(FORM UPDATED: 08/11/2010)

WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

2003-04

(session year)

Assembly

(Assembly, Senate or Joint)

Committee on Agriculture...

COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)
 - (**ab** = Assembly Bill) (**ar** = Assembly Resolution) (**ajr** = Assembly Joint Resolution)
 - (**sb** = Senate Bill) (**sr** = Senate Resolution) (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

* Contents organized for archiving by: Stefanie Rose (LRB) (August 2012)

February 23, 2004

I am submitting these comments in regard to the proposed legislation drafted by Rep. Ward and Senator Schultz.

The proposed legislation in my opinion seems to lack justification in its final purpose. It would appear that the main purpose of the bill would be to limit local opposition to the siting of new livestock operations. I am not sure of the exact size limitations that are included within the bill, but I must assume they apply to larger operations that would currently fall under DNR regulations for animal confinement operations.

My objections to the bill are based on the following:

1. Having served on a committee that was charged by the Sauk County Board of Supervisors with development of siting standards and guidelines for animal confinement operations, I am aware of the great public interest generated by agricultural zoning issues. In our case several hundred citizens attended the initial meeting indicating their desire to the County Board that they wanted local ordinances developed to regulate future zoning and citing decisions. Note: they wanted local control, not a State mandate overriding local ordinances, especially one overseen by an appointed board with little knowledge of local issues or conditions. This is precisely what the Ward-Schultz bill proposes to do, allow the Secretary of DATCP to appoint a board (Livestock Siting Review Board) to override local zoning ordinances
2. Local people take seriously their right to elect local government officials, approve local ordinances and protect the best interests of their local economy, environment and community. The proposed legislation would allow this un-elected non-local board to overturn democratically enacted local ordinances. Local democracy has always been the foundation of a sound local economy. If there is overriding evidence that larger livestock operations are more profitable to the local economy and more protective of the local environment, one would ask the question, why then since the trend over the past years has been to larger farming operations, is average farm income lower, and why is Wisconsin's agricultural economy being replaced by a tourism economy? Perhaps promoting the transition to larger and larger operations under the pretext of economic growth especially against the wishes of local residents is a move in the wrong direction?
3. The proposed legislation appears to impose arbitrary restrictions on who could appeal the decisions of the proposed siting board. Why would only those within a 2-mile radius of a contested facility be allowed to appeal? In all other local decisions whether Municipal, Township or County, all residents have equal standing under the law with regard to their rights. Why does this legislation propose to take away the rights of an individual in this particular matter? All residents are effected by decisions in regard to these matters whether they perceive it as a potential threat to the

environment, local tourism or as an undue burden on local infrastructure, i.e. roads, utilities or local tax levies.

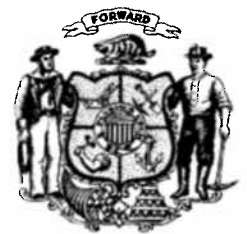
3. The proposed legislation would also eliminate local citizens' right to protect their health and safety. Arguably there are many documented instances of severe water and air pollution from large animal facilities. Local residents cannot be deigned their right to have input into decisions that could ultimately affect their wellbeing. What would the reaction be to siting of a nuclear waste facility without input of local citizens? How about a large manufacturing plant? There is no difference, perhaps in potential magnitude of the problem, yes but not in principal, local citizens must be allowed a voice in matters they perceive as impacting their safety.

Siting of large livestock operations is a controversial issue, but one that should be allowed to stand on its own merit. If these operations are the wave of the future and the model of efficiency and environmental protection, why do they need the special protection of State Legislation? Why would one assume local governments are unqualified to decide their fate?

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WISCONSIN STATE LEGISLATURE



WISCONSIN CATTLEMEN'S ASSOCIATION

Testimony of: R. F. (Dick) Hauser for the Wisconsin Cattlemen's Association

Before: The Joint Assembly Committee on Agriculture & Senate
Committee on Agriculture, Financial Institutions and Insurance

Date: February 23, 2004

Regarding: **Support of Assembly Bill 868, Siting and expansion of certain
Livestock Facilities**

Good Morning. My name is Dick Hauser. I am the V. P. Government Relations for the Wisconsin Cattlemen's Association. Thank you for allowing me to testify today on AB 868. The Wisconsin Cattlemen's Association supports AB 868.

First, as a member of the Livestock Facility Siting Committee and a representative of WCA I want to express our gratitude to Representative Ward, Senator Schultz, and Secretary Nilsestuen for their work on this bill. It is gratifying to see legislation that holds relatively true to the final report of the committee.

It is imperative that Wisconsin has a workable system that encourages production Agriculture. At best, the present situation could be called a crap shoot. An existing producer or possible new producer, when faced with the existing situation, questions whether it is worth even starting the process to expand or build a new facility. In the process of decision making he/she may well decide to move outside the state of Wisconsin.

Wisconsin needs animal agriculture. Much of our state can benefit environmentally from the production of forages and grasses and thus needs a viable and thriving animal

agriculture. This bill AB 868 is sorely needed.

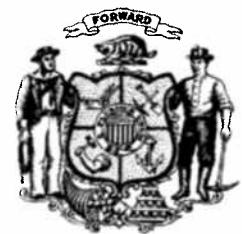
I would like to recommend that the draft include the addition of three other members instead of one to the Livestock Siting Review Board. In addition, we believe that it is also a good improvement to better define the phrase "public health and safety."

Finally, WCA is concerned with the possible negative impact on our existing small farms, specifically those with under 300 animal units. Because of some wording with regard to expansion the ultimate result could be a denial of non-point funding. One possible solution to this situation is to state that the intent of the Non-Point regulations not be altered by this Bill. Family farms are vital to our rural communities and I am sure it was **not** the intent of the Committee to negatively impact them.

Thank you very much for the opportunity to testify today.



WISCONSIN STATE LEGISLATURE



Testimony in Regard to LRB 3453/1 *AB868*

February 23, 2004

From: Tom Hermann
6278 County T
Egg Harbor, WI. 54209
(920) 743-6034

To members of the Legislature

I feel that this attempt to establish a Livestock Facility Siting Review Board, and grant it rule-making authority is unwise on several counts. It will establish another State Bureaucracy, it will take decisions out of the hands of local government, and it will not address the underlying problems of the Agricultural sector of our economy.

Establishment of a State Board cuts local citizens out of critical decision making. It allows a minority, an applicant for a permit, to rule as long as they meet a one size fits all standard. There is no one size to fit all. State standards are a minimum and should be used as a generally accepted starting point. To make them the gold standard goes against every established precedent and common sense.

The bill mentions "scientific findings of fact" yet there are no true facts available in most areas. The State has not spent the needed time and money to establish these facts. Local units of government have not had the funds or State support necessary to establish these facts. The standard of a scientific finding of fact will not be able to be maintained and in the end opinion and judgement will prevail. This judgement should not be left to a distant board located far from the site of controversy and that will not, and cannot, be held accountable at the ballot box.

This bill reverses the burden of proof standard common to all applications for permits and variances. The very fact that a person is applying for a permit or variance implies that they want to do something where permission is deemed necessary because there are possible negative impacts. Also, this bill does not address the incremental expansions that are happening now. We recently had one such case in Door County. Due to the rules of the MVP program a local farm increased its herd size. Manure handling facilities had to be expanded and a neighbor's property value was significantly decreased. The County Board could not prove harm to a delineated watershed that supplies a city of 9,000 people. It could not do that because, again, the scientific facts were not available.

Indeed, at the very time this permit and the attendant loan guarantees were established the County of Door was in the midst of an under-funded effort to discover the causes of e.coli out breaks at it's beaches. Farm run-off is one suspected cause, but due to lack of study this cannot be proven.

