



HOWARD MARKLEIN

STATE SENATOR • 17th SENATE DISTRICT

February 13, 2020

Senate Committee on Agriculture, Revenue & Financial Institutions & Assembly Committee on Agriculture

Testimony on Senate Bill (SB) 808: Livestock Facility Siting

Thank you committee members for hearing Senate Bill (SB) 808, which is a collaborative effort among livestock agricultural groups, the Wisconsin Towns Association and the Wisconsin Counties Association to improve statutes and the rules process for livestock facility siting.

In 2019, the Department of Agriculture, Trade & Consumer Protection (DATCP) commenced a review process to propose changes to ATCP 51, an administrative rule related to livestock facility siting in Wisconsin. These rules govern the standards and procedures that are in effect when a farm seeks to locate or expand a livestock facility.

Current law requires the department to review of the rules every four years. While the review process was halted in November 2019 for a variety of reasons, the rule review discussion exposed several areas where the rules could be improved.

Rep. Travis Tranel, Rep. Gary Tauchen and I were contacted by a workgroup made up of most of the livestock agricultural organizations in Wisconsin to draft legislation to update livestock siting statutes and processes, while maintaining current siting standards in ATCP 51. After several months of negotiation among agriculture groups, the Wisconsin Towns Association (WTA) and the Wisconsin Counties Association (WCA), we have written a bill that is a very good step toward better livestock siting rules and processes that will enable farmers to expand while protecting our environment and maintaining local government control.

This bill combines two of our main goals as we finish the legislative session – clean water and support for agriculture. It maintains strong, existing standards while refining the way revision recommendations will be made in the future to add stakeholder voices. It also provides relief for local governments by centralizing the review of livestock siting applications, but maintains local control in the permitting process. State-level experts will apply the standards to applications and then provide a decision for local governments to use for their permitting process. All of these changes create certainty and predictability for farmers. **This bill is a win-win-win-win-win.**

The legislation was written with collaboration by the following livestock siting stakeholders:

- Dairy Alliance of Wisconsin
- Wisconsin Farm Bureau Federation
- Dairy Business Association
- Wisconsin Pork Producers Association
- Wisconsin Cattlemen's Association
- Wisconsin Association of Professional Agricultural Consultants

- Wisconsin Towns Association
- Wisconsin Counties Association

This bill accomplishes the following goals:

- Maintains current standards in ATCP 51 until they are revised through the rules process.
- Maintains the rules process for livestock siting, with prescriptive membership for the technical review advisory committee to recommend future revisions to rules.
- Provides certainty and predictability for farmers by clarifying timelines, permitting fee caps, and introducing a new centralized process for siting application review.
- Provides relief for local governments by requiring DATCP to work with the Department of Natural Resources (DNR) to determine whether livestock siting applications meet siting standards. Current law requires local governments to apply state standards.
- Creates a new role for experts at DATCP and DNR to work with the local governments for siting plan review for statewide consistency and predictability for both local government and farmers.
- Maintains local control through zoning process.
- Maintains public input as part of the livestock siting application process.

We achieve these goals by:

Goal - Create certainty and predictability for livestock siting applicants.

- Current ATCP 51 standards are in effect until the Technical Review Advisory Committee recommends changes through rules process.
- The siting application review process – to confirm that the siting application meets state standards - is moved from local governments to DATCP with the assistance of DNR.
 - The Towns and Counties Associations asked for this.
 - Centralizing application evaluation enables the fees and timelines to be standardized.
 - Towns/Counties do not have to recreate the wheel, hire consultants, manage public input, incur unpredictable costs and manage lengthy timelines because DATCP will take on this part of the evaluation.
- Fees under this bill – now set in statute (this was a major issue discovered during rule review):
 - DATCP may charge up to \$750 to review the application.
 - Local government may charge up to \$1000 for the permit and up to \$500 for permit modifications.
- DNR already evaluates many siting applications as a part of the WPDES permitting process.
- DATCP will consider DNR’s permitting process and review the applications to apply the standards.
- DATCP will hold a public comment period during their review.
- DATCP will issue a decision – whether the application meets standards – and send it to the local political subdivision, which will then execute their local zoning process (maintaining local control).

Goal – Provide relief for local governments in the application evaluation process, while maintaining local control.

- As discussed above – local governments will no longer be responsible for evaluating siting applications under this bill.
- The experts at DATCP, with the assistance of the experts at DNR, will determine if the application meets state standards.
- Local governments currently have to evaluate applications on their own and apply state standards. Many hire consultants and incur significant expenses to do this. This bill relieves this burden.

- Local governments will be sent a letter by DATCP with the determination of whether or not the application meets state standards.
- Local governments will be responsible for issuing the siting permit after completing their local processes.

Goal - Streamline and standardize the evaluation of siting applications through centralized evaluation at DATCP by experts.

- DATCP will be responsible for determining whether a siting application meets state standards.
- DATCP may consult with DNR about sites that must also have a WPDES permit.
- Experts at DATCP and DNR understand state standards and will evaluate applications more efficiently and effectively than most current practices.
- Centralizing the evaluation of siting applications will also contribute to consistent evaluation statewide.

Goal - Maintain public input as part of the livestock siting application process.

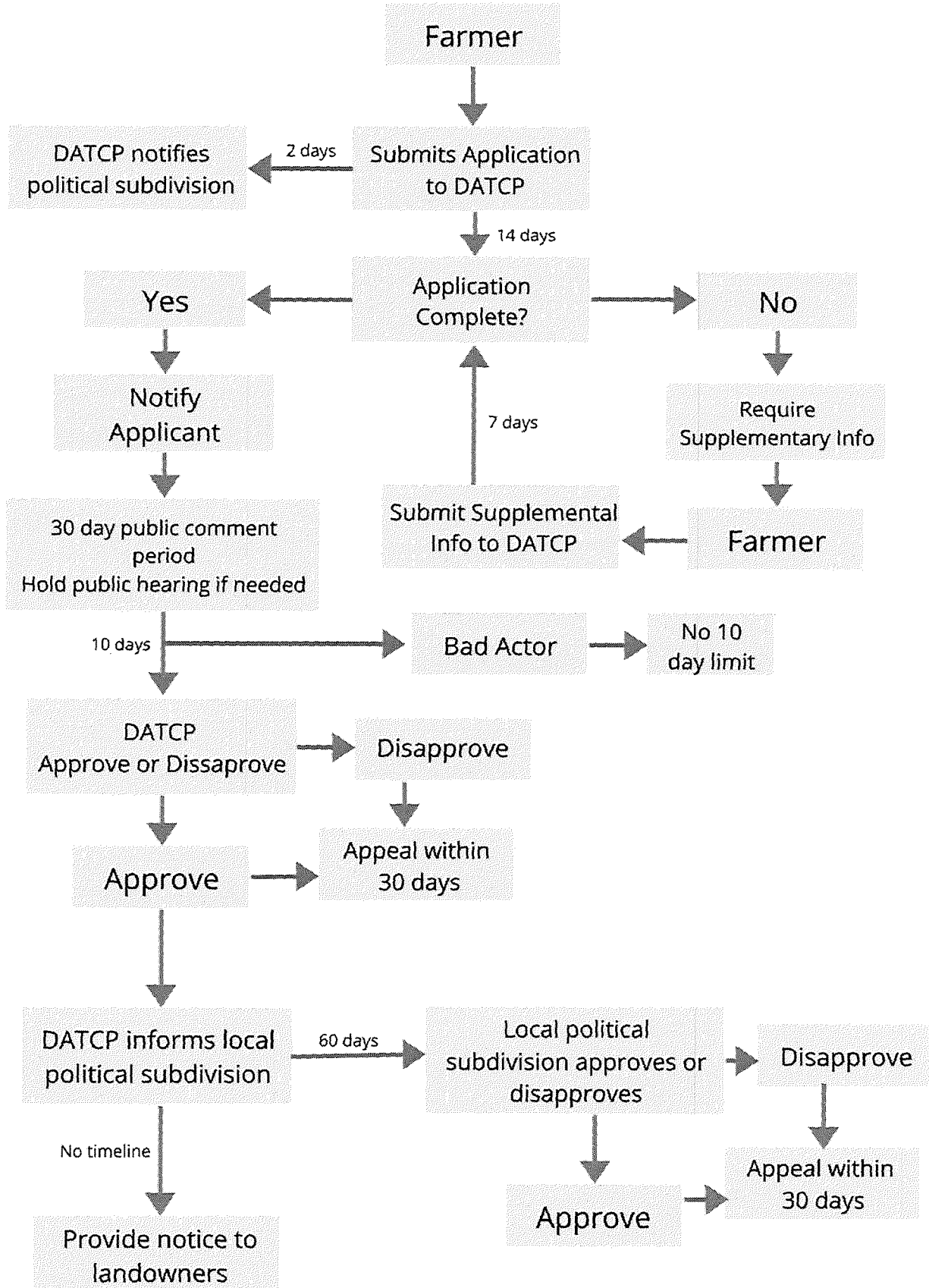
- The bill requires DATCP to hold a 30 day public comment period for each siting application.
- DATCP may hold public hearings, collect input or solicit public comments. This is not prescribed in the legislation.
- The bill maintains the process for aggrieved parties to appeal DATCP decisions.

Goal - Make technical improvements to statutes to support DATCP, local governments and applicants throughout the siting process.

- There are no changes to setbacks – except for the highway right-of-way reduction.
- Local governments have three pathways to implement zoning.
- Local governments can develop more stringent standards.
- Slatted floors and manure digesters will not be considered waste storage.
- Local governments can no longer require bonding as a contingency for local approval.
- Neighbors can make formal, deeded agreements for smaller setbacks.
- The science cited throughout the siting conversation must be reasonable and applicable.
- Highway Right-of-Way distance for livestock structures is reduced based on local government practices.
- Applicants with existing violations are subject to a measurable standard, held accountable and rewarded for proposing remedies.

SB 808/AB 894

Proposed Livestock Siting Implementation Process





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*Testimony before the Assembly Committee on Agriculture & State Senate Committee on
Agriculture, Revenue and Financial Institutions
Senate Bill 808/ Assembly Bill 894
February 13, 2020*

Dear Committee Chairs and Members:

Thank you for taking the time to hold a joint hearing on Senate Bill 808 and Assembly Bill 894 (SB 808/AB894) relating to the States' livestock siting process. Our state has a rich and diverse agricultural heritage that we all need to recognize and appreciate. Family farms of all sizes are the backbone of our state.

However, as everyone knows these farms are facing very difficult and challenging times. Right now, farmers all across Wisconsin are wondering how they are going to pay their bills and make it through the current economic downturn. Sometimes this has meant having to expand and grow in order to survive. Growing also has the added benefit of allowing the next generation of farmers to operate efficiently, competitively, and with improved quality of life.

Family farms across Wisconsin need everyone from the state legislature to Governor Evers to have their backs. We all must be willing to work together across party lines in order to strengthen our state's \$105 billion Ag industry.

Over the past few months, Senator Marklein, Representative Tauchen and I have worked collaboratively with state agriculture groups, family farmers, and local government officials to craft SB 808/AB 894, which includes reasonable reforms intended to help provide the livestock siting process with improved transparency, constancy, and fairness.

SB 808/AB 894 accomplishes the following:

- Maintains current standards in ATCP 51 until they are revised through the rules process.
- Maintains the rules process for livestock siting, with prescriptive membership for the technical review advisory committee to recommend future revisions to rules.
- The restriction to only review ATCP 51 every 4 years is replaced with the authority to review a rule at any time.
- Maintains local control through the zoning process.

- Maintains public input as part of the livestock siting application process.
- Provides certainty and predictability for farmers by clarifying timelines, permitting fee caps, and introducing a new centralized process for siting application review.
- Provides relief for local governments by requiring DATCP to work with the Department of Natural Resources (DNR) to determine whether livestock siting applications meet siting standards. Current law requires local governments to apply state standards.
- Creates a new role for DATCP and DNR to work with local governments for siting plan review for statewide consistency and predictability for both local government and farmers.

Family farms in Wisconsin need a predictable process to plan for expansion and growth of their farming operations moving forward. Our local governments need additional support and every citizen must have a voice to participate in the process.

This legislation makes reasonable reforms to help ensure that every stakeholder has a role in the rules and siting process, while providing a much clearer frame work for making these important decisions.

It is my hope that we can all come together and support our state's farmers by passing this legislation. Thank you for taking the time to listen to my testimony.

Wisconsin Legislative Council

Anne Sappenfield
Director



TO: SENATOR HOWARD MARKLEIN AND REPRESENTATIVE TRAVIS TRANEL

FROM: Ethan Lauer, Staff Attorney

RE: 2019 Senate Bill 808 and 2019 Assembly Bill 894, Relating to Livestock Facility Siting and Expansion and Granting Rule-Making Authority

DATE: February 12, 2020

This memorandum responds to your request for a comparison of companion bills, 2019 Senate Bill 808 and 2019 Assembly Bill 894 (collectively, “the bill”), with the current livestock facility siting law (“siting law”).

The basic concept of the siting law is that the establishment of a new, or the expansion of an existing, livestock facility may be subject to approval or conditional approval of a political subdivision.¹ The political subdivision must base its decision on statewide standards and may use more stringent local standards only as allowed by the siting law.

In most pertinent part, the bill places responsibility for siting and expansion decisions with the Department of Agriculture, Trade, and Consumer Protection (DATCP). A political subdivision may still require approval, and may still adopt allowable more stringent local standards, but the more stringent standards would be applied by DATCP instead of by the political subdivision. Local review would be confined to certain zoning and building code requirements.

The bill makes additional changes to allowable local standards, fees for siting and expansion applications, the appeals process, and DATCP’s rulemaking process.

LIVESTOCK FACILITY SITING LAW

Section 93.90, Stats., and administrative rules promulgated by DATCP in ch. ATCP 51, Wis. Adm. Code, form the framework of the siting law. The siting law establishes uniform, statewide procedures that political subdivisions must follow if they choose to regulate the siting or expansion of livestock facilities.² DATCP must promulgate rules establishing statewide standards and must review those rules at least once every four years. [s. 93.90 (2) (a) and (c), Stats.]

By creating the siting law, the Legislature strictly limited the ability of political subdivisions to regulate the livestock facility siting process. [*Adams v. State*, 2012 WI 85, ¶2.]

¹ In this context, a political subdivision includes a town, county, city, and village. [s. 93.90 (1m) (f), Stats.]

² For purposes of the livestock facility siting law, a “livestock facility” is a feedlot, dairy farm, or other operation where livestock are or will be fed, confined, maintained, or stabled for a total of 45 days or more in any 12-month period. [s. 93.90 (1m) (e), Stats.]

General Restriction

In an area that a political subdivision has zoned to allow **agricultural land uses**, the political subdivision generally may not prohibit livestock facilities or impose general prohibitions on livestock facility siting or expansion³ that are based on the number of animals at a livestock facility, unless specified conditions apply.

Conditions on Local Approval

The siting law allows political subdivisions to require a local approval, such as a conditional use permit⁴ or special exception to a zoning ordinance (siting permit), for new or expanded livestock facilities that will have 500 animal units⁵ or more. However, a political subdivision may not require a siting permit for the expansion of a pre-existing livestock facility unless the number of animal units will increase by more than 20 percent of the largest number of animal units that were at the facility for at least 90 days in the 12-month period before the requirement takes effect. Except for certain pre-existing ordinances, a political subdivision may not require a siting permit for a new or expanded livestock facility that will house fewer than 500 animal units.

If a political subdivision decides to require a siting permit for new or expanded facilities that will have 500 animal units or more, it must adopt an ordinance that follows state standards for evaluating livestock facility siting permit applications. The state siting standards include maximum property line and roadway setbacks for different types of livestock structures, odor management standards, nutrient management⁶ standards for fields, manure storage facility standards, and standards intended to prevent polluted water from running off of animal lots and other areas.

