



STATE SENATOR
Eric Wimberger
DISTRICT 30

16 December 2021

Secretary Preston Cole
Wisconsin Department of Natural Resources
101 South Webster Street, PO Box 7921
Madison, Wisconsin 53707-7921

RE: WASTEWATER BIOSOLID LANDSPREADING IN THE PESHTIGO AREA, PROPOSED PFAS RULES, AND DE FACTO BROWN FIELDS

Secretary Cole,

The DNR is proposing PFAS groundwater and surface water standards, rules currently in the notice and comment period. Standards proposed are twenty (20) parts per trillion. My concerns surround continued DNR biosolid spread permitting, and the impending effective brownfield creation for which the DNR does not have a plan.

It has come to my attention that the City of Peshtigo, and also other municipal wastewater facilities in the area and state, have obtained recent permits from the DNR to recommence biosolid wastewater sludge spreading on farmland. Permits allow biosolids containing between 50 and 150 parts per billion (50,000 and 150,000 parts per trillion) to be spread at a rate of 1.5 dry tons per acre. The DNR relies on Michigan studies for safety, but it is my understanding the DNR does not have any other internal study or rule for PFAS present biosolid spread safety.

I was recently made aware that 112 acres in the Peshtigo area received biosolids with the new permits, as late as November 2021, and I suspect much more has been spread recently across the state. Municipal storage facilities for biosolids are filling, and cities are attempting to avoid expenses associated with safe disposal at accepting landfills in other states.

As you know, the Marinette and Peshtigo areas are hard hit by a PFAS legacy originating from firefighting foam testing facilities and municipal wastewater biosolid spread containing PFAS from those facilities. There is a cumulative effect from the biosolid spread. Farms that took biosolids, and neighboring properties, routinely test at and around 200 parts per trillion in their wells.

I do not understand why the DNR restarted permitting biosolid spread instead of seeking assistance to dispose at landfills. The practice must stop immediately. There was already damage, and the worst we can do is add to this very serious problem. It is confusing that the DNR proposes a 20 part per trillion standard for surface water and groundwater, but simultaneously permits up to 150,000 parts per trillion in biosolids to soak into the water table and possibly runoff into waterways.

Further I have serious concerns the DNR will promulgate PFAS rules without a plan to address how vast swaths of land will be turned into de facto brown fields. While PFAS may need to be regulated, a transition needs to happen from the pre-regulation paradigm to the post-regulation paradigm.

Once the DNR declares PFAS a regulable pollutant, the owners of property that do not meet standards will be subject to remediation orders per Wis Stat §292.99 with \$5000 fines per day for noncompliance. Even if the DNR does not follow through with their statutory power and order remediation, the owners will be subject to orders at DNR discretion. Supreme Court cases State v Mauthe and State v Chrysler Outboard Group make it clear that the present owner of a property is responsible for remediation regardless of when or how the pollutant arrived on the property. All farms and properties near biosolid spreading are testing wells above the proposed 20 part per trillion standard, and will be subject to the rules indefinitely.

Therefore, at the instant the DNR promulgates the rule, owners of property with PFAS contamination from any source will have their land effectively devalued to zero. Banks will refuse a mortgage for fear the owner will abandon the property. Banks with existing mortgages will ponder balloon payments and refuse refinancing. No one will buy the property since any new owner will be subject to potential remediation orders. Most of the land is too far to pipe in city water, and value cannot be significantly recouped by introducing a different potable water source. Plants take in PFAS and the farms won't support a crop. Cows eating feed or drinking water contaminated by PFAS will produce milk with the same, and dairy farms won't be able to operate.

A very real possible outcome will be bankrupt landowners, abandoned brown fields, and tax seizures. While my district is the current epicenter for the issue, I anticipate effects will be a statewide phenomenon, since many municipalities spread biosolids with industry contributing to the wastewater sludge

Finally, I understand no municipal wastewater treatment facility in the state can bring the surface water discharge PFAS levels to 20 parts per trillion, and upgrade costs are drastically underestimated in fiscal estimates.

The DNR must take a deliberate path with eyes open about the legal and practical effects that suddenly regulating a widely used and previously unregulated substance will have. My interpretation is that fiscal estimates related to the rules drastically underestimate practical realities and effects. Life altering effects on people are not being considered. On behalf of my constituents, I request a meeting with you and your staff to discuss these concerns and work toward practical solutions. Please contact my office at your earliest convenience.



Eric Wimberger
Senator, 30th Senate District