The bill mentions land in agricultural zoning designations. Zoning designations are more reflective of demographics, land use, and development potential. They do not accurately reflect the nature of soils, geology, or topography. All of these criteria are important in siting any such type of operation. In Door County many parcels that are zoned agricultural are uniquely unfit for these types of operations. As of yet there are no standards established by DATCP in this regard that the proposed board would be required to follow. Agriculture is a broad definition and covers many types of production. To take this process out of the hands of local government and away from local staffers who know their own county is a mistake. The fact that Soil and Water staffers from all over the State have drafted resolutions against this type of legislation makes my point.

The 2-mile limit mentioned in this bill is arbitrary and does not reflect reality. It is not uncommon for farmers to spread manure on parcels that are more than 2 miles away from the site of their main operation. Does someone living 2.2 miles away from the named site surrender their right to clean well water under this proposal? It appears they do. Despite claims to the contrary there is no "right to farm" if that right has an adverse effect on others. Practices that lower property values, pollute wells, cause polluted run-off, or diminish quality of life are rights that are being abused. Again, we cannot prove that there are negative impacts by the standards set forth in this bill because the State has been remiss in providing the resources needed to establish such scientific facts.

The cut-off date for establishing zoning districts is also a poor idea. Again, many areas are just beginning the land-use planning required under Smart Growth. Smart Growth is itself under assault in this legislature. If the legislature wants to use zoning standards then it should give local governments lead time to establish such zones based on the latest information available to them. 2003 is the past. Many local governments had incomplete land use plans in the year 2003. The authors of the bill know this. This bill insists on going back in time to establish the zoning requirement. That is bad policy. We have to ask what the rush is. Also, many current zoning designations no longer reflect the true land use patterns.

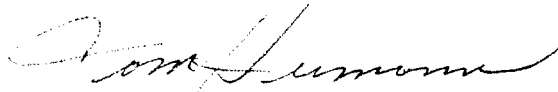
We all know that the rural landscape changes over time. In Door County things are in miniature compared to other parts of the State. Rural residential areas are in close proximity to farms. Our hydrology is problematic to say the least and our geology, while blessing us with

wonderful scenery, has created problems with groundwater. Our local officials have labored mightily over the years to come to grips with these problems. This bill assumes that they are not capable of doing what is in the public interest. That is nonsense.

If the Legislature wants to help the farmers of this State there are other problems to address. The farmers I know are concerned about trade deals that allow foreign imports, dairies that demand certain amounts of product in order to secure a contract, lack of affordable health care, vertical integration in the food industry, and the push on the part of State to expand or perish. Many of these people do not want to expand. They want to make a fair price for the fruits of their labor. Perhaps the Legislature, the Governor, and the citizens of Wisconsin should make common cause at addressing these problems. Creating a new and essentially unaccountable bureaucracy is not the answer. Cutting local officials out of the loop with a one-size fits all standard that has yet to be established is not the answer. Trying to compete in rigged game is not the answer. Our local officials know our local conditions. They want to do the right thing. And they are accountable every two years at the ballot box. This board will not be accountable in such a manner. It will be three times removed from the source and therefore represents a case study in how to govern poorly.

Respectfully submitted,

Tom Hermann

A handwritten signature in cursive script, appearing to read "Tom Hermann", written in dark ink.

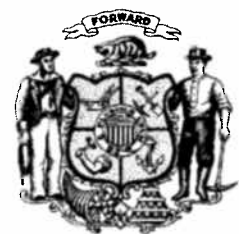
February 23, 2004







WISCONSIN STATE LEGISLATURE



Testimony on the Livestock Siting Bill
February 23, 2004
Hiroshi and Arlene Kanno

We are owners of a small farm in rural Wisconsin in the Town of Newport, Columbia County. Hiroshi has been an elected Town Clerk since 1997 and also served on the Columbia County Board of Adjustment. Arlene serves on a Columbia County Citizens Advisory Planning committee and is a community activist.

As owners of a small farm, as a local elected official, and leaders of a grassroots organization which is fighting to preserve our rural environment we strongly oppose the proposed livestock siting bill.

As owners of a small family farm we know the threat that large factory farms create for our rural community. In our rural community where we once had almost a dozen dairy farms we now have only three. If a factory farm came to our part of the county, these remaining dairy farmers would be at a great competitive disadvantage. They will have two choices: either get bigger themselves and go into further debt or go out of business. Many have and will choose the second option.

The creation of a siting board which has no constituency, which is not elected, whose sole interest is in economic considerations is a direct threat to our way of governance.

The citizens of Wisconsin care about and participate in the governance of their community. By being able to participate in town board meetings where direct access to elected officials is possible, they make their concerns known. Decisions affecting their community is directly voiced to officials who currently have the power to determine the zoning and permitting in their community.

An unelected board with powers to grant the siting of livestock factories is clearly an effort to circumvent this democratic process. If citizens object to decisions made by their elected officials they can vote them out of office at the next election or recall them. What options do citizens have when this board makes a decision with which they disagree? How is democracy better served when citizens are unable to bring their concerns and grievances to their elected officials? Whose interests will this board represent? Will it respond to the concerns of the people of the community or will it respond to the special economic interests who want to force their plans on our rural communities?

Finally, the creation of this type of board is very much like the boards created by global institutions like the World Trade Organization where undemocratic, unelected boards pass judgment on trade issues based solely on economic interests where environmental and human considerations are ignored. We object to this type of governance at the global level and we object to it at the state level.



18218 W. State Rd. 59 Evansville, WI 53536
Farm 608-882-6662 Fax 608-882-2320

February 23, 2004

Ed Larson, General Manager
ed@larsonacres.com

Mike Larson, Dairy Manager
mike@larsonacres.com

RE: LRB#3453/1 "Siting Legislation"

To Whom It May Concern:

I am here today to support this "Siting Legislation".

- My family farm supports 12 family members plus 18 full-time employees. The enthusiasm for dairy farming is evident with 3 generations working together.
- Permitting for a recent heifer barn expansion was very difficult and costly.
- The building site has always been zoned A-1.
- It took 10 months with 8 local hearings to be issued a Conditional Use Permit.
- Our attorney fees are currently over \$50,000.
- There is a lawsuit pending against the Town Board.
- This Legislation would help farmers and local governments work together.
- Decisions will be required to be made on science-based facts and not emotions.
- We need this legislation to pass in order for future generations of Larson's and other farm families throughout Wisconsin to continue to dairy farm.
- Failing to support this bill will put the future of Wisconsin's \$18.5 billion dollar dairy industry is at risk.

Don and Virginia Larson
Ed and Barb Larson
Donald and Joanne Larson
Mike Larson
Sandy and Jim Trustem
Jamie and Amy Larson
Adam Brandenburg



February 23, 2004



Good morning. My name is John Lauder. I am a pork producer and I currently serve on the Wisconsin Pork Association Legislative Committee. Thank you Chairman Ott and Chairman Schultz for allowing me to testify today on AB 868. **The Wisconsin Pork Association supports AB 868, the Livestock Siting Legislation.**

The WPA would like to thank Secretary Nilsestuen for his leadership on this issue. In addition, we would like to thank Representative Ward and Senator Schultz for all of their hard work and attention to AB 868.

Although we support this important legislation for animal agriculture in Wisconsin, the WPA does have several concerns with the legislation as it is currently drafted.

1. **More producers on the Livestock Facility Siting Review Board.** As the bill is currently drafted, only one member of the 5-member livestock facility siting review board is "representing farming interests." We believe that this number must be increased to at least 2, preferably 3.
2. **"Public health and safety" needs to be defined.** Under this bill, if local political subdivisions want to create *more stringent* siting rules than the statewide standards, they must (1) adopt the more stringent ordinance before the producer files an application for approval; and (2) base the requirement on "scientific findings of fact, adopted by the political subdivision, that show that the requirement is necessary to protect public health or safety." "Public health and safety" is undefined in the statute

and, as a result, its meaning could be the subject of litigation. The meaning of this phrase has been the subject of litigation in the past under other similar statutes.