Generally, a political subdivision may not impose conditions on a siting permit that exceed those required under these state siting standards, and, assuming that the site is in an agricultural zoning district and satisfies other specified state regulations, the political subdivision generally must approve a permit application that meets the state standards.

However, certain exceptions apply. First, a political subdivision is generally authorized to deny a permit or apply more stringent siting requirements if it does all of the following:

- Adopts the more stringent requirements by ordinance before an applicant files an application for local approval.

³ In this context, “expansion” means an increase in the number of animals fed, confined, maintained, or stabled. [s. 93.90 (1m) (d), Stats.]

⁴ The term “conditional use permit” typically refers to an approval of a use of property under a zoning ordinance that is subject to special controls and conditions. However, a “conditional use permit” may in some cases be required under a general (nonzoning) ordinance. [See *Zweifelhofer v. Town of Cooks Valley*, 2012 WI 7.]

⁵ An “animal unit” is a unit of measure of livestock at an animal feeding operation. A specific animal unit factor is designated for categories of dairy cattle, beef cattle, swine, and poultry based on characteristics such as animal size and gender and the type of livestock operation. For example, one 600-pound beef steer is one animal unit and one milking or dry cow is 1.4 animal units. [s. 93.90 (1m) (a), Stats.] An animal unit calculation worksheet is available at the following link: http://dnr.wi.gov/topic/AgBusiness/documents/3400025A_WT.pdf.

⁶ “Nutrient management” is one part of a system of conservation practices related to nonpoint source pollution, adopted in ch. ATCP 50, Wis. Adm. Code, that farmers must follow to meet the Department of Natural Resources’ (DNR) performance standards in ch. NR 151, Wis. Adm. Code. Nutrient management conservation practices seek to limit runoff of nutrients such as potassium, phosphorus, and nitrogen into waters of the state while maximizing farm cost effectiveness.

- Bases the requirements on reasonable and scientifically defensible findings of fact, which clearly show that the requirements are needed to protect public health or safety.

[s. 93.90 (3) (a) 6. and (ar), Stats.]

In addition, a political subdivision may apply more stringent standards if it is authorized to do so under one of several specified other sources of law, such as floodplain and shoreland zoning authority. [s. 93.90 (3) (a) 3., Stats.]

Procedure for Local Approval Decisions

After a political subdivision receives an application for the siting of a new or expanded livestock facility, the political subdivision has 45 days to notify the applicant whether the application is complete and, if not, what information is needed to make it complete.

A political subdivision must approve or disapprove an application no more than 90 days after the date on which the political subdivision notified the applicant that the application is complete. A political subdivision may extend this deadline if it needs additional information to determine whether to approve or disapprove the application, if the applicant materially modifies the application, or for other good cause specified in writing by the political subdivision. [s. 93.90 (4), Stats.]

Challenging a Local Approval Decision

A political subdivision decision on an application may be reviewed by the Livestock Facility Siting Review Board (review board), a state board attached to DATCP. The review board has broad authority to approve, modify, or overturn a political subdivision siting decision. It may also modify the conditions of a political subdivision approval if it determines that such a modification is necessary to make the conditions comply with the state law. [*Adams*, 2012 WI 85 at ¶60.]

The review may be requested only by an “aggrieved person.” An aggrieved person is either: (1) the applicant for local approval; (2) a person who lives within two miles of the livestock facility that is the subject of the application; or (3) a person who owns land within two miles of the livestock facility that is the subject of the application.

The request for review by the review board generally must be submitted within 30 days after the political subdivision approves or disapproves the application. If a request for review is submitted, the review board generally must make its decision within 60 days. The review board must base its decision on the record that the political subdivision developed when acting on the application.

Decisions of the review board may be appealed to a circuit court for a review based on the record. In addition, if a political subdivision fails to comply with a decision of the review board, an aggrieved person may bring an action in circuit court to enforce that decision. [s. 93.90 (5), Stats.]

THE BILL

Overview

The bill provides that any application for approval of a livestock facility siting or expansion be submitted to DATCP instead of to the relevant political subdivision. DATCP is responsible for evaluating the application against the statewide standards and against any local standards that might be in place. If DATCP approves the application, political subdivision review is confined to certain zoning and building code requirements.

DATCP Application Process

A person wishing to obtain approval to site or expand a livestock facility must apply to DATCP. DATCP may establish a fee not exceeding \$750 to review the application. This amount will be adjusted for inflation.

DATCP must send a copy of the application to the relevant political subdivision within two business days of receiving the application. If any information is missing from the application, DATCP must follow specified timelines to try to obtain supplementary information.

Once DATCP determines that the application is complete, it must provide 30 days for receiving public comment and may hold a hearing during this time.

DATCP must approve an application if it meets the statewide standards and any applicable local standards. With the exception described below, DATCP must approve or disapprove an application no more than 10 days after the public comment period closes.

In the case of an application to expand an existing facility, DATCP may extend the time period in which to render a decision if DATCP is notified by DNR that the facility has certain pending allegations of violations of a water pollution discharge elimination system permit. After DNR eventually notifies DATCP that the facility is no longer in significant noncompliance with the permit, DATCP has not more than 10 days to approve or disapprove of the application.⁷

After making its decision, DATCP must notify the applicant and the relevant political subdivision.

Challenging a DATCP Approval Decision

The bill utilizes the review board process from the siting law for appeals of a DATCP decision on an application. In addition to an “aggrieved person,” described above, a political subdivision may also initiate an appeal to the review board.

Political Subdivision Authority and Application Process

Under the siting law, a political subdivision standard that is more stringent than a statewide standard must be based on reasonable and scientifically defensible findings of fact that clearly show that the requirement is necessary to protect public health or safety. The bill provides further delineation. It requires that the findings of fact be based on specific, but not necessarily unique, circumstances in the political subdivision. It also narrows the protection of public health or safety to public health or safety within the political subdivision.

Not later than 60 days after receiving from DATCP a decision on an application, the bill requires a political subdivision to approve or disapprove the application. The political subdivision may establish a fee of not more than \$1,000 for processing the application (or not more than \$500 for certain applications to modify an existing permit). This amount will be adjusted for inflation.

The political subdivision may disapprove an application only if DATCP disapproved it, or if the application would violate specified zoning or building code requirements.

⁷ The process for extending DATCP’s 10-day timeline does not apply if DATCP determines that the application is consistent with resolving the violation or if DNR determines that the applicant will address all actual or alleged violations.

Challenging a Political Subdivision Approval Decision

Any person may challenge the decision of a political subdivision by bringing an action within 30 days of the decision in the board of appeals or board of adjustment of the political subdivision or in circuit court in the county where the facility is or would be located.

Rulemaking Process

The bill repeals the requirement that DATCP review the statewide standards at least once every four years and establishes a new board attached to DATCP called the Livestock Facility Technical Review Board. The Secretary of DATCP must nominate members of the board based on recommendations from specified organizations representing political subdivisions, environmental concerns, and agricultural concerns. The board is responsible for advising DATCP on the promulgation of statewide standards. DATCP may not promulgate a rule pursuant to the siting law unless at least two-thirds of the members of the board approve the rule.

Setbacks for Certain Waste Storage Structures

The bill restricts DATCP's authority to adopt a statewide standard regarding certain waste storage structures.⁸ It provides that any requirement regarding odor or air emissions, or distance that a structure must be setback from a highway or property line, may not apply to a waste storage structure: (1) where waste is stored under a livestock housing facility; or (2) that is a manure digester.⁹

Setbacks From Highways

The bill restricts the authority of a political subdivision to adopt a standard that is more stringent than the statewide standard with regard to the distance that a structure must be setback from a highway. If a political subdivision establishes a setback requirement measured from the nearest point of a highway right-of-way, the setback requirement may not require that a structure be located more than 100 feet from the right-of-way.

If you have any questions, please feel free to contact me directly at the Legislative Council staff offices.

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⁸ As defined by the bill, a "waste storage structure" means a waste storage impoundment made by constructing embankments, excavating a pit or dugout, or fabricating a structure. It does not include equipment used to apply waste to land.

⁹ These two types of structures are excluded from the definition of "waste storage structure" in DATCP's current regulations. [s. ATCP 51.01 (44), Wis. Adm. Code.] As such, requirements relating to setback, odor, and air emissions do not apply to them.

MEMORANDUM

TO: Senate Committee on Agriculture, Revenue and Financial Institutions and
Assembly Committee on Agriculture

FROM: Jordan Lamb, Legislative Counsel, Wisconsin Pork Association

DATE: February 13, 2020

RE: **Support for SB 808 / AB 894, Livestock Facility Siting Update**

Chairman Marklein, Chairman Tauchen and members of the committees, thank you for allowing me to testify today in **support** of Senate Bill 808 and Assembly Bill 894, on behalf of the Wisconsin Pork Association.

My name is Jordan Lamb. I am an attorney and the legislative counsel for the Wisconsin Pork Association (WPA). The WPA, along with other livestock groups worked cooperatively with the Towns and the Counties, the legislative authors and their staffs to develop the legislation that is before you today.

Background. In November, a group of us who represent Wisconsin livestock farmers proactively contacted the Wisconsin Towns Association and the Wisconsin Counties Association to see if we could work on addressing some concerns that we mutually have with Wisconsin's livestock facility siting law. Our goal was to identify the issues upon which we mutually agreed and to address those in a statutory update.

Importantly, the groups supporting this bill today, were the same groups who originally worked on the development of this legislation in 2003 (and the subsequent Wis. Admin. Code s. ATCP 51 rulemaking in 2005).

The original public policy behind Wisconsin's livestock facility siting law was to create statewide standards for the siting of new and expanding livestock operations, but to preserve local political subdivisions' ability to maintain their zoning authority. That principal guided our discussions and the development of the bill you have before you.

Over the past 15 years, we have learned a lot about how the livestock siting law concept has worked and the challenges it has presented. This legislation aims to capitalize on the successes of the original siting law and adopt improvements for both Wisconsin farmers, towns and counties that stay true to that original framework.

The basic premise that we brought to this discussion was to identify improvements that could be made to current law, while preserving the original legislative intent of statewide siting standards and local zoning control. I believe that Senate Bill 808 and Assembly Bill 894 accomplishes this goal for the following reasons.

Farmers Need to Be Involved in the Administrative Rule Process. One of the challenges with the recent proposed administrative rulemakings related to Wis. Admin. Code s. ATCP 51 (the livestock Siting administrative rule) was the fact that farmers were not involved in the technical expert panel that was convened in December 2018 or on the prior technical expert panel that was convened several years earlier. As a result, when the draft administrative rules were written, there were numerous concerns from farm groups. Ultimately, the Department of Agriculture heard our concerns and didn't move forward with the rule changes, but that process was not productive for either side.

This legislation aims to prevent that situation by creating a "livestock facility technical review board" that will include 5 members selected from Wisconsin farm organizations along with a representative from the Towns, Counties, Land & Water Conservation and environmental groups. Including these participants will ensure that farmers' voices will be a part of any future administrative rule changes.

DATCP Should Review Applicant's Compliance with Statewide Standards. In addition, we have learned that the review of a farmer's application for a livestock facility siting permit by a local political subdivision is difficult and expensive. Some political subdivisions have handled it well, but others have struggled and that has caused concern on the local government level and on the farmer level. However, the original policy of the livestock facility siting law was statewide standards. As such, we believe that DATCP should review the application related to compliance with the statewide standards. Under this bill, the Department of Agriculture will review and approve an applicant's compliance with statewide livestock facility siting standards. Importantly, nothing in this legislation changes those statewide standards and the local political subdivisions retain their own review process for reviewing the application with regard to compliance with their zoning ordinances.

Fee Certainty is Essential for Farm Business Planning. This legislation also establishes the fees that applicants will pay to apply for a livestock siting permit. From the perspective of those who are regulated by government, we look for certainty in any regulation or statutory process that requires an application or a license. In this case, having certainty with regard to what a farmer will pay to apply for a permit is important for business decisions related to building new farm operations or expanding existing farms in the State of Wisconsin.

Flexibility for Neighbors to Support Farm Expansion Promotes Agricultural Areas. This legislation also allows neighbors to support each other and to encourage farm growth. Under current law, there are fixed setbacks from property lines for all livestock structures. There is no mechanism for neighbors to agree to a smaller property line setback. This legislation recognizes that there are areas of the state where farmers are welcome and neighbors want to encourage farm growth. As such, this bill allows two property owners to AGREE to a smaller setback distance.

Local Zoning is Preserved and Strengthened. Finally, it is important to note that there is a change in this bill to the local political subdivisions' authority, as well. Under the original siting law, our goal was to allow Towns and Counties to use zoning as the mechanism to restrict livestock farming. The livestock facility siting law and the corresponding statewide standards only apply in areas that are zoned agricultural. Local political subdivisions may disapprove or prohibit a livestock facility siting or expansion if the site is located in a non-agricultural zoning district. Local political subdivisions may limit the number of livestock in an agricultural zoning district as long as they allow an unrestricted number of animal units in another agricultural zone AND as long as they base that prohibition on reasonable and scientifically defensible findings of fact that show that it is necessary to protect public health and safety.

Under this bill, those last two provisions are separated (*i.e.*, the "and" is changed to an "or" on page 12 of the bill.) This means that under this bill, towns and the counties have three distinct paths to prohibit the siting of a livestock farm: (1) zone an area as non-agricultural; (2) limit livestock numbers in an agricultural zone only if they also have an unlimited animal unit agricultural zone; (3) enact a more stringent ordinance if they meet the science requirement and the public health and safety requirements.

We understand that the intent with this change is to reserve and limit this authority to very defined and limited circumstances. This point is important because this is a step away from the "statewide standards" policy that underlies this statute. However, we recognize that local authority is important. However, it must not be abused and it should be monitored. We do not believe that these provisions will be used to simply prohibit animal agriculture in Wisconsin, but rather, as the Towns Association and Counties Association has stated, they will be used discriminately to address distinct and unique local situations.

Conclusion. I believe that this legislation is an improvement over current law for both Wisconsin livestock farmers and local political subdivisions. We greatly appreciate the efforts of the authors, their staff, our colleagues from the Towns and the Counties, and all of the representatives from the livestock groups have put into the development of this legislation.

We respectfully request that you support Wisconsin livestock farmers and support Senate Bill 808 and Assembly Bill 894.



State of Wisconsin
Governor Tony Evers

Department of Agriculture, Trade and Consumer Protection

DATCP Testimony – Senate Bill 808/Assembly Bill 894 – February 13, 2020

Good morning, Chairman Marklein, Chairman Tauchen, Ranking Member Smith, and Ranking Member Considine. Thank you for having us here today to discuss this important issue. My name is Angela James and I am the Assistant Deputy Secretary at the Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP). Also here with me today is Sara Walling, our Administrator for the Division of Agricultural Resource Management, which oversees the livestock siting program at DATCP. We appreciate the opportunity to provide information on this complex topic.

Overview of Livestock Siting

Livestock siting is unlike any other program DATCP administers. It is the most complicated, yet also the least understood. Any changes to this program, however small, have a widespread ripple effect that can be extremely difficult to foresee and even identify. This means that a consistent understanding of livestock siting is a critical part of considering any potential changes to the law.

To that end, we would like to start by reviewing what livestock siting is and what it is not. Under current law, livestock siting **is**:

- A technical standard that sets the ceiling for how strict a local government *can* be if they choose.
- A land use too applicable only in those jurisdictions that choose to adopt it

Under current law, livestock siting **is not**:

- A regulation. Local governments do not *have* to adopt it. Because it is not a regulation, it is not enforced or monitored by DATCP.
- A blanket standard. Livestock siting applies *only* in areas where a local government has decided to adopt it. Local governments that do not adopt livestock siting have no say in the location of livestock facilities in their facilities.

DATCP's statutory obligation under current law is to create and update ATCP 51, the agency's livestock siting rule, and to staff the citizen-appointed board that reviews local decisions on livestock siting when those decisions are appealed. DATCP does NOT permit or directly regulate livestock facilities.

