



WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

2009-10

(session year)

Senate

(Assembly, Senate or Joint)

Committee on Environment...

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**



RIVER ALLIANCE of Wisconsin

Senator Mark Miller
Members of the Senate Committee on the Environment
State Capitol, Room 300SE

March 23, 2010

Dear Senator Miller and Members of the Senate Committee on the Environment:

The mission of the River Alliance of Wisconsin is to advocate for the protection and restoration of the state's flowing waters. The viability of our rivers and streams is inextricably tied to the adequacy of our groundwater supply, and management of this out of sight, often out of mind resource is necessary to protect our valued above-ground waters. SB 620 provides the tools to balance those needs and ensure Wisconsin's water future.

You have no doubt heard about some of the problems cropping up around the state:

- In Waukesha, demand has surpassed supply. Groundwater levels have been reduced to the point where naturally occurring radium is being drawn up from the depths, and Waukesha is seeking to purchase Lake Michigan, an exorbitantly expensive and controversial proposition.
- Long Lake in Waushara County, a former bass fishery, is gone, and the infamous Little Plover River south of Stevens Point in the Central Sands area dries up every year. The dramatic increase in crop irrigation coupled with community growth means there are just too many straws in the glass to maintain flows in these spring-fed resources.
- Taylor, Marathon and Clark Counties in the middle of the state have a very thin soil layer over a unique geology known as crystalline bedrock. Local water supply is via wells tapping into pockets of water stored in cracks in the bedrock. The Village of Abbotsford has considered blending treated wastewater with their groundwater source to increase available supply, and economic development has been stifled.
- Northern Wisconsin, most noticeably the northwestern region of the state, has experienced lower precipitation levels for the past several years resulting in dramatically lower lake levels and river flows. Groundwater levels are dropping, are not being replenished with rain, and that translates to less baseflow to rivers and lakes. And because of reduced precipitation, farmers need to irrigate more, drawing on already stressed groundwater supplies.

These are but a few examples, and while the reasons for these groundwater supply problems vary across the state, the bottom line is, without a proactive, inclusive groundwater management approach, there will

be inequities among water users and valuable natural resources will suffer. This bill provides the means to sustainably manage a finite resource, protecting communities, businesses and the recreational opportunities essential to our quality of life and multi-billion dollar tourism industry.

Groundwater Management Areas Ensure Local Participation

The bill includes a logical, science-based, deliberate process to identify Groundwater Management Areas, areas with known, existing water supply concerns. Subsequent planning to ensure sustainable groundwater supplies, and to correct and avoid damages to associated streams, lakes, and wetlands within these identified areas is locally-led, providing for coordinated regional management with the input of all affected users. New high capacity wells must be consistent with the locally-prepared, state-approved plan, and their approval authority remains in the hands of the state.

Groundwater Attention Areas Encourage Proactive Planning

In addition to Groundwater Management Areas, the bill also creates a process to identify Groundwater Attention Areas, areas likely to develop supply problems in the near future. Again, this locally-led process provides a means for coordinated regional management, and an opportunity to proactively address pending water supply problems before they come to pass.

Protection of Smaller Springs = Protection of Trout Streams and Lakes

Springs flowing at .25 cubic feet per second or more are vitally important to provide cold water flow to the state's trout streams, and to replenish lakes. A critical component of this bill is the expansion of protection of springs of this size, once an inventory of state springs has been completed.

Citizens Impacted by Wells Deserve Some Recourse

The Groundwater Protection Areas established in Act 310 provide certainty to applicants for high capacity wells and a degree of protection for Outstanding or Exceptional Resource Waters and trout streams, but the scientific community has made clear the 1200 foot provision defining Groundwater Protection Areas is not the best policy prescription available based on current science. Coupled with the limited scope of waters associated with Groundwater Protection Areas, the current law fails to consider the impacts of high capacity wells on 99% of the state's lakes, 92% of rivers and streams, and 100% of wetlands. A hydrogeologic analysis of all high capacity wells for potential impacts to all surface waters would significantly improve the protection of Wisconsin's lakes, streams and wetlands, and is by far our preferred option. Understanding data gaps and staffing shortages would make such an option difficult now, at least providing the opportunity for affected parties to petition the state for review of the potential impacts of a proposed high capacity well outside of Groundwater Protection Areas is critical.

Efficient Use of Water Resources is a Statewide Issue

The Great Lakes Compact requires the development of a statewide water conservation and efficiency program, but requires mandatory conservation measures for new or increased withdrawals only within the Great Lakes basin. The remaining two-thirds of the state in the Mississippi basin should be treated the same. This bill extends the requirement for conservation measures to the Mississippi, but to be fair and consistent, the trigger for mandatory measures should be the same in both basins.

This bill is the culmination of years of work, by the Groundwater Advisory Committee and the Technical and Policy Committees established to support and advise them, and by the legislature. It was

anticipated by Act 310, and is already long overdue. This year will be the 40th anniversary of Earth Day; it is only fitting SB 620 be passed in time.

Sincerely,

A handwritten signature in black ink, appearing to read "Lori Grant", with a stylized flourish at the end.

Lori Grant
Manager, River Protection Program
River Alliance of Wisconsin
306 E. Wilson Street, Suite 2W
Madison, WI 53703

Wisconsin Waters Coalition

March 18, 2010

To: Wisconsin Legislators

RE: The Real Story – The Groundwater Protection Act

You have all received a memo from the Wisconsin Corn Growers Association, and many of you have gotten calls from members of the Dairy Business Association (DBA) with the identical message. Unfortunately, the Corn Growers and DBA appear to have read a different bill than the one which was actually introduced by Senator Mark Miller, Representative Spencer Black, and a host of co-sponsors. Here are the true contents of companion bills AB 844 and SB 620.

Designation of Groundwater Management Areas (GMAs) remains firmly in the hands of the Legislature. In those few areas of the state with recognized, existing groundwater supply concerns that could be considered for a GMA, the standard rulemaking process applies. The GMA process begins with the Groundwater Coordinating Council (GCC), an inter-agency group that is directed by law to assist state agencies in the coordination and exchange of information related to groundwater programs. The GCC designates a subcommittee of scientists to review groundwater and well data and identify areas that meet the statutory criteria for GMAs. Based on the subcommittee's findings, the GCC may recommend DNR designate GMAs by rule. If DNR agrees, the standard rulemaking process, including public hearings, review by the Natural Resources Board and review by the legislature, must still occur before an area could be officially designated as a GMA.

All regulation of groundwater and surface water withdrawals remains within the jurisdiction of the state. Once a GMA is designated, the affected county (or counties) leads the process of developing a groundwater management plan, ensuring full participation of all local water users. It is important that local water users be involved in these discussions, but the ultimate authority for approving the plan and reviewing new high capacity wells remains with the DNR.

A petition requesting review of a high capacity well may be filed only if there is substantial evidence the well will cause harm, and the burden of proof is on the petitioner. In the majority of the state, DNR cannot even consider whether a proposed high capacity well may impact nearby waterways, leaving concerned citizens helpless. By no means are all new high capacity wells harmful, but in those limited instances where there is a strong likelihood of significant adverse environmental impacts to valued surface waters, the bill provides a mechanism to allow DNR to review potential impacts and recommend appropriate siting and operational conditions for the proposed well. DNR will only review a new application if the petition provides professional hydrogeologic evidence of the potential for impacts. Administrative review will preclude frivolous attempts to halt or delay a well.

Most existing high capacity wells throughout the state will be entirely unaffected.

The DNR may only reconsider the operation of an existing well if: (1) the well is within a state-designated GMA; (2) a locally-prepared, state-approved groundwater management plan has been completed for that GMA; and (3) the well is inconsistent with the approved groundwater management plan.

This bill is the culmination of years of work by the Groundwater Advisory Committee, supported by scientists and policy makers from across the state, and fully anticipated by Act 310 when approved in 2004. It represents a balanced, flexible approach to protecting groundwater supplies for all Wisconsinites – communities, farms, industry and tourism - all critically important drivers of our state's economy. .

To protect the vital natural resources that define Wisconsin's quality of life, vote "YES" on AB 844 and SB 620 now!

Wisconsin Waters Coalition

Chippewa Valley Outdoor Resource Alliance
Clean Wisconsin
Concerned Citizens of Newport
Dane County Conservation League
Eau Claire Rod and Gun Club
Friends of the Mukwonago River
Milwaukee Riverkeeper
1000 Friends of Wisconsin
Trout Unlimited – Wisconsin State Council
Waukesha County Environmental Action League
Wisconsin Association of Lakes
Midwest Environmental Advocates, Inc.
National Wildlife Federation
River Alliance of Wisconsin
Rock River Coalition
Sierra Club – John Muir Chapter
Town and Country Resource Conservation and Development, Inc.
Vernon Alliance Concerned for Environmental Safety
Westfork Sportsmans Club
Wisconsin Environment
Wisconsin Federation of Great Lakes Sport Fishing Clubs
Wisconsin Land and Water Conservation Association
Wisconsin League of Conservation Voters
Wisconsin Wetlands Association
Wisconsin Wildlife Federation
Valley Stewardship Network



*From the desk of
John B. Hutchinson*

www.fontanasports.com

3/22/2010

To the Senate Hearing Committee on Senate Bill 620 re: Groundwater Legislation:

Groundwater is critically important to Wisconsin businesses such as Fontana Sports. Our business is dependent on clean, clear water for many of the sports that we cater to, such as SCUBA, snorkeling, fly fishing, kayaking, bird watching, canoeing, and many other related activities. The residents and visitors to Wisconsin expect no less than clean, clear water and plenty of it!

