

ROBERT L. COWLES

Wisconsin State Senator, 2nd Senate District

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Testimony on 2023 Senate Bills 58 and 59

Senator Robert Cowles

Senate Committee on Agriculture and Tourism

March 15th, 2023

Thank you, Chair Ballweg and Committee Members, for holding a hearing and allowing me to testify on 2023 Senate Bills 58 and 59. These bills present two different new solutions to help to tackle nitrate pollution issues in ground and surface in Wisconsin while creating numerous other positive impacts for rural communities.

Clean waterbodies are as much a part of the foundation of our great state as agriculture, and for decades, farmers have been a substantial part of efforts to maintain and improve water quality throughout the state. That's because farmers and other rural residents understand the concerns that high nitrates levels can pose better than most.

According to estimates from the Groundwater Coordinating Council, about 10% of private well water samples exceed the public health-based standard for nitrates. For humans, high nitrate levels can lead serious health outcomes such as blue baby syndrome for infants and birth defects for pregnant women. In adults, studies have tied increased risks of thyroid disease, diabetes, and certain types of cancer to an overconsumption of nitrates.

Building on investments made in the bipartisan 2021-23 State Budget and borrowing elements from the 2019-20 Speaker's Task Force on Water Quality, we're introducing these pieces of legislation to continue advancing cleaner ground and drinking water throughout our state. Senate Bills 58 and 59 will help more rural, low-income homeowners address their contaminated wells and help farmers implement new land and water conservation strategies to store more nutrients in soil and prevent pollutant leaching and runoff.

First looking at Senate Bill 58, under current law, the Well Compensation Grant Program is only available for nitrate contamination if the well is used for livestock and if the well contains pollutant levels above 40 parts per million (ppm), which is four-times higher than the state's public health standard of 10 ppm. This legislation eliminates those restrictions and sets up a tiered, prioritized system for levels at or above 10 ppm.

To best ensure the use of available and underutilized funds and help as many applicants as feasible, SB 58 directs the Department of Natural Resources (DNR) to consider the use of filtration devices over well replacement if that method will still be protective of the applicant's health and welfare. This legislation also allows applicants to seek assistance for a well contaminated by bacteria if that contamination may pose a health risk.

Finally, SB 58 requires the DNR to report to Joint Committee on Finance annually on the number of applicants and number of grants issued under the Well Compensation Grant Program to ensure that we can properly oversee the need and use of this important program.

With the Well Compensation Grant Program typically going underutilized due to existing statutory barriers and due to the dramatic need to address nitrate contamination in rural drinking water wells, this legislation is a common-sense step to protect the health and welfare of rural residents throughout the state.

Switching to Senate Bill 59, this legislation makes two changes relating to Producer-Led Watershed Protection groups. First, currently, these groups are currently only eligible for state funding from the Department of Agriculture, Trade and Consumer Protection (DATCP). We allow these groups to seek additional state assistance and qualify for the DNR's competitive Surface Water Grant Programs. Collectively, these DNR programs are funded at about \$2.5 million annually. Second, we make a technical change to clarify that these groups may exist in multiple adjacent watersheds, which allows farmers near an existing group to join-in and make these positive changes extend even further regardless of if they're across the watershed border.

As of 2021, Wisconsin is home to 34 producer-led groups with 807 farmer members and 526,000 acres of participating cropland. Since this DATCP grant program began in 2016, the number of groups has continued to grow annually. Despite increased funding provided by the Legislature to DATCP for this grant program, including the awarding of \$1 million in the most recent annual grant cycle, we've been unable to meet all of the requests for funding in nearly every grant cycle to date.

Wisconsin's farmers are not just some of the best land and water stewards in our state, but they're also some of the most knowledgeable people about the topography and hydrology in their region. Allowing producer-led groups to compete for additional funding and ensuring their memberships can expand will help to guarantee that the best intents of these farmer-led initiatives can come to fruition.