Timeline of Livestock Siting

Livestock siting was enacted in 2006 and has not been revised since then. The rule revision that we undertook in 2019 was the culmination of a process that began years before. In 2010 and 2014, a Technical Expert Committee reviewed ATCP 51. In July 2017, DATCP's governing board did not approve public hearings for the draft the agency presented to them. Instead, the board directed staff to go back to stakeholders and obtain additional feedback. DATCP

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completed that task in the fall of 2017. At the end of 2018, the Technical Expert Committee began reviewing the rule again, issuing a final report in April 2019 that confirmed the changes recommended in 2017. In July of 2019, the DATCP Board unanimously approved public hearings for the draft. To ensure greater opportunity for public input, the board also directed the agency to add additional public hearings throughout the state to its original proposal.

Throughout August and September last year, DATCP thoroughly engaged a broad range of participants to solicit their feedback on the hearing draft. However, after this extensive public input process, members of the legislature communicated to DATCP, clearly and publicly, that they believed the existing rule was sufficient and that they would not approve changes to the current rule.

Through the many conversations we had throughout 2019, we made significant progress toward understanding how the many concerns regarding livestock siting could be addressed through a new rule. We also learned things that hadn't been contemplated in the 2017 draft. For example, we learned during the public input process that DATCP does not have statutory authority to impose a local fee cap that currently exists in ATCP 51. We also learned the extent of the uncertainty among local jurisdictions regarding their ability to use zoning authority to limit the location of livestock facilities. We believe both of these points can be addressed now, without additional rulemaking or legislation.

Thank you again for the opportunity to provide information on this important issue. Sara and I will now discuss some of the questions and additional considerations the department has developed upon reviewing this legislation.

DATE: February 13, 2020

TO: Senate Committee on Agriculture, Revenue and Financial Institutions
Assembly Committee on Agriculture

FROM: Wisconsin Farm Bureau Federation
by Debi Towns, Sr. Director of Government Relations

RE: Senate Bill 808/Assembly Bill 894 Relating to Livestock Siting and Grant
Rulemaking Authority

Thank you Chairmen Marklein and Tauchen for hearing this bill – and thank you committee members for your consideration of this proposal. Wisconsin Farm Bureau is supporting SB 808 and AB 894 because we believe it brings stakeholders together to update and improve the fifteen-year old law which guides the process for siting new or expanding existing livestock farms. The current and original siting law had the goal of trying to lend consistency and predictability to the process across the state while maintaining a level of local control. This was accomplished by creating a state livestock siting board within the Department of Agriculture, Trade and Consumer Protection (DATCP). This board has functioned successfully when called into action to decide whether a local application meets the standard. It is important to keep this administration of the law intact. SB 808 and AB 894 do not change this.

SB 808 and AB 894 do create the Livestock Facility Technical Review Board. The members of this Board would be nominated by the Secretary of DATCP and would be confirmed by the Senate. The makeup of the board would include nominees from local government as well as conservation organizations and production agriculture. The industry expertise of this board would serve as a guide to DATCP staff in the rule-making process. Promulgating rule changes by the agency would be initiated by this board. This is not unlike many industry and citizen boards that identify the need for rule changes in other agencies.

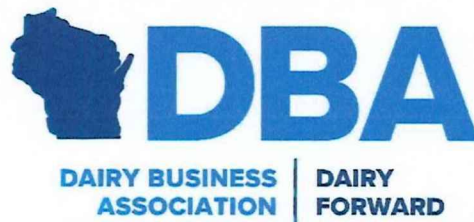
Two other points I would like to discuss in this testimony both address the need for predictability and surety when a farmer considers spending hundreds of thousands or even millions of dollars to build a new livestock setup or significantly expand an existing one. In the original ATCP 51 rule, there was a set application fee due to the local government that was not to exceed costs of processing the application and was capped at \$1,000. DATCP legal counsel has advised that the statute (93.30) does not provide authority for DATCP to include a stated fee in the rule, so they will be eliminating that clause. This would leave application fees open to whatever local government determines. This creates an unknown cost in financial planning. This proposal requires an application fee of not more than \$1,000 be paid to local government for an application of a new permit and not more than \$500 for applications of modifications of an existing permit. The proposal also requires \$750 as a permit fee to be paid to DATCP. This gives the farmer a hard number to calculate into their planning phase.

In like manner, this proposal lays out an agreeable, clear timeline for decision making by both local government and state government. It is very difficult for a borrower to put a finance package together when the groundbreaking date is speculative or unknown. Time is money, extreme delay in decision making by any party can cause the project to fail. Lenders need assurance this will not happen.

In closing, I would just like to say that the Livestock Siting law has worked well over the past fifteen years. Production agriculture is big business in Wisconsin. It is a major contributor driving our economy -- and the livestock industry represents a large segment of production agriculture.

However, there have been some changes in interpretation and administration of the rule governing livestock siting, such as the elimination of a stated fee structure. In addition, after using the law for more than a decade, there are some tweaks that would allow us to apply the law more smoothly for both farmers and local governments. This bill is coming up late in the season, but it has been an ongoing project bringing the needs of stakeholders together for months.

We would encourage you to support SB 808 and AB 894 to make a good law even better.
Thank you for the opportunity to share our position.



Testimony in Support of AB 894/SB 808

My name is Chad Zuleger and I'm an associate director of government affairs at the Dairy Business Association. I want to thank the members of our two agriculture committees for the opportunity to speak in favor of this important improvement to our state's livestock siting law. I also want to specifically thank Chairman Marklein, Representative Tranel, Chairman Tauchen. These three lawmakers and their staff did the hard work of listening to concerns of stakeholders, both farm groups and those representing local governments, and crafting this bill. Just like the original livestock siting legislation, this bill is a reflection of the common ground held by these groups.

Agriculture is a powerful economic driver for our state. For our rural counties and towns, which are typically the ones that have adopted livestock siting ordinances, the importance of successful farms is even greater. Farmers are their residents, leading taxpayers, and often their community leaders. Local governments recognize the importance of preserving and promoting agriculture in their jurisdictions. That was the basis for the original compromise that resulted in the livestock facility siting law. It also motivated the stakeholders to return to the table to work on this new bill.

This legislation provides many updates for the livestock siting law that reflect the evolution of animal agriculture in Wisconsin and across the nation. Now, I want to highlight some of the provisions in this bill that are beneficial to Wisconsin farmers as their operations grow and change.

One of the issues that came up repeatedly during public hearings on ATCP 51, the administrative rule that governs livestock siting, were the fees that farmers are charged when seeking a livestock siting permit. The current rule-based fee cap is \$1,000, although many jurisdictions have opted to charge less. The problem is that this fee cap does not appear in statute. Therefore, the rule-based cap is susceptible to an ACT 21 challenge. This could result in a handful of jurisdictions using their permit fee to discourage farms from locating or growing in their area. This bill solves that problem. It would create a new statutory fee cap of \$1,000 for new permittees. That is the maximum amount a local unit of government can charge for a permit. At the same time, the permittee would also be charged an additional \$750 to help defray administrative costs that DATCP faces.

The bill also creates a separate fee cap for permit modifications. The creation of a permit modification process to address how to handle minor alterations to an existing farm permit was recommended by DATCP staff during discussions about possible revisions to ATCP 51. Under this bill, the fee for this less-involved process would be capped at \$500. This is a practical approach to dealing with the real-world problem of how to deal with minor permit changes in an equitable manner.

In most instances, the setbacks that permitted farms must follow would remain the same as current law. This bill, however, does modernize the livestock siting law by providing an important new exception that reflects the growing complexity of our farms, their land ownership and land-use processes. Under this bill, adjacent landowners would be able to waive the setback requirements as it applies to their land. This is particularly helpful in cases where nearby landowners are affiliated with the farm. It is very common for land used by a farm to be owned by multiple people or business entities. For example, a father might own some land, while his son owns more, and other acreage might be held by a trust that was established at the time of the grandfather's death. Under current law, livestock housing or manure storage would have to be built a certain distance from the property line, even if all the cropland around the farmstead is owned by different partners in the farm. This makes no sense. Similarly, if a neighboring farmer has no objection to a nearby farm expanding closer to their property line, it should be that landowner's choice whether minimum setback requirements are enforced. Under current law, a farmer's neighbor could be fine, but it would be up to the local government to allow a variance. Under this bill, a farmer's neighbor could grant a waiver of those minimum setbacks, which would run with his/her land.

Finally, one of the issues that was raised by farmers at many of the public hearings on ATCP 51 was a concern that agricultural stakeholders were not adequately consulted during the rulemaking process. This bill helps to address this by creating a new statutory technical advisory committee that will consider potential rule changes. In the past, technical advisory committees were created in an ad hoc manner by DATCP staff. This bill would create a similar group by statute and mandate the involvement of agricultural stakeholders going forward. This change will help to avoid disputes regarding rule changes in the future. It is our hope that it will ultimately simplify and speed up future attempts to modify ATCP 51.

Thank you again for your time and attention to this matter. I would be happy to try to answer any questions you might have.



Wisconsin Dairy Alliance Testimony regarding AB894/SB808 February 13, 2020

I am Cindy Leitner and I am the President of the Wisconsin Dairy Alliance. WDA is here to offer testimony in support of AB894/SB808.

We are all here today to talk about the potential changes to the Livestock siting law, chapter 93.90. I would like to recognize the amount of effort it has taken to get to this point. The Legislature, Ag groups, Counties and the Towns have all work very hard to move this forward. From a historical perspective, these are the same stakeholders that came together in 2004 to agree on the original Livestock Siting bill.

It is also important to briefly explain how we got here. The Livestock industry was deeply concerned about proposed changes to ATCP 51 the DATCP Board was considering approving at their November meeting. Livestock groups clearly communicated our concerns to DATCP staff throughout the process, but our concerns were not addressed. As we all know, the DATCP Board decided not to move forward with those changes. The ATCP 51 process exposed a big flaw in the original siting law; the key stakeholders were not at the table working together to find common ground and address concerns on both sides.

WDA reached out to other livestock groups and we agreed we should sit down with the Towns and Counties to see if we could find common ground on reasonable updates to the original siting law. Livestock groups were looking for certainty and predictability for Livestock siting in the future.

Similar to the Towns, we were concerned about the financial aspects of siting. The Towns were concerned about administering siting without having the funds and sometimes, the local knowledge base to properly review applications. We were concerned about the cost of the permit potentially rising to accommodate the Town's obligation to administer something they could not do with existing staff.

The process took a few months and several meetings to get the draft you have before you today. But together we found a workable solution. We moved that burden to DATCP who clearly has the knowledge base and understanding of the statewide livestock siting standards. We did this adding in a reasonable timeline, to create the certainty needed to plan an expansion of a farm. We even added an increase for the Towns in the fee cap based on the rise in CPI annually.

As we worked through this, we have all had to compromise our positions. Yet we have found many things to come together on that are beneficial to all stakeholders.

The current process for updating ATCP 51 includes a Technical Advisory Committee that does not include key stakeholders in the decision-making and is made up of unelected and unconfirmed "experts." The TAC then makes recommendations to DATCP staff which proffers a plan to the full DATCP Board. Once the recommendations are made, they go to public hearing. Livestock participated



in each hearing and sent formal letters of concern to DATCP that largely went unaddressed. In short, the current process was broken and needed to be fixed. As we all worked together on this bill, we agreed to create an inclusive and transparent Technical Advisory Committee whereby members need to be confirmed by the State Senate. All of the key stakeholders will be at the table which will force discussion, and, where necessary, compromise. Working collectively together, listening to all parties concerns to better understand their issues.

Proposed is a committee made up of 9 members that are representative of Counties, Towns, Land and Conservation, Environmental groups and Ag Groups. This committee would advise the DATCP board regarding rules. With that we removed the restriction to review ATCP 51 every 4 years, since DATCP has the authority to review a rule anytime.

As we talked about setbacks, we provided for neighbors to allow a reduction in some set back requirements by entering into a deeded transaction, eliminating the need for the farm to obtain a variance, yet providing future information for potential buyers.

We understood the concern regarding "Bad Actors". No one, and I cannot emphasize that fact enough, no one supports "Bad Actors".

In all, these changes are very good. That does not mean we do not have concerns, as we stated none of us got everything we wanted.

Local Units of Government have always had the option to regulate the siting of large livestock operations through zoning authority limiting the size of the farm based on zoning districts. Current law prohibits a Local Unit of Government restricting a large facility based on limiting the number of animals in a zoning district, unless they provide another zoning district without size caps AND they base that restriction on reasonable and scientifically defensible findings of fact, adopted by the political subdivision, that clearly show that the prohibition is necessary to protect public health or safety. In our opinion, this bill will not give local units of government any additional authority to restrict the size of a CAFO than they currently have.

The new language in the bill changes the AND to an OR and now provides local units of government two separate bases, among others, to utilize zoning as a restriction on growth. There is no language requiring a reason why the zoning approach is being taken. We are taking Towns at their word that those who implement siting will not use it to fence out otherwise qualified CAFO applications.

To those of us who will depend on the ability of Ag to grow in Wisconsin, this is a huge concern. We know there are some great Local Units of Government to work with, and there are others that are struggling with the onslaught of anti-farming activism.



In the worst of cases – which we need to consider due to the extremely large investment it takes to site a Large Farm-- this could be the scenario:

I have an existing farm. My Local Unit of Government decides to Zone my farm and the surrounding area Small Ag only. While I can continue Farming at the size I am, I cannot have growth over 20% without obtaining a Conditional Use Permit from the Local Government Unit. Since that Local Government Unit Zoned the area around my farm small Ag the chance of obtaining that permit are slim. I cannot grow unless I move. At this point, most likely out of state.

We have had many discussions about this. We take everyone at their word that the changes proposed by this bill will be implemented responsibly; that we can continue to find ways to reasonably site new and expanding livestock operations in this state. If we shut off the ability to grow, then we will eventually (sooner rather than later) lose processors and our dairy infrastructure starts to crumble. That was the situation we faced at the turn of the last century when the Legislature adopted livestock siting in the first place – and it has worked.

Thank you and I would be happy to respond to any questions.



TO: Senate Committee on Agriculture, Revenue and Financial Institutions
Assembly Committee on Agriculture

FROM: Scott Manley, Executive Vice President of Government Relations

DATE: February 13, 2020

RE: Concerns with Senate Bill 808 & Assembly Bill 894 – Livestock Facility Siting Law

Wisconsin Manufacturers & Commerce (WMC) appreciates the opportunity to explain our concerns with Senate Bill 808 (SB 808) and Assembly Bill 894 (AB 894), which proposes to change Wisconsin's livestock siting law.

WMC is the state's largest general business association, with roughly 3,800 members in all sectors of the economy, including dairy producers, cheese makers, food products manufacturers, and farm equipment manufacturers. We represent small, medium, and large employers located throughout the entire state. Since our founding in 1911, WMC's mission has been to make Wisconsin the most competitive state in the nation to do business. This includes ensuring that key sectors of the economy, like the dairy industry, can operate in a regulatory climate that will allow for long-term growth and viability.

We want to thank the authors of the legislation, especially Senator Marklein, for the tremendous amount of thoughtfulness and work that went into drafting and re-drafting this legislation. WMC views this bill, with the exception of one policy change that I will discuss in greater detail, as both an important step forward for the dairy industry, and a reasonable compromise between agricultural employers and local governments.

The primary concern we have is a one-word change in Section 20 of the bill that allows local governments to effectively zone-out larger dairy farms like Concentrated Animal Feeding Operations (CAFOs), leaving them no practical place to locate. Moreover, we believe this change will allow local governments to use their zoning authority to prevent existing large dairy producers from expanding. Taken together, we believe Section 20 severely threatens the long-term viability of dairy production, and the continued growth and necessary scaling of Wisconsin's dairy industry.