Economic development depends on sustainable water use. Wisconsin's multi-billion dollar tourist industry depends on groundwater. Depleted groundwater levels translate directly to low lake levels, barely-flowing rivers, and dry wetlands. Fishing, hunting, trapping, boating and other recreational activities at the heart of Wisconsin's \$13 billion tourist industry depend on well-managed groundwater.

I also am also personally interested as groundwater provides drinking water for 70% of Wisconsin citizens, supplies water for industries and businesses in 97% of Wisconsin's communities, sources nearly all crop irrigation, and sustains springs, lakes, wetlands and rivers. My own home is on a private well and I have no patience for putting of legislation that would protect both my and other people's sources of water.

In areas where there has been so much pumping that nearby surface waters have gone dry or local wells have been contaminated due to exposure to arsenic and radium, there is no way under existing Wisconsin law to address that situation and protect our waters. Our neighboring states of Minnesota and Michigan have already adopted laws to protect their groundwater.

SB 620 gives Wisconsin the tools it needs to PREVENT the problems that come with the overuse of our groundwater supplies BEFORE we have problems. In areas that have already experienced problems such as the Central Sands region and Waukesha, SB 620 provides a framework to resolve the conflict between competing water uses to ensure that we are preserving our groundwater for the long-term. By doing so, SB 620 will protect our surface waters and all the communities, businesses and farms that depend upon sustainable water supplies.

Please make this legislation a law and protect one of Wisconsin's most precious resources, groundwater.

Sincerely,

John B. Hutchinson

Downtown

Corner State & Johnson, 251 State Street, Madison WI 53703
Phone: (608) 257-5043 Email: jhutch@fontanasports.com

Dear Friends,

I am writing to support the proposed Groundwater Protection Bill, enrolled as 2009 SB 844 and 2009 AB 620. This Bill substantially advances the management of both surface and ground water resources in the State of Wisconsin, while at the same time protecting human uses of these shared resources by placing primacy on human use of the waters of the State.

The Bill seeks to create a better foundation for the Groundwater Management Areas previously created pursuant to Chapter 281 of the Wisconsin Statutes, by reviewing the potential impacts of groundwater withdrawals in Brown and Waukesha counties against quantitative criteria that better reflect groundwater springs in these counties, and provides for re-designation of these areas if they do not meet the refined requirements. As noted, primacy is given to human drinking water supply.

In addition, by creating Groundwater Advisory Areas, the Bill seeks to provide for future demands on our linked surface and ground water systems. Again, primacy is given to human drinking water supply. This new measure allows communities (counties) to take action to protect and preserve our human uses of our surface and ground waters before impacts occur. In every case, it is easier to manage water use conflicts before they occur than to mitigate water use conflicts after the fact. This is good public policy.

I am aware that concerns have been expressed by certain persons regarding the potential consequences of this Bill on human uses and economic development. In addressing these concerns, we need to recognize that water, whether as surface water or ground water, is equally important to all the citizens of Wisconsin, and to all of the living organisms in the State. Our waters are subject to a wide range of uses: our surface waters are used for both active (boating, fishing, swimming, etc.) and passive (scenic viewing, aesthetic appreciation, as visual amenities, etc.) uses, shared by tourists and residents alike. In surface water management, we have aimed to develop opportunities for multiple uses by this full range of users. In recognizing (and accepting) that surface waters and ground waters are part of a single linked hydrological system, we need to extend this same view to ground water management—through so-called conjunctive use of both surface and ground waters. This approach benefits everyone, and supports a range of human economic activities that include agriculture, water supply, tourism, recreation, etc. This approach also benefits everyone by sustaining the natural resource base upon which agriculture (plant growth), water supply (both surface water and ground water), tourism (both surface water and springs), and recreation (surface water for fishing and boating), etc. depend.

I would like to conclude by noting that our water supply is limited in quantity (both surface water and ground water, through droughts and over use) and quality (through contamination, whether of surface or ground waters). Loss or over use of either the volume of water available or the available pollution assimilation capacity of our waters has the potential to affect all of our citizens without regard to their business or activities. In providing a basis for all of us to share the available waters, the Bill goes a long way toward ensuring the continuity of all of our activities, whether we are urban dwellers or rural entrepreneurs. It is for this reason that I would strongly urge you to move this legislation forward with all deliberate speed.

As a water resources professional in this State, and as a small business owner operating across the United States and the world, I would be happy to respond to any questions that you may have regarding this Bill and its implications for the future of (Southeastern) Wisconsin.

Sincerely and respectfully yours,
Jeffrey A. Thornton PhD PH CLM
321 Barney Street
Waukesha WI 53186-2402
tel/fax: 262 574-1225

Senator Mark Miller and Members of the Senate Environmental Committee.

My name is Mat Wagner. Along with my wife and two kids I own the Driftless Angler fly shop and guide service in Viroqua Wisconsin. We moved here from the Rocky Mountains because of clean water. We sell fly fishing gear to anglers coming in our shop, and have guided countless numbers of people on our spring creeks.

The support of SB 620 is essential to my family and business. It is a story that can be repeated throughout the state. Clean water means fish, and fish means anglers, and anglers mean a livelihood for thousands of people. The groundwater act ensures that our fisheries stay healthy and supports not only my family and employees, but people all over the state that rely on clean water to bring tourists in.

Viroqua is a small rural town, and tourism is becoming increasingly important in supporting our area. We have clients from as far away as Japan, South Africa, New Zealand, Italy, England and other countries. Our core clients come from the larger cities in the Upper Midwest. All of these clients stay at local lodging, eat at restaurants, shop in our downtowns, and buy gas locally. This results in millions of dollars for our area directly invested. These same people join organizations that promote and restore the fishery creating more opportunity, more notoriety for the fisheries, and more recreational dollars coming into our towns.

Groundwater should be protected for its own sake. It is what we drink, what we water our crops with, what we recreate in. But it also has an effect that is not always so obvious in that it impacts the economy of Wisconsin in a very positive way that creates even more awareness and push for protection of our resources.

My job, my family, my employees all depend on clean water. This is not just a conservation bill for us, it is a job protection bill. The hundreds of people we guide on our waters will spend their money and time elsewhere if we allow our ground water resource to be abused. Clean, cold water is a rarity on the planet (just take a look at the beginnings of the water wars in the West), it gives us healthy people, healthy crops, and healthy economies.

Please feel free to contact me with any questions you may have.

Mat Wagner
owner, Driftless Angler
info@driftlessangler.com
608-637-8779

Dear Members of the Senate Committee on the Environment:

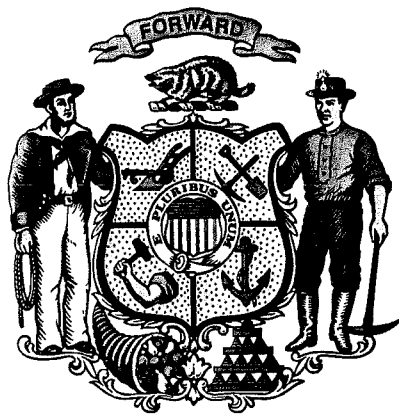
Please do all you can to keep our "neighbors" water safe to drink and bath. Please help keep the water table from being depleted or make to be at a lower level. Thank you

Joan Brock
Cross Plains, WI 53528

Legislators:

Both SB 620 and SB 632 should be examined carefully because our groundwater is worth protecting for habitat. Lake Michigan water is a more sustainable drinking water source than groundwater, but groundwater is needed for our stream habitats, and a few areas that can only get drinking water from the ground. Please consider what is best for our grandchikdren.

Jim & Katie Gennrich
509 Laurel dr
Thiensville, WI 53092



Testimony in Opposition to Senate Bill 620 --- Groundwater Management Areas
Tuesday, March 23, 2010

Good morning Chairman Miller and members of the Senate Committee on Environment. My name is David Jelinski and I am the Government Affairs Director for the Dairy Business Association (DBA) of Wisconsin. Thank you for allowing me the opportunity to speak to you today regarding Senate Bill 620 (SB 620).

DBA is a statewide organization representing 760 members involved in the dairy industry in Wisconsin including farmers, and their local vendors such as feed mills, farm supply businesses, the lending industry, and other dairy professionals. As you know, Wisconsin's dairy industry is a workhorse producing over \$26 billion of economic activity each year and employing tens of thousands of workers in our state.