2023 Senate Bills 58 and 59 are directly reflective of components of 2021 Senate Bill 678, which passed the Senate on a voice vote and the Assembly Committee on Agriculture on a vote of 13-0.



JOEL KITCHENS

STATE REPRESENTATIVE • 1ST ASSEMBLY DISTRICT

Testimony for the Senate Committee on Agriculture and Tourism
Senate Bills 58 and 59
Wednesday, March 15

Thank you, Chairperson Ballweg and members of the committee for holding this public hearing and allowing me to testify on both Senate Bills 58 and 59. Both of these bills came out of the Speakers Task Force on Clean Water, on which I served.

These bills aren't just bipartisan, they also have "buy-in" from both the agricultural community and the environmental community. Most importantly, these bills will help protect our state's water from excessive nitrates and other contaminants.

Nitrates in our water pose many threats to humans. According to the Environmental Protection Agency, exposure to high levels of nitrates is associated with increased cases of cancer. That's not the only risk to our water supply. Bacteria is also a huge concern and often the true source of the contamination can be pinpointed.

Senate Bill 58 will expand eligibility for the Well Compensation grant program to help owners of wells that are also contaminated by bacteria by removing the restriction that the contamination occurs from livestock. Remediation grants must focus on the method that is most effective for the health and welfare of the well owner.

Finally, the bill adds an accountability measure by requiring the DNR to report to the Joint Committee on Finance the number of applicants to the grant program and the number of grants provided. This yearly report will help us continue to improve the program in the future.

Senate Bill 59 will also build on a successful program by expanding eligibility for producer-led groups. Currently, only producer-led groups of farmers in one watershed are eligible. This bill expands eligibility to farmers in adjacent watersheds.

Additionally, this bill allows producer-led groups to apply for lake protection, management, and classification grants and river protection grants provided by DNR.

In my area, Peninsula Pride is doing a great job of working with farmers to figure out what works best for them and for the environment. We have different challenges in the

peninsula with shallow soil. However, these programs have made a huge difference in the water quality for our area.

Wisconsin farmers are some of the most responsible stewards of our lands. I'm proud to say that both Senate Bills 58 and 59 are supported by the Dairy Business Association and Wisconsin Farm Bureau as well as Clean Wisconsin and the Nature Conservancy.

Thank you for your time and I hope you consider supporting Senate Bills 58 and 59. I am happy to answer any questions you might have.



**Testimony in Support of Senate Bills 58 and 59
Senate Committee on Agriculture and Tourism**

March 15, 2022

Chair Ballweg, Vice-Chair Tomczyk, and members of the committee, I appreciate the opportunity to testify in support of Senate Bills 58 and 59, legislation to open up access to the state Well Compensation Grant Program and allow producer-led watershed groups to utilize DNR's surface water grant programs.

We can all agree that everyone deserves access to clean and safe drinking water. About two-thirds of people in Wisconsin get their drinking water from groundwater. Yet in communities across Wisconsin, we've seen anywhere from a quarter to up to a half of residents in towns and villages are unable to drink their water from the tap, due to nitrate contamination especially. Some homeowners are forced to buy bottled water to drink and cook with because they can't afford to spend thousands of dollars to repair, replace, or treat their contaminated wells.

As we traveled the state in previous sessions as part of our work on the Water Quality Task Force, people in every corner of the state asked us to reform the state's Well Compensation Grant Program, an existing program that helps homeowners to replace or reconstruct their contaminated wells or treat their water. This program has been drastically underutilized for years due to its archaic requirements and restrictions, and it is long overdue for an update.