Wisconsin's Current Livestock Facilities Siting Law

The Legislature enacted statewide standards applicable to the siting of new or expanded livestock facilities in 2004, including a general preemption of local governments' authority to zone large livestock operations out of their communities. The legislation enjoyed wide bipartisan support in both houses of the Legislature, and was signed into law by Governor Jim Doyle. In addition to being supported by a wide array of groups representing agriculture, the legislation was also supported by both the Wisconsin Counties Association and the Wisconsin Towns Association.

The siting law was necessary to establish statewide standards for large livestock facilities in order to, according to the law itself, “promote the growth and viability of animal agriculture in this state” and “balance the economic viability of farm operations with protecting natural resources and other community interests.” To accomplish these important goals, the Legislature generally preempted local government authority to use zoning or other regulatory authority to condition livestock siting or expansion approvals on anything other than statewide standards established by the Department of Agriculture, Trade, & Consumer Protection (DATCP). Those siting standards are codified in Chapter ATCP 51 of the Wisconsin Administrative Code.

The new siting law was eventually challenged, and ultimately upheld by the Wisconsin Supreme Court in the 2012 case *Adams v. State*. In that case, the Supreme Court held that by establishing statewide siting standards, the Legislature preempted the ability of local governments to impose more stringent local standards than the statewide siting regulations. Again, local government groups supported enactment of this law.

Our Concern with Section 20 of the Bill

There is a very limited exception in the current law that allows local governments to use zoning to exclude large livestock facilities. Specifically, s. 93.90(3)(a)2. currently allows local governments to use zoning to prevent large livestock facilities like CAFOs from locating in their community if both of two conditions are met:

- (1) The local government must have another zoning district that allows livestock facilities -- without a restriction on the number of animals -- as either a “permitted” or “conditional” use; ***and***
- (2) The local government must justify the need to use zoning to prohibit livestock facilities based upon size with “reasonable and scientifically defensible findings of fact, adopted by the political subdivision, that clearly show that the prohibition is necessary to protect public health or safety.”

In other words, current law prevents local governments from using zoning to effectively prohibit the siting or expansion of livestock facilities like CAFOs *unless* there is a reasonable and scientifically defensible reason for doing so in order to protect public health. Simply preferring to zone-out CAFOs or prevent them from expanding is not enough under current law – local governments must use credible science to prove an actual public health concern that justifies excluding larger farms from their community.

Unfortunately, SB 808 and AB 894 change the word “and” to “or” in current law, which eliminates the requirement that local governments demonstrate a scientifically-valid reason for zoning new or expanded CAFOs from their community. We believe doing so blows the door wide open to local government zoning – with absolutely no demonstration of need – that will leave CAFOs with no practical location to site a new facility or expand an existing one. Doing so will defeat the purpose of having a statewide livestock facilities siting law, and threaten future viability and growth of Wisconsin’s dairy industry.

Local governments may argue that under these bills, they will still be statutorily required to have a zoning district allowing livestock facilities without regard to size. This is true. However, they are not required to include an amount of acreage in that zoning district that would actually accommodate a CAFO, or land that is suitable for large-scale livestock facilities. Moreover, it’s very possible, if not likely,

that a CAFO would be unable to acquire property in this zoning district. Therefore, as a practical matter, the language in Section 20 of this bill could make it virtually impossible to site or expand a large-scale dairy operation in Wisconsin. We do not believe this is the intent of the authors of this legislation.

Growth and Scale in the Dairy Industry is Vital to its Viability

The dairy market in Wisconsin has been changing for more than a decade. Lower milk prices combined with growing operational and regulatory costs have resulted in razor thin profit margins. In fact, many dairy farms have gone bankrupt. Last year, we had 2,441 fewer dairy farms than we did five years earlier. However, the number of cows and total milk production has been relatively stable, even as the number of farms continues to decrease. This production stability is the result of consolidating smaller dairy producers into larger operations to achieve economies of scale that allow producers to remain viable.

When multiple family farms combine as business partners to form a larger operation, it is done out of economic necessity. That the number of cows per farm in Wisconsin is increasing is a simple fact of life, and there is no indication that the trend will reverse. In fact, the acceleration of this trend is likely an economic imperative.

We should embrace these market-driven changes that allow dairy operations to remain viable because they fortify our rural economies. Regrettably, we are seeing the hollowing-out of many rural portions of our state due to population shifts to urban areas. Farms, their suppliers, equipment dealers, and food manufacturers remain a driving force in rural economies, and anything that threatens their viability also threatens the economic health of rural Wisconsin. We need to find ways to reverse the depopulation of rural areas. Unfortunately, changes to the livestock facility siting law will have the exact opposite effect if they allow local governments – without a demonstration of scientific need – to use zoning to effectively block new or expanded large dairy farms. This will amplify the decline of dairy production, and accelerate the population shift from rural to urban areas.

Local Governments Are Actively Attempting to Block CAFOs

Our concern that local governments will use the language change in Section 20 to block new and expanded CAFOs is grounded in the actions of local governments themselves. For example, several counties, including Burnett, Polk, Bayfield, Ashland, Dunn, and Eau Claire have either introduced or enacted ordinances to place an unlawful moratorium on new or expanded CAFOs. These moratoria are clearly contrary to the plain language of the statewide siting law, as well as the 2012 Supreme Court decision that held local governments can't disapprove a new or expanded livestock facility that meets state standards.

Although many local governments work well with dairy operators in their jurisdiction, and are welcoming of the dairy industry, not all are. It's very troublesome that some local governments are brazen enough to adopt ordinances to block CAFOs, even when doing so is clearly illegal. The language in Section 20 would give the Legislature's blessing to local zoning laws that effectively prevent the siting of new or expanded CAFOs without demonstrating a scientific need. We are greatly concerned that many local governments would avail themselves of this new authority.

A February 11, 2020 memo to local elected officials from the Wisconsin Counties Association and the Wisconsin Towns association states the following with respect to SB 808 and AB 894:

“First, this bill clarifies that a local government may use its zoning authority to limit the size of livestock facilities.”

It's clear from the memo that Towns and counties believe this legislation gives them the authority to use zoning to limit the size of livestock facilities without a scientific justification for doing so, and we have no doubt they intend to use it. Doing so could be devastating to the economic viability of the dairy industry.

Conclusion

There are some very positive changes to the livestock facility siting law proposed in SB 808 and AB 894, and we want to thank the authors for putting forth this bill. That said, we do have a very serious concern with the unintended consequences associated with the language change proposed in Section 20. We respectfully request that you maintain current law in this section of the bill to ensure that Wisconsin's dairy industry is allowed to grow and scale-up to meet the demands of our changing dairy market. Doing so would also maintain the original intent of Wisconsin's bipartisan livestock siting law. WMC would enthusiastically support the legislation with this simple change. We thank you for your thoughtful consideration, and would be happy to answer any questions.



Soil & Water Conservation Department

Jerry Halverson, Department Director

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February 13, 2020

Public Hearing:

Senate Committee on Agriculture, Revenue and Financial Institutions

Assembly Committee on Agriculture

Regarding: Senate Bill 808 Assembly Bill 894

Since 2007, Manitowoc County has issued 28 facility siting licenses including approx. 32,000 cows and 17,000 youngstock.

I was a member of the 2004 -05 Technical Advisory Committee that developed the current requirements and standards in ATCP 51. I was also a member of the 2010, 2014, and 2018/19 Technical Advisory Committees that have recommended changes to make ATCP 51 better.

Back in the early 2000s, Manitowoc County had a lot of community conflict with expanding dairy farms. Opposition groups formed, many angry people, lawyers, rooms full of emotional people, and boards not knowing how to make decisions without standards to follow.

In 2007, Manitowoc County passed an ordinance for livestock facility siting and much of that conflict ended. If the application meets the standards and requirements outlined in ATCP 51, the applicant gets a license to expand or construct a new livestock facility. If it does not meet, they don't get the license.

I have four main areas of concerns with this bill in front of you.

#1. The bill takes away the ability for the political subdivision, in our case Manitowoc County, to review the license application for approval and moves that responsibility to DATCP staff. We at the local level know the farmer, the consultants, and land better than anyone at the State level. We have built relationships and trust and are held accountable by all County citizens.

With that said, this may be a better option for some that do not have staff available to properly review the application. I would recommend making this an optional choice for political subdivisions.

#2. After DATCP approves the application, the political subdivision may disapprove or prohibit the siting or expansion of a livestock facility for only three reasons. (a) it would violate a setback requirement, (b) the site is not zoned agricultural, (c) the proposed facility violates a building, electrical, or plumbing code.

These building codes are not required to be submitted with the application and we would not know what we were looking at if they were.

If DATCP staff miss other requirements in the application other than these three, the political subdivision cannot challenge it until they are considered an aggrieved person. This is a very inefficient and time consuming way to process the application. Let's communicate with all concerned when a problem is found, get it corrected and move on.

#3. Members of the Technical Review Board. This board would have the power to recommend that DATCP promulgate the rules as well as many other important responsibilities. Legislatures that passed the livestock siting law were very concerned that it was balanced and fair. This board must be as impartial as possible in order to make the right decisions for farm and non-farm citizens. Ask yourself if members of this board, as outlined in this bill, would be able to be impartial and represent all citizens of the State of Wisconsin.

#4. The bill eliminates the requirement that DATCP review every four years its rules specifying standards for siting and expanding livestock facilities.

Things change. One problem we have right now is that rules are developed, passed by boards and committees, and then get out of date, do not get updated, and no longer fit current needs. An example is in front of us today. Standards in Chapter ATCP 51 Livestock Facility have not been changed since 2005, the same original standards when this rule was passed.

This is a big deal in Manitowoc County and many other political subdivisions around the State. It has done a lot of good to reduce community conflict and brought people back together. Back in the early 2000's before the livestock siting law, we had farm families send their kids to a different school because of what other kids were saying to them about their farm. Let's not go back to that. Take some more time to get this as right as we can. We haven't changed the standards in 15 years so why not make it 16 years and end up with the best bill possible to put in front of you for discussion and a vote.

Thanks for your time!


Jerry Halverson



Submitted Testimony

Senate Bill 808 relating to livestock facility siting and expansion

Scott Laeser, Water Program Director, Clean Wisconsin

February 13, 2020

Thank you for the opportunity to submit testimony on Senate Bill (SB) 808 relating to livestock facility siting and expansion to both the Senate Committee on Agriculture, Revenue and Financial Institutions, and the Assembly Committee on Agriculture.

Clean Wisconsin is a non-profit environmental advocacy group focused on clean water, clean air, and clean energy issues. We were founded almost fifty years ago and have 20,000 members and supporters around the state. Clean Wisconsin employs scientists, policy experts, and legal staff to protect and improve our air and water resources.

I am Clean Wisconsin's Water Program Director, and my wife and I also own and operate an organic produce farm outside Argyle, WI. The changes SB 808 makes to Wisconsin's livestock siting rules will impact both our water resources and our rural landscape and communities. Clean Wisconsin believes any changes need to advance the dual goals of supporting agricultural operations and protecting water quality in Wisconsin, especially with a rapidly changing agricultural sector. Consolidation and a volatile agricultural economy are leading to fewer, larger farms on the landscape, which present different challenges for local governments and for the Department of Agriculture, Trade, and Consumer Protection. In its current form, SB 808 does not ultimately advance efforts to balance agricultural development with other community concerns, and we oppose the bill.

We should be updating our livestock siting rules to better reflect our knowledge about appropriate agricultural practices, to better protect our waters, and incentivize better practices. Instead, this bill creates more barriers to updating the rule, lessens the role of experts that can provide meaningful analysis and future suggested revisions to our livestock siting rule, and further diminishes already limited local control.

This bill creates a Livestock Facility Technical Review Board disproportionately represented by agricultural groups which would oversee certain DATCP rulemaking and "aggrieved persons" determinations, which are challenges to livestock siting facility or expansion applications. We have significant concerns about the mandated makeup of this review board, the authority it is given in place of DATCP, and the additional difficulties it would present to updating ATCP 51 as new information arises.

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As SB 808 further ties the hands of local communities, it hands additional responsibilities to the DNR and DATCP without providing resources. With ever larger farms, we should be increasing, not capping, the fees charged for the complex permits required of these operations, regardless of who oversees them. A frequently cited example is the steep costs Green County was burdened with in reviewing and approving a large operation in its jurisdiction. A more appropriate fee structure, such as one scaled to the size of the operation, should be allowed to help local governments recover more of the costs of administering and reviewing permits. A similar fee structure should be extended to DNR or DATCP if they are given additional responsibilities for livestock facility permitting.

Last, SB 808 prohibits local governments from requiring a fee, bonding, or security in livestock siting or expansion applications. This authority should be allowed as it protects local taxpayers in the event of environmental fallout or remediation cost relating to a large spill or CAFO bankruptcy.

With rapid changes in the agricultural sector and the trend towards fewer, larger herds, we need to permit local governments to work with their large livestock operators to balance the growth of agricultural facilities with other community concerns. We need to be thinking more proactively on how to best align government tools with the broadly articulated goals of making sure Wisconsin residents have access to clean water while supporting a prosperous agricultural community. In its current form, SB 808 is not how we accomplish these goals.

While we are open to some of the changes in this bill, the closed-door process of drafting this legislation and the limited stakeholders offered an opportunity to weigh in do not reflect well on an effort to update a rule that has not been updated in over 15 years. Instead, many of the groups that have repeatedly quashed previous updates helped draft this bill, and it is now being rushed through at the end of the legislative session with little opportunity for public review or input. Changes of this magnitude, and infrequency, to a law that affects many farms and countless rural residents throughout the state should be more transparent and inclusive of the perspectives of affected stakeholders that were largely left out of this process.

Thank you for the opportunity to submit testimony.

February 14, 2020
RE: AB894/SB808

Dear Legislators:

Please oppose AB894/SB808 as it further diminishes the ability of local rural governments to govern for the health, safety, and welfare of all citizens. It takes away even more local control on ATCP51, the Livestock Siting Law in these ways:

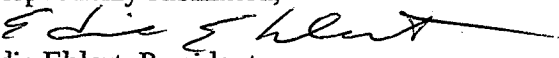
- It would impose a fee cap on local governments that review CAFO applications. Local governments should have the authority to set their own fee cap that has a reasonable relationship to the cost of reviewing an application, as is provided under Wis. Stat. s. 66.0628. Local governments want to be able to review these permits, and to charge a reasonable fee to cover the costs.
- The bill creates even more barriers to enacting local livestock siting standards that are more stringent than what the state requires.
- It would add language to the statute that expressly prohibits bonding. This means that local communities would be stuck footing the bill for remediating environmental contamination that might occur should a CAFO (and specifically its manure lagoons) be abandoned as a result of bankruptcy or other circumstances. These are big industrial operations. Why should local tax payers have to pay for spills or clean up for bankruptcy of a CAFO?
- It would eliminate the mandated 4-year review process for updating and improving the Livestock Facility Siting Law. The review process is one of the few opportunities for citizens and experts to have a voice in the way that CAFOs are sited and regulated.
- Instead, it would create a new technical review board with a majority of the seats reserved for representatives of industrial ag groups. It would also require a two-thirds vote of the new board for any future revisions to the Livestock Facility Siting Law. These two provisions would effectively eliminate the possibility that any meaningful revisions to the law will ever be passed.

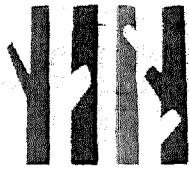
The expedited timeline gives a clear message: You don't want to give thoughtful time to review. The last Livestock Siting rule revision process lasted over 30 months, with huge investments of DATCP time, and an impressive body of input from citizens, experts, and other agricultural stakeholders. All this was unceremoniously scrapped. The language of this bill only became public on Monday, and we're already at a hearing to approve it.

While the Counties and Towns Associations have expressed initial support for this bill before the language was public, many of the elected officials we have spoken with have serious concerns, which is further evidence that there's confusion and misunderstanding of just how quickly and confusingly this bill is being put forward.

