

High Capacity Wells and Groundwater County Farm Bureau Issue Background June 2014

Background

Historically, it was believed that Wisconsin had abundant surface and groundwater. While this is true, in recent years there have been areas of the state where the availability of groundwater has become a concern. The Milwaukee and Green Bay areas have experienced significant draw-down of their groundwater aquifers to the extent that they now use water from Lake Michigan for some of their water needs. It is also well known that there are concerns about the effect of groundwater use on surface waters in Wisconsin's Central Sands area. Further, there have been local situations where new water withdrawals have required private wells to be deepened in order to have water.

Groundwater usage is now a statewide issue.

In 2011, the Wisconsin Supreme Court, in a unanimous decision, ruled in favor of two conservation organizations that had sued the Department of Natural Resources for issuing a permit to the Village of East Troy to install two high capacity wells. In the ruling, the court stated that the DNR has over-arching authority and a duty to ensure that groundwater withdrawals do not adversely affect the environment. This ruling has implications to existing and new high capacity withdrawals.

Wisconsin law defines a high capacity well as all of the wells on a property (or adjacent properties under the same ownership) that have the capacity individually or in combination to pump 100,000 gallons or more per day. This definition does not require an actual withdrawal of 100,000 gallons or more per day, but rather regulation is triggered by the capacity to withdraw that much per day.

In light of the Supreme Court ruling, the DNR has to extensively review high capacity well permits that historically were a routine process. Previously when a farmer needed to reconstruct an existing well, drill a replacement well or transfer a well permit to a new landowner, this was usually accomplished quickly. This is no longer the case. The DNR now reviews the permit conditions for all high capacity wells even when a permit holder seeks to reconstruct, replace or transfer a well. This has led to uncertainty for farmers who rely on high capacity wells for their crops and livestock.

Due to the Supreme Court decision, this has caused a significant backlog in reviewing and issuing high capacity well permits. Many farmers have waited more than eight months to get a high capacity well permit.

Legislation was introduced this past session to address these high capacity well permit issues, but it did not pass. The issue will have to be addressed in the 2015-16 legislative session.

Wisconsin Farm Bureau's groundwater policy states: *"There is a need for increased monitoring, research and education relating to groundwater problems. We believe that the present law regarding the installation of high capacity wells serving municipalities should be amended to require that there be no adverse impact on the quality and supply of other local wells. We support grandfathering in existing high capacity wells under the laws in which they were installed or upgraded. In areas where groundwater quantity is an issue, we support the Department of Natural Resources establishing groundwater management areas (GMAs). We support allowing the DNR to regulate usage of water in GMAs in consultation with an approval from a local advisory committee comprised of representatives from agriculture, industry and municipalities."*

Policy Questions to Consider

- * Is our current policy on high capacity wells and groundwater appropriate or does it need to be modified?
- * What should our policy be with respect to existing users of groundwater versus new users?
- * What should our policy be with respect to determining who gets to use groundwater: Existing or new; Municipalities or agriculture?
- * What should our policy be with respect to high capacity wells? Should the DNR have the authority to limit the usage of an existing well?