3. **Definition of "expansion" may be too broad.** The definition of "expansion" encompasses each birth of a pig and a single birth could cause the facility to be labeled as "expanding." We request that you consider inserting a percentage increase in the number of animals on the farm as a device for triggering an expansion.
4. **Ensure that cost-sharing for nonpoint source pollution abatement is not lost if required for ag siting.** The bill currently allows political subdivisions to bypass current nonpoint source pollution abatement cost-sharing, which is required under current law. This must be corrected to ensure that farmers receive cost-sharing for nonpoint source pollution abatement measures.
5. **Animal unit threshold should be consistent with current NR 243.** Under current Wisconsin Administrative Code § NR 243, regulation of livestock feeding operations begins when the operations exceeds 1,000 animal units. We suggest that this legislation be consistent with those regulations in order to protect the smaller producer.

Thank you for your time an attention. I would be happy to answer any questions.



Napralla, Erin

From: PaulLauer@aol.com

Sent: Monday, February 23, 2004 12:44 AM

To: Erin.Napralla@legis.state.wi.us; spvs.gabriel@att.net; Pglauthrin@aol.com; MBGOUWHO@aol.com

Subject: Re: LRB 3453

| February 22nd, 2004

Re: AB 868

Erin Napralla,

I am not sure I can attend the public hearing regarding the proposed livestock legislation on Monday February 23rd, 2004. However, I have a few comments that I would like you to pass along to committee members. I will keep my comments very brief.

1. I reviewed a letter sent by Laurie Fischer, Executive Director of the DBA to DBA members regarding folks who may attend this public hearing. In this letter, she labels folks who question this proposed legislation as anti-dairy or anti-agriculture. This type of attitude by the DBA leadership is misguided, divisive and harmful to both the dairy industry and our communities. I have observed this issue for over 3 years and it appears to me that many folks are concerned about how these "large scale livestock operations" impact their livelihoods, property values and their quality of life. Taking actions to protect ones interests can hardly be labeled anti-dairy/agriculture. Additionally, some folks in the dairy industry like to use the "I was here first" defense for these livestock operations/expansions. FACT IS, large scale livestock operations **were not** there first--period. Many of the folks who may be negatively affected by "large scale livestock operations" were there first. It should be up to the dairy/livestock industry to operate in a such a manner so as to reduce conflict with folks who were there first...not the other way around. Furthermore, properties that are properly zoned deserve protections from the negative impacts of livestock operations.
2. This legislation makes it legal for one party to harm another without just compensation...in other words it gives one party a license to steal from another.
3. Approving this legislation is similar to signing a contract before all the blank spaces are filled in --- just what are the "best management practices" that are going to be required to protect the property values and quality of life of others?
4. In summary, this is just more "big government" creating another layer of ambiguous, bureaucratic red tape which will create more problems than it solves. I object to this legislation and ask that it be defeated.

Thank You,

Paul Lauer
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Hilbert WI 54129
920-989-8256



Testimony to the Wisconsin State Assembly Committee on Agriculture + *Senate Committee*

February 23, 2004

Sarah Lloyd
W1631 Cty Hwy P
Cambria, WI 53923
sarah_lloyd@centurytel.net

Re: AB 868

I appreciate the opportunity to present testimony to you today regarding Assembly Bill 868 that will impact local control of livestock facility siting. My name is Sarah Lloyd and I live in Courtland township outside of the Village of Cambria in rural northeast Columbia County. I am the fourth generation of my family to live in the farm house first inhabited by my great-grandfather Eben Lloyd. I am active in local decision making. I was an active member of the Courtland Comprehensive Planning Committee and I am a founding member of a citizens group called the Cambrians for Thoughtful Development. Today I testify before the Committee representing only myself.

I strongly urge that the Committee defeat AB 868, which I name the Undermine Local Democracy Act. This bill is a frightening example of the systematic attempt to erode local control over decision making. This act, that would create a state bureaucracy dictating the siting of large scale livestock operations, represents the codification of anti-democratic systems. It is essential that local municipalities retain the right to make these important decisions that will impact the quality of life of its residents and the environmental quality of the area.

Proponents of the centralization of decision making on the siting of large livestock facilities will claim that we must pass AB 868 in order to facilitate the speedy construction of large scale livestock operations so that Wisconsin agriculture can "compete." What are we competing for? Are we vying for the gold medal in dirtiest water, foulest air, and worst quality of life for humans and animals?

We are at a time of transition in our rural areas. Every day small farmers are forced out of business by the low costs of commodities and the high costs of production. At the same time there is the slow and steady spread of residential housing into the countryside. A centralized state agricultural siting plan will only further drive a wedge into the strained relationship between agriculture and its neighbors. AB 868 represents an attempt of an easy-way-out strategy catering only to the interests of the large-scale agribusiness.

What Wisconsin needs instead is legislation that will actively promote the re-integration of agriculture and society. We need leadership from the Legislature, Governor, and University system to provide legitimate legislation, models, and funding to promote the survival of small scale agriculture and healthy economic and social relationships. We do not need bureaucracy and denial of democratic rights. Because of these reasons I oppose the passage of AB 868.





State of Wisconsin
Jim Doyle, Governor

Department of Agriculture, Trade and Consumer Protection
Rod Nilsestuen, Secretary

February 23, 2004

Testimony of

Rod Nilsestuen, Secretary
Wisconsin Department of Agriculture, Trade and Consumer Protection
February 23, 2004

Chairmen Ott and Schultz, and Committee members, thank you for the opportunity to testify on AB 868. I am here to urge your support and passage of this legislation.

We meet today to see if we have found a solution to a contentious issue: can we help our 1,800 local units of government and 16,000 dairy farmers find common ground on siting of agriculture facilities without state preemption. I think we have.

In August of last year, I asked seventeen individuals representing diverse interests, including environmental and conservation organizations, agriculture producers, local government and government agencies and the university to come together to advise me on this question:

How can we facilitate the siting and expansion of livestock facilities to ensure the vitality of animal agriculture in Wisconsin as we strive to promote sound land use, and sustain the environmental quality of our rural communities?

Those many voices contributed to the bill before you today. AB 868 is truly a product of compromises among varied interests. Recommendations made by members of the DATCP Livestock Facility Siting Advisory Committee will:

- Allow farmers to make agricultural investment decisions with predictability.
- Continue the tradition of county and municipal decision-making
- Identify clear criteria for county and municipal officials to use when making their decisions
- Enable citizens to participate meaningfully in guiding the future of their own communities
- Establish environmental best management practices and standards for new and expanding dairy and livestock farms to preserve our natural resources.

Like most compromises, not everyone is 100% happy with AB 868. Some producers are pretty nervous about the 500 animal unit trigger and a new frontier called best management practices for odor. But those producers who served on the committee felt

Wisconsin Food and Agricultural Products - \$40 Billion for Wisconsin's Economy

these provisions were **worth the risk** if they resulted in predictability should they wish to grow their family farms.

Some apparently believe by providing state standards for incorporation into county and municipal ordinances **should they choose to regulate livestock operations** we are throwing democracy out the door. Yet committee members representing local government on the advisory committee suggested that local officials would find state standards helpful in their decision-making.

Some suggest that we should require all local governments to regulate livestock facilities. AB868 does not. Rather, it **allows communities to choose** – do they or do they not want to require farmers to have permits if their operations go over 500 animal units.

So, Mr. Chairmen, I think we found common ground. AB868 provides a balance of interests – predictability for producers; respect for local decision-making; opportunity for review; and, standards that protect our environment.

Why passage is important for our future.

As you know, Wisconsin's 16,000 dairy farmers support 173,770 jobs. They generate more than \$5.7 billion in value added annually, and \$18.5 billion in overall economic activity.

These jobs and income are important, not only to Wisconsin's rural economy but the state's economy as a whole. Our dairy industry cannot continue to provide jobs and income without a reliable source of milk.

Our dairy cows and producers are part of our heritage—yes, even our state identity – which we can no longer take for granted. We need to act now to reverse trends that threaten our future. We have ignored the warning signs for too long.