This bill effectively further erodes all other economic ventures in rural areas, including other farming ventures, tourism, recreational land use, clean water, and residential home values. ~~It is a disaster.~~
~~It is a disaster.~~ We deserve better from our legislators.

Respectfully submitted,


Edie Ehlert, President
Crawford Stewardship Project
Gays Mills, WI, Crawford County



Midwest Environmental Advocates

To: The Assembly Committee on Agriculture
From: Attorney Adam Voskuil, Midwest Environmental Advocates
Date: February 13, 2020
Re: Opposition for SB 808 & AB 894

Members of the Senate Committee on Agriculture, Revenue, Financial Institutions and the Assembly Committee on Agriculture, thank you for the opportunity to provide testimony in opposition of SB 808/AB 894. My name is Adam Voskuil, and I am a staff attorney at Midwest Environmental Advocates (MEA). MEA is a public interest environmental law center that has worked for over two decades to protect Wisconsin's land, air, water, and government. This bill would provide revise the Livestock Facility Siting law in Wisconsin and will have far reaching consequences for local governments attempting to regulate large scale farms around the state should it pass. Though promoted as a means to streamline local approvals, in effect, the law severely limited local authority to regulate the Wisconsin's largest industrial agriculture facilities and polluters.

Moreover, we have serious concerns regarding the creation of a technical review committee that will ensure ATCP 51, DATCP's implementation of this statute, remains stagnant. Finally, the bill places more restrictions placed on local governments and a heightened evidentiary bar that will limit a town or county's ability to set more stringent standards to protect the public health and safety.

The speed with which this legislation is moving means that important voices are being overlooked or ignored.

This expedited process associated with this bill is preventing meaningful review, discussion, and comments from the public and interested parties. SB 808 was circulated for co-sponsorship on Monday, February 10 with a less than 24-hour deadline of to sign on. Following that abbreviated schedule, the bill is already being reviewed today in Committee hearings. Since this hearing was announced, MEA has been inundated with citizen comments and concerns regarding the process and substance of this legislation. A Door County citizen explained that legislation of this complexity "needs in-depth consideration of its many aspects, including financial effects on local government, and environmental consequences of 'stream-lined' regulation;" further stating that "the timeline of this legislation itself makes it unworthy of passage." This speed is especially excessive when compared to the timeline for the most recent Livestock Facility Siting Rule revision attempt which lasted over 30 months and elicited hundreds comments from citizens, producers, and interested groups around the state. To exemplify how this process is ignoring citizen input, I have included the e-mailed testimony of individuals that reached out to MEA in the last 24 hours.

Eliminating the mandatory Technical Review of ATCP 51 will make updating the rule even harder because new science, standards, and technologies will not be readily available.

Currently, the Livestock Facility Siting Rule requires that DATCP convene a group of technical experts every four years. The technical expert committee reviews the standards and issues recommendations for rule revisions to the Department. That report often reiterates known deficiencies in ATCP 51, but it also provides scientific and technical updates which served as a guidepost for citizen input and proposed

rulemakings. This bill would effectively eliminate that expert committee review, making the decision on whether to ever perform future analyses discretionary. Additionally, there is no guidance indicating how often future reviews would occur and it seems unlikely that DATCP would convene those technical expert committees as regularly given the cost and time associated with the analysis. The elimination of this provision is highly problematic for the future of livestock siting in Wisconsin.

The creation of a technical review board will prevent any updates to an already outdated rule.

The technical review board as provided in this bill would ensure that no meaningful updates to ATCP 51 ever occur should this bill pass. The proposed nine member technical review board would consist of five members representing ag-business organizations and would require a 2/3's vote to promulgate any future Livestock Facility Siting rules. The bill therefore gives industrial agriculture groups the ultimate decision-making power in deciding whether new, more protective standards should be enacted. Even as more studies emerge showing the detrimental public health, economic, and environmental impacts of CAFOs and the industrial agriculture industry as a whole. Additionally, this bill creates an unnecessary administrative step by including an additional review vote in a rulemaking process that already struggles to meet the requisite 30-month statutory deadline. DATCP needs more flexibility and autonomy to fix the current rule, yet this bill essentially does the opposite.

As such, any updates to the current bill or future iterations in subsequent legislative sessions should not include any form of the technical review board.

Unclear language could create lasting issues with local authority to set more stringent standards.

Additionally, MEA has concerns that added language may increase the challenges for local governments to create more protective standards. Counties or towns looking to protect their residents already struggle to meet the evidentiary burden to enact stricter regulations, and this bill likely adds language to what is required. We recognize that there may be differences of opinion, or confusion and misunderstanding as to language in this bill, but that difference in understanding illustrates the need for more discussion and analysis.

Setting the Fee Cap and Prohibiting Bonding are possible tools away from local governments that could adopt livestock siting.

During the most recent rulemaking revision process for ATCP 51, DATCP confirmed that the department did not have the authority to limit fee caps or prohibit bonding. Both of these are valuable tools for local governments looking to protect their communities. Without an application fee cap, local governments could charge the actual costs they incur in reviewing Livestock Facility Siting applications. Current Wisconsin Law limits local governments to charging fees that are "reasonably related" to the service for which the fee is being imposed. Therefore, it would be logical to revert to the default law which would ensure that applicants are paying their fair-share for review of their application. Additionally, allowing bonding would ensure that remediation can occur for abandoned manure storage systems and their potential environmental fallout. Currently, there is no guarantee that an area will undergo restoration once a CAFO closes. As such, we believe there should be a bonding requirement at some governmental level to ensure manure storage systems are properly remediated.

Finally, we see that there are valuable portions of this bill that would allow for increased adoption of Livestock Facility Siting rules in local government around the state. However, the trade-offs of limiting public participation in an effort to push the bill through this session, creation of systems that ensure that technical reviews and rule revisions do not occur, and a number of other issues with this bill lead MEA to believe that more work needs to be done.

From: Terry Larson <tuppins45@icloud.com>
Sent: Thursday, February 13, 2020 4:05 AM
To: Adam Voskuil
Subject: livestock siting legislation (AB894/SB808) on Thursday, February 13, 2020 at 10:00 AM

This is typical of legislation supported and paid for by the NCBA and the rest of the other beef producing and processing organizations in the USA.

Full speed ahead , profits over the proper concerns for the environment and the long term impact these large livestock operations produce..

State Senator Howard Marklein (R-Spring Green), Representative Travis Tranel (R-Cuba City) and Representative Gary Tauchen (R-Bonduel) are politicians who :

Every student in the University of Wisconsin system needs to know these people by face and name. When voting time comes, well help assure they have a career change

Every voter in Wisconsin , and every person who cares about Wisconsin's environment should also know these politicians by face and name. They are not the Stewards of the land we need in Wisconsin. Campaign funding from the cattle industry may be all they are interested in.

With the passage of this Bill, which is being pushed through as quickly as possible, will exclude the public from determining if they will even have a say in approval of livestock operation sites.

The signing of this Bill will, in the end, destroy thousands of acres of Wisconsin Woodlands. And as mentioned, it will be done with out the public's input.

Words like stream line and planned expansion without public input is an environmental disaster that will be powered by the beef industry .

The beef industry meat producers has been buying up dairy farms in Wisconsin as the Dairy producers go bankrupt . We are changing out our dairy industry in Wisconsin for Sand Mining Operations and Cattle Production Operations. I can smell the Methane and Ammonia now.

Will this Bill have an impact on our environment?

Absolutely.

From: Winnowburrow Farm <winnowburrow@gmail.com>
Sent: Thursday, February 13, 2020 6:41 AM
To: Adam Voskuil
Subject: Regarding new legislation AB894/SB808

Attn: Adam Voskuil

I am writing you regarding the newly proposed legislation AB894/SB808 to weaken controls of siting and expanding CAFO's in our state. I am strongly against this legislation and am frankly appalled that our representatives are attempting to limit public input and participation in something that has a direct impact on the health and quality of life of rural residents.

With increasing reports of contaminated well water in the state of Wisconsin, our representatives should be working to reduce - if not eliminate - Confined Animal Feeding Operations and encourage programs for educating farmers offering resources for transitioning to regenerative farming practices.

It is vital that residents of Wisconsin - and all American citizens - retain local controls over industries that have such a high impact on air quality, water safety and real estate value. Removing controls such as the 4-year mandated review, revisions of the Livestock Facility Citing Law, prohibiting bonding and imposing a fee cap conveys that our legislators care more about money from corporate farms that are wrecking our environment than the folks who have to live with these monstrosities in our own backyards.

I vehemently oppose this legislation and the expedited timeline that has been set for voting. Public participation and input is necessary and it my right as a Wisconsin resident to weigh in on decisions that affect me, my family and my neighbors.

Regards,
Bonnie Warndahl

--
Sustainably Grown Flowers, Herbs & Heirloom Produce from Seed to Table
www.winnowburrow.com
612-462-9311

From: Rick Fahrenkrug <rfahr07@gmail.com>
Sent: Thursday, February 13, 2020 8:07 AM
To: Adam Voskuil
Subject: STOP the Livestock Siting Rule

This ill-conceived “Livestock Siting Rule” has shown time and again its impact on local communities. Since 2003, local communities have been faced with the increased costs of CAFO farming—this is an egregious and unsustainable farming practice that must be stopped.

The Legislature is not capable of understanding the total impact to communities without living there. Disrupted family life from —high nitrate and phosphorous damage to soil, water and air—is crippling these areas.

The Legislature is acting irresponsibly for the citizens of Wisconsin by not considering and acting in response to the people who live near these CAFOs.

Since the mid-90’s Wisconsin has gone from 6 to over 300 CAFOs with the promise of jobs and increased tax revenues. What happened to that? At the same time the WIGOP has given away tax incentives and bribes to businesses of over \$21 Billion...to Foxconn, K-C, and many businesses who did not comply with the “promise” to increased jobs or revenues?

Many of these “industrial farms” are being propped up by immigrants who are “milking in the Shadows.—slave labor.” These people are not being paid a “living wage” and nothing has been done to insure their safety while working in the Wisconsin economy. How is that fair, just or within the best interests of our citizens.

Please STOP the Livestock Siting Rule.

JR Fahrenkrug
Neenah, WI 54956

From: Virginia Quay <giner.way@gmail.com>
Sent: Thursday, February 13, 2020 7:55 AM
To: Adam Voskuil
Subject: Livetock siting legislation (AB894/SB808)

Mr. Voskuil,

I am aware of the proposed livestock siting legislation today, Thursday, February 13, and am opposed to the provisions of the bill for various reasons. Primarily it reduces the opportunity for local control that is so important in our state. I live in Ashland, WI, that was threatened with a CAFO that had the potential for disasterous repercussions were there a large overflow from a rain event such as we have endured in the last few years. Fortunately, more informed, reason heads were able to study the issue and advise what harm to Lake Superior, our health and our livelihood in a tourist economy could happen as a result of the CAFO. Further the air quality could have been compromised--and we have some of the purist air in the country.

Big business interests are secondary to the health of our environment and citizens and we should have maximum input and decision making in placement of large animal concentrated farms! The provisions of this bill reduce the effectiveness of local control.

This bill is being rushed through without opportunity for the public to have adequate time to study and respond to it. I emphatically oppose these tactics and encourage you put the brakes on a vote on the bill.

Sincerely,
Virginia Quay
923 9th Ave. West
Ashland, WI 54806

And I say this with some knowledge of large livestock and poultry farming operations. Having been closely involved with the World Bank and the World Water Coalition to set up a pilot program in China.

We brought large chemical water treatment companies, water testing companies, and water filtration companies together to promote policies and programs, new technologies, and educate rural farmers regarding clean potable water programs to help deal with China's main problem, clean, safe, drinking water.

The cattle grazing, enclosed pen feeding facilities, slaughter plants, and packaging facilities, bring low paying jobs to Wisconsin at the cost of permanent harm to our Wisconsin environment.

Beef and dairy cattle operations produce a number of environmental pollutants that contribute to climate change, air, and water quality issues. These constituents include greenhouse gases, particulate matter, hydrogen sulfide, ammonia, and volatile organic compounds.

Globally Cattle operations are one of the largest sources of green house gases in the World (GHG) and one of the leading causal factors in the loss of biodiversity and in developed and emerging countries. Do we want to turn this industry lose in Wisconsin without close public scrutiny? We already have the sand mining operations polluting our rivers and streams.

The passage of this Bill may bring beef industry money to the coffers of the politicians sponsoring this Bill, those politicians who are not stewards of our Wisconsin environment, those politicians who want to force fast legislation through for approval before the tax payers and voter of this State realize the Bill was even introduced. These are the Politicians who should start looking for a new occupation should this Bill get passed. If passed, it will play loud and clear in the press, and the Legislative and Beef Organization spin masters won't be able to turn this pig's ear into a silk purse.

I have seen what large cattle farm grazing operations have done in my area.

I use to enjoy hiking in the Bad Axe Wilderness area South of LaCrosse. I recently returned from 4 years in China. I put on my hiking boots and headed to the Bad

Axe. I got there and found much of the land posted "No Trespassing. We will prosecute you to the full extent of the law." I stopped and asked if I might hike down around the Bad Axe River. I was told no. We have live stock on this land and it is private property. Go to one of the State Parks if you want to go hiking . Wow! Not only have these Corporate grazing farms been buying up large plots of land. They are restricting hikers and others from even setting foot on the land. Further, I noticed the timber is being cut back for grazing. Beautiful Forrest cover I use to hike in is gone. However, Outback has been pushing their side of beef special .

I have spent a considerable part of my career working for large Corporations in the Water Quality industry.

I having been involved in Safe Drinking Water Programs in China where problems with large sheep and duck farms and processing operations have led to sickness and disease. Fecal matter, bacteria, coupled with chemical and heavy metal pollution has made safe drinking water in some rural streams in China unusable (both surface and ground water has been impacted by pork, duck, and sheep mega farming operations.).

I was involved with the World Bank And World Water Coalition to set up a pilot program to provide safe drinking water to rural communities in China. Large livestock operations are a mounting concern for China. These large livestock operations (Pig, Sheep , and poultry), are main sources of waterway and stream pollution. And as we all know, Swine Flue, Bird Flue, SARS, and now Coronavirus, have all come out of China. The suspected source of these Virus's have been large, unclean, holding pen operations

For poultry, and livestock. China waterways are also some of the most polluted rivers and streams in the World. Stomach cancer is becoming more common every year in China. Is it the quality of the drinking water? , possibly . There appears to be a direct geographic correlation between geographic water quality and Stomach cancer.

I worked for Nalco Chemical Corp (one of the World's largest water treatment chemical companies in the World). Nalco had a rural water purification program

while I was working in product development at Nalco. One of the key target market segments were large live stock feeding areas. These operations were some of the largest polluters in rural areas of the USA. I found these live stock feeding and holding pens one of the worst environmentally damaging operations in the rural Water Treatment Industry.

In addition, these operations were habitual violators of EPA clean water and air standards.

I have also been involved in the water filtration systems industry.

I worked for and with Filterite and Pall Filtration Systems for a number of years. I have pulled cartridge filters and run bios on them and seen heavy loadings of slimy pyrogens on the surface of membrane filters in areas where the run-off from animal fecal matter and animal generated bacteria resulted in the potential for pyrogen formation on water filtration cartridges. Pyrogens are the dead slimy micro bodies of bacteria that coat pre-filters and membrane filters with pyrogens that can pass through a water filtration system. These pyrogens can result in high fevers if consumed.

These politicians should visit some of these sites (not the sites dressed up for regulatory bodies and the public, but those destroying the surrounding environment.).

At a certain point, local streams Can become so polluted with fecal matter from live stock run off that:

- 1.) You don't drink from the stream
- 2.) don't let your dog drink from the stream
- 3.) don't eat any fish from this stream

4.) and if you want to see dead fish laying along a river and stream, just look for large cattle grazing and feeding pens in the area who have thousands of gallons of run- off into local waterways.

5.) these operations destroy biodiversity .