DBA promotes the development of state-of-the-art agricultural practices that protect water quality, and works with local, state, and federal government to ensure Wisconsin's waste management regulations can be implemented on the farm. This proactive approach to regulation is one component of our strategy to assure that dairy producers remain a thriving part of Wisconsin's economy. DBA also works to keep Wisconsin farmers competitive in a global economy.

On behalf of our membership, DBA urges the Senate Committee on Environment to oppose SB 620 because we believe this bill inappropriately delegates control of Wisconsin's water supply to local government. My testimony today is not intended to criticize the scientific basis upon which the proposed legislation has been developed; but rather, we are asking this committee, and other members of the legislature, to consider the policy ramifications of this bill for the following reasons:

Varying County by County Practices and Standards

We are a home-rule state, and local control serves us well as a representative form of government. However, there are times when delegation of authority from state government to local government is not appropriate and only serves to frustrate those obligated to make the decisions as well as those obligated to adhere to the decisions.

DBA is concerned that SB 620, as currently drafted, creates two fundamental flaws in the regulation of groundwater. In the first case, it explicitly sets the stage for varying county by county standards and practices necessary to meet "target withdrawal quantities" in the same or similar aquifers as a direct result of the authorization of an unknown number of local groundwater management councils and plans. In our opinion, human nature being what it is, this proposal will almost certainly result in members of the same class of end users having their water

consumption rights regulated differently based simply on jurisdictional preference and not on proven scientific need.

Consequently, we believe that state government is better suited to the development of the standards, practices, and water allocation shares which will inevitably come from the establishment of “target withdrawal quantities.” Our concern stems from watching events unfold in recent water shortages in California and Georgia. In both of these cases, the competing water needs of residential, commercial, industrial, agricultural, and recreational users demanded not only the intervention of state officials, but ultimately the Governor in both of those states. Local government is simply not equipped to deal with these decisions and should not be required to do so. This is a job for state-level policy makers who are elected to represent the interests of all of our citizens.

New Authority to Initiate Environmental Review Petitions

We are also concerned that the inclusion of new authority for anyone to petition the DNR for an environmental review of a proposed high capacity well permit that may affect a surface water will be used indiscriminately to impede or prevent the modernization of our dairy industry.

Our concern is directly tied to the “reasonably probable” standard created in bill for determining whether there is a significant environmental impact to surface water. Without a clear statutory definition of the “reasonably probable” standard, it is likely that high capacity well permit applicants will find themselves bound up in continuous legal challenges. We appreciate the efforts of Legislative Council to more fully explain the meaning of this term; however, if the standard boils down to “...evidence which makes something more likely than not,” we almost certainly will be deluged by the varying opinions of technical experts and countless attorneys. In the end, this provision has the potential to be misused and will thwart legitimate efforts to grow our economy.

Changes to Existing Well Approvals

Predictability and certainty are a dairy producer’s best friends. It is critical in today’s fragile economy that these business principles are in place as we struggle to grow the dairy industry and continue to help put people back to work in Wisconsin. Unfortunately, other provisions in SB 620 require DNR to review and modify existing approvals for high capacity wells in a designated groundwater management area after the groundwater management plan takes effect.

All of this will happen even though existing dairy producers on average are estimated to have invested somewhere between \$5,000 to \$10,000 per cow to set up their dairies in Wisconsin depending on the circumstances. This investment was made by the producer as a consequence of knowing they have access to the water they need for their cows. The concept of restricting access to water after the business plan has been developed, after the dairy has been built, after the cows have been brought on-line, and after the milk contracts have been signed flies in the face of fairness and puts our entire dairy industry at risk.

Backsliding on Existing Regulations

When dairy producers decide to modernize or expand their operations, it is likely they will need to obtain either a CAFO permit from DNR or a livestock siting permit from their local jurisdiction or both of these permits. Recently, DBA has watched as those opposed to the growth of the dairy industry use these permit processes as a way to obstruct or prevent dairy farmers from establishing their operations.

It is our view that SB 620 will only provide opposition groups with a new and potentially devastating tool to prevent the development of Wisconsin's dairy industry given the prospect of environmental petitions for new wells and reductions in pumping rates for existing wells. DBA takes this concern very seriously, and believes the current permitting system will be fatally subordinated to these two provisions of the proposal in front of you today. In the end, under this proposal, producers, citizens, and government are likely to be enmeshed in legal tangles that will be difficult, if not impossible, to unravel.

For all of these reasons, DBA is concerned that the proposal will result in additional economic pressure on an already struggling agricultural industry in Wisconsin, and if passed into law will severely and unnecessarily restrict the competitive advantage we enjoy as a national leader in the production of nutritious and healthy food for all of our citizens.

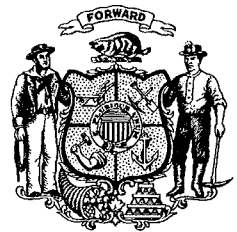
Our farmers depend on an abundant and high-quality water supply. They know first-hand the importance of that supply for their business interests. Unfortunately, the delegation of authority and the uncertainty of the provisions in this proposal prevent DBA from supporting this bill.

Regretfully, we oppose the bill as currently drafted,

David Jelinski, Government Affairs Director
Dairy Business Association of Wisconsin



WISCONSIN STATE LEGISLATURE



Testimony on AB 844 /SB 620-- Proposed Groundwater Protection Act
Public Hearing - State Capitol March 23, 2010

Arlene D. Kanno

Columbia County, Town of Newport

N9947 Thompson Drive, Wisconsin Dells WI 53965

608-253-7266 akanno@uchicago.edu

Wisconsin needs to protect its precious groundwater with stronger legislation now. Data that we *already have* are indicating that the serious problems *we already have* will be exacerbated by inaction. These problems include drying up of rivers and lakes, and potential shortages of water, or extremely high costs, for municipal water systems.


Some would have us bury our heads in the sand. That might benefit a few for a short time. But groundwater is not limitless. Procrastination is asking for trouble--for farming operations large and small, for those who hunt and fish, for those who enjoy water sports, and for the tourist industry. Wisconsin cannot afford such widespread losses.

The methods of science are reliable, and our professional scientists are trying to apprise us of the increasing risks. Reasonable people who study the data can fully understand the predictions that arise from those data. And reasonable people will comprehend the good news -- that the majority of the state does *not* have foreseeable problems.

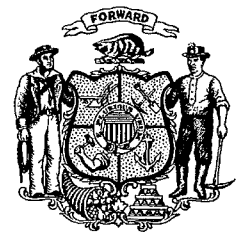
This bill gives teeth to the DNR to target areas of the state where shortages are likely to occur. The tools and procedures are reasonable and require involvement of local citizens and governments. Several hardworking committees, working over several years, have hammered out realistic goals and approaches that have wide support, such as groundwater management plans, for areas that have high risk.

Wisconsin citizens are paying attention and realizing how important groundwater is; they see that in some parts of the state, we must have a plan in order that all may have a fair share of the water. Supporting AB 844/SB 620 is the prudent course of action.

Thank you.



WISCONSIN STATE LEGISLATURE





State Senator
Neal J. Kedzie

11th Senate District

March 23, 2010

Senate Committee on Environment
State Senator Mark Miller, Chair

RE: Senate Bill 620

The following information, comments, questions, and alternatives are being formally submitted to the Senate Environment Committee and the official record on Senate Bill 620, relating to groundwater management. This entire document is also available on the legislative Web site of Senate Neal Kedzie, at www.senatorkedzie.com

General Questions

- How were these policy decisions reached in the bill and by whom?
- Did the members of the Groundwater Working Group craft this bill?
- Is this a consensus piece of legislation?
- Which stakeholders or advocacy groups were directly involved in the crafting of this legislation?
- Does this bill track with the recommendations of the Groundwater Advisory Committee 2006 and 2007 Reports to the Legislature?

Specific Questions

Page 8, line 20: subcommittee on groundwater area review

- What is the composition of this committee?
- What is their term of service?

Page 10, lines 3-5 (Definition of Springs)

- Who determines the completeness of the DNR report?
- What is the Legislature role in regard to this report?
- How is the mere fact the DNR has completed its report a justification for changing the definition of "Spring" from 1 cfs to .25 cfs?

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District: N7661 Highway 12 • Elkhorn, Wisconsin 53121 • (262) 742-2025

- Are there any other instances where a statutory definitional change was made simply by the act of an agency submitting a Report to the Legislature?
- Does the Groundwater Advisory Committee support this change, and if so, does the GAC support making the change merely because the DNR submits a report to the Legislature regarding a large springs inventory?

Page 11, line 7, line 18 and line 21 – Citizen petitions

- What is the definition of “reasonably probable” in regards to a well causing significant adverse environmental impact to a water resource?
- Who came up with this term?
- Does the DNR have the resources and staffing to address every petition submitted?
- Does the DNR have the resources and staffing to review high capacity wells which they concur are “reasonably probable” to cause significant adverse environmental impact?

Page 15, lines 17-18 Existing wells

- Why are existing and approved wells not grandfathered in?
- How was that policy decision arrived at?