Our milk supply has been in decline since its 1988 peak. Increased efficiency cannot make up for the loss of dairy farms and dairy cows. Our farmers cannot produce enough milk to meet the needs of processors and manufacturers. About 16 percent of the milk protein used by Wisconsin cheese makers is IMPORTED from other states. It is only a matter of time before processors decide to pull up stakes instead of importing supplies.

The writing is on the wall: we have lost 59% of our cheese plants since 1988. Everyone loses when we lose farm infrastructure: large and small farmers who no longer have local markets, workers in rural communities who may have few other job options, rural communities themselves who lose a pillar in their community, taxpayers who benefit from a healthy farm economy.

Most of us do not appreciate that our state's dairy infrastructure – 1.6 million cows, 16,000 producers, 125 cheese plants, 12 butter plants, 10 ice cream plants and 205 dairy manufacturing plants pump more than \$35,000 per minute into the state's economy. Every black and white Holstein pays \$553 in local property taxes per year! With so great a dependence on livestock agriculture, we risk too much if we wait too long.

Governor Doyle's Grow Wisconsin plan represents an aggressive agenda to reverse these trends. Thanks to incredible bi-partisanship, you and your colleagues have already passed and the Governor has signed measures that will:

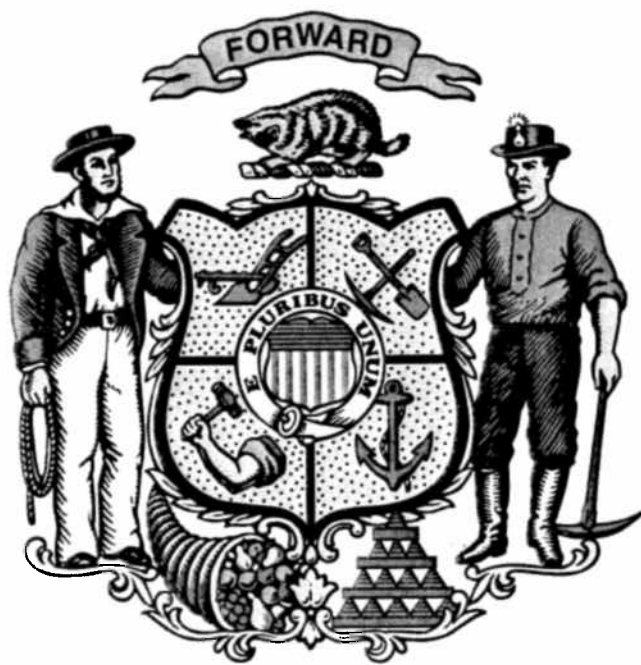
- Provide farmers access to affordable health insurance.
- Strengthen the agricultural producer security program.
- Expand use-value tax assessment to include wetlands and woodlands adjacent to farmland.
- and, for the first time, provide a dairy tax investment tax credit.

Next on our list is this legislation – AB868 which will provide standards for modern dairy and livestock operations. Passage of AB868 is important for the future of our dairy and livestock producers. If we do not solve the issue of how our producers can modernize their family farms, we will fail to reverse trends that threaten the future, not only of our livestock producers, but potentially our land and environment.

I conclude with a reminder that our 16,000 dairy farms are diverse. There are dairy farmers that take advantage of our rolling hills and allow their cows to graze. There are those that are more comfortable with the traditional red barn operation. And, they are those who are investing in modern facilities that will allow them to grow to bring sons and daughters into the family business and be profitable.

We need them all. Let's support AB868 and recognize the need for dairy farm diversity. Let's keep cows and cheese plants in Wisconsin.

Thank you.



Michael Orr
Supervisor, Town of Waupaca
N 3514 Cty Rd E
Waupaca, WI 54981

Testimony Opposing AB 868

As a 3rd gen farmer, Town Supervisor and Chair, Town of Waupaca Planning Commission I am concerned about this proposed bill.

- 1) By 2010 Smart Growth Planning will have comprehensively addressed all issues/concerns of this legislation.
- 2) This bill conflicts with Smart Growth legislation (1999) by undermining local planning authority.
- 3) Market forces have determined the decline of animal agriculture in Wisconsin, NOT over-restrictive local controls or policies. Large scale animal agriculture is being done, better, elsewhere in the nation.
- 4) Residential land development has compensated for the loss of animal agriculture.
- 5) Health and safety are not the singular issues as suggested by this proposed legislation: Town revenues/economies also have been affected by woodland taxes, ag value-use assessments and city annexations. These concerns highlight the short-sightedness of this bill.
- 6) This bill would pay for the expenses of appeal to the proposed Review Board, it does not address the expense of a Towns' representation before said Board; this compromises a Town's due process. Finally: large livestock operations--even the best--are intrusive and devalue residential property values. They must be evaluated within the full context of a Town's public trust. There are now hundreds of large livestock operations in our State. In many places they are an asset to their community. But not all communities prosper from them. All site determination variables can best be processed by local citizens who comprise local planning authorities. Given Wisconsin's commitment to Smart Planning this proposed bill serves no local public interest or trust.



* Changes ?

**Comments on LRB-3453/1, Relating to the Siting and Expansion of
Certain Livestock Facilities. Joint hearing with the Senate and
Assembly Agriculture Committees, February 23, 2004.**

Submitted by Bill Pielsticker, Lodi, WI

Honorable Members of the Wisconsin State Senate and Wisconsin State Assembly:

I address you today as a private citizen, and as a member of the DATCP Advisory Committee on Siting Livestock Facilities. While I was recently elected chair of the Wisconsin Council of Trout Unlimited, and I am political chair for the Wisconsin League of Conservation Voters, my comments are my own and do not reflect the position of either organization.

Some of you know that while I am a nature photographer by profession and an angler of limited skill, I also am a trained agronomist, I once farmed for several years, and I retain a connection to farming through managing my mother-in-law's corn and soybean farm in Illinois. I also took part in the first Earth Day activities in 1970, and consider myself an environmentalist. While this combination is not unique, it does help explain my willingness not only to participate on the DATCP Advisory Committee, but also on the board of the Wisconsin Agricultural Stewardship Initiative, the Pioneer Farm Advisory Board, and am an active participant in the Wisconsin Buffer Initiative.

I speak today in support of the draft livestock siting legislation. The draft is not perfect, and I have attached to my testimony a list of several changes that should be made to it to clarify its intent and to garner broader support. On the whole, however, it is a bill worthy of support.

In brief, while some environmentalists have an abiding dislike for large animal operations, I believe the real issue is not size but management. I am aware of many small operations that are decidedly not environmentally friendly, and a number of large operations that are. I recognize that when a problem occurs at a large operation, it can be a big problem and can cause environmental damage, including fish kills. At the same time, the cumulative impact of poorly managed smaller operations can be even more damaging. One example of this is the 2001 fish kill on Black Earth Creek. Following that disaster, a DNR investigation revealed that while a large dairy operation upstream of Cross Plains contributed to a minor fish kill, the large fish kill can be directly traced to several smaller animal operations downstream.

I believe the expert panel that will be directed to produce siting standards that are both protective of the environment and sensitive to the needs of livestock operators will provide standards that will raise the level of management of affected operations and provide real environmental benefits. In fact, that belief led me to advocate for applying the standards to operations as small as 100 animal units. The advisory committee settled on 500 AUs and I accept that. It is the level at which producers should begin to focus seriously on how they manage their operation, while at the same time just below the size

at which public anxiety begins to develop. However, in order to ease the fears of some that the expert panel will not address the issues the advisory committee delineated, I urge you to include language in the bill directly from the advisory committee report delineating the types of standards that the panel should address.