Under current law, homeowners with serious nitrate contamination only qualify for the state's well compensation grants if their private well is used as a source of drinking water for both residents and livestock and the well tests above 40 ppm, four times the national health standard. Senate Bill 58 eliminates the requirement that a homeowner must own livestock to qualify for grants for nitrate contamination, ensuring homeowners can remediate their contaminated well. This bill also changes the requirements so that homeowners above 40 ppm receive first priority, those who test above 30 ppm receive second priority, those who test above 25 ppm receive third priority, and those who test between 10 ppm and 25 ppm receive assistance specifically to help with treatment, unless another solution that meets the needs of their specific situation is warranted. This language ensures that those with the most serious nitrate contamination are prioritized while also taking into account the needs of applicants who may qualify for a cost-effective and sufficient treatment option like reverse osmosis. Most importantly, the language in the bill prioritizes the health and welfare of the applicant for the solution that best meets their needs. All of these changes will ensure more people are eligible for the program to connect to a public or private source of water, treat their water, or replace, retire, or reconstruct their wells, granting them access to drinkable water.

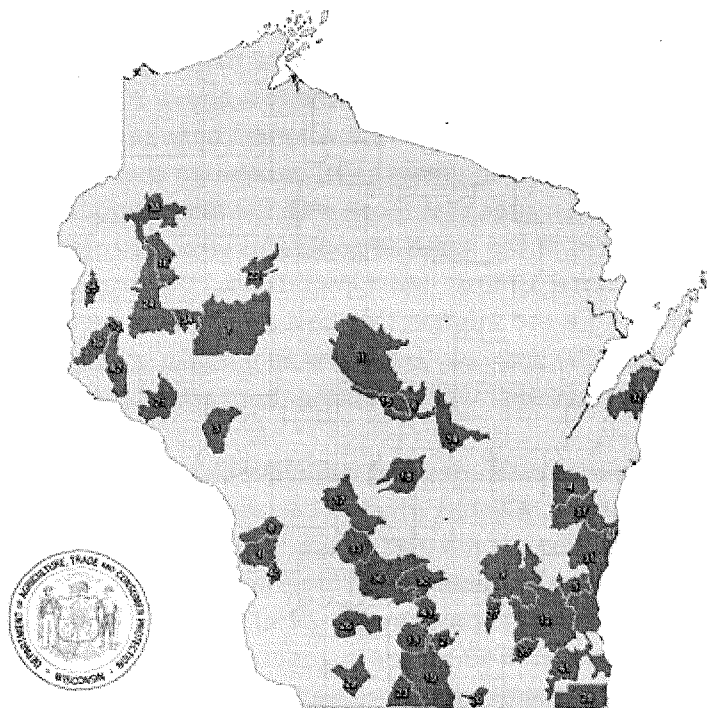
The Groundwater Coordinating Council estimates that it could take up to \$440 million to remediate every nitrate-contaminated well in Wisconsin, which is why this bill prioritizes the most significantly nitrate-contaminated wells, ensuring those who are not able to drink, brush their teeth, or cook with their water have first priority. While we fortunately have a supplemental program that is currently helping people access clean drinking water utilizing ARPA funds, that will only cover 2.2% of the estimated need. It's important to note that last session, the state budget allocated \$2 million in general purpose revenue to the existing well compensation program, but no grants have been allocated to private wells contaminated with nitrate since 2019. There is currently approximately \$1.9 million in this fund. It is fiscally conservative and responsible to ensure that the money previously allocated to an unmet need is actually fulfilled.

This is not the first time I've testified before a legislative committee on a bill to expand access to the Well Compensation Grant Program. Last session, the Senate unanimously passed substantially similar legislation to this, while two sessions ago, the Assembly unanimously passed this legislation. I appreciate that this bill has widespread bipartisan support and the support of 22 different agricultural, health, and environmental organizations. It's time for the Legislature to pass it.

Secondly, Senate Bill 59 opens up DNR's surface water grant programs to the state's producer-led watershed groups. Across Wisconsin, these groups have grown to 43 strong since they were first created in 2016, when just 14 groups were awarded grants from DATCP. Our farmer-led initiatives are shining examples of grassroots leadership, and we've seen producer-led watershed groups work together to invest in cover crops, no till, interseeding, grazing covers, alternative forages, and other best practices to reduce nitrate, phosphorus, and other contaminants in our surface waters and groundwater. Senate Bill 59 opens up the state's lake protection, management, and classification grants and river protection grants to these farmer-led groups, ensuring more water quality leaders are receiving the resources needed to protect our water and keep it clean for generations to come.