Page 16, line 22 – Inventory of Springs

- Can the DNR complete this inventory within three years?
- Who came up with that timeline?
- What is the cost to do so?
- Who determines the “completeness” of the inventory?
- What happens if the DNR fails to meet the statutory timeline?
- What is the role of the Legislature in regards to the Large Springs Report?

Page 21, line 7 – Groundwater Management Planning

- How many members are appointed to the council?
- Are they public or private members?
- What is the criteria for serving on the council?
- What is the term of service?
- Why must the council be created within six months?
- Why is the DNR charged to create the council if the County fails to do so in six months? How is that local control?
- Again, how were these policy decisions reached and by whom?
- How reasonable is it to assume GMAs with multiple counties will be able to negotiate the terms for the composition of the groundwater management councils within the allotted six month timeframe?

- Have all those issues and requirements to appoint councils, negotiate with other counties, and create groundwater management plans been discussed with the Counties before this language was created?
- The Counties are under specific timelines to create councils and management plans; if they fail to do so, the DNR steps in. What is the timeframe for the DNR to complete those tasks?

Page 23, lines 6-8 Groundwater management plans

- The DNR either approves or disapproves of the groundwater management plans, basically an up or down vote. Why does the bill not allow for potential modifications to plans that may be rejected by the DNR?
- Are the GMA counties allowed to appeal decisions made by the DNR?
- Are County Boards able to amend management plans submitted by the councils?
- What happens if a groundwater management plan is rejected by the DNR? Does the DNR then create the plan? How is that local control?
- How is any of this “local control” if the threat of a complete DNR takeover of the council and the plan is always looming over the GMA counties?
- How were all of these provisions regarding councils and planning created, and by whom?

Page 25, lines 1-3 Groundwater Attention Areas

- Why is the DNR authorized to establish target date and target withdrawal quantity for the area?
- Aren't GAAs just areas that need to be monitored?
- Why would GAAs be subject to such regulation?

Groundwater Legislation Timeline

June, 2009 – Joint Informational Meeting of the Senate Environment and Assembly Natural Resources Committees to regarding the 2006 and 2007 Reports submitted to the Legislature by the Groundwater Advisory Committee. No action was taken by the Committees, and ***no policy decisions were made.***

Groundwater Working Group meetings commence

1st Meeting: September 24, 2009

- Introductions and General Comments made. Meeting lasted about an hour. ***No policy decisions were discussed or made.***

2nd Meeting: October 1, 2009

- Informational presentations offered by Leg. Council, DNR, and UW. ***No policy decisions were discussed or made.***

3rd Meeting: October 7, 2009

- Informational presentations and testimony offered by Co-Chairs of the Groundwater Advisory Committee. Presentations also offered by DNR. ***No policy decisions were discussed or made.***

4th Meeting: October 21, 2009

- Informational presentations offered by PSC, UW, and a private organization from Chicago. There was a brief discussion by the Working Group regarding water conservation (statewide v. in-basin), but ***no policy decisions were made.***

5th Meeting: October 23, 2009

- Informational field trip by Groundwater Working Group. Not certain in regards to committee attendance, ***it is unlikely that any policy decisions were made*** during that trip.

6th Meeting: November 4, 2009

- Informational presentations offered by the DNR and US Geological Society. There may have been some discussion among the Working Group members of what the “next steps” may be, but nothing concrete. ***Again, no policy decisions were made,*** and it was left that this would be the final meeting of the Groundwater Working Group.

December 23, 2009 (***one day before the holiday break***)

A Legislative Council memo is delivered to Working Group members, which outlined many “Discussion Items” for the Groundwater Working Group to consider. No explanation as to how the paper was crafted, or how the items for discussion came to be. No indication of what the next step would be in regard to this very broad concept paper.

7th Meeting: January 7, 2010

- Groundwater Working Group meets to review and discuss the December 23 Leg. Council 'Discussion Paper'. At that meeting, Kedzie submits 3-paged list of questions regarding the 'Discussion Paper'. Brief discussions took place regarding the content of the Leg. Council paper, but ***no substantive policy decisions were made*** by the Working Group.

The meeting ended with the Co-Chairs commenting that members could submit options and alternatives to their respective offices.

January 12, 2010

- Senator Kedzie submits five pages of options and alternatives to the offices of Senator Miller and Representative Black. Kedzie also requests the Groundwater Working Group meet at least one more time to discuss both papers.
- While all Kedzie documents were uploaded to the Groundwater Working Group Web page, no response was made by either Senator Miller or Representative Black. To this day, Kedzie has received no reply from this office in regards to his alternatives paper.

Friday, March 5, 2010

- LRB 4094/1 arrives in the Kedzie office, through inter-department mail with a note that it will be circulated for co-sponsorship beginning Monday, March 8, 2010. This is the first time our office has seen anything in LRB form regarding groundwater legislation.

Monday, March 8, 2010

- LRB 4094/1 is circulated for co-sponsorship with a 3-day window of time in which to sign on, or not.

Tuesday, March 23, 2010

- Public hearing on SB 620. Still no response from Miller or Black regarding the Kedzie Alternatives Paper.

Senate Bill 620 v. Groundwater Advisory Committee (GAC) Reports

GMA and GAAs created by DNR rule at the recommendation of the Groundwater Coordinating Council Sub-Committee.

- GAC makes various recommendations in this regard, mostly through the rule-making process.

Designations could be rescinded in the same manner the areas are created.

- GAC touched on rescinding designations, but made no recommendation.

GMA counties must create groundwater management councils within six months, or the DNR creates the council. Counties would have to negotiate appointments.

- GAC recommends various ways in which local and regional planning commissions could be involved, but **does not make any recommendation** that the DNR creates the council.

GAA counties may create groundwater management councils if it so chooses.

- **GAC made no such recommendation.**

GMA counties must create groundwater management plans within three years of designation, or the DNR will create the plan.

- GAC recommends that groundwater management plans should be created, and criteria for those plans be set by administrative rule. DNR would approve or disapprove plans after a public hearing. **It makes no recommendation** that the DNR creates the plan if the locals fail to do so.

High cap wells in GMAs must be consistent with groundwater management plans.

- GAC recommends that new high cap wells must be consistent with groundwater management plans, and after 10 years, existing high cap wells must be consistent.

Munis in a GMA with water supply plans must have their plans consistent with the groundwater management plan within four years.

- **GAC made no such recommendation.**

If a GAA county or counties choose to create a groundwater management plan, it must be approved by all GAA county boards and the DNR.

- **GAC made no such recommendation.**

High cap wells in GAAs must be consistent with the GAA groundwater management plan, if one exists.

- **GAC made no such recommendation.**

DNR must perform a large springs inventory and submit its report to the Legislature. Once that is complete, the definition of "springs" changes from 1 cfs to .25 cfs.

- GAC recommended the creation of Springs Inventory, but **made no recommendation** that the flow rate be changed based on the completion of that inventory. A motion to change from 1 cfs to .25 was rejected by the GAC on a vote of 5-9 (five for the change, nine against)

Environmental review provisions also apply to high cap wells used for a water bottling facility.

- **GAC made no such recommendation.** In fact, the GAC concurred that the current level of protection and regulation in this regard is appropriate and **no changes are needed.**

DNR is allowed to modify existing approvals for high cap wells located in a GMA to make them consistent with the groundwater management plan.

- GAC recommends giving this authority to the DNR in **ten years.**

The same holds true for high caps in GAAs, if a groundwater management plan exists.

- **GAC made no such recommendation.**

The bill allows anyone to petition the DNR to request an environmental review of a high cap well which they believe is “reasonably probable” to result in significant adverse environmental impact to surface waters. If the DNR believes the petitioners’ request is “adequate”, the well must go through the higher environmental review process.

- **GAC made no such recommendation.**



State Senator

Neal J. Kedzie

11th Senate District

January 12, 2010

Groundwater Working Group
State Senator Mark Miller, Co-Chair
State Representative Spencer Black, Co-Chair

Dear Co-Chairs Miller and Black,

Thank you for the opportunity to review and discuss the Wisconsin Legislative Council memo, 'Groundwater Discussion Paper', which was issued to the Groundwater Working Group on December 23, 2009 and deliberated at the January 7, 2010 meeting.

As the co-author of Wisconsin's first major effort towards protecting the groundwater of this state, I appreciate the attention paid to this issue, and believe the recent debate among legislators was most productive. To be honest, the meeting on January 7th was the first time in which we, as a group, seriously debated ideas and proposals for the next phase of revisions to Wisconsin's groundwater protection law. While prior meetings were informative, none offered any substantive opportunity for us as policymakers to discuss or decide the direction of this potential legislation.

As you know, I have always held that crafting any such policy of this magnitude must maintain the guiding principle Representative DuWayne Johnsrud and I set forth in 2003. That is, consensus on all provisions must be achieved for inclusion in any final draft proposal. That was the stated goal by the original members of the Groundwater Protection stakeholder group, as well as the members of the 2005-07 Groundwater Advisory Committee, and should continue with the Groundwater Working Group.

