



**JILL BILLINGS**  
STATE REPRESENTATIVE

January 16, 2020

Chairman Kitchens and Members of the Committee:

Thank you for holding a hearing on Assembly Bill 700, which aims to address a public disclosure issue when water quality issues are discovered. This bill has bi-partisan support and is included as a recommendation by the 2019 Speaker's Task Force on Water Quality.

Under current law, the Wisconsin Department of Natural Resources is not required to notify counties or private well owners when a holder of a Wisconsin Pollutant Discharge Elimination System (WPDES) permit in their area violates the water quality conditions of the permit. This bill seeks to address the public's right to know about possible exposure to groundwater pollutants.

A recent case in La Crosse County brought attention to the need for more disclosure from the DNR around WPDES permits. A 2016 state audit of the WPDES program alerted the La Crosse County Health Department to a potential public health hazard, when the report found a La Crosse County WPDES permittee had an exceedance of nitrogen levels since 2005. After becoming aware of this incident county officials requested data from the DNR through a records requests. Once confirming the information the county then proceeded to provide outreach to county residents, encouraging them to test their private well systems for any contamination. Of the residents who had their water tested during a two-month period, 30% exceeded the maximum contaminant level (MCL) for nitrates.

Under this bill, if a holder of a WPDES permit has violated a groundwater standard, the DNR would be responsible for notifying the county in which the permit holder is located and any adjacent county the DNR determines may be negatively affected by the violation. Specifically, the DNR must send this notification of permit violation to both the county health, and county land and conservation departments. The DNR would be required to provide this notice within 7 business days of confirmation of a violation. Further, to provide this information to any interested member of the public, the bill instructs the DNR to create and maintain a notification system that the public can opt-in to receive notifications of the violations that trigger the notice requirement outlined in the bill.

Thank you for your time and consideration of AB 700. As you are aware, water quality is an issue that is of utmost importance to residents across Wisconsin. This bill simply provides citizens further knowledge so they can better protect themselves against possible contaminants.

Sincerely,

A handwritten signature in black ink that reads "Jill Billings". The signature is written in a cursive, flowing style.

Jill Billings  
State Representative  
95<sup>th</sup> Assembly District

Testimony in Support of Assembly Bill 700  
Assembly Committee on Environment  
January 16, 2020

Thank you Chairman Kitchens and Committee Members for the opportunity to submit testimony in support of Assembly Bill 700, the Water Pollution Notification Act.

In 2017, the La Crosse County Health Department notified over 2,000 County residents that there were indicators of high levels of nitrates and bacteria in much of the private well water supply and urged them to test their wells. It was later revealed that monitoring wells in La Crosse County had shown elevated levels going as far back as 2005.

Representative Billings and I were contacted by many constituents who were understandably upset that they were not notified sooner of the risk. We were surprised to learn that the DNR is not required to notify municipalities or private well owners when there is an illegal discharge of pollutants into our state's water. This poses a health risk for families in every part of our state. High levels of nitrates in the water supply can cause health problems, especially for infants and pregnant women.

As you may know, the Department of Natural Resources regulates the discharge of pollutants to the state's surface and ground water through the Wisconsin Pollutant Discharge Elimination System (WPDES) program. These wastewater permits contain all the monitoring requirements, special reports, and compliance schedules appropriate to the facility in question. The DNR has issued WPDES permits to 314 concentrated animal feed operations (CAFOs), 297 industrial waste facilities, and 637 municipal waste facilities across the state.

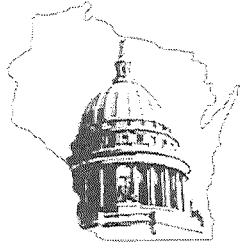
Assembly Bill 700 does not impact any of the regulatory requirements for WPDES permit holders. Instead, this legislation simply requires the DNR to notify a county health department when a permit holder located in that county, or located in an adjacent county that is negatively affected, violates a groundwater protection standard. The DNR would have 7 days to notify the affected counties.

This bill also seeks to address the public's right to know about possible exposure to groundwater pollutants by requiring DNR to create an opt-in notification system. This system will allow the public to receive notifications of groundwater violations in their area.