The bills in front of the committee today are two significant yet simple steps the Legislature can take to recognize the challenges we are facing with access to clean water in Wisconsin. They both provide additional tools in the toolbox to our homeowners and farmers. Together, we can pass these bills to ensure no one is left behind when it comes to clean water in Wisconsin. I welcome the opportunity to continue working on additional ways the state can support our farmers with water quality efforts now and in the future. Thank you for your consideration, and I'd be happy to answer any questions at this time.

2023 Funded Producer-Led Watershed Protection Groups





Senate Committee on Agriculture and Tourism

2023 Senate Bill 58

Nitrate Contamination and the Well Compensation Grant Program

March 15, 2023

Good morning, Chair Ballweg and members of the Committee. My name is Marty Nessman, and I am the Private Water Supply Section Manager in the Bureau of Drinking Water and Groundwater with the Wisconsin Department of Natural Resources. With me today to assist with questions regarding Wisconsin's well compensation grant program is Sandy Chancellor, Environmental and Natural Resource Grants Specialist with the department's Bureau of Community Financial Assistance. Thank you for the opportunity to testify, for informational purposes, on Senate Bill 58 (SB 58), related to nitrate contamination and the well compensation grant program.

Wisconsin's existing well compensation program provides state cost-sharing funds for low-income private well owners to replace or remediate contaminated wells. Senate Bill 58 makes several changes to current law.

First, it expands eligibility for well owners with nitrate contamination by eliminating the livestock watering requirement and 40 parts per million nitrate threshold for a nitrate-contaminated well to be eligible. These long-standing requirements have disqualified many rural well owners who would otherwise be eligible but do not own livestock. Under the bill, the only eligibility requirement for a well that is contaminated only by nitrates is that the well is used at least three months in each year and meets a 10 parts per million nitrate threshold, which is consistent with federal drinking water standards. With these changes, additional income-eligible private well owners would be able to receive state funding assistance to address nitrate contamination.

Second, SB 58 directs the department to prioritize claims for nitrate contamination based on the relative level of contamination, and to determine the most effective remediation method for the health and welfare of the well owner. We expect that we would apply this nitrate prioritization based on the volume of applications received and provide personal technical assistance to each well owner to identify the best method for their situation and property. Additionally, the bill specifies that the department must allocate grant payments for nitrate-contaminated wells according to a priority ranking.

Third, under current law, a private well that is contaminated only by bacteria is not eligible for a well compensation grant unless the well is in an area that is contaminated by fecal bacteria and the contamination is caused by livestock. The bill removes these restrictions and would make grants available for any source of bacterial contamination, including naturally occurring, non-fecal coliform bacteria that are considered indicators of contamination, but are not themselves considered a health risk.

Finally, the bill requires the department to report to the Joint Committee on Finance after the end of each fiscal year on the number of applicants under the well compensation program and the number and amounts of grants provided.

The department is currently administering a federally funded well compensation grant program, funded through the American Rescue Plan Act (ARPA), that includes expanded eligibility criteria above what is proposed in SB 58. Demand for this program provides some insight as to how the bill would impact the number of applications that the department would receive under the changes proposed in the bill.

Under the statutory well compensation program, the department has issued an average of six well compensation grants per year over the past ten years. In comparison, the department issued 69 grants in the first 4-1/2 months of the ARPA-funded program, including 47 grants for nitrate contamination and 3 grants for bacterial contamination that would have qualified for funding under the eligibility changes prescribed in this bill. SB 58 would significantly increase demand for well compensation grants.

On behalf of the Department of Natural Resources, we would like to thank you for your time today. We would be happy to answer any questions you may have.