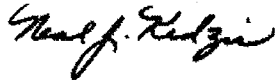
In order to facilitate further discussions among the members of the Working Group, I am submitting to your offices an 'Alternatives Paper' to the Legislative Council 'Discussion Paper', and trust you will review it carefully. My intentions in this regard are sincere and in the spirit of maintaining a consensus piece of legislation. Many of the ideas offered in the enclosed document have been discussed at length and overwhelmingly supported by the Groundwater Advisory Committee. Others items are a hybrid of the Committee's work, to a certain degree, but still maintain a basis of agreement.

At this time, it is unclear if the Groundwater Working Group is scheduled to meet again, or if the recent January meeting was our final opportunity to work on this issue as a group. I hope it was not. From that meeting, I believe we initiated a very meaningful dialogue which should continue, if for no other reason to discuss the ideas and alternatives I bring to the table. It would also allow stakeholders representing municipal, environmental, agricultural, business, and scientific interests, as well as the Department of Natural Resources and the general public, the opportunity to react and respond to the previous 'Discussion Paper' memo, as well as the new 'Alternatives Paper' memo.

I believe we can build on the solid foundation laid by the 2003 Groundwater Protection Act, but in order to do so, we must not lose sight of the process and principles which led to the passage and enactment of that historic Act. As members of the Groundwater Working Group and the legislative committees that may eventually consider such legislation, we have an obligation to ensure the goals set forth are reasonable, attainable, and workable for any and all entities who utilize and consume Wisconsin's groundwater, but also share a mutual goal of preserving and protecting Wisconsin's groundwater.

I look forward to our continued work on this important issue and hope the Groundwater Working Group gives serious consideration to the enclosed options.

Sincerely,



Neal Kedzie
State Senator
11th Senate District
Member, Groundwater Working Group

Enclosure (1): Alternatives for Groundwater Working Group Discussion Paper

CC: Members, Groundwater Working Group

Alternatives for Groundwater Working Group Discussion Paper
Prepared by the Office of State Senator Neal Kedzie
Member, Groundwater Working Group
January 12, 2010

Designation of new Groundwater Management or Attention Areas

The concept for this process somewhat mirrors the initial stage of the process, as recommended in the Wisconsin Legislative Council memo, 'Groundwater Discussion Paper' (12/23/09), but establishes a more pro-active role for the Legislature. Much of this alternative is based on recommendations by the Groundwater Advisory Committee, in its 2006 Report to the Legislature on Groundwater Management Areas. Of course, the Legislature could, at any time, draft legislation to create a new Groundwater Management Area (GMA) or Groundwater Attention Area (GAA) as it sees fit.

Every other year, beginning in an even numbered year following publication of this Act, the Wisconsin Geological and Natural History Survey (WGNHS) in consultation with the United States Geological Service, will identify to the Groundwater Coordinating Council (GCC) any regionally defined areas of the state where groundwater quantity availability, coupled with water quality degradation, may warrant designation as a GMA or GAA.

The GCC will conduct a review of the information provided by the WGNHS and may create a Technical Advisory Group to review such information. If the GCC believes GMA or GAA designation is warranted, it shall forward a petition to the Department of Natural Resources in that regard.

Upon receipt of the petition, the Department may review the information provided by the GCC, and if it believes GMA or GAA designation is warranted, the Secretary of the Department of Natural Resources may submit a report that includes a thorough environmental, economic and social analysis of the GCC findings to the appropriate standing committees of the Legislature that deal with environmental and natural resource issues, which may also include a request for GMA or GAA designation by statute.

Any County, by resolution, may petition the GCC to be considered a GMA or GAA. The GCC may only accept petitions from Counties.

Areas designated as Groundwater Management Areas shall be eligible to receive funding to support research, pilot programs, management strategies and planning activities.

Areas designated as Groundwater Attention Areas may be eligible to receive funding to support research, pilot programs, management strategies and planning activities.

Removal or Modification of GMA or GAA designation

The WGNHS shall also recommend whether the designation of any areas previously identified as a GMA or GAA should be modified or terminated and forward those recommendations to the GCC.

If the GCC agrees with that recommendation, it shall forward it to the Department of Natural Resources for consideration. If the Department agrees with the recommendations of the GCC, the Secretary may petition the Legislature to act on the recommendation to modify or remove the designation by statute.

Every other year, beginning in an even numbered year following publication of this Act, any County within an area formally designated as a GMA or GAA may petition the GCC, DNR, or Legislature to consider modification or termination of its designation as a GMA or GAA. The County must demonstrate tangible goals have been met in order to deem it worthy of modification or removal.

Requirements for new Groundwater Management Areas

If a new Groundwater Management Area is created, any County within the new GMA shall submit its own ***groundwater management plan*** to the Department of Natural Resources for review within five years of designation.

Upon agreement between the department and a GMA county, the department shall extend any time limit applicable to the submission of a groundwater management plan. The department may not require a county to agree to extend a time period as a condition of approving a groundwater management plan.

The criteria for groundwater management plans will be set by Administrative Rule by the Department, which may also develop a model groundwater management plan for Counties to adopt.

Within six months of receipt of the County groundwater management plan, the DNR shall decide whether the plan is approved, not approved, or in need of modifications.

Any plan not approved by the DNR shall include reasons for disapproval, as well as recommendations to improve the plan. Any request for modifications by the DNR shall include a descriptive list of requested modifications. Modifications to a plan do not affect the required timeline. The Department shall demonstrate to the County that its' plan does not meet the criteria set forth in Administrative Rule. The DNR may review approved groundwater management plans every five years.

If Counties in the new GMA do not submit a plan to the DNR within five years of designation, the County shall, by resolution, adopt the DNR model policy.

Requirements for new Groundwater Attention Areas

If the Legislature adopts and the Governor enacts legislation to create a new Groundwater Attention Area, any County within the new GAA may submit a ***groundwater strategy plan*** to the Department of Natural Resources, which could identify methods, programs, and initiatives to address potential water supply problems.

The DNR may neither approve nor disapprove of the plan, but rather, utilize it as a reference tool should the new GAA eventually be designated a GMA. If the DNR believes a GAA should be designated a GMA, the Secretary may petition the Legislature to act on a new designation.

Springs

Direct the DNR to the best of its ability, complete an inventory of springs that have a flow of at least .25 cubic feet per second. The DNR may create this inventory through cooperation with the Wisconsin Wildlife Federation, Trout Unlimited, University of Wisconsin System, or any other appropriate organization with expertise or information in this regard.

Within six months of completion of the springs inventory, the DNR shall form a Springs Advisory Committee with the charge of reviewing the inventory to determine its completeness, as well as, any recommendations it may have for statutory changes to the definition of springs.

Within six months of receiving the springs inventory from the DNR, the Springs Advisory Committee shall review the springs inventory and report to the DNR its conclusions. The DNR may submit those conclusions and springs inventory to the appropriate standing committees of the Legislature that deal with environment and natural resources issues for any statutory changes to the springs definition.

The Springs Advisory Committee shall be comprised of representatives similar to that of the Groundwater Advisory Committee created by 2003 WI Act 310 and shall cease to exist once the DNR has submitted the conclusions of the Committee to the Legislature.

Groundwater Protection Areas – Regulatory Reviews

Since no consensus by the Groundwater Advisory Committee could be reached on any new regulatory framework for GPAs, and since decision made in WI Act 310 were based on only those items where true consensus could be reached, current law should be maintained.

Additional Water Conservation Measures

Water conservation measures requirements on new or expanded major surface or groundwater water withdrawals shall be limited to newly designated Groundwater Management Areas and only be initiated when the DNR and Public Service Commission have compiled a list of incentives to encourage water conservation measures.

Once compiled, only those listed water conservation measures may be required for any new or expanded major surface or groundwater withdrawal in the new GMA, unless the person or entity making application for the new or expanded withdrawal can demonstrate that implementing such measures would not be “environmentally sound or economically feasible”, as defined in 2007 Wisconsin Act 227, the Great Lakes Water Resources Compact Act.

A major surface or groundwater withdrawal is a withdrawal of more than one million gallons per day for 30 consecutive days. (2007 WI Act 227)

Legislative Review (new item)

Special Committee on Wisconsin’s Groundwater Law created.

No sooner than the 24th month of enactment of this bill, the joint legislative council shall create a special committee on Wisconsin’s groundwater laws, and every biennium thereafter. The joint legislative council shall direct the special committee to study significant provisions of 2003 Wisconsin Act 310 and 2009 Wisconsin Act [insert Act number], including but not limited to, Groundwater Management Areas, Groundwater Protection Areas, Springs, Water Conservation, mapping, and funding.

