



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

SEP 28 2016

REPLY TO THE ATTENTION OF:

WN-16J

Cathy Stepp, Secretary  
Wisconsin Department of Natural Resources  
101 S. Webster Street  
Madison, WI 53707-7921

Dear Ms. Stepp,

Thank you for your July 25 and 28, 2016 letters providing the status of efforts by the Wisconsin Department of Natural Resource (WDNR) to address groundwater contamination in Kewaunee County in response to recommendations in the Groundwater Collaboration Workgroup Final Report (Final Report). The U.S. Environmental Protection Agency appreciates WDNR's efforts to both directly implement and facilitate the implementation of recommendations in the Final Report.

Regarding WDNR's proposal to develop targeted performance standards to address land spreading of manure in karst topography, WDNR should keep EPA fully informed of any proposed modifications to Wisconsin's administration of Clean Water Act programs. While EPA supports development of targeted performance standards, ensuring that any proposed rule revisions consider applicable federal rules is a necessary part of EPA's oversight responsibility. My staff is available to review any proposed revisions and address questions that may arise during your rule development.

A few of the Final Report recommendations from the Compliance Workgroup identified the need for joint action by WDNR and EPA. The following three recommendations received general consensus by members of the Compliance Workgroup and called for action by both WDNR and EPA:

- "Further evaluation and review of existing enforcement processes." The specific recommendations include changes to WDNR actions taken at concentrated animal feeding operations (CAFOs) for the second violation of the same requirement and changes to actions taken by the County for noncompliance with County regulated programs.
- "Develop guidance that defines and explains "substantial compliance" requirement for CAFO permit reissuance. May include: inspection checklist updates, staff training, template reporting resources, and clearer permit conditions."

- “Resources/Technology for agricultural compliance staff use and efficiency (internal/non-public) – database of information electronically accessible for multiple compliance agencies.”

In February 2016, EPA finalized an enforcement review of WDNR which evaluated several compliance and enforcement programs, including the CAFO program. EPA’s February 19, 2016 final report of this evaluation identified several concerns with WDNR’s existing enforcement processes for CAFOs. EPA identified concerns regarding the timeliness and completeness of inspection reports; documentation of significant non-compliance decisions; timeliness and approach to returning facilities to compliance and maintaining compliance; and the variability in the implementation of inspection/compliance activities between WDNR field offices. Although these concerns were not necessarily specific to Kewaunee County, WDNR’s actions in response to this report, such as the development of an inspection checklist, creating a compliance standard operating procedure, and revising runoff management guidance, will directly benefit WDNR’s compliance and enforcement efforts in Kewaunee County. EPA will also review the general permit for Large CAFOs when the state proposes to reissue this general permit. EPA’s review will consider whether the proposed permit is consistent with federal requirements and make recommendations, where appropriate, to enhance permit conditions. Continued commitment by both our agencies to address issues raised during the development and review of these documents will result in progress addressing the first two Final Report recommendations above.

To address the third recommendation, recent upgrades by WDNR to its internal compliance tracking database, and training provided to its inspectors, should in part assure that violations identified during state inspections are uploaded to the federal Integrated Compliance Information System (ICIS) database. ICIS populates the publically available Enforcement and Compliance History Online (ECHO), thereby making the enforcement and compliance information available to other state and local agencies and the public. EPA will continue discussion with WDNR regarding how to improve data sharing.

Another recommendation included in the Compliance Section of the Final Report addressed WDNR staffing and the need for joint-agency training. In 2012 and 2014, EPA provided formal training presentations to your staff on Nutrient Management Plans. EPA has also provided informal training to WDNR staff during eleven joint inspections conducted since 2011. EPA plans to provide another formal training presentation to your staff during this upcoming fiscal year. In addition to participation in these training opportunities with WDNR, EPA has participated in nine inspection focused presentations to CAFO/AFO owners/operators and associated groups. We remain committed to future training efforts.

In addition to the efforts described above, EPA is reviewing some of the nutrient management plans for Large CAFOs in Kewaunee County. Our review is expected to take several months. If questions or concerns arise from these reviews we will work with WDNR to ensure that appropriate action is taken.

Your July 25 correspondence offered to post on the WDNR website any EPA proposed actions in response to workgroup recommendations in the Final Report. Thank you for this offer, however, EPA has recently created a Kewaunee County Groundwater webpage,



<https://www.epa.gov/wi/kewaunee-county-groundwater>. In addition to posting EPA actions in response to the workgroup recommendations, the webpage includes links to other relevant webpages in an effort to support ongoing efforts to resolve groundwater issues in Kewaunee County.

EPA is committed to continue to implement actions within our authorities to ensure protection of the environment and public health.

Sincerely,

A handwritten signature in cursive script, appearing to read "Tinka G. Hyde".

Tinka G. Hyde  
Director, Water Division

cc: Russ Rasmussen, WDNR