If you push this legislation through to block John Q Citizen from having a say in where and , if, cattle pens and meat processing operations can be started in Wisconsin without the public's right to have a say, you are breaking the covenant with the Tax payers and voters of Wisconsin.

People showing up with cameras to document the inhumane way cattle are handled, pumped full of steroids and antibiotics to keep them plumped up on water weight so they are prepare for death and water consuming processing ?

This industry is already under attack for the inhumane way they treat a living animal before they are killed.

I have been in slaughter houses . I have watched cows going crazy when they smell the warm blood coming from the slaughter pen. They are not brainless creatures. They know what their fate is. You can see it in their eyes.

I have seen cows in holding and feeding barns, beaten with axe handles to get them to move. I have seen workers wrap chains around sick cows and use a skid steer loader to drag the over the ground to get them separated .

I use to make sales calls on the slaughter plants and leather tanning operations for the beef industry. The smell alone is enough to gag you.

Imagine students on the Madison Campus finding out how you pushed this legislation through to exclude them in the future regarding cattle operations in their home communities.

Those who wrote this Bill are just setting themselves up for student and voter protests.

Organizations for prevention of Inhumane treatment of animals might be invited to hold a film expo on campus showing footage of cattle operations.

Remember the fur industry. Gee what happened to fur coats.

.Enjoying the outdoors requires you to go to a small part of land (a State Park) where State Park Rangers are now more like state police. You are allowed to hike along a carefully groomed trail. You share this trail with off trail bikers, 4 wheel off road vehicles, cross country skiers, people walking dogs. If you see a bird or animal in the park, you are lucky,

Now the signs are everywhere "NO TRESPASSING, you will be prosecuted to the full extent of the law." Thanks to large corporate beef producers buying up large areas of the land because farmers are going under. Selling their land is their last option.

Whole Forrest's cut back, lumber sold, to increase grazing acreage. and the people running the operations are very unfriendly.

Some are armed, especially around hunting season, and they are not hunting deer, they are guarding against hunters trespassing.

How will your neighbors around you feel when they realize you supported such a Bill.? Will the students, your neighbors, and voters wonder if you sold out to the beef industry hoping to get campaign money or business favors down the road ? Time will tell if this Bill is pushed through without discussion.

Only 2% of the water on the face of this earth and below is safe to drink

Are we not stewards of our land?

I ask those of you that care about our environment to vote no on this Bill. We will all know if it passes. All we need to do is lift our noses into the air and smell the ammonia and methane . Or go fly fishing in a local stream, that is if you can get to the stream across posted land . If the stream is turning a yellow colored brown. Well the cows are at the waters edge taking a shit.

Please vote no regarding Legislation

Terry Larson
Tuppins45@live.com

Sent from my iPhone

From: asamkod@aol.com
Sent: Wednesday, February 12, 2020 10:44 PM
To: Adam Voskuil
Subject: Strongly Oppose AB894/SB808

To Whom it May Concern

I strongly oppose AB894/SB808 concerning Livestock Siting.

This bill will only create more CAFOs in this State and do nothing for the dairy crisis we are now experiencing within the small family farm community. CAFOs ARE the PROBLEM! I want more small family dairy farmers to succeed and you should be doing more for these families than for the CAFOs. The small family farms are the ones disappearing because of the increased CAFOs. That is also why our rural communities are falling apart.

Local communities should have the right to impose more stringent standards than the State based on the local topography and ground water issues and especially local community concerns about the siting. They should also be able to do whatever it takes to properly review an application and not have an arbitrary limit on what the cost will be.

Bonding for any large operation such as a CAFO should be required in case of any financial liability issue in which the local community would then be stuck with clean up costs and remediation of any water contamination issue caused by the operation or any other environmental issue. The local community should not be the ones to be on the hook financially when the CAFOs are financially unable after the fact.

All stake holders of the community need to be fairly represented when dealing with Livestock Facility Siting Law and the revisions in the future. The community has to live with the CAFO and its effects for the future and have to live with any environmental impacts well after the farm may not even be there. They should have a right to have a fair say on these laws and revisions and not just industry insiders in a rigged review board. Industry should not have a predetermined rigged system created to uphold what they want.

I also strongly oppose eliminating the mandated 4-year review process for updating and improving the Livestock Siting Law. Based on new studies of how ground water is affected by such operations it is imperative that we as a community have the opportunity to adjust when such issues come to light or any other issue that should be dealt with.

Proper funding needs to be allocated by the legislature to the State or other communities to do a proper review of applications or else you need to sufficiently apportion some of that cost on the progressive fees on the applicant based on size of operation. Failing to do this is a sham of a process.

Please review the comments that the Ag Department came up with in the recent year concerning the Livestock Siting Rule Revision. They were on the right track. Looking at the current water crisis in the state of Wisconsin this is not the time to be catering to large CAFOs and at the expense of the small family dairy farmer.

Sincerely,

Joan C. Arnold
Colonel, US Army Retired and former member of small family dairy farmer
now currently small farm vegetable grower
285 County Road PP
Rudolph, WI 54475
715-435-3518

From: Carolyn Mahlum-Jenkins <cgjenks@earthlink.net>
Sent: Wednesday, February 12, 2020 9:34 PM
To: Adam Voskuil
Subject: Livestock Siting Rule

Adam,

The public spoke at the Water Quality Hearing throughout Wisconsin all spring and summer and the overwhelming response was modify all sorts of things. Nothing has come of Robin Voss Water Quality Hearings-legislation has ignored the comments. The people need to be heard and it should be done again and again until the proletariat are exhausted. Democracy is a joke in Wisconsin-the people voted for change and the republican legislators are holding change as a hostage.

I'm in New Zealand and can not testify at the hearing.

Carolyn Mahlum-Jenkins
PS Try to represent my opinion.

Sent from my iPhone

From: John S Durbrow <jdurbrow@gmail.com>
Sent: Wednesday, February 12, 2020 9:15 PM
To: Adam Voskuil
Cc: Rep.Tittl@legis.wi.gov; Sen.LeMahieu@legis.wisconsin.gov
Subject: (AB894/SB808)

Greetings,

It critical that recent proposals to limit local control of CAFO siting standards be stopped. As has been clearly demonstrated in the Karst geology of Kewaunee County, local conditions are uniquely dangerous in that nutrients and contaminants are "mainlined" into aquifers. Locally formulated restrictions are essential to a scientifically responsive siting standards. Similarly, in the Driftless area, where I have a farm, the steep slopes and marked channelization of the runoff patterns will necessarily be addressed only by locally derived standards.

In almost any field, advances in data and understanding have contributed to new paradigm of "mass customization". One size never fits all, and in this era, any move in that direction is irresponsible.

Best Regards,

John Durbrow
9601 Lakeshore Road
Newton, WI 53063
920-726-4850

From: Hawthorn McCracken <mccrackencc15@gmail.com>
Sent: Wednesday, February 12, 2020 8:31 PM
To: Adam Voskuil
Subject: Livestock Siting Bill

I am writing in regards to AB894/SB808

This bill cannot be allowed to move forward.

Local governments should have the authority to set their own fee cap that has a reasonable relationship to the cost of reviewing an application, as is provided under Wis. Stat. s. 66.0628.

It would further erode what little authority local governments currently have to protect their constituents. The bill creates even more barriers to enacting livestock siting standards that are more stringent than what the state requires. It would add language to the statute that expressly prohibits bonding. This means that local communities would be stuck footing the bill for remediating environmental contamination that might occur should a CAFO (and specifically its manure lagoons) be abandoned as a result of bankruptcy or other circumstances.

It would create a new technical review board with a majority of the seats reserved for representatives of industrial ag groups. It would also require a two-thirds vote of the new board for any future revisions to the Livestock Facility Siting Law. These two provisions would effectively eliminate the possibility that any meaningful revisions to the law will ever be passed.

It would eliminate the mandated 4-year review process for updating and improving the Livestock Facility Siting Law. The review process is one of the few opportunities for citizens to have a voice in the way that CAFOs are sited and regulated. In addition, eliminating the review process would make it nearly impossible to update the Livestock Facility Siting Law as new scientific and technical data becomes available.

The expedited timeline for passing this legislation allows little time for meaningful public input and participation. The speed with which this process is moving forward is indefensible when compared to the timeline for the last Livestock Siting rule revision which lasted over 30 months. That rule revision brought in substantial comments from citizens, producers, and other interested parties from around the state. Now, Republican legislators, in partnership with industrial ag groups, are pushing a bill forward that undercuts much of that work.

From: Karen Wilson <jokawi@gmail.com>
Sent: Wednesday, February 12, 2020 8:15 PM
To: Adam Voskuil
Subject: AB 894/SB808

Hello,

Here is my heartfelt testimony on AB894/SB808:

As a matter of principle, no powers should be taken from local units of government without extended debate based on full information to all on all the implications thereof. Therefore, the timeline for this legislation itself makes it unworthy of passage. Such new legislation needs in-depth consideration of its many aspects, including financial effects on local government, and environmental consequences of "stream-lined" regulation that eliminate critical points of review. The citizens of my County, Door, and its close neighbor, Kewaunee, find these matters to be far more than academic. They involve our lives and health. No way should the State legislature make a move to modify regulation in a way that sidelines our voices. Reducing or making regulation more "efficient" should not be a way to keep out the locals.

Thank you,
Karen Wilson
PO Box 347 Egg Harbor WI 54209.

From: Anita Martin <anitajmartin2014@gmail.com>
Sent: Thursday, February 13, 2020 8:00 AM
To: Adam Voskuil
Subject: Fwd: Final/corrected version--testimony
Attachments: Hearing-AB 894SB808 21320. Martin .docx

----- Forwarded message -----

From: **Anita Martin** <anitajmartin2014@gmail.com>
Date: Thu, Feb 13, 2020 at 7:58 AM
Subject: Final/corrected version--testimony
To: Kara O'Connor <koconnor@wisconsinfarmersunion.com>

February 13, 2020

Dear Legislators,

Thank you for the opportunity to weigh in on the proposed Livestock Siting legislation.

My name is Anita J. Martin. I live at 261 Pinnacle Drive in Lake Mills, Wisconsin, Jefferson County.

As our entrusted elected officials, I respectfully implore you to vote against AB 894/SB 808.

Not only are numerous provisions in the drafted legislation problematic; the rapidity with which the version in front of you has been drafted, reviewed, and brought forward appears to have already caused confusion and legal misinterpretation. Before the horse is even out of the gate. Not a good sign.

It's my understanding, the authors of the bill provided about 48 hours for co-sponsors to sign on. What is/are the reasons for this Warp Speed rush? Rarely does legislation of this complexity, magnitude, and potential for significant long-term ramifications prove legally solid, much less legislatively sound, when so rapidly crafted and pushed forward.

How many of you own homes? This current situation reminds me of sitting at the table for the closing when we bought our first home in 1992. Things were moving way too fast and lots of papers were being put in front of me to sign. When it came time to sign the final documents, I hesitated, with good reason, looking at my husband and whispering, "I don't know if I should sign this. I really don't know what the <Hades> I am signing." Perhaps some of you can relate.

Please ask yourself, "Do I really understand the proposed legislation I'm being asked to vote on?" Reading through it, I sure don't understand it, and many other folks concur. Over the last 2 days alone, citizens throughout the state (including farmers and municipal leaders), along with legislative experts and at least one attorney have all said the current language and provisions are problematic and leave many unanswered questions.

In fact, it appears from information the Wisconsin Counties Association emailed members within the last 48 hours, they have misinterpreted key provisions in rendering an analysis of the bill. This proposed legislation does not, in fact, "maintain local control at its current level."

If enacted, it would actually strip away key components of local control from counties and towns. The bill would remove local municipalities' ability to approve or disapprove applications; these elected officials are the persons that best know their land, soil, topography, etc. Putting this authority into the hands of DATCP is both unwise and dangerous for our rural communities, for myriad reasons.
(Continued)

Page 2 (Testimony, AB 894/SB808)

Why remove the requirement for a 4-year technical review process? Why would you **not** want standards and rules of this nature and magnitude carefully reviewed by experts on a regular basis?

Yes, the review process cost taxpayers a lot over the past decade. So now the answer is not requiring any regularly scheduled review at all?

That would be like deciding you're never going to the doctor again; because the last four times you went, you paid a lot of money and didn't follow the doctor's advice anyway. What could cutting out visits to the doctor end up costing you later on down the road?

In the same vain, what could forgoing regular review of Livestock Siting standards end up costing taxpayers, families, rural communities, the environment, and the natural resources in our state, in the future?

The rapidity with which technology is advancing is undisputed. The rapidity with which agricultural practices are changing is also undisputed. The speed at which costs to maintain and repair rural roads are increasing is undisputed as well. (Hundreds testified regarding these issues last summer, including the Wisconsin Towns Association.)

In conclusion, you have good reasons to slow down. Please vote against this legislation.

Thank you again for the opportunity to weigh in, and for carefully considering these concerns.

Sincerely,
Anita J. Martin, B.S.
261 Pinnacle Drive
Lake Mills, WI 53551-2003
(920) 648-4720

From: Lisa Anderson <toranderson@wi-net.com>
Sent: Thursday, February 13, 2020 7:50 AM
To: Adam Voskuil
Subject: comments for the livestock siting hearing today

I live in Nelsonville in Portage County which is nestled between the one CAFO in Portage County about a half mile up gradient to the village limits and the beautiful Tormorrow River flowing through the village. We have approximately 155 people in the village and have limited resources to impact our own quality of life as it pertains to the CAFO next door. 74% of wells tested and reported have at one time been contaminated with nitrate above the EPA limit. Fully half of the wells that have been tested in the last two years have been over the limit. What recourse does this tiny village have in the face of the resources that the agricultural industry has in comparison? Why would the legislature take further control away from local governments by making it harder to create more protective standards for our community based on our specific circumstances?

I oppose the proposed legislation (AB894/SB808) and am beside myself that Wisconsin's legislature would even be considering these bills.

Concerning language that prohibits bonding by local governments, that bonding would actually protect the community from the financial and environmental consequences associated with a potential bankrupted CAFO and its manure lagoons. We don't have the resources to bear this burden!

I don't understand why the legislators authoring these bills would eliminate the 4-year review process for updating the Livestock Facility Siting Law and try to push through these changes so quickly will little time for the public to become aware and get involved in what they are doing. These assembly members and state senators who are promoting these changes show little concern for the residents of the state that have to deal with CAFOs in their backyards and their right to healthy natural resources around them. This is simply unacceptable for the legislature to disempower citizens of this state so egregiously.

I implore our legislature not to support and pass this truly awful legislation that guts local control. I ask the assembly and senate to put themselves in our shoes when they are considering such protections for big ag. I ask our legislators, can you drink your water? Never forget that the issue here is public health. People are getting sick and dying of cancer and suffering with thyroid disease. Put yourselves in our shoes before you enact legislation like this!

Lisa Anderson

Nelsonville, WI

From: Suzanne Niemi <suzyxisu64@gmail.com>
Sent: Thursday, February 13, 2020 6:09 AM
To: Adam Voskuil; Sen.Bewley@legis.wi.gov; Rep.Meyers@legis.wisconsin.gov
Subject: CAFO Proliferation - Livestock siting bill removing public input and local control

Dear Mr. Voskuil, Ms. Bewley and Ms. Meyers,

The proposed legislation to weaken local control of CAFO livestock siting is reprehensible and dangerous to our state. The expedited process being used by the legislature is undemocratic and needs to be stopped. For those of us in Northern Wisconsin, the possibility of a CAFO site would destroy one of our primary income producers, tourism in addition to polluting our great water! This is totally unacceptable! As a constituent, I ask that you oppose this bill. The process used to try to push this bill through shows that the sponsors care nothing for a government by the people and for the people.

Thank you for your consideration.