The special committee shall be composed of the following:

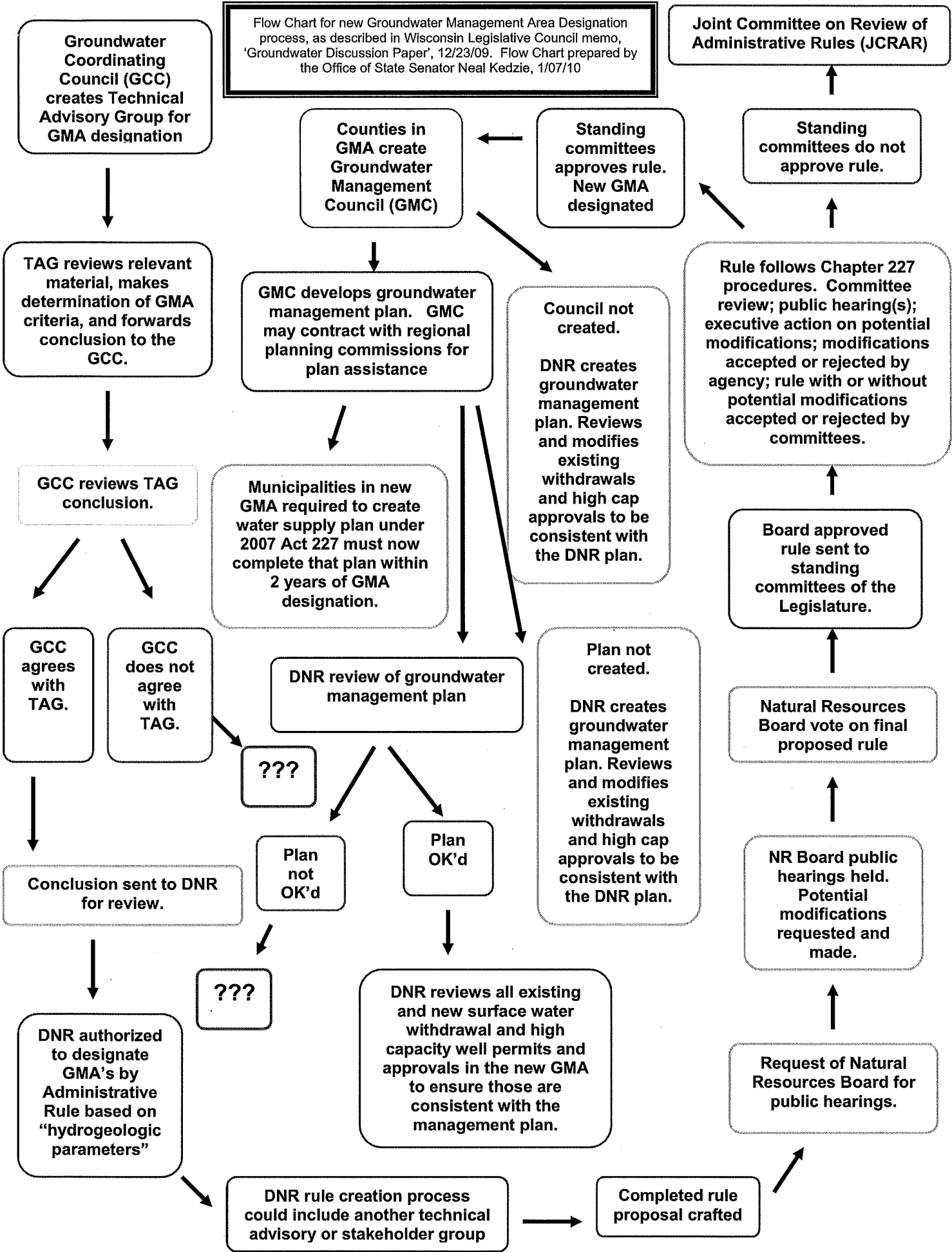
Five, non-legislative members appointed by the joint legislative council representing municipal, agricultural, environmental, business, and well-drilling interests.

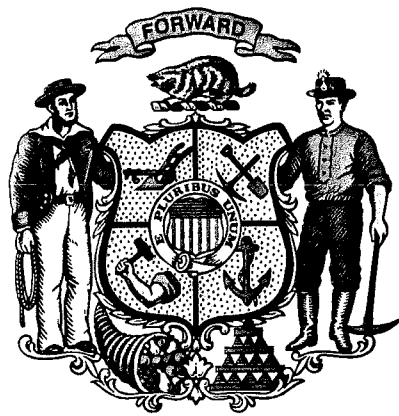
One majority member of the Senate, one Minority member of the Senate, one Majority member of the Assembly, one Minority member of the Assembly, appointed by the joint legislative council. At least one member from each House appointed to the special committee shall also be a member of the appropriate standing committee that deals with environmental or natural resource issues.

The special committee may be assisted by a technical advisory committee composed of officials representing the Department of Natural Resources, the Groundwater Coordinating Council, the Wisconsin Geological and Natural History Survey, or the University of Wisconsin.

-end-

Flow Chart for new Groundwater Management Area Designation process, as described in Wisconsin Legislative Council memo, 'Groundwater Discussion Paper', 12/23/09. Flow Chart prepared by the Office of State Senator Neal Kedzie, 1/07/10







Sierra Club - John Muir Chapter
222 South Hamilton Street, Suite 1, Madison, Wisconsin 53703-3201
Telephone: (608) 256-0565 Fax: (608) 256-4562
E-mail: john.muir.chapter@sierraclub.org Website: wisconsin.sierraclub.org

Support SB 620 to Protect Wisconsin's Groundwater
Before the Senate Environment Committee, 03/23/10, 10:05 AM, 300SE
Jim Kerler, Vice Chair, Sierra Club- John Muir Chapter

Thank you for the opportunity to speak to this committee on behalf of SB 620 to protect our groundwater. My name is Jim Kerler, and I am the Vice Chair of the Sierra Club's statewide John Muir Chapter.

I have attended several meetings of the Groundwater Workgroup that Senator Miller has co-hosted with Representative Black. Senator Kedzie has also played an active role in that group and in passing our current groundwater law, and I want to thank all of you for your leadership in this important area.

The Sierra Club supports the passage of Senate Bill 620 because this bill will bring Wisconsin's people together to protect regional water resources so we can all use them and prosper. We are all dependent on the availability of groundwater in a myriad of ways. It supports business, agriculture, fisheries, wildlife, recreation and tourism. However it is more than that -- it is one of our crown jewels as a society because drinking water is so critical to sustaining life -- and this bill will help protect both the quantity and quality of our groundwater.

Wisconsin's existing Groundwater Protection Law, Act 310, was an important step to bring attention to our groundwater and its connection to surface waters. Act 310 led to the establishment of the Groundwater Advisory Committee whose scientific investigations in turn led to the recommendations in SB620. So this bill is the logical evolution of Wisconsin's thinking and legislation on groundwater use and protection.

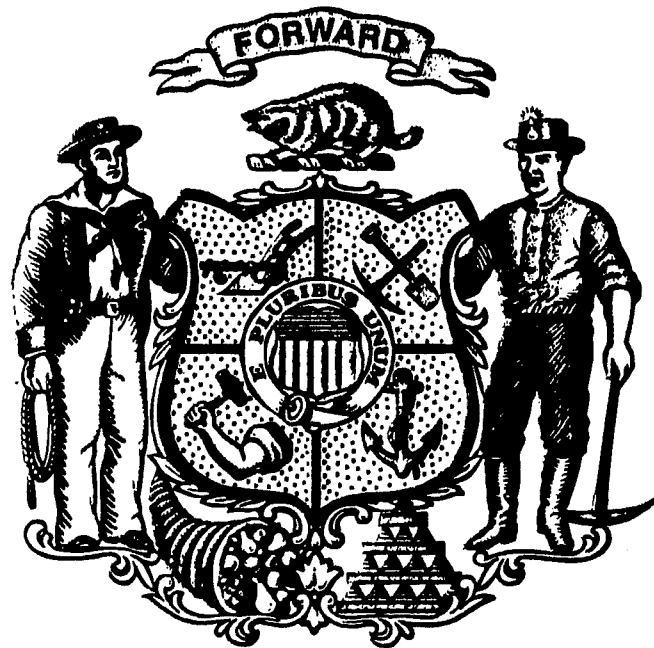
As inconvenient as it may be, scientific consensus does point to a changing climate, with greater extremes of temperature and precipitation expected in the future. This is likely to impact the availability of surface and ground waters, and points to a need to increase scientific evaluation and management of these resources going forward.

We see the following key benefits in the proposed legislation:

- The Groundwater Management and Groundwater Protection *Areas, Councils, and Plans* defined in SB 620 will enable local communities of interest to engage in joint, proactive management of their own chronic groundwater problems. Expert assistance and oversight would be provided by the DNR resulting in shared decision-making with attention to all environmental, public health and economic areas of concern.
- Brown, Waukesha, Waushara and Portage counties are home to the most publicized areas where we've seen the need for users to work together on these problems. This legislation assures that the problems in Brown and Waukesha Counties are addressed as potential Groundwater Management Areas on a timely basis. The Sierra Club would also like to see language added to accelerate consideration of the areas around the Little Plover River in Portage County, and Long lake in Waushara County as potential Groundwater Management Areas. These "central sands region" water bodies are cherished by those who use them and scientific analysis suggests groundwater management plans would be beneficial. Over the long run, all local users of underground aquifers will benefit from the ability to jointly address existing or potential groundwater shortages.
- Under the proposed legislation the need to *conserve* our shared groundwater resources would be acknowledged statewide. In light of the problems we've seen in certain areas, and a global shortage of fresh water, this will be a welcome component of wise resource use. However the Sierra Club would prefer to see the conservation element in the bill be consistent with the water conservation requirements of the Great Lakes Compact. This would improve the effectiveness and public understanding of the law, simplifying its administration for our regulatory bodies.