Informing residents about the potential contamination of their water empowers them to take appropriate action to protect themselves and their families while long-term solutions are pursued. If wells test positive for elevated levels of contaminants, residents can be advised as to whether they should use bottled water for drinking and cooking, install reverse osmosis systems, or drill a new or deeper well.

Given the significant health risks associated with contaminated water, the Water Pollution Notification Act is a simple, commonsense approach that will help protect and strengthen our state's access to clean drinking water.

Thank you again for time and consideration of this legislation.



# John Nygren

WISCONSIN STATE REPRESENTATIVE ★ 89<sup>TH</sup> ASSEMBLY DISTRICT

**Co-Chair, Joint Committee on Finance**

**Assembly Bill 700 Testimony  
State Rep. John Nygren  
January 16, 2020**

Chairman Kitchens and Members of the Assembly Committee on Environment,

I appreciate the opportunity to testify in support of AB 700.

Water quality is an issue that I hear about often in the 89<sup>th</sup> Assembly District. Whereas there are clear solutions to some problems we face as policymakers, water issues are seemingly always evolving – we have made great strides in some areas, but new challenges continue to emerge. Northeast Wisconsin and the portion of that region I represent are no different.

There is no question the first step in addressing a problem is making people aware that it exists and doing so in a timely fashion. Though a comprehensive solution to the problem may take an extended period of time, it is important residents are informed in the short-term so they can take preventative or remedial action to protect themselves. I believe AB 700 is a step in the right direction to ensure this is the case.

For Rep. Billings and some of the bill's co-sponsors, nitrate well contamination was the primary impetus for pushing this legislation. In her district, folks went over a decade not knowing monitoring wells were showing elevated nitrate levels. In the 89<sup>th</sup> Assembly District, per-and-polyfluoroalkyl substances, or PFAS, contamination is a major problem. Affected residents in my hometown were kept in the dark for years about hazardous chemicals entering the environment and private drinking water wells.

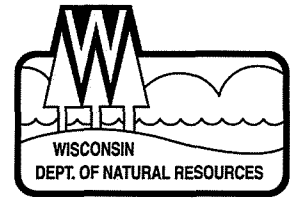
The PFAS chemicals that caused hardship in my area are still possessed and handled by a WPDES permit holder in my district. I believe my constituents have the right to know if the permit holder falls out of compliance so an appropriate response may begin immediately.

I would like to thank Rep. Billings and her office for working on this legislation and reaching out to me again this session to work together.

I am happy to answer any questions.

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## Assembly Committee on Environment

### *2019 Assembly Bill 700*

#### *Notifying counties of certain water pollution violations*

*January 16, 2020*

Good morning Chairman Kitchens and members of the Committee. My name is Adrian Stocks, and I am the Water Quality Bureau Director with the Wisconsin Department of Natural Resources. Thank you for the opportunity to testify on Assembly Bill 700 (AB 700).

AB 700 establishes a notification requirement related to violations of permitted conditions. The new statutory requirement (s. 283.90, Wis. Stats.) will direct the department to notify select county departments, and any self-identified interested party, of Wisconsin Pollutant Discharge Elimination System (WPDES) permit violations due to exceedances in groundwater quality standards. The department shall provide this notice within seven business days after confirming that a violation has occurred. The department will also create and maintain a notification system for notifying county health departments, county land and water conservation departments, and interested parties of the violations described in this section.

WPDES permits, for the purposes of protecting groundwater quality, are issued by two separate programs in the department. The permits are issued to direct discharges of wastewater from municipal and industrial sources, as well as land application operations and monitoring of production areas at some Concentrated Animal Feeding Operations (CAFOs). These separate programs will collaborate on notifications.

This bill also provides that the department may establish, by rule, procedures for providing notices. The fiscal impact of the bill will be associated with the development and subsequent maintenance of a website to house and disseminate the information. The website will also need to include functionality for interested parties to self-identify and sign up as an interested party using GovDelivery. After website development, long-term fiscal impact is expected to be negligible.