Sue Niemi
Iron River, Wisconsin

Here are some facts:

- It would impose a fee cap on local governments that review CAFO applications. Local governments should have the authority to set their own fee cap that has a reasonable relationship to the cost of reviewing an application, as is provided under Wis. Stat. s. 66.0628.
- It would further erode what little authority local governments currently have to protect their constituents. The bill creates even more barriers to enacting livestock siting standards that are more stringent than what the state requires.*
- It would add language to the statute that expressly prohibits bonding. This means that local communities would be stuck footing the bill for remediating environmental contamination that might occur should a CAFO (and specifically its manure lagoons) be abandoned as a result of bankruptcy or other circumstances.

- It would create a new technical review board with a majority of the seats reserved for representatives of industrial ag groups. It would also require a two-thirds vote of the new board for any future revisions to the Livestock Facility Siting Law. These two provisions would effectively eliminate the possibility that any meaningful revisions to the law will ever be passed.
- It would eliminate the mandated 4-year review process for updating and improving the Livestock Facility Siting Law. The review process is one of the few opportunities for citizens to have a voice in the way that CAFOs are sited and regulated. In addition, eliminating the review process would make it nearly impossible to update the Livestock Facility Siting Law as new scientific and technical data becomes available.
- **The expedited timeline for passing this legislation allows little time for meaningful public input and participation.** The speed with which this process is moving forward is indefensible when compared to the timeline for the last Livestock Siting rule revision which lasted over 30 months. That rule revision brought in substantial comments from citizens, producers, and other interested parties from around the state. Now, Republican legislators, in partnership with industrial ag groups, are pushing a bill forward that undercuts much of that work.

From: Reinelde Lea <wrenelea@gmail.com>
Sent: Wednesday, February 12, 2020 11:39 PM
To: Adam Voskuil
Subject: Proposed CAFO Siting Law

Dear Atty. Voskuil,

My husband and I are long-time residents of Northeast Wisconsin. You must know that the people of our area, due to its limestone geologic features that do not adequately filter surface water as it enters the water table, suffer from polluted wells and undrinkable water. This problem is exacerbated by the large number of concentrated animal feeding operations and the exceedingly large amount of manure produced, which is spread over land in both Kewaunee and in Door counties.

The people feeling the adverse effects of these harmful practices are our friends and neighbors. They have been fighting industrial agriculture for years and trying to make headway against lax and ineffectual regulations and the push from certain quarters to foist this cruel and highly environmentally damaging strain of agriculture on the rest of us. We don't want this! This is not progress! This is an assault on our way of lives and well-being!

We ask our representatives not to rush to judgment on this important matter but to take the time to hear from their constituents and establish the facts. The attempt to push this new law through is big money talking, unmindful of the basic needs of the people.

Thank you for your request for comments and for representing our interests.

Sincerely,

Reinelde C. Lea
Fish Creek, WI

From: Robert Merline <merllr@frontier.com>
Sent: Wednesday, February 12, 2020 10:32 PM
To: Adam Voskuil
Subject: AB894/SB808 Siting of CAFOs

Dear Attorney Voskuil:

We (Robert & Linda Merline) object to: The speed at which these bills AB894/SB808 are being moved forward because it severely limits public input. We believe this is being done intentionally to favor private industry.

We also object bills AB894/SB808 because they take away the voice of local control to have a say in what happens to their own communities, like protecting their drinking water supply.

In conclusion, both the speed at which the bills are being brought forward and the bills themselves to limit the power of the public over private industry are an affront to our democracy!

**Robert & Linda Merline
3588 Peninsula Players Road
Fish Creek, WI 54212
merllr@frontier.com**

From: Tom <tomhirth@gmail.com>
Sent: Wednesday, February 12, 2020 9:23 PM
To: Adam Voskuil
Subject: AB894/SB808

Atty Voskuil,

I would like to go on the record as being vehemently opposed to this bill. The Republican strategy of fast-tracking egregious legislation to escape scrutiny is evident here. The particularly troubling points for me are:

They (Republicans) claim to not want to interfere with local control, yet here they want to cap CAFO review fees. So, no interference with local governments unless it is to benefit big business at local people's expense.

The prohibition on bonding is a terrible idea that leaves local residents on the hook for environmental damage that is inevitable with this scale of factory farming. The water problem in Kewaunee is an early indicator of trouble with coliforms and Cryptosporidium among other pathogens and chemicals. There is a serious environmental justice problem here since not everyone can afford reverse-osmosis systems, nor should they have to.

Stacking the review board with big Ag people and requiring 2/3 majority for changes ensures that big Ag will get what they want without oversight. Local people would have no say about what happens in their communities.

Thank you for your work,

Tom Hirth
5320 South Ridge Way
Middleton WI 53562
608-212-3024

From: Louise Petering <l.petering14@att.net>
Sent: Wednesday, February 12, 2020 8:59 PM
To: Adam Voskuil
Subject: Comment re proposed CAFO legislation

Adam,

Limiting public input as proposed in the livestock siting legislation is anathema to our democracy and robs Wisconsin family farmers and the general public of their voice. The public has the right to know what is being proposed, its potential to negatively affect lives and our environment - and the opportunity to voice either support or opposition to the proposal.

In addition, this hurry-scurry approach to legislating is likely to result in unforeseen negative outcomes. (Think the problems in Wisconsin's east with karst topography.) Remember, "an ounce of prevention is worth a pound of cure." Prevention prevents costs, whereas remediation is costly - and usually the public pays, sometimes with negative health outcomes and certainly with cash/higher taxes, or settling for a degraded environment and poor health.

The fee cap on local governments as they review CAFO applications is simply a way of shifting costs to taxpayers - either in \$\$\$s or poor water quality and health outcomes resulting from limited understanding of the long term effects of this proposal. **The idea of a local government being stuck with remediation costs after its hands are tied by limiting local authority is essentially taxation without representation.**

To have a technical review board run by a majority of industry representatives who then have the ability to quash future revisions to the Livestock Facility Siting Law **is letting the fox guard the hen house. Are those proposing this legislation on the side of Wisconsin's struggling, remaining family farmers?**

**Louise Petering, resident, taxpayer and concerned citizen
Fox Point, Milwaukee County**

From: Russ Tooley <rtooley@lakefield.net>
Sent: Wednesday, February 12, 2020 8:21 PM
To: Adam Voskuil
Subject: CAFO Siting

Please do what you can to prohibit changes to the livestock siting requirements that would make it even harder for local government to respond to constituents. In addition, the current 4 year review should be kept or reduced to two because science is always making it possible to improve the health of our animals and the people in CAFO neighborhoods. I live near a CAFO and worry that any further downturn in the agriculture economy will force that CAFO to take shortcuts.

Thank you

Russ Tooley
12505 Lake Shore Rd
Cleveland, WI 53015
920-726-4900
rtooley@lakefield.net

From: GERRI WENGER FRIEDBERG <13gwf13@gmail.com>
Sent: Wednesday, February 12, 2020 4:25 PM
To: Adam Voskuil
Subject: CAFOs must meet HI'er, NOT lower standards...

Even the 'best' ones have been guilty of skirting the minimal requirements for public safety of land/water/local review authority.

There are spills that don't get cleaned up sufficiently, methane digesters that don't work effectively enuf, property values ruined, ETC

We MUST help family farms who practice the highest standards maintain MidWest generations of healthy farming/dairy practice!

Thanks,
Gerri Friedberg, M.A.
Egg Harbor

Public Hearing Testimony - AB 894 and SB 808 - February 13, 2020
Donna Swanson, 5940 Stanton Rd., Platteville, WI 53818 608-642-3054

I am testifying in opposition to Assembly Bill 894 and Senate Bill 808.

Before getting into the specifics which I oppose, I'd like to voice my disapproval and disappointment regarding the entire scenario surrounding this legislation. DATCP 51, the Livestock Facility Siting Administrative Rule, was enacted in 2006 and has not undergone any changes since then, even though the Technical Review Committee has met and made reports every 4 years.

When the process of considering the suggestions of the Committee was finally allowed to proceed and public hearings were held around the state over many months, I attended one of those hearings and testified. Abruptly, and under great industry and political pressure, the item was pulled from the agenda of the DATCP Board last November. The public hearings that were held prior to that, gave everyone, including industry stakeholders, every opportunity to express their views on the proposed changes.

In seeking co-sponsors for this legislation, Sen Marklein and Reps Tranel and Taucher, stated, "Engaged stakeholders decided to work together to draft legislation to update livestock siting statutes and processes,". Those stakeholders had many months and public hearing opportunities to put forth their suggestions prior to last November. This legislation before you today has been crafted with a singular viewpoint, limited input and a record-breaking track to passage.

An issue with the complexity and high impact to citizens and the environment such as this deserves more than one week of scrutiny. For this reason alone, I ask that you do not move these bills forward now, at the end of a legislative session, but rather to allow sufficient time that a full consideration can be given to the effects these measures will have on ALL stakeholders, not just those listed by the authors.

Specifically I oppose the prohibition on local units of government seeking any type of bond or financial assurance from the operator. When an operator runs into financial difficulties or bankruptcy, manure storage can be one of the areas left unattended and with the potential for catastrophic consequences. Government can be faced with paying the bill for removal

or cleanup and the cost can be high. Just this week I read a story from Arkansas about lagoons at a hog CAFO holding 2 million gallons of manure being emptied for \$749,000 with the bill being paid by the state.

I also am opposed to the portion of the legislation which would remove the requirement for the Department to review the siting rules every four years. Things are constantly changing in technology, land use practices, conservation practices and climate. The standards that were enacted 14 years ago don't necessarily apply or make sense today. It is only prudent to incorporate a regular, fixed schedule for evaluation of the standards.

The makeup of the Technical Review Committee is also an item which I oppose because it is not fairly balanced and the two-thirds vote of the Review Committee needed to recommend promulgation of a rule, is excessive. In addition to being a member of Wisconsin Farmers Union, I belong to Grant County Rural Stewardship. There are many regional, environmental organizations like ours that would have no representation on this committee as it's currently constructed.

- End -

Public Hearing Testimony - AB894 and SB808 - February 13, 2020
David Swanson, 5940 Stanton Rd., Platteville, WI 53818 - 608-331-0726

I am a member of Wisconsin Farmers Union, Trout Unlimited and Grant County Rural Stewardship. I am testifying in opposition to this legislation.

This legislation moves us farther away from any local control of livestock facility siting. Under the current rules, local units of government have a fairly restricted ability to oversee these large, complex farming operations, but they are able to set forth some oversight and review the applications made under their ordinances. This legislation would take away that review and put it in DATCP.

A related issue is the inability of local governments to require fees from the applicants that are sufficient to cover the costs of a complete and thorough review of the application. Local taxpayers are carrying the burden of ensuring these complex megafarms will operate in a manner that does not jeopardize the health and safety of neighboring residents and communities.

Also an issue with this legislation is the ability of local governments to require a bond or financial assurance from the operator in the circumstance where the operation enters bankruptcy or financial shortfalls which allow their manure storage to become a problem. Emptying a manure lagoon or cleaning up after an overtopping is an expense that the local taxpayers should not be charged with in these circumstances.

The proposed legislation eliminates a set, 4-year review of the rules and standards that exist under DATCP 51 currently. Rather than eliminating this scheduled review, this practice needs to be even more strictly followed. The current guidelines of DATCP 51 have not been updated in over 10 years! Changes in climate, technology and farming practices during that time need to be considered against the rules and changes made where appropriate. The timeline for review needs to be maintained and followed through the entire process to its conclusion.

The structure of the membership of the rules committee appears to be stacked in favor of the industry. All stakeholders need to be represented equally. The stakeholders listed as contributors to this legislation is another clear indication that this legislation is meant to move DATCP 51 in a particular direction and not necessarily in the best interest of long-term health and well-being for Wisconsin, its citizens and its farming community.

This legislation requires more discussion, more input, more diverse viewpoints and should not be moved forward at this late stage of the legislative session

- End -

February 13, 2020

RE: Livestock Facility Siting AB894/SB808

Please vote no to AB894/SB808. This bill should in no way move forward. This late in the legislative session a bill should not be forced through without more substantive analysis and substantial revisions!

- This bill should include bonding requirements. Non-metallic mines in WI as many other business are required to post bonds for site reclamation should their company not be able to reclaim the sites. Bonding is a cost of doing business and confinement farms should be held to the same standards as other businesses. The taxpayers of WI should not be responsible for the cleanups of manure lagoons and the ground water once a farm is abandoned.
- There should be a mandatory 4 year review. The review will allow the regulations to keep up with ever increasing technology and science. Why on earth would we spend resources on technology and science and then ignore it?
- The majority of the rule update committee should not be stacked with representatives of industrial Ag groups!
- Local control needs to be given to local governments!

Thank you for your consideration to my concerns, please vote no to Assembly Bill 894 and Senate Bill 808! These bills should go back to the drawing table for significant revisions and introduced during the next legislative session.

Kirsten Jurcek



Farmer
N2437 Brattset Lane
Jefferson, WI 53549

Date: February 13, 2020

TO: The Honorable Elected Officials of the Wisconsin Legislature

From: Aaron Colson, Crawford County, Wisconsin Landowner

RE: Comments on AB 894 and SB 808

Dear Distinguished Members of the Wisconsin Legislature,

As a stakeholder, I have great potential to be negatively impacted and suffer economic loss from existing and proposed Concentrated Animal Feeding Operations (CAFOs) sited in Crawford County, Wisconsin. My economic loss will be a loss to the economic activity and growth of Crawford County. I grew up on a family owned small dairy farm in Crawford County, Wisconsin in the beautiful Driftless Area with farm property bordering the winding Kickapoo River. I now own a portion of that farm, so I will be directly impacted by the decision you as the legislative body make regarding this proposed legislation, AB 894 and SB 808, related to livestock siting.

I currently live and work out of state, and my plans of moving back to Crawford County, Wisconsin to build a home are now on hold. This will be a loss of potential tax revenue for the County if I decide not to build. I also believe data may show the ATCP 51 favors CAFO owners over small farms, homeowners, and owners of other types of business that also depend on land and outdoors for income. Because of these concerns and others concerns affecting the wellbeing of surrounding landowners and others who live and work in rural areas as well as those who visit to enjoy the scenic beauty of rural Wisconsin and all it has to offer, I request the following changes be added:

- Incorporate language that an economic impact analysis must be conducted and available for review and public comment before a CAFO is permitted to be sited. The economic impact analysis must include the impact to
 - surrounding property owner's real estate values
 - neighboring business operations
 - rural towns, villages and municipalities
 - different types of land use that could generate potentially greater economic activity and good paying jobs such as tourism and recreation, and related business activities.
- Remove Section 41, which blocks the ability of local units of government to protect taxpayers in the event of a large manure spill or CAFO bankruptcy.
- Reinstate the regular 4-year review of ATCP 51. The rules and standards have not been updated in more than a decade and are woefully out-of-date and inadequate.

- Remove Sections 1 and 10. The technical review committee composition set forth lacks critical subject matter expertise, and its process set forth that is a recipe to prevent desperately needed changes to ATCP 51.
- Increase CAFO fees for WPDES permits, consistent with the governor's 2019 budget proposal.
- Remove references to setbacks. Setbacks should be determined in the rules by the experts in the Department, not in the statute. The last ATCP 51 Technical Expert Committee recommended increasing setbacks, not decreasing.
- Remove the following language in Sections 31 and 38:
"that are based on specific, but not necessarily unique, circumstances in that political subdivision and that clearly show that the requirement is necessary to protect public health or safety in that political subdivision."
- Before proceeding, there should be a definitive answer from Legislative Reference Bureau or Legislative Council as to whether, with these proposed changes, a town or county would still be able to pass a livestock siting moratorium, which some counties and towns have done in Wisconsin, and if so, what would be the effect of such a moratorium.

Thank you for the opportunity to comment.