Testimony on 2023 Senate Bills 58 and 59

Senate Committee on Agriculture and Tourism

March 15th, 2023

Thank you, Chair Ballweg and Committee Members, for the opportunity to testify on 2023 Senate Bills 58 and 59. On behalf of the Wisconsin Farm Bureau Federation, we would like to express our support for these two important pieces of legislation and appreciation for the bills' authors, Senator Cowles and Representative Kitchens, as well as those in co-sponsorship, for their continued advocacy for improvement to farmer-led conservation initiatives and best practices in agriculture.

The provisions in these two bills have been before this committee in prior legislative sessions, as well as the Senate as a body, with strong bipartisan support. These bills remain consistent with Wisconsin Farm Bureau's ongoing support for farmer-led, common sense, on-farm conservation initiatives which benefit both farmers and our environment.

Senate Bill 58 expands eligibility for low-income residents with nitrate contamination of a well used for either drinking water or watering livestock. Wisconsin Farm Bureau believes this bill helps to address shortcomings of the current well compensation program for those uniquely experiencing nitrate contamination and alleviates the high costs associated with remediation and replacement of a contaminated well. Furthermore, the legislation rightly attempts to get the 'best-bang-for-the-buck' by allowing filtration as a method of remediation, if applicable. Wisconsin Farm Bureau supports and appreciates this innovative approach to try to maximize funding to achieve a greater reach for those experiencing well contamination from nitrates.

Senate Bill 59 makes modifications for producer-led watershed protection groups to operate with greater flexibility and opportunity for increased participation. I cannot say enough great things about the Producer-Led Watershed Protection Grant program and the farmers that undertake these critically important conservation projects. For some perspective, conservation practices occurred on 978,881 acres in 2021, an increase from 798,221 acres in 2020. These farmer-led conservation efforts prevented 219,638 pounds of phosphorus and 342,163 tons of soil from leaving farm fields. In 2023, requests for grants exceeded allocated funding by more than 50% (\$530,000 over \$1,000,000 allocated funding). Senate Bill 59 takes a great statutory step in the right direction to allow these groups greater flexibility to work on projects across watersheds and increases the opportunity for additional funding by expanding eligibility for these groups to seek Surface Water Grants through the Wisconsin Department of Natural Resources (DNR).

In conclusion, Wisconsin Farm Bureau Federation supports the improvements that this legislation provides to the Well Compensation and Producer-Led Watershed Protection Grant Programs and asks that you **support** Senate Bills 58 and 59 should they come before you for a vote.



DAIRY BUSINESS
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FORWARD

March 15, 2023

Senate Committee on Agriculture and Tourism

Testimony in favor of Senate Bill 58 and Senate Bill 59

Good morning, Madam Chair, Vice-Chair Tomczyk, Ranking Member Pfaff and committee members. Thank you for the opportunity to provide testimony in support of Senate Bill 58 and Senate Bill 59.

My name is Chad Zuleger. I am director of government affairs representing the Dairy Business Association. Our membership includes dairy farmers, processors and a variety of affiliated businesses combined to ensure producers are successful in our state and that the products they produce remain delicious, nutritious and available worldwide.

Senate Bills 58 and 59 build on efforts begun in the 2019-2020 bipartisan Speakers Task Force on Water Quality and furthered with continued bipartisan support in the 2021-23 state budget. We appreciate the measured efforts of both political parties to improve access to clean water in our state. These bills aim to improve the quality of water people drink while continuously improving practices that affect the environment.

Senate Bill 58 makes changes to the eligibility requirements in the DNR Well Compensation Program. The bill eliminates the requirement that a well be contaminated by nitrates only, services livestock, uses 100 gallons of water per day for three months out of the year, and reduces eligible contamination levels from 40 ppm to 10 ppm. While it reduces contamination level requirements, the bill establishes a tiered system that prioritizes wells with a higher contamination level so that those with a higher contamination will be addressed first.

