

Grassroots Groups Come Together in Defense of the Waters of Wisconsin

Written by Criste Greening

Monday, 01 May 2017 08:58 - Last Updated Monday, 01 May 2017 16:36

<http://newiprogressive.com/images/stories/S5/hicap-residents1-s5.jpg>



Elected officials are sworn to uphold the Wisconsin state constitution. Voting in favor of SB 76 that endangers the Public Trust Doctrine is in direct violation of their oath of office.

STATEWIDE - Section 22 of the Wisconsin constitution states, "The blessings of a free government can only be maintained by a firm adherence to justice, moderation, temperance, frugality and virtue, and by frequent recurrence to fundamental principles" yet elected officials in Madison will ignore this cornerstone of the Wisconsin constitution on May 2nd and likely pass SB 76, or the 'Death by 1,000 Straws,' high capacity well bill. Citizens and grassroots groups from around the state are calling for their elected officials to vote 'no' on SB 76 because permanently granting high capacity well permits without state oversight is in violation of their oath of office to uphold the state's constitution.

For over a century citizens of Wisconsin have relied on the State Constitution for its protections and safeguards from overzealous and overreaching governmental policies and political parties. Enshrined in the constitution is the Public Trust Doctrine, which states that our elected officials must act as trustees of Wisconsin's waters for its citizens. As trustees, they have a duty to care

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for, manage, improve, and protect the water for the benefit of the citizens. It is this time-honored and foundational component of our state's constitution that is in the cross-hairs of SB 76. Any elected official who votes 'yes' on May 2nd will be acting in direct conflict with their role as trustee of Wisconsin's waters.

The lack of reasonable moderation in SB 76's fast-tracking through the Legislature is alarming. Undue industry influence (to the tune of nearly a quarter million dollars in just the last legislative session) has likely driven the fast-tracking and passage of SB 76. This bill has been assigned to inappropriate committees, had a joint hearing in front of Senate and Assembly committees, was voted out of the Senate Committee by secret paper ballot (which did not allow for the introduction of commonsense amendments), and the purposeful misleading of citizens and other elected officials with false facts and biased information has been disheartening.

Senator Scott Fitzgerald and other supporters of SB 76 claim this bill is a necessary response to industry's need for "regulatory certainty" for high capacity wells (HCW) that may need to be replaced, maintained, repaired, or transferred illustrates a clear disregard for the facts. Wisconsin Department of Natural Resources (WDNR) records simply do not support these claims as outlined in prior press statements shared by numerous groups.

Wisconsin Legislators have been misleading both constituents and coworkers stating the WDNR will still have authority to review and condition HCW under statute 281.34 (7). Which states:

Modifying and rescinding approvals for high capacity wells. The approval of a high capacity well issued under this section or under s. [281.17 \(1\)](#), 2001 stats., remains in effect unless the department modifies or rescinds the approval because the high capacity well or the use of the high capacity well is not in conformance with standards or conditions applicable to the approval of the high capacity well.

This statute grants authority to review or rescind

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only

when a HCW is being used outside the guidelines of its current permit.

There are HCWs in operation today that are pumping within the confines of their permit and, in spite of those permitting conditions, are significantly impacting area lakes and streams. This standard does not grant the WDNR the authority to condition or restrict pumping from a current HCW due to its impacts on local water resources. Mischaracterizing this provision as a remedy for citizens who are impacted by overpumping is a false claim meant to mislead the public. WDNR has been questioned about this scenario repeatedly and has verified that Statute 281.34(7) does not grant them the authority to impose pumping conditions if the HCW is functioning within the confines of its permit.

Finally, supporters of this bill note State Statute 30.03 relating to the enforcement of forfeitures; abatement of nuisances; infringement of public rights as an additional avenue for those affected by HCW overpumping. WDNR representatives indicate abatement through statute 30.03 is an unrealistic avenue for their department due to time factors, personnel limitations, and court costs associated with processing such a suit. Once again the burden and expense is passed on to citizens to battle through the courts, which is often an unattainable and burdensome option.

In effect, SB 76 would turn high capacity well permits into eternal unreviewed and unalterable permits, regardless of their impacts on local watersheds or surrounding wells. These essentially permanent permits are especially alarming when we consider that the WDNR is permitting HCWs without accounting for their cumulative impacts.

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Passage of SB 76 will exacerbate this situation and means once again citizens will have to go to court to affirm and regain their constitutional right to their reasonable use of the waters of the state. They have had to do this before and the courts have upheld that right every time. Despite this clear mandate, our WDNR relies on a non-binding opinion by Attorney General Schimel rather than following the constitution, the courts, and the broad statutory authority granted to the department by the state legislature.

There are common sense solutions for protecting our precious groundwater that provide sufficient water for all users and respect property rights. This, however, would require a much more holistic and comprehensive groundwater management law. In its current state, far from solving the issues, this bill would simply lock in the current problems homeowners, citizens, and wildlife face from increased high-capacity pumping.

Wisconsin residents from nearly every county in the state are represented by the organizations united in this message. We deserve fair representation and legislation that ensures surface and groundwater will be here for generations to come. Elected officials are sworn to uphold the Wisconsin state constitution and any legislation, like SB 76, that endangers the Public Trust Doctrine is in direct violation of their oath of office. Wisconsin citizens from across the state have signed on to this statement and expect our representatives in Madison to protect the citizen interests over big industry donors who are buying preferential legislation.

On behalf of the groups listed below and the thousands of citizens we represent statewide, we ask that you vote "no" to SB 76.

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Citizens' Water Coalition of Wisconsin

Sustain Rural Wisconsin Network

Wild Rivers Chapter Trout Unlimited

Friends of the Central Sands

Frac Sand Mining Awareness

Crawford Stewardship Project

Protect Wood County & its Neighbors

Save The Hills Alliance

Kewaunee CARES

People Empowered Protect the Land (PEPL) of Rosendale

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Green County Defending Our Farmland

Central Wisconsin Nature Foundation

Citizen Action Organizing Cooperative

Facing Forward Vernon Our Wisconsin Revolution

Inland Sea Society

From the Earth

Indivisible Fond du Lac

Protect Our Water

Friends of the Kinni

Concerned Rome Citizens

Rome Saratoga Friendly

Indivisible Winnebago

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Central Sands Water Action Coalition

Forward Kenosha

Rinehart Lake Association

Farms Not Factories

Spirit Creek Water Protectors

Indivisible Milwaukee ~ South Side

Bad River Watershed Association

Frac Sand Sentinels

Indivisible Solon Springs

Indivisible DeForest

Concerned Citizens of Princeton

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Citizens for a Better Environment Lake Mills

Emerald Clean Water For All

Penokee Hills Education Project

Penokee Hills Light Brigade

Water Protectors of Milwaukee

Friends of the Eau Claire Lakes Area

Citizens for Environmental Stewardship

Indivisible Ashland

Heartland Land Creations

League of Women Voters of Ashland and Bayfield Counties

LCO/Sawyer County Dems

Preserve Waupaca County

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League of Women Voters Upper Mississippi River Region

Crystal Lake Club

Friends of the Tomorrow /Waupaca River

Waupaca Commoners Caucus

Constituents Only

Defending Our Ixonia Countryside

Vernon County Democratic Party

Citizens for Safe Water Around Badger