Some people question the need for the siting standards, and complain of the loss of local control. I, for one, am convinced that there has been a chilling effect in the agricultural community deriving not just from litigation or threats of litigation around siting proposals, but also from the rending of communities by emotional and divisive debates over individual proposals. I am not an advocate for large animal operations. However, I recognize that contrary to other parts of the country, Wisconsin produces about 15% less liquid milk than its manufacturing base currently uses. I believe that in order to provide the milk needed to keep milk and cheese plants operating in Wisconsin, and in order to keep animal agriculture healthy in this state, we will need a mix of small, medium, and large operations. And these operations will have to be well managed. I believe this bill will help achieve that.

Finally, the process that produced this bill is a good example of how a contentious proposal should be addressed. As I noted earlier, there are several changes that can and should be made to the bill to improve it and make it acceptable to an even larger part of our community than support it now. I urge you to make those changes, and then pass this bill. Doing so will be a significant step towards insuring the viability of animal agriculture in our state, while providing new and important protections for the state's natural resources and environment.

Sincerely,

William J. Pielsticker

Suggested Changes to Draft Bill

1. Page 5 lines 9-10: Add a numeric value such as 50 animal units, so it is clear that minor seasonal variations in herd size are not defined as expansions. I should note that operations that currently do not need local permits for existing livestock systems, such as cow-calf operators with 250 cows and a seasonal population of calves do not, and should not, fall under the authority of this legislation.
2. Page 5 lines 11-14: The bill's definition is not consistent with other similar terms. You may want to incorporate the definition of "livestock operation" used in ATCP 50, but with the proviso that "for the purposes of this statute, livestock operations do not include pastures" or the equivalent.

3. Page 5 line 17: Insert more specific language directly from the Advisory Committee's report so the line would read: "...shall promulgate rules specifying standards for site selection factors (e.g. proximity to incompatible uses, location near environmentally sensitive areas), odor, dust, and manure/nutrient management for siting and expanding livestock..."
4. Page 6: Add new criterion: "Designed to protect public health and safety of the community." This is a common standard in other rules and statutes. Incorporating it here will substantially broaden support for this important legislation.
5. Page 7 line 19: Delete "scientific" and substitute "written." The word "scientific" sets an unknown threshold for the local unit of government. It should be sufficient that the findings are written and therefore reviewable. In fact, this is standard used on Page 10, line 10 of the bill. The same change should be made on Page 8, line 15 and on Page 9, line 22.
6. Page 10: Following line 22: Insert new provision: "A political subdivision shall notify the secretary of the department (i.e. DATCP) at the same time as notification of the applicant that a complete application for approval of the siting or expansion of a livestock facility that is covered by the state standards has been received." This provision would be especially useful to provide data on livestock expansion in Wisconsin.
7. Page 10: Following line 22 and above provision, insert new provision: "A political subdivision may request an advisory opinion from the Siting Review Board concerning the conformity of the application with state standards." This may not need to be spelled in statute, but it is a good idea and should be incorporated if needed.
8. Page 11 lines 21-25: Many people object to the arbitrary exclusion of affected parties to request a review of a siting decision. To broaden support for this legislation, it would be helpful to delete and replace the current language with language that is customarily found in the statutes and administrative rules regarding recourse for "aggrieved parties."





**Kaukauna – Ellisville – Cleveland - Ogdensburg
360 E Farmland Drive
Kaukauna, WI 54130
920-759-1712 – 866-335-2825**

To whom it may concern:

2-23-2004

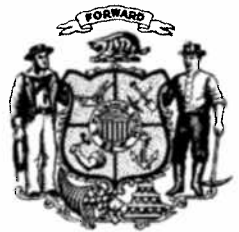
My name is Dan Rasmussen. I am the owner of Modern Dairy Systems LLC, a dairy equipment and supply business in eastern Wisconsin. Modern Dairy Systems LLC is headquartered in Kaukauna with branches in Luxemburg, Cleveland and Ogdensburg. We serve customers with all sizes of operations from 15 to 1800 cows. I employ 15 people with an annual payroll of over \$600,000. Our company relies totally on the dairy industry for our customer base and their economic well being directly affects how my operation and employees prosper.

The reason for this message is to show my support for the siting legislation that is now being debated. I have seen the economic impact and the tremendous costs incurred by dairy families as they try to expand their operations. The following three points are what I consider the most important consequences of this legislation.

1. Wisconsin's dairymen need to be able to expand their operations to stay economically viable, to be able to offer opportunities for their families to continue the dairy tradition and to help Wisconsin keep the dairy infrastructure strong. If we do not allow expansions or if we make the process so tedious that few will attempt expansion we threaten the dairyman's ability to continue.
2. Every industry must develop new technologies to stay competitive. Generally speaking these technologies are quite expensive and therefore can be prohibitive to some operations. Allowing larger operations the right to expand makes them able to adopt the new technology that will allow them to compete with other states and other countries for the dairy consumer's dollar. These technologies allow dairymen to better manage the cow's health, nutrition and the quality of milk produced. All of which increases the dairyman's profitability, which in turn allows him to adapt new ways to handle other issues such as manure management, run-off control, odor reduction and reducing water and power consumption.
3. Dairy expansion is a must to keep Wisconsin's 18-20 billion dollar dairy industry strong. These expansions are good for all sizes of dairy operations. An example of this is in our dairy supply delivery system. It is very difficult to justify driving long distances to drop off supplies for a customer whose purchases will not cover the cost of the trip. When we combine that stop with a larger stop it allows us to deliver product to all size operations at a lower cost. The same applies to service calls and other equipment needs.

When the dairymen of Wisconsin are allowed to pursue avenues that increase their efficiency and profitability they in turn give businesses like mine the ability to offer good paying jobs. My employees also buy goods and services that give other businesses income to continue. One example of this is the fact that my employees own 6 Harley Davidson motorcycles. Without an ever-advancing dairy industry the trickle down negative effect of a weak dairy economy will cause hardship for local businesses of all types. Conversely with everyone working together to allow a systematic and well thought out dairy enhancement program such as this siting legislation, we will see tremendous benefits for businesses across Wisconsin.

Sincerely,
Dan Rasmussen
Owner-Manager
Modern Dairy Systems LLC



Comments on the Proposed Siting Bill
Presented to both the Assembly and Senate Committees on February 23, 2004
By John Rosenow

Honorable Legislators and Staff,

My name is John Rosenow. I am a dairy farmer from Buffalo County and am here to speak on behalf of the proposed legislation on livestock facility siting.

My 8 great-grandparents were all farmers in Buffalo County in the 19th century and their main crop was wheat. My 4 grandparents all were dairy farmers in Buffalo County as the wheat gave way to cows. My parents expanded the herd from 16 cows to 100 cows over their careers and I in turn have expanded to 600 cows in my 32 years of milking cows. Each of our generations grew because we wanted to be sustainable both economically and as a way of life.

My great-grandparents plowed up and down the hills and the soil eroded into the 6 streams that flow through our property. My grandparents and my parents began strip cropping, planted windbreaks but still allowed the cows access to all 6 streams. We now do not allow access to streams, we have buffer strips along all streams, we only spread manure where it will not negatively affect the environment, we monitor every load of manure as a part of a nutrient management plan and we continue to practice soil conservation. The result of us having cows rather than just corn and beans is to have a crop rotation with alfalfa on our steeper farm land. That results in the soil staying in the field rather than in the streams. I can safely say that we pollute a lot less than at any time in the history of our 148 year old farm.

This legislation will help the next generation remain sustainable as we need more and more cows to make a decent living. The process initiated by my high school and college classmate, Rod Nilsestuen, of getting the various concerned parties together to develop a fair plan is how good government works. We all had to compromise to achieve a consensus. This bill fairly reflects what we developed. It will go a long way to ending the conflict that is occurring in rural Wisconsin and it will help us to make the dairy industry grow once again.

My political preference has been left of center my entire life. I sometimes have a hard time being associated with issues that are considered to be on the other side. This issue is not partisan. It is legislation that will positively affect the environment, the culture and the viability of rural Wisconsin that we all know and enjoy.

I ask you to support its implementation.



