



10/15/2018

William Bruins  
Natural Resources Board  
N2899 State Hwy 49  
Waupun, WI 53963

Dear Mr. Bruins,

**About Wisconsin's Green Fire:** *Wisconsin's Green Fire- Voices for Conservation (WGF)* supports the conservation legacy of Wisconsin by promoting science-based management of its natural resources. Our members represent extensive experience in natural resource management, environmental law and policy, scientific research, and education. Our members have backgrounds in government, non-governmental organizations, universities and colleges and the private sector.

**Comment about Board Action on the DNR Budget:**

During discussions on the DNR budget at the last Natural Resources Board meeting you referred to new rules regarding the effect of manure on the groundwater in Karst areas of eastern Wisconsin and asked if the proposed budget was adequate to properly implement the changes. The response you received was that the last biennial budget included an additional 4 positions and that the current number of DNR positions working in the Confined Animal Feeding Operations (CAFO) Program was 22. Mention was also made of an "optimal permit to staff ratio".

During budget discussions, Chairman Hilgenberg noted that NRB approval of the proposed DNR budget is an indication of its support for all it covers. He also mentioned that the Board was appreciative of information provided about the budget. Julie Anderson indicated that it is important for Board members to know what they are supporting and also specifically mentioned support for the CAFO effort. In recognition of the Board's wish to be fully informed and support for the DNR CAFO Program *Wisconsin's Green Fire: Vices for Conservation* submits this additional analysis of the DNR budget as it specifically applies to the CAFO Program. This evaluation is based on data in the audit of the DNR Wastewater Program (WPDES) by the Legislative Audit Bureau (LAB) 16-6 dated June 2016. It used data from 2005-2015.

During the budget briefing you were told that the budget starts with receipt of "budget sideboards" from the Governor's office. This significantly controls what is presented to you. For example, you will see no requests for any fee changes or staff increases if that is the Governor's wish. This has

implications for many programs, including the CAFO Program. You were told that the “fee for service” portion of revenue is money collected in various permit programs and is intended to cover the cost of inspection and permitting work. The state’s Clean Water Act Program is funded by federal grants and fees collected from regulated industries and municipalities. Some fees are paid to the state’s general fund (GPR) and then returned to DNR (NR101 fees). The Wastewater Program contributes 12% more NR101 money to GPR than it gets back and is therefore supporting other related water programs. The number of CAFO permits is rapidly increasing while the number of other permits is declining slightly, partially due to conversion of specific WPDES permits to general permit coverages. The financial burden among regulated parties is not equitably distributed. CAFO fees support only 2.7% of the DNR CAFO Program (\$2,402,000 in 2015). By comparison fees paid by municipal and industrial WPDES permit holders pay for 66% of DNR cost to address their facilities. The remaining needs are covered by decreasing federal clean water act grant funds and funds from the State Environmental Fund. This fund includes revenue primarily from the repayment of Clean Water Fund loans, solid waste tipping fees, grants, and annual fees for land application of sludge and discharges made through land treatment systems. If CAFO facilities paid at the same rate as other industries the entire Wisconsin Clean Water Act Program could more readily address the numerous shortcomings raised in the LAB report and from USEPA.

DNR issues hundreds of wastewater General Permit approvals without collecting any fees. Conversion of specific WPDES permits to general permits without fees cuts off a revenue stream to support the work. General WPDES permits without a fee is another example some industries receiving inequitable financial treatment within the DNR Wastewater Program.

Below are some additional details regarding the DNR responses to the question about whether the CAFO program is adequately supported to take on a new initiative:

**The additional 4 CAFO positions in the 2017 DNR budget:**

The 2017 DNR budget proposed by the governor includes transferring 4 employees from other water programs to the CAFO Program. The 2016 LAB report identified inadequacies in the CAFO Program that already existed before new rules governing manure in Karst areas were passed. At least some of the proposed positions were needed to address existing problems. The municipal and industrial WPDES Program was identified by LAB and USEPA as unable to meet program expectations for responding to violations and other Clean Water Act duties. The ability to transfer existing staff from outside the Clean Water Act Programs is limited due to commitments associated with dedicated funding sources. The 2016 LAB report documented that 20 FTE worth of CAFO hours were recorded by DNR in 2015. It also documented vacancy rates in the CAFO Program of 6.3-21.1% depending on the year. This is an unusually high vacancy rate for DNR. Applying these vacancy rates to the CAFO hours worked in 2015 indicates there was 21-24 FTE of DNR CAFO capability in 2015. At the board meeting it was mentioned that DNR currently has 22 FTE working in the CAFO Program. Whether measured as actual hours worked or total positions allocated it is apparent the 4 additional positions promised in the 2017 budget did not manifest as “boots on the ground”.

### **“Optimal staffing ratio”**

While the details of this metric were not specified, a good indicator of staffing effectiveness is the ratio of staff time spent processing permits versus time spent on compliance and enforcement. Continued emphasis on timely issue of environmental permits in the presence of staff reductions, staff turnover or increased workload without increased staff always results in a reduction in compliance and enforcement. The LAB reports that emphasis on issuing increasingly complex and controversial permits has increased staff time commitment to development of wastewater permits of all kinds by 6.5%. This is associated with a 2.8% decrease in staff time on compliance and enforcement of permits. Prior to 2012 DNR spent more time tracking compliance than issuing WPDES permits. Since that time they have spent more time processing permits than investigating compliance. While not separated out in the LAB report on the WPDES Program, staff working in the CAFO Program report that they have always spent more time processing permits than investigating compliance and the ratio would be even higher for that function. The extent of staff time spent on permitting vs compliance is a good measure of program effectiveness. We encourage the Board to expect regular reports from all environmental permit programs on their ratio of permit development to compliance work. Without this oversight, programs can evolve toward the situation of issuing permits that are widely ignored.

*Wisconsin’s Green Fire* hopes you find this additional information useful and we hope this deficiency can be corrected in the next stages of biennial budget development.

Paul La Liberte  
Chair, Water Resources and Environmental Rules Work Group  
*Wisconsin’s Green Fire - Voices for Conservation*  
<https://wigreenfire.org>  
info@wigreenfire.org -

c. Natural Resources Board members  
Governor Scott Walker  
Tony Evers