- SB 620 refines and improves the steps to be taken for groundwater management related to surface water resources such as springs, streams, lakes and wetlands. The previous 1200 foot radius limitation for DNR environmental review of new high capacity well applications was well-intentioned, but it left most of our surface waters unprotected. The new law would replace this arbitrary distance with proactive scientific review, protecting surface waters when necessary. Springs that flow at a rate of less than 1 cubic foot per second would also be inventoried and protected. Wildlife watchers, fishermen, hunters, boaters and tourists will all appreciate this. Long term recreational and economic benefits will result, solidifying our \$13 billion tourist industry.
- SB 620 would enable the DNR to modify high capacity well approvals when a problem is found with groundwater availability. Sierra Club assumes that the responsibility for this action would not be taken lightly and would take into account both drinking water supplies and economic activity. However, it simply makes sense to address the problem head-on rather than hoping it will go away. Again, over the long run *all users* will benefit from a coordinated management in areas of shortage.

In Wisconsin we are blessed with plentiful groundwater almost everywhere, but we've learned that we cannot take it for granted. Passage of the SB 620 Groundwater Protection Bill will move us toward our shared goals of having both a healthy environment and long term economic prosperity.





MEG MUNICIPAL DRINKING WATER
A Division of the Municipal Environmental Group

P.O. Box 927
Madison, WI 53701-0927
Telephone (608) 283-1788
Facsimile (608) 283-1709

March 23, 2010

HAND DELIVERED

Members of the Senate Environment Committee
State Capitol
Madison, WI 53702

RE: Comments on SB 620 – Groundwater Bill

Dear Senator Miller and Committee Members:

The Municipal Environmental Group - Water Division (MEG-Water) is an association of 52 municipal water utilities who provide drinking water to the public. Municipal water utilities are entrusted with the responsibility to provide a safe and sufficient water supply to residents.

MEG-Water supports groundwater planning in order to protect the quantity and quality of groundwater. We were actively involved in the creation of Act 310, the Groundwater Advisory Committee, and the Great Lakes Compact implementing legislation. We agree with others who have stated that it is time to take another step forward in wise groundwater management.

SB 620, however, is not the right step forward. This is so for three major reasons.

First, SB 620 focuses on identifying problems, rather than finding solutions. We believe time, resources, and efforts should be focused on problem solving, not problem identification.

SB 620 sets out seven different ways an area could qualify for designation as a groundwater management area, and it provides a detailed process for designating these areas. Undoubtedly a great deal of effort will be expended by the groundwater coordinating council subcommittee, the groundwater coordinating council, and then the Department of Natural Resources as they examine potential areas and the seven criteria for potential groundwater management area designation. Undoubtedly those opposed to designation will also spend a great deal of effort to demonstrate that designation should not be granted. But to what effect will all this effort be directed? Identifying a problem does not solve a problem. We should be focusing resources on solving problems, not merely identifying them.

Members of the Senate Environment Committee

March 23, 2010

Page 2

We believe that the right way to proceed is for the legislature to focus on a limited number of groundwater management areas, and to get started with groundwater management planning for those areas.

Second, SB 620 fails to grapple with the issue of how to actually do regional groundwater management planning. This is the guts of what needs to be done, yet the bill barely addresses the issue.

The issue of regional groundwater management planning has been on the table a long time. It was raised and left open by Act 310. It was extensively discussed by the Groundwater Advisory Committee. The Committee's 2006 Report recommended that future legislation establish the fundamental aspects of groundwater management plans and planning activities, and that administrative rules establish the requirements of groundwater management plans. Since 2006, however, little more has been done.

SB 620 fails to meaningfully address how groundwater management planning should be done. Instead of dealing with the issue head on, SB 620 simply delegates the development of the groundwater management plan to a county committee. SB 620 provides little direction on how to actually go about the process of groundwater management planning. It provides no funding to the county committee to do the plan. This is a major deficiency in the bill, and demonstrates the lack of a vision of what is suppose to actually happen.

MEG-Water believes that in the absence of a clear vision, good guidance and funding, it makes sense to go slow, and learn as we go. MEG-Water recommends that the groundwater management planning begin in one or two areas designated by the legislature, and that the state devote the necessary financial and technical resources needed to do a good job with those plans. Once the state has the experience with the development of these plans, we will then be in a position to decide how to move forward and expand the lessons learned to other areas.

Third, SB 620 establishes an adversarial system for water users, instead of fostering a climate of cooperation among water users.

SB 620 requires the DNR to establish a target withdrawal quantity for the groundwater management area, and then requires the county committee to prepare a plan that will limit withdrawals to that target withdrawal quantity. In other words, the county will be charged with allocating water use among current and future water users in the area. As water use is essential to the health and well-being of residents, cities, businesses, agriculture, and others, this allocation will be of paramount importance to all concerned. The lobbying of the county committee members will be intense as interested water users all seek to protect their access to groundwater.

Members of the Senate Environment Committee

March 23, 2010

Page 3

SB 620 should not put water users and the county committee in this position. A goal of the groundwater management planning process should be to get groundwater users in the area to work together and develop a sustainable plan. It should not be to pit water user against water user. Perhaps some day we will be forced to fight over water as they do in the west, but that day should not be today. Instead of fostering litigation, the state should be working to foster cooperation.

MEG-Water believes SB 620 should not require the establishment of a target withdrawal quantity for the groundwater management area, and the plan should not be required to limit withdrawals to the target withdrawal quantity. Instead of the DNR establishing a fixed target withdrawal amount, the groundwater planning committee should work together to establish recommended withdrawal amount for all users in the area. Best management practices, including conservation, should be included in the plan. Monitoring should be conducted to evaluate plan progress, and the plan should be revised if further steps are required. This change from an adversarial process to a cooperative process will result in stakeholders focusing resources on trying to improve groundwater use in the area, instead of lobbying or litigating to protect their share of a groundwater allocation.

In conclusion, MEG-Water is supportive of regional groundwater management but disagrees with the approach contained in SB 620. MEG Water supports an approach that fosters cooperation among water users, that focuses resources on solutions instead of problems, and that moves forward in a deliberative way. Regional groundwater management is needed, but not in the way envisioned by SB 620.

Thank you for your consideration of these comments.

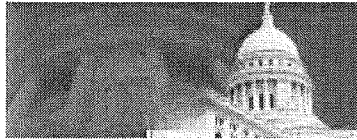
MUNICIPAL ENVIRONMENTAL GROUP
- WATER DIVISION



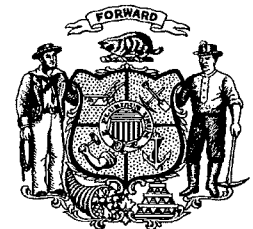
Lawrie J. Kobza, Legal Counsel

cc: MEG-Water Steering Committee

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WISCONSIN STATE LEGISLATURE





WMC

WISCONSIN'S BUSINESS VOICE SINCE 1911

TO: Senate Committee on Environment

FROM: Scott Manley, Environmental Policy Director
Wisconsin Manufacturers & Commerce

DATE: March 23, 2010

RE: Senate Bill 620 – Groundwater Regulation

WMC has serious concerns regarding the regulatory impacts of Senate Bill 620, and the regulatory uncertainty that would exist if this legislation became law.

Historic groundwater regulation was enacted in 2004 when Wisconsin's Groundwater Protection Act was passed into law. WMC supported passage of 2003 Act 310 because it struck an appropriate balance between the shared goals of managing groundwater resources and allowing agriculture and economic development to occur in a responsible manner. By contrast, Senate Bill 620 is an unnecessary and expansive approach to regulating groundwater that will create regulatory uncertainty for existing permit holders.

The bill specifically prohibits the DNR from permitting new high capacity wells in areas designated as a Groundwater Management Area (GMA) or Groundwater Attention Area (GAA) unless the well is consistent with the groundwater management plan. This type of regulatory determination is highly subjective, and will likely lead to inconsistent application throughout the state. As such, this standard of review may serve to discourage applicants from investing the time and resources necessary to pursue approval for a new project because the likelihood of receiving a permit is speculative at best. We are concerned that this regulatory approach will serve as a de-facto moratorium on high capacity well permits.

The bill also proposes to override the carefully negotiated Great Lakes Compact legislation (2007 Act 227) by replacing the water conservation requirements for withdrawals in the Great Lakes Basin with water conservation requirements established in a groundwater management plan. The bill also expands the scope of the Great Lakes Compact by applying its water conservation requirements to surface and groundwater withdrawals on a statewide basis. Taking the regulatory standard that was deemed necessary to protect the Great Lakes and applying it to permits throughout the entire state is inappropriate and unnecessary to protect groundwater.