The bill also directs DNR to consider other forms of mitigation rather than well-replacement for contaminated wells when feasible and protective. For instance, if a well is contaminated at 20 ppm, a whole home filtration system could be a less-costly option for mitigation rather than digging a new well, while still meeting the benchmark federal standard of 10 ppm or less contaminant.

These changes are needed now. A wide range of agriculture and conservation organizations and their members support this effort. Lawmakers from both political parties agree and many of you have voted in favor in the previous session. Expanded eligibility to existing funds will help ensure that more of Wisconsin's rural residents will have more options and better access to clean drinking water.

Senate Bill 59 makes simple, but consequential, changes that promote the continued success of farmer-to-farmer groups established to be proactive in sustainability efforts and innovative in their approach to conservation practices.

One provision in SB 59 provides that producer-led watershed conservation groups may be comprised of farmers in adjacent watersheds. This matters because it will ensure more farmers are able to participate and that they will be eligible for cost share under the current DATCP program. Currently, producer-led groups must be comprised of members entirely within one watershed. While farmers in adjacent watersheds may participate with a producer-led group in another watershed, the outside farmer would not be eligible for cost share or grant funding already available through existing resources. The changes in SB 59 remedy this impediment and will help promote greater participation in producer-led conservation programs.

Additionally, SB 59 would make producer-led watershed groups eligible to apply for DNR's competitive Surface Water Grant Program, lake protection grants. Eligible recipients are statutorily named, and producer-led watershed groups would be added to a list of eligible nonprofit conservation organization, counties and municipalities, lake protection districts, sanitary districts, qualified school districts and more.

I'd like to thank SB 58 bill authors, Sen. Cowles, Sen. Testin and Sen. Ballweg, Rep. Kitchens, Rep. Novak, Rep. Shankland and Rep. Krug for your persistence and dedication to these issues. Thank you also, Sen, Cowles, Sen, Ballweg, Rep, Kitchens, Rep, Novak, Rep, Tranel, Rep, Shankland and Rep, Krug for authoring SB 59.

To conclude, DBA members are passionate about their work and their role in conservation. We encourage your support for these two forward-thinking proposals.

SB 58 expands eligibility to the undersubscribed Well Compensation Program and targets the most contaminated wells for repair, replacement or filtration system installment. Rural Wisconsin residents in need will have better access to clean drinking water.

SB 59 promotes producer engagement and innovation with conservation practices. Producer-led watershed groups encourage the sharing of those best practices and new, bold ideas among producers across the state

Thank you, Madam Chair, and committee members for your time and consideration. This concludes my testimony.



**Testimony of Scott Laeser, Water Program Director
SB 58 and SB 59
Senate Committee on Agriculture and Tourism
March 15, 2023**

Clean Wisconsin is a non-profit environmental advocacy group focused on clean water, clean air and clean energy issues. We were founded over fifty years ago and have 20,000 members and supporters around the state.

We support SB 58 as an important but modest step towards confronting our collective failure to address nitrate contamination of drinking water and meet one of the state's most basic responsibilities to its residents; the provision of clean drinking water. Tens of thousands of rural Wisconsin families do not have safe drinking water due to high levels of nitrate contamination, but because of inadequate resources to help homeowners test their wells, we don't know the true number. Nitrate is Wisconsin's most widespread groundwater contaminant, and the excessive restrictions the current well compensation program places on assisting families with nitrate contaminated wells have prevented all but a handful of impacted families from accessing the program.

