

UWEX Frequently Asked Questions/Talking Points about the Groundwater Quantity Legislation

Prepared by Ken Bradbury, WGNHS/UWEX, 4/8/10. The intent of these questions is to inform people about the groundwater bill and to address common questions that have come up. Most of these questions are based on public testimony about the bill at hearings held on 3/23/10 and 3/31/10.

1. What is the legislation?

The current (April, 2010) "Groundwater Quantity Bill" is called 2009 Assembly Bill 844 and Senate Bill 620. The bill can be viewed online at <http://www.legis.state.wi.us/2009/data/AB-844.pdf>

2. What is the current status of the bill?

As of 4/8/10 the bill is currently in review by the Senate and Assembly Environment committees. It must be approved by these committees before the full Legislature can consider it.

3. What is the overall goal of this bill?

The goal of the bill is to improve Wisconsin's ability to manage groundwater for long-term sustainability and to balance a limited resource between various user groups and the environment.

According to the bill's authors, Senator Mark Miller and Representative Spencer Black, "The bill creates a new mechanism to protect areas impacted by excessive water withdrawals. It seeks to meet the water challenges with planning, flexibility, local decision making and conservation. It also looks to streamline the process for well permits where groundwater resources are not at risk....the Groundwater Protection Bill is a follow-up to 2003 Act 310, an important first step in protecting Wisconsin's groundwater. The bill incorporates the work of the Groundwater Advisory Committee created by that Act." (taken from Senator Miller's web site:

<http://www.legis.state.wi.us/senate/sen16/news/Press/2010/pr2010-007.asp>)

4. What does the bill do?

Briefly, the bill has 5 important components, as follows (please read the text at the beginning of the bill for a more comprehensive summary):

a. it sets out criteria for *Groundwater Management Areas (GMAs)*. GMAs would be relatively large areas (all or parts of counties, for example) that have common geology, common groundwater issues, and current problems. Within these areas local stakeholders would develop goals and a groundwater management strategy for approval by DNR. The DNR would enforce this plan.

- b. It sets out criteria for *Groundwater Attention Areas (GAAs)*. GAAs are areas having common geology and groundwater issues where groundwater problems are “on the horizon” but are not yet severe. GAAs are intended to be a proactive step to focus attention on an area and to encourage monitoring, research, and planning.
- c. The bill changes the definition for a “qualifying spring” from springs having a discharge of 1 cubic foot per second (cfs) to springs having a discharge of 0.25 cfs.
- d. The bill allows people to petition the DNR for environmental review of a proposed high-capacity well if the well can be shown to have a “reasonably probable” chance of causing adverse environmental impact to surface water.
- e. The bill requires the Department of Commerce and the Public Service Commission to revise rules relating to re-use of graywater and rainwater and to encourage water conservation.

5. Where would the GMAs and GAAs be? Could they be anywhere in the state?

The intent of the bill is that GMAs and GAAs be established only where they are needed. These would be areas where groundwater quantity issues are well known or are emerging.

Likely areas for *GMAs* are the following:

- a. Southeast Wisconsin (Racine, Kenosha, Waukesha, Walworth, Milwaukee, Washington, Ozaukee Counties). This region has essentially been a GMA since 2003, when it was recommended in Wisconsin Act 310. The current bill would not change this.
- b. The Lower Fox Valley (City of Green Bay and parts of Brown, Calumet, and Outagamie Counties). Like the southeast GMA, this region was established in 2003, and there would be no change under the current bill.
- c. Dane County.
- d. Parts of the Central Sand Plain in Portage, Waushara, Adams, and Marquette Counties.

Likely areas for *GAA's* are the following:

- a. Pierce, St Croix, and Dunn Counties.
- b. All or part of Taylor County

At the present time management areas in other parts of Wisconsin are not needed.

6. Why have these special areas? Wouldn't a single set of regulations for the whole state be better?

The intent of the bill is to recognize that Wisconsin has different geology, different groundwater conditions, and different management issues in different parts of the state. Regulations that make sense in one area often make no sense in other areas; "one size fits all" management is not workable. The intent of the bill is to provide regulation and planning where it is needed and to avoid it where it is not needed.

7. How will these areas be determined? Who will manage them?

As currently described in the bill, GMA's and GAA's would be proposed by a committee of the Wisconsin Groundwater Coordinating Council, a permanent group with representation from all state agencies and the public. The GCC recommendation would be reviewed by DNR. If, after review, the DNR agrees, then the DNR will designate the GMA or GAA.

Each GMA will be managed by a management council appointed by the County Executives, or County Board Chair in counties without County Executives, of the affected counties. This council will develop a management plan and objectives for the GMA. The management plan must be approved by the County Boards of the affected counties. If the counties cannot or do not establish such a plan within 3 years, the DNR is authorized to develop and enforce a plan for them.

For GAA's, no such council or plan is required, but the counties may establish one if they wish.

8. I have heard that the bill will allow anyone to block construction of a new irrigation well or other high-capacity well using lawsuits. Is this true?

No. The bill provides an opportunity for citizens to petition the DNR for a review of the environmental impacts of a proposed high-capacity well if it can be shown with reasonable probability that the well might harm nearby surface water. The intent of the bill is that the initial burden of proof would be on the person or people bringing the petition; these people might need to retain a consultant to assist with their petition by assembling factual evidence that environmental harm might occur. Even if the citizens do this, the DNR can choose not to do such a review. And, even if DNR does the review, the conclusion might be that the well poses no problem.

9. Doesn't the DNR already have authority to review the environmental impacts of all new wells?

No. Currently the DNR reviews well construction plans to make sure a well meets construction codes, and reviews high-capacity well permits if the well could potentially affect an existing nearby municipal well. But the DNR currently has no authority to consider the *environmental impacts* of a well unless it is within 1200 ft of a designated

trout stream or protected water body (outstanding resource water) or might impact a qualifying spring.

10. Will the final bill be exactly like the current draft?

Probably not. The Senate and Assembly committees are currently considering various changes and amendments in response to the recent public hearings. This is a good time to influence the legislation.

11. I have concerns, questions, or other ideas about this bill. What should I do?

Contact your local State Senator or Representative and share your ideas.