

Clean Water Action Council

OF NORTHEAST WISCONSIN

— CELEBRATING 27 YEARS OF WORKING TO PROTECT PUBLIC HEALTH AND THE ENVIRONMENT IN NORTHEAST WISCONSIN —

WINTER 2012-2013

Public Participation Threatened in Environmental Decision-Making

*“Environmental laws don’t enforce themselves.
If the government won’t do it, citizens must.”*

—Arlen Christenson

Wisconsin citizens have the legal right to hold government and polluters accountable.

By Kim Wright, J.D., Executive Director,
Midwest Environmental Advocates

The people of Wisconsin care deeply about our shared water resources. **Wisconsin is one of a few states that provide citizens with Constitutional rights in the waters of the state.** Wisconsin lakes and rivers are public resources, owned in common by all Wisconsin citizens under the state’s public trust doctrine. **Federal and state environmental laws also include significant rights for citizens to protect water quality when the government fails to do so.** Engaged citizens have always been important to the protection of our Wisconsin waters. Even in times of ample public resources, government agencies didn’t have the capacity to be everywhere or see everything. Our laws and Constitution recognize the need for people to have a role in protecting the rights of future generations.

Wisconsin has a rich history of people working together to protect and restore our natural heritage. Clean Water Action Council of N.E.W. (CWAC) is at the core of that history. We used to have state employed lawyers who provided legal representation for citizens, even when their legal actions were against the government. One of CWAC’s founding members, Rebecca Katers, served on the Public Intervenor board. The Public Intervenor office was abolished through pressure by special interest lobbies because it was effective. The Public Intervenor helped citizens realize their environmental rights and to hold polluters accountable.

Pollution pays. Polluters spend vast sums to engage high-powered law firms to delay their need to follow the law. Using our public waters as free waste disposal systems

increases profits while leaving the public the expensive job of cleaning up after them. Environmental laws allow for significant fines to deter other would-be polluters. The dramatic decline in enforcement of environmental standards by the Wisconsin Department of Natural Resources (DNR) incentivizes pollution. Many of us would drive much faster, more often, if we had very little chance of getting a speeding ticket.

The decline in DNR’s monitoring and enforcement of protective laws puts us all at risk. Environmental regulations are designed to protect us and our precious waters from toxic pollutants. The water we drink, whether from a private well or a public water system, is being polluted with industrial chemicals and agricultural runoff that includes dangerous nitrates, coliform bacteria and other pathogens found in animal waste.

The good news is, there are citizens in every corner of our state fighting for clean water. It is terribly unfair that citizens must shoulder the burdens and costs of environmental compliance, but I’m so grateful they do. **When the government fails to properly implement and enforce laws designed to protect public health and the environment, the people of Wisconsin stand together to fill the void.**

It takes courage and thick skin to take on polluters and the government. Community minded citizens are surprised when they report problems to their tax-funded public agencies and find indifference to their concerns. It’s not uncommon at some point in the journey for champions to doubt themselves, to wonder if what their detractors say is true. It takes perseverance to keep reporting problems



when you are marginalized and ignored. Not all of us are cut out to be champions, but we can all support the courageous people who are willing to stand up for our clean water future. **Each action we take, no matter how small, is important. Organizing meetings, writing letters, calling elected officials and expressing gratitude to those on the front lines are all critical elements of success.**

The fact that average people can successfully hold powerful interests accountable is remarkable. Success is possible because all citizens want is for the regulated community to follow the law, and for their government to act when the law is violated. Technical and legal assistance are often critical resources for communities fighting for clean water and government accountability. Retired law professor Arlen Christenson, founding board member of both the former Public Intervenor office and Midwest Environmental Advocates, says it all when he reminds us that “Environmental laws don’t enforce themselves. If the government won’t do it, citizens must.”

The current failure of the DNR to do its job reflects the extent of the undue influence of politics and moneyed interests on the agency. An independent, well-resourced DNR that protects decisions made by professional staff is critical to our clean water future. Both political parties have a poor track record of allowing politics to overrule the expertise of professional staff under DNR secretaries directly appointed by governors. I can assure you there are good men and women in the DNR who want to be free of political pressure so they can do their jobs.

Storied conservationist Aldo Leopold played a key role in gaining independence for the DNR. Leopold, when testifying for the need of an independent DNR, reminded the legislature that ecological systems require consistent, long-term management based in sound science. The legislature responded by creating a system where the secretary was appointed by a citizen board to protect the agency from political and special interest pressure. In 1995, the secretary reverted to a direct appointment of the governor and we have seen a steady decline in the ability of the DNR to protect the environmental rights of citizens.

Citizens are more important than ever in holding both government and polluters accountable. The Clean Water Action Council has a long history of championship. CWAC fought the DNR for six years to regain the public’s right to be heard. Their successful legal action secured the rights of all of us to participate in decisions that impact our lives. **This is a critical time for us to stand up and be heard.** 🌊



Public Effectively Excluded from OSGC C.U.P. Application Process

By Dean Hoegger

If the City of Green Bay sought to exclude its citizens from the process needed for the Oneida Seven Generations Corporation (OSGC) to obtain a conditional use permit (C.U.P.) for their gasification incinerator, they certainly succeeded. Did the process meet the legal requirements? While the answer is yes, the answer does little to remove the cloud of secrecy and apparent backroom deals that led to a rushed permit, a permit that was eventually rescinded after citizens demanded the city council hold a hearing to consider its validity. At issue for Clean Water Action Council, Incinerator Free Brown County, Mather Heights Neighborhood Association, and the citizens these groups represented, was the false information that OSGC’s CEO, Kevin Cornelius had provided in order to obtain the C.U.P. The Green Bay City Council agreed with our assessment, and voided the permit on October 17, 2012.