While not all nitrate contamination of drinking water is a result of agricultural practices, we know that about 90% of it is. Last year, we put over 300,000 tons of nitrogen in the form of commercial fertilizer on farm fields in Wisconsin. This does not include nitrogen from manure spread on farm fields. In Lafayette County, where I live, the Southwest Wisconsin Groundwater and Geology, or SWIGG, study found that 21% of tested wells exceeded the nitrate health standard of 10 mg/l. The last agricultural census found that Lafayette County had about 137,000 acres of corn. Assuming a nitrogen application rate of 160 lbs/acre, about the economically optimum application rate for highly productive lands, 21.9 million pounds of nitrogen are put on Lafayette County corn fields every year. When this amount of nitrogen is applied to a corn field, Wisconsin research has found about 34 pounds of nitrogen will leave that field, putting 4.7 million pounds of nitrogen at risk of contaminating groundwater in Lafayette County every year. We have about 5,300 septic systems in Lafayette County that discharge about 20 lbs of nitrogen a year. That's 106,000 pounds of nitrogen from septic systems and 4.7 million pounds of nitrogen from corn fields.

Wisconsin families struggling with nitrate contamination, often through no fault of their own, deserve the help SB 58 could offer them by changing the eligibility requirements to allow all families with nitrate contaminated wells over 10mg/l to be eligible for the well compensation program if their family income is below a certain threshold. We believe that threshold, currently at just \$45,000 for full grant eligibility and \$65,000 for partial grant eligibility, should be raised to \$100,000. Each case is unique, but drilling a new well can easily cost over \$10,000, and

families are usually faced with the need to drill a deeper well, at greater expense, in order to avoid shallower, nitrate contaminated water.

We will not fix this problem in a year, or even ten, but we have to start somewhere. Now is as good a time as any; let's not kick the can down the road any longer. We also need to pair improvements to the well compensation program with efforts to reduce the nitrate pollution that is contaminating these wells in the first place. We know many innovative farmers are already taking steps to reduce nitrate pollution from their farms. We recognize that we are all in this together and that we all must work together, supporting families and the farm community, in this effort.

Clean Wisconsin also supports SB 59 and the changes it would make to allow producer-led watershed groups to access DNR Surface Water Grant Programs. Producer-led watershed groups have advanced the conversation around agricultural impacts to water quality throughout Wisconsin and involved new farmers in efforts to improve our water quality. It is one among many other steps we must take to protect and restore our rivers, lakes, streams, and rural drinking water.

We support SB 58 and SB 59 as important components of a more expansive commitment to and investment in helping Wisconsin's families burdened with nitrate contaminated drinking water and engaging the agricultural community to reduce nitrate pollution of our water resources.

Thank you for your time and attention to this important issue.



Wisconsin Land+Water Conservation Association

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Testimony of WI Land+Water Executive Director Matt Krueger in Support of Senate Bill 58

Senate Committee on Agriculture and Tourism

March 15, 2023

Dear Chair Ballweg, Vice Chair Tomczyk, Ranking Member Pfaff, and Committee Members,

WI Land+Water is a nonprofit, nonpartisan membership organization that represents 800 boots-on-the-ground county conservation department staff and elected committee members across the state of Wisconsin. On behalf of those members, I submit my testimony in favor of SB 58.

Wisconsinites are concerned about the safety of their drinking water, particularly from private wells, and they should be. A 2022 Groundwater Coordinating Council Report to the Legislature estimated that over 42,000 Wisconsin wells exceed the human nitrate health standard of 10 parts per million, at an estimated cost of \$440 million to remediate.

To that end, we are encouraged that SB 58 expands eligibility for more Wisconsinites to participate in the well compensation program, by removing the provision that qualifying wells must be used to water livestock, and reducing the contamination threshold that that must be met to quality. These are sensible moves, and we think are great improvements to the program. We also think it is a good idea to prioritize program funding to the wells most in need of remediation, as the bill proposes to do, as opposed to the order that claims were received.

We would have liked to have seen further expansions to program eligibility, by increasing the annual family income threshold from \$45,000. Absent an increase to this threshold, we are uncertain how great of an impact the other eligibility changes proposed in the bill will have on program participation. We are hoping this can be addressed in the future.

Thank you for the opportunity to provide comment, and I'm happy to answer any questions committee members may have.