On behalf of the Bureau of Water Quality, I would like to thank you for your time today. I would be happy to answer any questions you may have.





Testimony in Support of AB 700  
Jennifer Giegerich, Government Affairs Director  
January 16, 2020

Good morning. I am Jennifer Giegerich, Government Affairs Director for Wisconsin Conservation Voters. Thank you for this opportunity to testify on AB 700. We thank Representatives Billings and Nygren for introducing AB 700 and urge members of the committee to support the bill.

Roughly 1.7 million people in Wisconsin depend on private wells to get their drinking water. It's estimated that 47% of these wells are contaminated by one or more pollutants at levels above health standards.

This is the reality for many families across the state. Entire communities are at risk for short-term and long-term consequences, ranging from diarrhea to learning disabilities to death. Dangerous pathogens, bacteria, and chemicals are found in manure and industrial wastewater, which can get into our groundwater, and ultimately our drinking water, if there are significant violations of their Wisconsin Pollutant Discharge Elimination System permit.

AB 700 would require the Department of Natural Resources to notify county health departments and county conservation staff when water pollution permit conditions are exceeded. The DNR must do so within seven days of confirming the violation has occurred. The bill also allows interested parties to sign-up to be notified when violations that trigger the system occur.

This bill fills a critical need for the families in our state that have private wells. Right now, those well owners are left entirely on their own to monitor their well water quality, and we already know that far too many families are not testing their wells on a regular basis. That leaves many families in the dark as to whether their drinking water is safe. A major groundwater pollution incident would be a key time for families to test their water, and this bill would give local health departments and county conservationists the timely information they need to contact families that may be at risk.

The very least the state can do is to notify private well owners so they can take their own precautions. The truth is Wisconsin needs to be doing so much more to ensure the safety of our drinking water. This bill is small part of that effort to at least help those that may already have their drinking water put at risk. We again thank Representative Billings for her leadership on this issue and urge members of the committee to support AB 700.

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*Wisconsin Conservation Voters is a nonprofit, nonpartisan organization dedicated to encouraging lawmakers to champion conservation policies that effectively protect Wisconsin's public health and natural resources. For more information, contact Government Affairs Director Jennifer Giegerich at [jennifer@conservationvoters.org](mailto:jennifer@conservationvoters.org) or 608-208-1130.*

January 10, 2020

The Honorable Joel Kitchens  
State Representative  
Room 312 N  
State Capitol  
PO Box 8952  
Madison, WI 53708

RE: Committee on Environment, Public Hearing AB 700

Dear Chairman Kitchens and Members of the Committee,

Thank you for the opportunity to provide these written comments. I strongly support AB 700. In 2016, while working for La Crosse County Health Department, I found a troubling situation noted in the Legislative Audit Report concerning the WPDES program.

Significant nitrate contamination was found in groundwater monitoring wells located at a CAFO in La Crosse County.

Monitoring wells and annual water tests were required by the DNR WPDES permit.

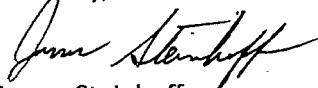
Nitrate contamination existed continuously for 10 years and approximately 100 water tests confirmed the hazard. The Health Department was not notified of the hazard.

Water test results were only provided to the Health Department after formal written record requests were submitted. This was a lengthy process.

I believe monitoring well data held by the DNR should have been shared with La Crosse County Health Department much sooner so we could have investigated the hazard and implemented measures to protect residents in a timely fashion. The current DNR information sharing process delayed our local public health activities by at least 6 months and put people at risk.

AB 700 addresses a problem with sharing data with local public health agencies. AB 700 will protect Wisconsin citizens from needless exposure to many health hazards. Thank you for considering this important legislation.