Testimony of Ruth Simpson

February 23, 2004

Assembly Agriculture and Senate Agriculture, Financial Institutions & Insurance

My name is Ruth Simpson. I am a resident of Madison, Wisconsin and serve on the Board of Directors of the Family Farm Defenders. I grew up on a farm in west central Minnesota and my parents still farm there today.

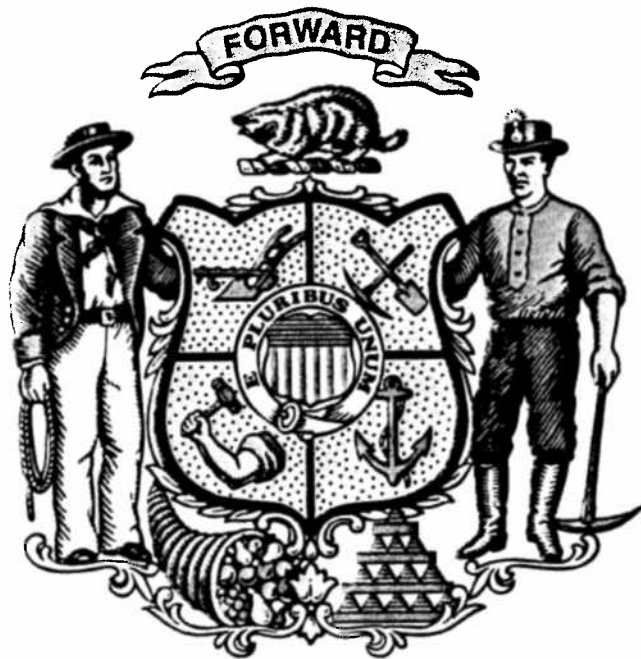
Public policy should not give preferences to one group of producers over another. It is clear from listening to the authors speak about AB 868 that the intent of this legislation is to increase the number of large-scale factory farms in Wisconsin. For the last 30 years, agricultural policy in this country has encouraged large-scale development of farms to the detriment of farmers, consumers and the environment. If Wisconsin adopts AB 868 it will follow states like Missouri and Iowa and drive a wedge between rural residents and farmers. Why does Wisconsin want to follow a failed policy?

The proposal places significant restrictions on when a local government can reject a livestock facility with over 500 animal units. While implementing state-wide rules is a laudable goal, the criteria listed in AB 868 are very nebulous. What does "cost effective" mean? Or "long-term viability of animal agriculture?"

The biggest questions I have retain to the Livestock Siting Review Board. Under the current proposal is superfluous. It seems there are two contradictory functions, paragraph 5(c) of the proposal states, "The board shall make its decision *without deference* to the decision of the political subdivision and shall *base its decision only on the evidence in the record.*" It appears that the Siting Review Board will only be reviewing the record from the local government and not be taking any testimony. Will the Siting Review Board be making new findings of fact? If it does not, how can it not give deference to the local government?

In addition, paragraph (5)(f) states that a circuit court shall review the decision of the "board based on the evidence in the record." The only evidence in the record is from the local government. The most likely scenario is that a decision from the Siting Board differs from the local government. How is the circuit court going to review two different decisions based on the evidence? There are no guidelines in the legislation.

The legislation leaves numerous unanswered questions on how the Siting Board will function. It appears the Siting Board merely reviews the decision. Will Chapter 227 govern? It is difficult to understand the advantage of creating another administrative body that acts like a court. We have courts. We have competent judges. We have court personnel available to resolve disputes just like those the advisory committee identifies. Therefore, the Siting Board is an expensive bureaucracy that has absolutely no benefit to local government, farmers and the citizens of Wisconsin.



Joint Committee Hearing on Siting Issues – February 23, 2004
By: Gary Sipiorski, President-Citizens State Ban of Loyal

We must remember the sheer economic impact of a 40 billion dollar agriculture business in the state of which the dairy industry is 18.5 billion dollars of the pie. The dollar amounts are more than just revenue they represent businesses, farms, families and individuals that are very good at what they do.

A single dairy cow will generate \$2,600 of gross income per year. That equates to \$130,000 of income per year on a 50 cow farm or \$260,000 on a 100 cow farm and so on. With 2004 operating expenses it requires an average of 75 cows for a farm family to live at today's living standards. It has become common for family members to combine assets thus we see on many modern dairies more cows cared for in one single location.

Each dairy farm may have from 20 to 40 different related farm businesses bringing products and services to their farm. This infrastructure is important to the state's economy. The state of Wisconsin is home to 120 milk processing plants. It is important that these plants stay, purchase modern equipment and grow for the dairy economy to prosper. They are paying close attention to the future plans of Wisconsin's dairy producers.

Clark County for example has 30,000 people and 60,000 milk cows with farm sizes of 12 cows to over 1,200 cows. 80% of the jobs in the county are directly related to agriculture. A one dollar change in the price of milk results in a 10 million dollar annual change one way or the other in gross income for the 1,200 farms and related businesses.

The single and multi sized dairy farms in the state are operated by business people and 99% are small business owners with less than 50 employees. They are and want to continue to be environmentally and socially responsible. Today's dairy farm requires an average of \$6,300 of capital investment per cow. They will need a clear direction to invest or keep investing.

Let us give an \$18.5 billion dollar state business, employing as many as 20% of the state's workers in all of Wisconsin's agriculture a future direction. It would be a very big job to replace it!



Wisconsin Towns Association

Richard J. Stadelman, Executive Director
W7686 County Road MMM
Shawano, Wis. 54166

Telephone: (715) 526-3157

Fax: (715) 524-3917

Email: wtowns@frontiernet.net

To: Senate Committee on Agriculture, Financial Institutions and Insurance &
Assembly Committee on Agriculture
From: Richard J. Stadelman, Executive Director
Re: LRB 3453/1 Livestock Facility Siting Draft
Date: Monday, February 23, 2004

On behalf of Wisconsin Towns Association, I want to express our Association's support for LRB 3453/1 regarding relating to the siting and expansion of certain livestock facilities. We believe that this draft reflects the concepts recommended by the DATCP Advisory Committee on Siting Livestock Facilities. **The draft retains the authority of towns and counties to plan, zone, and/or license/permit new or expanding livestock facilities over 500 animal units.** The draft further provides the development of rational and objective standards for the design and operation of these livestock facilities by a panel of experts at the statewide level. Towns and counties will determine if the proposed design for new or expanding livestock facilities meets the state standards. The draft proposes the creation of a state review board to review only the town and county decisions on the application of the state standards. Local governments may exceed the state standards by making findings of fact that more stringent practices and standards than adopted by the state are necessary for public health and safety.

The draft proposal retains local control over land use, application of the state standards, and enforcement of both of these areas. The creation of a state review board is limited only to the review of local governments' decisions on application of the state standards.

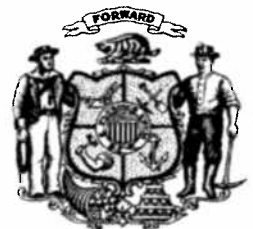
We want to ask the committees and the legislature as a whole to stand by the overall concepts of this draft because it reflects the advisory committee's recommendations. However, we do believe that some simple technical amendments would help clarify the bill. For example, we believe the term "site" should be defined in addition to the current definition of livestock facility. The term "site" is used throughout the draft, but its clear definition in regard to who may appeal on page 11 lines 23 and 25 is important to determine from what point does the two mile limit for appeal by aggrieved person begin. In addition the terms "expanded" or "expansion" should be defined in our opinion. These terms are relevant in regard to existing facilities which are over 500 animal units now. At what point does an existing facility's (currently over 500 animal units) expansion trigger the application of the state standards?

I want to thank Secretary Rod Nilsestuen for asking me to participate on the advisory committee. I want to thank Senator Dale Schultz and Rep. Dave Ward for working with our Association and for having the advisory committee's recommendations drafted as they are in LRB 3453/1. Our Association will continue to work to help clarify and fine tune this draft, if necessary. We support the passage of this bill draft by the end of the current legislative session, to begin the important work of developing state standards.