Senate Bill 620 also promotes regulatory uncertainty by requiring the DNR to review existing high capacity well permits in a GMA or GAA and modify existing permits to align them with a groundwater management plan. This effort to "change the rules of the game" after permit holders have already invested in a compliance strategy is simply unfair. It sends the wrong

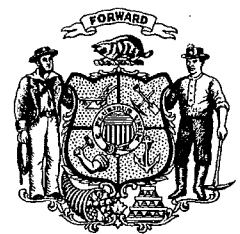
message to both existing and prospective employers if Wisconsin enacts laws that allow the DNR to reopen negotiated permits and change the requirements after-the-fact. Businesses place a high value on regulatory and operational certainty - enacting this legislation would demonstrate that the Wisconsin Legislature does not.

In a further erosion of regulatory certainty, Senate Bill 620 allows any person (including non-residents) to attempt to block or delay a high capacity well permit application by requesting an environmental review that would not otherwise be required by law. The nondescript "reasonably probable" standard created by this bill will, at a minimum, significantly slow down the high capacity well approval process. Creating a new petition process as an avenue to attempt to block approvals that would not otherwise require environmental review is unwarranted, and will not enhance the protection of groundwater in Wisconsin.

Finally, this legislation changes the definition of a qualifying spring in a manner that will significantly increase the number of high capacity wells that are required to comply with the most intensive permitting review. The current definition of one cubic foot per second at least 80 percent of the time was a carefully negotiated element of Act 310, and was based upon the judgment of environmental experts. Ratcheting this standard down to "0.25 cubic feet per second and that is perennial" will result in more costly and time-intensive permits without benefiting groundwater.

In conclusion, WMC believes that Act 310 is a comprehensive and balanced approach to groundwater regulation that works. We do not believe that an expansive new regulatory regime that serves to promote uncertainty for permit holders is justified at this time.

Thank you for your thoughtful consideration of our position on this legislation. Please contact me if you have any questions, or if I can provide you with additional information at (608) 258-3400.





State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Jim Doyle, Governor
Matthew J. Frank, Secretary

101 S. Webster St.
Box 7921
Madison, Wisconsin 53707-7921
Telephone 608-266-2621
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Testimony of the Department of Natural Resources regarding SB 620

Senate Committee on Environment
March 23, 2010

Thank you Senator Miller for all your work to protect groundwater quantity and quality in Wisconsin and specifically for your work in developing SB 620. Senator Kedzie, thank you also for your work advancing groundwater management in Wisconsin through 2003 Wisconsin Act 310 and for your participation on the Legislative Workgroup leading up to this bill. In passing Act 310 and the Great Lakes Compact, Wisconsin has taken significant steps towards sustainable management of Wisconsin's water resources. We have to continue to work towards sustainable water use in Wisconsin to protect our water resources, to ensure sustainable economic development in water-stressed areas, and to preserve the ability of future generations to meet their water needs while growing Wisconsin's economy.

The portions of SB 620 related to designating Groundwater Management Areas (GMAs) and Groundwater Attention Areas (GAAs), along with the provisions for groundwater management planning in those areas are important steps in addressing areas of the state facing significant groundwater quantity problems. The GMA & GAA designation process and the groundwater management planning process create a framework for identifying and addressing groundwater quantity problem areas. In its 2006 Report to the Legislature, the Groundwater Advisory Committee—a diverse advisory body appointed by the Governor and state legislative leaders—recommended that local governmental units in areas affected by unsustainable groundwater withdrawals, should direct and control the groundwater management planning process. SB 620 gives local governments the opportunity to do that. We recognize, however, that this poses a difficult challenge for local governments, and we must keep economic development in mind when groundwater management plans are developed.

The Department is also encouraged by the direction in the bill to complete a statewide inventory of springs. Completing the inventory will put us in a more informed position to protect sensitive aquatic environments.

In addition, the Department is encouraged by the bill's requirement for water conservation and efficiency measures in groundwater management plans within Groundwater Management Areas and for new withdrawals in the Mississippi River Basin that exceed 1 million gallons per day.

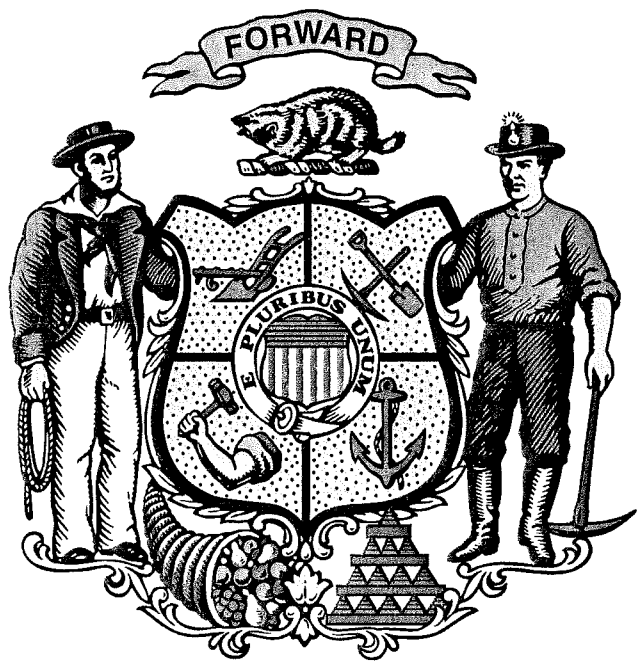
While we support the above-mentioned provisions in SB 620, we do have a few concerns and we are available to work with you to address them. Specifically, our concerns include:

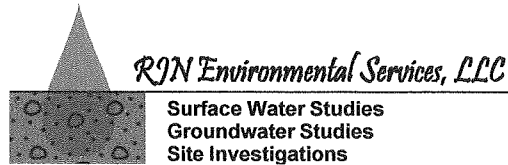
- The bill's description of a process by which any person could request environmental review of a proposed high capacity well based on a concern that the well could cause adverse impacts to any surface water is vague in terms of identifying the level of proof required for a petitioner to show that a well is "reasonably probable" to cause significant adverse environmental impacts to

surface water. It's our understanding that it was envisioned that this provision would apply to very few well applications—and that petitioners would be expected to present substantial evidence, e.g. through data gathering and groundwater modeling, that construction and operation of a well as proposed would cause an adverse impact on a surface water. However, we are concerned that, without further clarification, this provision may open the door to a high number of petitions for environmental review, many of which may be without merit.

- Secondly, the bill includes little specific direction to the Department for administrative rulemaking. However, it would be very difficult to implement this legislation without fairly substantial rulemaking. For example, we think rulemaking would be necessary to clarify the process for high capacity well review within Groundwater Management Areas, the petition-based environmental review process, as well as the Groundwater Management Area planning process.
- Finally, the Department is also concerned with the workload implications resulting from the bill—particularly the potential workload associated with the process by which any person could request environmental review of a proposed high capacity well based on a concern that the well could cause adverse impacts to any surface water.

In closing, after the Department believes that SB 620 as a constructive “next step” in protecting groundwater quantity following on the success of 2003 Wisconsin Act 310.





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Dear Committee Members:

I am appearing at this hearing in support of Senate Bill 620. Wisconsin has long prided itself on its protection of the environment. However, as a hydrogeologist with experience in other countries and many other states, I know that our groundwater use regulations are some of the weakest in existence. 2003 Act 310 took very minor steps toward improving the regulating of groundwater use. However, it still leaves some 95 percent of Wisconsin's surface waters unprotected. Additionally, by definition, only the confined aquifers in southeastern Wisconsin and the Fox River valley areas could ever be designated as Groundwater Management Areas. This leaves most of the state with no recourse in the event of environmental degradation caused by over-use of groundwater resources.

As a member of the Groundwater Advisory Committee (GAC), it was clear very early on that the GAC would make no recommendations to strengthen the regulations. A committee of 14 people, with 10 representing special interests in opposition to strengthening the regulations, would never do such a thing. And in the end, in my professional opinion, no meaningful recommendations were presented.

In the past months, the State Senate and Assembly have taken up this issue. In all of the hearings, not one single environmental scientist has presented an opinion that current regulations are sufficient. Although I have heard and read statements to the effect that the current rules are working, such a statement cannot be substantiated, because no sites have been studied. However, all indicators, utilizing existing data and various methods of evaluating the hydrologic system, indicate that the current rules do not protect even the special waters that were singled out for protection.

Regrettably, with the exception of elevating smaller springs to the level of Groundwater Protection Areas, no other water bodies are afforded protection by this legislation. As a result, more environmental damage due to pumping is inevitable. What this legislation does, though, is give us the opportunity to recognize environmental impairment, or the threat of impairment, and it empowers local entities to determine how to define and address these problems. While this is a baby step, it is nonetheless a step in the right direction, and I therefore encourage the passage of this legislation.

Sincerely,

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