Respectfully,

Aaron Colson

Aaron Colson
7900 Buckeye Crescent
Cincinnati OH 45243

cc: State Senator Jennifer Schilling
State Representative Loren Oldenburg
U.S. Congressman Ron Kind
Thomas G. Cornford, Crawford County Board Chair
Kara O'Connor, Wisconsin Farmers Union

Re: AB 894 and SB 808

February 13, 2020

Dear Assembly and Senator Members,

I am a Jefferson County Dairy and Beef Farmer. I recognize the extreme importance of agriculture to the economy and heritage of Wisconsin. However, the bill you are proposing to aid large livestock confinement facilities takes our state in the wrong direction. You are pandering to an already over industrialized segment of agriculture to the detriment of smaller farmers and citizens.

Instead of empowering local governments to be responsible for the health and welfare of the citizens of our state, you are pushing this responsibility onto a branch of state government which you have refused to adequately fund in the first place.

Please vote to reject these two bills and go to work crafting a bill that is responsive to the needs of the people of Wisconsin, not to Big Ag.

Thank you,

Sue Marx

PO Box 2

Helenville, WI 53137

Jefferson County

262-582-3020

As a farmer, local elected government official, and citizen of Wisconsin, I wish to register my opposition to AB 894 and SB 808.

I am very concerned that this bill takes away even more local control of CAFOs and opens the door for more and more irresponsible misuse of the very environment and quality of life we should be protecting.

Instead of this bill which panders to industrial agriculture, Local governments instead need tools such as the ability to require bonds from applicants to assure that any damage which they create can be remediated by the perpetrators, not by the citizens of Wisconsin.

Weenonah Brattset

N2437 Brattset Lane

Jefferson, WI 53549

262-593-8051

To: Members of the Senate and Assembly Agriculture Committees
Date: February 13, 2020
Subject: Opposition to SB 808/AB 894

Good morning,

I write to you in complete awe of the lack of transparency this livestock siting bill has received in the legislative process. To fast track such a destructive bill is incomprehensible. Introduced on Monday and a hearing 3 days later? Why the blatant power grab away from local units of government? Why strip away authority of local units of government to protect the public health and safety with your gutting of 93.90?

Senator Marklein's office said yesterday when I called that " it does NOT remove local control." Apparently he has not informed his staff of the deleterious effects of this bill regarding local control of political subdivisions.

As a county board Supervisor, and member of the Land Conservation Committee, I find such a bill egregious. It has the blood of BIG AGRIBUSINESS all over it. SHAME ON YOU, REPUBLICANS, who are the sole sponsors of this power grab bill... not a single democrat signed on, but then again they had less than 24 hour notice. Why the hurry?

By the way, I'm also a 4th generation FARMER.

A wife, a mother, a daughter, a CONCERNED ELECTED OFFICIAL. Our small, family farm just celebrated its Century Farm status last year. For 100 years we've had cattle on this land. We've fed the soil and fed the families with the fruit of our labor. We KNOW at the local level what's best for our LAND; Our WATER; our HEALTH; our CHILDRENS' future.

These opinions are my own and do NOT represent any boards or committees I may represent.

Chris Kees Winkler
N5457 St. Hwy 25
Durand, Wisconsin

February 13, 2020

Dear Legislators,

Thank you for the opportunity to weigh in on the proposed Livestock Siting legislation.

My name is Anita J. Martin. I live at 261 Pinnacle Drive in Lake Mills, Wisconsin, Jefferson County.

As our entrusted elected officials, I respectfully implore you to vote against AB 894/SB 808.

Not only are numerous provisions in the drafted legislation problematic; the rapidity with which the version in front of you has been drafted, reviewed, and brought forward appears to have already caused confusion and legal misinterpretation. Before the horse is even out of the gate. Not a good sign.

It's my understanding, the authors of the bill provided about 48 hours for co-sponsors to sign on. What is/are the reasons for this Warp Speed rush? Rarely does legislation of this complexity, magnitude, and potential for significant long-term ramifications prove legally solid, much less legislatively sound, when so rapidly crafted and pushed forward.

How many of you own homes? This current situation reminds me of sitting at the table for the closing when we bought our first home in 1992. Things were moving way too fast and lots of papers were being put in front of me to sign. When it came time to sign the final documents, I hesitated, with good reason, looking at my husband and whispering, "I don't know if I should sign this. I really don't know what the <Hades> I am signing." Perhaps some of you can relate.

Please ask yourself, "Do I really understand the proposed legislation I'm being asked to vote on?" Reading through it, I sure don't understand it, and many other folks concur. Over the last 2 days alone, citizens throughout the state (including farmers and municipal leaders), along with legislative experts and at least one attorney have all said the current language and provisions are problematic and leave many unanswered questions.

This proposed legislation does not, in fact, "maintain local control at its current level." If enacted, it would actually strip away key components of local control from counties and towns. The bill would remove local municipalities' ability to approve or disapprove applications; these elected officials are the persons that best know their land, soil, topography, etc. Putting this authority into the hands of DATCP is both unwise and dangerous for our rural communities, for myriad reasons.

(Continued)

Why remove the requirement for a 4-year technical review process? Why would you **not** want standards and rules of this nature and magnitude carefully reviewed by experts on a regular basis?

Yes, the review process cost taxpayers a lot over the past decade. So now the answer is not requiring any regularly scheduled review at all?

That would be like deciding you're never going to the doctor again; because the last four times you went, you paid a lot of money and didn't follow the doctor's advice anyway. What could cutting out visits to the doctor end up costing you later on down the road?

In the same vein, what could forgoing regular review of Livestock Siting standards end up costing taxpayers, families, rural communities, the environment, and the natural resources in our state, in the future?

The rapidity with which technology is advancing is undisputed. The rapidity with which agricultural practices are changing is also undisputed. The speed at which costs to maintain and repair rural roads are increasing is undisputed as well. (Hundreds testified regarding these issues last summer, including the Wisconsin Towns Association.)

In conclusion, you have good reasons to slow down. Please vote against this legislation.

Thank you again for the opportunity to weigh in, and for carefully considering these concerns.

Sincerely,
Anita J. Martin, B.S.
261 Pinnacle Drive
Lake Mills, WI 53551-2003
(920) 648-4720

Written Testimony re: AB894 and SB808
Submitted February 13, 2020

I am deeply concerned about this bill and am submitting my testimony in opposition to its passage for a variety of reasons:

- The timeline of this bill is alarming – it was introduced on Monday, the hearing is today, and it'll pass out of executive committee on Tuesday. Since this bill will largely impact citizens in rural WI, outside of Madison, it's nearly impossible to rearrange schedules to come to the Capitol and testify. I live 5.5. hours away and between my work schedule and the travel distance, I'm unable to attend in person
- The end-around attempt by the agriculture lobbyists who drafted this bill with their Republican legislators regarding the codification of preemption language re: financial assurance and increased application fees is egregious. DATCP acknowledges that while the current rule states that increased application fees and financial assurance aren't allowed, since it's not 'explicitly stated in statute' (per 2011's Act 21), they don't have the authority for fee limits or financial assurance/bonding preemption. This bill puts that language into the statute, thus granting DATCP that authority. Bayfield County passed an Operations Ordinance in 2016 that "requires the applicant to ensure that sufficient funds will be available for pollution clean-up, nuisance abatement, and proper closure of the CAFO if it is abandoned or otherwise ceases to operate as planned and permitted." This bill, if passed, could remove this provision from our ordinance and is an affront to Bayfield County's local control. My position is supported by the following statement from the December 2019 DATCP board meeting: "Joe Ruth, on behalf of the Wisconsin Towns Association, appeared before the Board to speak on livestock siting. Mr. Ruth is very interested to see where this rule goes in the future. He is looking forward to working with the Department and stakeholders to come to a workable rule that is beneficial for everyone. Mr. Ruth wanted to remind the board of 2011 Act 21 and 2017 Act 108, and request that the Board stop enforcing and implementing the rule fee restrictions and the prohibition on financial assurances, which are not allowed by statute"
- The new technical review board is another concession to the the agriculture lobbyists who drafted this bill with their Republican legislators. A majority of the seats are reserved for industrial agriculture representatives and the new provision that all future revisions to the Livestock Siting Law have a two-thirds vote essentially guarantees that any meaningful revisions won't see the light of day
- The elimination of the 4-year review process for the Livestock Facility Siting Law is a direct affront to citizens' right to interact with their government. It severely limits their ability to share their experiences with CAFOs in their communities and, hopefully, influence the rule-making process so their voices and perspectives are acknowledged

Mary Dougherty
901 Rittenhouse Ave
Bayfield, WI 54814

February 13, 2020

Dear Legislators,

I urge a no vote on AB894 and SB808.

Our local governments need more not less control of CAFO's. While Sonny Perdue declared that farmers need to get big or get out, that is not the recipe for flourishing rural communities, especially in Wisconsin. When we lose our small farms, small town main streets suffer the consequences. Huge corporate entities drive up land prices for small and beginning farmers, cut local business out of the supply chains for production agriculture, limit potential jobs for our young people, and further depress rural areas.

Furthermore, when a bill comes out, has a hearing two days later, and by all appearances it looks like the intent is to vote on it 1 week later, where is due process and citizen participation? And legislators wonder why citizens are disengaged and upset with government? This is just plain wrong and deserves a "NO" vote for this reason alone, even if it was the best bill ever written.

This bill certainly is ill-conceived, it takes away more local control, further depresses small rural communities economically, risks harming them environmentally as well as socially. Local governments know their localities better than a state agency and can better regulate CAFO's if given the tools and perhaps some guidelines to do it. A state agency in Madison simply cannot know the subtleties of a potential local site for a CAFO as well as a county government.

Ken Schmitt
Candidate for District 3 Chippewa County Board
4988 120th Ave.
Colfax, WI 54730

February 12, 2020

TO WHOM IT MAY CONCERN:

I am writing to express my concern about the revisions to the Livestock Facility Siting Law (AB 894/SB 808).

Among the most egregious to me are the barriers set up in this bill to prevent local units of government from setting fees to cover their costs of reviewing an application and to limit their authority to set higher standards than those established by the state.

Our soils and lands throughout are not uniform. Manure permeates different soils at different rates and enters the groundwater at different rates in different places. Local governments need the freedom, autonomy and authority to protect their groundwater and soils in ways that are most effective for them. I do not believe that members of local units of government would have a reason to deliberately set rules that would place the fate of their neighbors and families at risk of disease and contamination. By allowing the local units of government to set the standards, you also allow the people who live in the community a place where they can go for redress when and/or if things go wrong. It is the right thing to do.

It is infuriating and unfair for local units of government to have to pay for costs related to and caused by state rules. Asking the local governments to cover the state's administrative requirements is really unreasonable and they should be allowed to set their own rates within reason. This is where establishing trust and building relationships between the government, business and the citizenry begins. You are losing sight of these objectives.

I hope that you will set this bill aside until you take more time to work out the way too many problems that currently exist with it.

Thank you.

Frankie Fuller
N3063 Buena Vista Road
Ft. Atkinson, WI 53538
608.445.0809
frankiefuller10@gmail.com

**AB 894 and SB808 Public Hearing
Livestock Facility Siting
February 13, 2020**

I open this letter with a few critical questions: Do my state legislators represent the overwhelming will of the people who elected them? Do my state legislators look at the harm or benefit new laws/regulations will have on their electorate? Or do they instead choose to represent the interests of corporations who make large monetary contributions to their re-election campaigns – at the peril of the citizens who elected them to office?

My name is Dyan Pasono. Senator Scott Fitzgerald and Representative John Jagler are my elected officials and I am **OPPOSED to AB894 and SB808.**

I live in southeast Wisconsin and live within a half mile of a CAFO that operates using TWO, OPEN, NON-CRUSTED, FERMENTING feces slurry pits. My husband and I are exposed to the horrendous odors emanating from these slurry pits on a daily basis – 365 days a year. We have owned our 30-acre parcel of land 21 years and have experienced firsthand how Wisconsin's Livestock Facility Siting laws have failed us and all of our neighbors and the proposed bills work to make things even worse for rural citizens.

About 10 years ago, one of the small farms near us decided to increase in size and is now an industrial sized factory farm – a CAFO. **This farm's growth has dramatically changed our lives and the lives of our neighbors for the worse.**

We are forced to live indoors most of the year and are impeded from enjoying Wisconsin's wonderful spring, summer and autumn weather. Our doors and windows must be kept closed, with air conditioning running always. Even with a closed up house, my sleep is still disrupted when I am awakened in the middle of the night by the stench that seeps into our home. Last year we were able to open our windows and enjoy summer breezes exactly 3 times – but then only for 1-2 hours before the stench again permeated the air we breathe. We are unable to plan family picnics in our yard or hang laundry outside to dry. We are forced to use an unnecessary amount of energy to continually air condition our home and dry our clothes. We are impeded from enjoying the naturalness of our property due to the smells, walk the country roads due to CAFO related semi-truck traffic, and to simply live our lives. All this as a result of one farm deciding to expand massively with no concern for the impact their growth would have on local residents.

Sadly, my story is not unique. All over Wisconsin farms are growing to massive size with no consideration or protection for the harm this growth does area citizens. As a result of the increasing number of industrial sized farms, we see the same negative impacts on many rural communities and families throughout our state.

Before this farm began to grow to factory size, we made our objections known to local, county and state agencies. We followed all of the correct lines of communication. We spoke with individuals at the DNR, EPA, US Fish and Wildlife Service. The list of contacts we made is endless. We testified at all public hearings, wrote endless letters, attended endless meetings, and yet we had no input into the decision about the siting of this facility. We fully understood the negative ramifications this factory farm would have on our local environment, air, water and quality of life and even had Senator Fitzgerald and Representative Jagler attend a meeting at our home to express concerns.

As a result of my personal experiences and the experiences of all rural residents throughout Wisconsin faced with the horrendous negative and life changing impacts from large-scale farming – I OBJECT to the Livestock Facility Siting revisions of AB894 and SB808 being pushed through for the following reasons:

1. This expedited push for the two bills (AB894 and SB808) is a slap in the face to all of the people and government agency study and time put into the previous ATCP 51 Livestock Facility Siting Regulations

revision work completed that lead to the statewide hearings this past summer (2019). If you disregard and suppress this previous work, testimony and the will of the people, this is a clear indication of your refusal to fully represent your constituents

2. The language pertaining to the prohibition of bonding does not address the environmental fallout and remediation costs that towns and counties will certainly incur if and WHEN farms and their massive slurry pits filled with toxic manure are abandoned. Local communities will be faced with unfair cleanup costs for something they objected to in the first place. The factory/business – not the taxpayers – should be paying these costs.
3. LOCAL GOVERNMENTS MUST HAVE THE AUTHORITY to set their own fee cap that is a reasonable relationship to the cost of reviewing a siting application. There should be NO STATE CAP. Local governments understand the costs associated with the review of a siting application far better than the state. I do not support language which fails to allow local governments to recoup all costs associated with implementing local livestock facility siting permit processes. The factory/business – not the taxpayers – should be paying for these costs.
4. Creating a rule update committee that requires 2/3rd vote for rule revisions is UNREASONABLE, especially on a committee where the majority of the members are representatives of industrial agricultural groups. This is not meaningful representative government at work. This is manipulative legislation being implemented to ensure any opposition has no meaningful input and that meaningful revisions will never have a chance of seeing the light of day. This is an example of political manipulation that fails to represent the will of the people you represent.
5. These bills remove the mandatory 4 year review of the siting regulations. This is again a political manipulation not protecting the citizens you represent. A mandatory 4 year review allows for well informed analysis of the state of the law, the impact of changing scientific understandings and inclusion of new issues that arise related to the current Livestock Facility Siting regulations.

As a result of the hurried fashion these bills are being pushed through, adequate study and input have not taken place. Therefore, these bills should NOT MOVE FORWARD, as more substantive analysis and revisions are needed.

I end my testimony as I started it by asking the critical questions: Do my state legislators represent the overwhelming will of the people who elected them? Do my state legislators look at the harm or benefit new laws/regulations will have on their electorate? Or do they instead choose to represent the interests of corporations who make large monetary contributions to their re-election campaigns – at the peril of the citizens who elected them to office?

Testimony Submitted by:

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