Thank you for your consideration in this matter. I regret I was not personally able to be present for the Committees' hearing, but due to a previous commitment with the National Association of Towns and Townships I will be out of the state. Please feel free to contact me if any legislators have questions that I can help clarify as to our position.



WISCONSIN STATE LEGISLATURE



PUBLIC HEARING
THE JOINT LEGISLATIVE COMMITTEE ON
AGRICULTURE

REGARDING:

LRB # 3453/1 "SITING LEGISLATION"

TESTIMONY BY:

GREG STEELE

SENIOR FINANCIAL SERVICES EXECUTIVE

AGSTAR FINANCIAL SERVICES, ACA

Monday February 23, 2004

ROOM 411 SOUTH - STATE CAPITAL, MADISON, WISCONSIN

My name is Greg Steele. I am a Senior Financial Services Executive for AgStar Financial Services. I grew up on a WI dairy farm and ran the family dairy for 6 years after my college graduation from the University of Wisconsin – River Falls. For the past 18 years I have worked for the Farm Credit System. In my role with AgStar, I work exclusively lending money to families who own and operate their own dairy business.

AgStar Financial Services is the fourth largest Farm Credit Association in the country. We serve the credit and financial service needs of farmers, ranchers, and agri-business in Wisconsin and Minnesota. The Farm Credit System has in excess of \$1 billion dollars in dairy loans in the State of Wisconsin.

AB 868

I am here today to testify in support of the ~~LRB #3453/1~~ “Siting Legislation”. The creation of this legislation will be critical to the economic growth for the Wisconsin Dairy Industry. I believe there are many good attributes to the Siting Legislation.

I believe we can all agree that dairy farms of all sizes need to modernize and grow their business in order to preserve and build the \$20 billion WI dairy industry. In order to compete with the dairy industry located in the Western US the WI dairy industry has to continue to invest and modernize their operations.

The “siting legislation” will establish performance standards and a process for siting livestock operations in Wisconsin. The legislation will work to apply state standards to help local communities balance the needs of livestock producers who desire to expand or modernize with the interests of citizens and communities. The outcome is to build a partnership among agriculture, local government, rural residents, and environmental protection. This legislation was developed with input from dairy and livestock producers, County & Towns Officials and organizations concerned about the environment. The Advisory

Committee on Livestock Facility Siting, convened by the Secretary of the Wisconsin Department of Agriculture, Trade and Consumer Protection, reached a consensus on many broad points that are to be met by legislation.

The Key principles with the livestock "Siting Legislation" will build partnerships in Wisconsin agriculture, in local communities, and in protecting the environment.

The "Siting Legislation" will need to address predictability, local control, reduction in land use conflict, environmental protection, and economic growth. I would like to speak specifically to predictability with my observations as a lender. I have witnessed first hand what a dairy farmer goes through when he or she decides to grow and improve their business. In many cases the permitting process has been extremely difficult resulting in long and costly delays. It has hurt dairymen economically when they have incurred several thousand dollars in legal and consulting fees to defend their projects when in most cases they have already met federal environmental requirements and industry accepted practices.

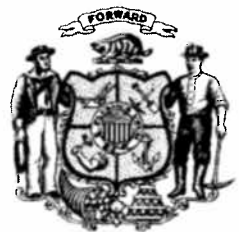
When Agstar approves financing for a dairy project in the best interest of our client we require that all federal, state, and local permit be in place before construction can begin. When permitting process takes several months and many meetings in addition to the professional fees the dairy also suffers an opportunity cost of not bringing the dairy on line as planned. Milk marketing agreements, animal population plans, building schedules, and cropping plans are all disrupted. Again thousand of dollars in revenue are not recognized because of this delay.

The dairy industry needs to know that guidelines and standards reflect best management practices. Dairy Farmers need to have predictable outcomes and standards and know that townships and counties will make decisions based on a consistent set of standards.

On behalf of AgStar Financial Services I would like give support to the creation of the "Siting Legislation". I would like to Thank Senator Schultz for the introduction of legislation and would like to thank the members of the Joint Legislative Committee on Agriculture for this opportunity to speak to them today.



WISCONSIN STATE LEGISLATURE





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JOHN MUIR CHAPTER

OPPOSITION and RECOMMENDATIONS for REVISIONS to LRB-3453/1,
Siting and Expansion of Livestock Facilities over 500 Animal Units, Local Zoning Ordinances, creating a Livestock Facility
Siting Review Board and Granting rule-making authority

Before the Senate Committee on Agriculture, Financial Institutions and Insurance and
The Assembly Committee on Agriculture

By Caryl Terrell, Chapter Director, Sierra Club-John Muir Chapter

February 23, 2004

Thank you for the opportunity to provide comments on draft legislation dealing with siting and expansion of livestock facilities over 500 animal units. Unfortunately I cannot attend in person today. Please contact me at 608-256-0565 for follow-up questions. This is an important issue to our members and we request to be involved in further discussion of this proposal.

The Sierra Club appreciates the leadership of Secretary Rod Nilsestuen and chair Gary Rohde on the issue of dairy and livestock farming. Members of the Advisory Committee on Siting Livestock Facilities clearly contributed considerable effort and time. We appreciate that the committee focused on the need for **statewide standards for facilities over 500 animal units and the need to preserve local government decision-making.** The Special Advisory Committee reached consensus on many broad points and presented many excellent recommendations to Sec. Nilsestuen and legislators Rep. David Ward and Senator Dale Schultz.

The Sierra Club supports the continuation of dairy and livestock farming as an integral part of Wisconsin's economy and rural communities. We believe animal agriculture can and should be a part of sound land use planning and sustainable protection of our clean air, land and water resources.

The proposed legislation includes many concepts which the Sierra Club can support.

- The focus on new and expanding operations above 500 animal units is an important recognition that local communities are facing siting decisions on facilities larger than the typical 70-100 head family operations.
- The focus on continuing traditional town, village, city and county zoning and land use decision-making is particularly gratifying during this decade of smart growth planning by local governments.
- The focus on providing a set of uniform performance standards and best management practices as tools for local government decision-making is very constructive.
- The recognition that neighbors have valid concerns, such as odor and dust, water quantity, proximity to incompatible uses, location near environmentally sensitive areas and manure handling, promises to replace a communication barrier with a structured decision process.

The Sierra Club is troubled that the legislation presupposes a siting impasse. Where's the beef? The courts are not flooded with cases. There seems little justification for setting up a new appeal process and creating a new layer of government, the Livestock Facility Siting Review Board, to second guess the zoning authority of local governments. We have a counter proposal for your consideration.

The Sierra Club is troubled by the limitations on public participation and due process established in defining aggrieved persons. We have a counter proposal for your consideration.

The Sierra Club is troubled by the general wording of the mandate to DATCP to prepare state standards. The bill adds little to existing state law concerning the duties of DATCP and we believe that no new statutory instruction is needed to start work on the type of statewide standards envisioned by the Advisory Committee. But if the bill is to include rulemaking, we have proposed language to deal with this issue.

Correcting our concerns would mean:

1. Page 4 Delete lines 1-17 which creates the Livestock Facility Siting Review Board. Replace later references to the Board with "Secretary of DATCP or his/her designee."
2. Page 5 line 2 insert: "minimum" so line reads: "...enactment of statewide concern for the purpose of providing uniform minimum regulation of..."
3. Page 5 line 8 deleting the definition of "Board."
4. Page 5 lines 9-10 adding a numeric value such as 50 animal units, so that the definition reads: "'Expansion' means an increase of 50 or more in the number of animals fed, confined, maintained, or stabled over the highest number of animals fed, confined, maintained or stabled in any quarter in the previous year." There may be a more elegant way to state this. The point is that numbers of farm animals vary within any given year for many legitimate reasons. The threshold for an increase should not be triggered by only a few animals. We recommend 50 animal units as the threshold.