Sincerely,



James Steinhoff  
Environmental Health & Lab Manager (Retired)  
908 Windhill St, Onalaska, WI 54650

2642 Hackberry Ln.  
La Crosse, WI 54601

January 16, 2020 -Water Pollution Notification Act Hearing -Assembly Bill 700

Dear Representative Joel Kitchens and Assembly Committee on Environment members,

La Crosse County residents, citizens of Wisconsin experienced a most unfortunate series of actions or lack of actions in 2016. The county health department found that out of 540 private wells tested 30 percent of those residents' wells exceeded the federal standards for nitrates. This mass testing of wells came after the county learned via a Legislative Audit Bureau report in 2016 that a local CAFO had been violating water quality standards for years. When local county officials learned that Babcock Genetics industrial hog farm monitoring wells had exceeded nitrates level for ten years. The State of Wisconsin did not grant access to information regarding this county health issue. The county health department had to make an open records request to the DNR for more in depth information, meanwhile three more months passed when residents of La Crosse county had to wait in anxiety for information and further direction of what was the next step.

Wisconsinites should have transparent governance. State agencies should be looking out for their residents and protecting their health. Not only should the DNR communicate water pollution issues to the county health agencies when they occur but they should be doing their due diligence to enforce exceedances of monitoring wells via the Wisconsin Pollutant Discharge Elimination System (WPDES) process. There should be no situations where (WPDES) permits are in "on-going" violation again. The local county land conservation department should be notified of these exceedances so they too can help land owners create and monitor land management plans to see that all citizens have access to safe and healthy ground/surface water.

No government officials or agencies should have the right to judge who knows what and when. As a citizen of this state I expect transparency and by knowing information critical to my family's health I can take the necessary steps to protect them. I should not have to "live in fear" wondering if my legislators and state & local governmental agencies are being honest and transparent.

This "third world county" behavior on the behalf of this State of Wisconsin is deplorable and criminal. Consider the La Crosse county series of unfortunate events be a wake up call-support and pass the Water Pollution Notification Act -Assembly Bill 700. The citizens of Wisconsin are watching very carefully the leadership of this state. Perhaps this could be a new beginning.

La Crosse County Resident, Carolyn Mahlum-Jenkins





**To:** Members, Assembly Committee on Environment  
**From:** Wisconsin Manufacturers & Commerce  
**Date:** January 16, 2020  
**Re:** **Comments on AB 700 – For Information Only**

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Thank you, Chairman Kitchens and members of the Assembly Committee on Environment, for the opportunity to submit these comments for information only on Assembly Bill 700. AB 700 requires the Department of Natural Resources (DNR) to notify counties when it finds violations of groundwater standards by Wisconsin Pollutant Discharge Elimination System (WPDES) permits.

While Wisconsin Manufacturers & Commerce (WMC) does not oppose providing counties notification of these violations, WMC recommends the following changes to ensure the notification process under the bill is fair to WPDES permit holders and the public:

1. Replace language in Section 1 of the bill requiring DNR to notify counties when it finds “on the basis of any information” that a WPDES permit holder has committed a violation of groundwater standards. Instead, require DNR to notify counties when it finds a *verified* violation. Narrowing the broad language in the current bill would give WPDES permit holders more regulatory certainty and would avoid DNR unnecessarily alerting counties and the public to violations that have not been verified.
2. Remove “interested parties” from the list of entities DNR must notify when it finds a violation. It is unclear who “interested parties” would be under the bill, so WMC recommends removing this broad language and allowing counties to decide how to disseminate the information they receive from a groundwater standard violation notification.
3. Remove the nonstatutory provisions allowing DNR to promulgate emergency rules without a finding of emergency. The emergency rulemaking process allows DNR to promulgate rules quickly but bypasses safeguards in the permanent rulemaking process that allow for public input and regulatory certainty. AB 700 goes even further by exempting DNR from preparing a scope statement and obtaining gubernatorial review of the emergency rules. WMC does not believe that emergency rulemaking, especially with these exemptions, would be necessary for developing the notification system required under the bill. Instead, before it can enact a notification system, DNR should go through the full statutory rulemaking process for permanent rules created under Wis. Stat. Ch. 227, which allows for adequate public input, gubernatorial review, and legislative oversight.

WMC respectfully recommends the committee consider these changes to AB 700 to ensure there is adequate public input in the DNR rulemaking process and to clarify for WPDES permit holders, counties, and the public in what circumstances DNR will provide notification of groundwater standard violations and whom DNR will notify of the violations.