5. page 5 lines 11-14 The bill's definition is not consistent with other similar terms. For instance, this term has been defined in DATCP administrative rules in a way that is inconsistent with the proposed new definition. It is as follows:

ATCP 50.01(16) "Livestock operation" means a feedlot or other facility or pasture where animals are fed, confined, maintained or stabled.

Since the bill cross-references DATCP rules such as ATCP 50, it might be helpful to double-check the implications of the bill developing an additional definition. We have no particular preference for a definition, just reduced confusion of terms.

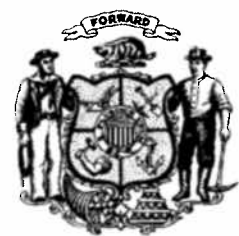
6. Page 5 line 17 insert more specific language directly from the Advisory Committee's report so the line would read: "...shall promulgate rules specifying standards for site selection factors (e.g. proximity to incompatible uses, location near environmentally sensitive areas) , odor, dust, and manure/nutrient management for siting and expanding livestock..."
7. Page 6 add new criterion: "Designed to protect public health and safety of the community." Alternatively, delete page 5 lines 23-25 and page 6 lines 1-10 since they are surplus and unnecessary.
8. Page 7 lines 12-13 delete: "...that is incorporated in the political subdivision's ordinances."
9. Page 7 line 19: delete "scientific" and substitute "written." The word "scientific" sets an unknown but high threshold for the local unit of government. It should be sufficient that the findings are written and therefore reviewable.
10. Page 7 lines 22-25. Delete this provision since it is surplus language.
11. Page 8 lines 5-6 delete: "...that is incorporated in the political subdivision's ordinances."
12. Page 8 line 15: delete "scientific" and substitute "written." The word "scientific" sets an unknown but high threshold for the local unit of government. It should be sufficient that the findings are written and therefore reviewable.
13. Page 8, lines 18-24: . Delete this provision since it is surplus language. . If this provision is not deleted, it should be conditioned by the standard language that conditions more stringent provisions, i.e. page 9 lines 18-24 starting with "...if the political subdivision does all of the following: 1. Adopts the requirement by ordinance before the applicant files the application for approval. and 2. Bases the requirement on written findings of fact, adopted by the political subdivision, that show that the requirement is necessary to protect public health or safety." (replacing the word "scientific" insert "written").

14. Page 9 lines 1-9 are among the most important provisions of this bill.
15. Page 9 lines 10-14; Delete this provision since it is surplus language. If this provision is not deleted, it should be conditioned by the standard language that conditions more stringent provisions, i.e. page 9 lines 18-24 starting with “..if the political subdivision does all of the following: 1. Adopts the requirement by ordinance before the applicant files the application for approval. and 2. Bases the requirement on written findings of fact, adopted by the political subdivision, that show that the requirement is necessary to protect public health or safety.” (replacing the word “scientific” insert “written”).
16. Page 10 lines 1-11 appear to follow the standard approach for limiting siting of Locally Undesirable Land Uses (LULUs) such as Adult bookstores and Adult entertainment.
17. Page 10 following line 22: Insert new provision: “A political subdivision shall notify the secretary of the department (i.e. DATCP) at the same time as notification of the applicant that a complete application for approval of the siting or expansion of a livestock facility that is covered by the state standards has been received.”
18. Page 10 following line 22 and above provision, insert new provision: “A political subdivision may request an advisory opinion from the Secretary of the department (i.e. DATCP) or his/her designee concerning the conformity of the application with state standards.”
19. Page 11 lines 21-25: We object to an arbitrary exclusion of affected and interested parties to request a review of the siting decisions. Delete and replace with language that is customarily found in the statutes and administrative rules, for instance:
 - a. “COMM 20.11 (2) Any person aggrieved by a determination made by the department, a municipality or a registered UDC inspection agency may appeal the decision in accordance with s. Comm 20.21.”
20. Page 12 line 4: Substitute “secretary of the department (i.e. DATCP) or his/her designee” for “board.” The DATCP secretary could seek advice from the State Standards Oversight Council.
21. Page 12 lines 12-25 and page 13 lines 1-9: replace every occurrence of “board” with “secretary of the department (i.e. DATCP) or his/her designee.” The DATCP secretary could seek advice from the State Standards Oversight Council.
22. Page 12 line 13: replace “valid” with “frivolous.” This is a common procedure and allows the secretary of the department or his/her designee to dismiss challenges that are not appropriate or justified without having to make a ruling on the quality of the challenge.
23. Page 12 lines 13-14: Delete: “...shall makes its decision without deference to the decision of the political subdivision and...” Deference should be given to the political subdivision whose members have familiarity with the local community.
24. Page 12 lines 19-23: replace “reverse the decision of” with “The secretary shall advise the political subdivision of his/her decision.”
25. Page 13 lines 16-25 and page 14 lines 1-4 delete terms of initial board members as unnecessary.

Thank you for the opportunity to present the viewpoint of the Sierra Club. Please contact me at 608-256-0565 for follow-up questions. This is an important issue to our members and we request to be involved in further discussion of this proposal.



WISCONSIN STATE LEGISLATURE





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Memorandum

To: Members, Senate Agriculture, Financial Institutions and Insurance and Assembly Agriculture Committees

From: Michael Theo and Tom Larson

Date: February 23, 2004

Re: AB 868 –Siting Livestock Facilities

The Wisconsin REALTORS Association (WRA) supports the intent of AB 868, to protect the ability of farmers to site new and expand existing livestock facilities. However, we have several concerns regarding the rights of neighboring property owners and the ability of local communities to engage in other forms of economic development. We believe AB 868 can be easily amended to address these concerns, consistent with the original intent of the bill.

Balancing Rights and Goals

Wisconsin's quality of life and its economy depend upon a strong and vibrant agricultural industry. To remain competitive with other states and countries, Wisconsin's agricultural industry requires a regulatory environment that allows for future growth, while at the same time protects the environment and private property rights. Streamlining permit processes and removing regulatory barriers on siting new and expanding existing livestock facilities will help our agricultural industry continue to remain viable in the future.

While protecting the ability to expand agricultural operations is necessary, it is imperative that, in doing so, we do not jeopardize the rights of other property owners and the ability to engage in other forms of economic development. While AB 868 attempts to accomplish these objectives, we believe two amendments to the proposed legislation would more effectively protect the rights of other property owners and better enable Wisconsin communities to expand economic development opportunities.

Rights of Neighboring Property Owners – While AB 868 seeks to protect the property rights of farmers who seek to locate or expand livestock operation, the bill lacks protection for the rights and interests of property owners who neighbor these farms. Livestock facilities often have a significant impact on the environment and groundwater resources due to the high concentration of animal units and the use of high-capacity wells. In addition, livestock facilities often produce strong odors and loud noises. As a result, livestock facilities can have a negative impact on the value of neighboring property. Accordingly, we recommend neighboring property owners be notified of the proposed new or expanded livestock facility so that they are able to learn more about how it may impact the value and/or the use of their property.

- ① > Proposed amendment – provide neighboring property owners (those within a 2-mile radius of the proposed new or expanded livestock facility) with individual notice of any public hearing related to the approval of the application.

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Future Viability of Other Forms of Economic Development – Efficient development patterns and compatible land uses are critical to the viability of Wisconsin's economy. To attract new jobs and businesses, local communities must have an adequate supply of land for future residential, commercial, and industrial development. Extraterritorial areas (1 ½ miles outside the corporate limits of fourth class cities/villages and 3 miles outside the corporate limits of first, second, or third class cities/villages) are the primary target areas for future growth and the expansion of non-agricultural economic development. New or expanded livestock facilities in extraterritorial areas is an incompatible land use with high-density residential, commercial, and industrial development and thus creates an obstacle to future economic development in this area.

- ② > Proposed amendment – prohibit new or expanded livestock facilities in extraterritorial areas.

We believe these recommendations are needed and, if adopted, will improve this legislation. We encourage your support.

If you have any questions or comments, please feel free to contact us.