As a result of being involved in the rescission efforts, CWAC, and local citizens, learned that during much of the process that led to granting the permit, there was little opportunity for citizens to follow that process, much less participate. The first limitation was that prior to the Green Bay Planning Commission’s C.U.P. hearing on February 21, 2011, notice was only given to property owners within 100 feet of OSGC’s site. Those owners consisted of the two businesses adjoining the site property that were first notified on February 9, 2011. It is no wonder that the C.U.P. hearing was not well attended by the very citizens who would be the most impacted by the project’s emissions.

During the C.U.P. hearing, Plan Commission members asked probing questions of OSGC’s CEO, Kevin Cornelius about how the gasification plant would operate and what the expected emissions would be. Cornelius gave answers that were clearly inaccurate, even preposterous. Yet commission members asked no follow-up questions, nor did they challenge any of his misrepresentations. They allowed his testimony to become part of the record that led to the commission’s recommendation that the Green Bay City Council approve the permit.

After the Plan Commission meeting, citizens only had nine days to discover that on March 1, the Council would consider the matter of the permit. Hearing no opposition, and receiving the Plan Commission’s recommendation, the Council voted to approve the permit, unaware of the misrepresentations made in the application.

The most shocking event on the C.U.P.’s timeline occurred at the permit revocation hearing. After 4½ hours of testimony, the Commission voted 8-0 to recommend the cup not be rescinded. At that hearing, and then at the Council meeting on October 16, some members of the Plan Commission stated they knew about the emissions, and were not misled. Jerry Wiezbiskie, a council member on the commission, was adamant that he was not misled. He

claimed he knew all about the emissions. As a commission member, he was one of the commissioners who asked about emissions and accepted obviously false information from Cornelius. **It appears that Councilman Wiezbiskie was either keeping the facts he had about emissions out of the public record, or more recently, he was trying to make it appear that he had been fully informed. Either way, he and other commission members are doing a great disservice to those asking for truth and transparency in government.**

Fortunately, several council members concurred with the citizen testimony at the rescission hearing that said more needed to be done to allow for public participation. These citizens said the City of Green Bay needed to make changes in the permit process for future significant projects. They asked for changes that would allow citizens a more timely notice and greater participation. Councilmen Mark Steuer and Brian Danzinger seemed especially willing to consider greater public participation. While waiting to see what changes, if any, are introduced, it will be necessary to monitor permit applications. At the speed at which OSGC's permit was approved, successful monitoring will require weekly contacts with the Green Bay Planning Office.

The lesson learned for citizens from all of northeast Wisconsin is that we must remain vigilant. Elected leaders may not have the same agenda as their constituents who desire a safe environment in which to live and raise their families.

Manure Spray Irrigation: The Latest Threat from Industrial Farming May Limit Public Input

By Dr. William Iwen

This article continues with the discussion from the fall 2012 CWAC article on concentrated animal feeding operations (CAFOs) in Brown and Kewaunee County with a focus on the movement by the industry to utilize manure spray irrigation as a method of animal waste management. The question, therefore, is raised, "Will the public be a part of the process?"

Due to shrinkage of farmland that is available for disposing of a huge volume of waste created by CAFOs, serious pollution problems are resulting from over application and runoff of manure. **Studies of surface water in Brown and Kewaunee Counties show serious agricultural pollution, not only from animal waste, but also from commercial fertilizers, herbicides and pesticide residues.** In the Kewaunee County Township of Lincoln, approximately 30% of the wells now show pollution from bacteria and/or nitrates.

Moving CAFO waste to spread at other off-site locations creates additional concerns. Besides additional threats to surface and groundwater, townships are expressing concern about road damage from the manure tanker trucks. CAFO

owners also have to pay the high fuel costs for moving manure to be spread elsewhere. Increasing awareness and complaints by the public regarding road damage, odors, and water pollution concerns, are creating additional incentives to find other ways of disposing of CAFO animal waste. **One method is manure spray irrigation or center pivot irrigation. Some citizens believe the public will be excluded from the process of creating regulations for its use, regulations that will protect public health and the environment.**

A Manure Spray Irrigation/Center Pivot Workgroup in Madison is busily formulating a method using spray irrigation as a means of distributing raw manure on farmland. This workgroup is being facilitated (at last count) by the WDNR with representatives from industrial farm producers, lobbyists for the dairy industry, a trucker and a member from the Wisconsin Dept. of Health.

Dr. Margaret Pulera M.D., in a November 14, 2012 letter to Dennis Smith, Secretary Wisconsin Department of Health Services, Ben Brancel, Secretary Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP), and Cathy Stepp, Secretary Wisconsin Department of Natural Resources (WDNR), clearly illustrated the dangers of these systems for spraying untreated animal waste into the atmosphere.

Information from the 2010 document, Understanding Concentrated Animal Feeding Operations and Their Impact on Communities, provided by the National Association of Local Boards of Health, states "Pathogens are parasites, bacterium, or viruses that are capable of causing disease or infection in animals or humans. The major source of pathogens from CAFOs is in animal manure. There are over 150 pathogens in manure that could impact human health. Healthy people who are exposed to pathogens can generally recover quickly, but those who have weakened immune systems are at increased risk for severe illness or death. Those at high risk include infants or young children, pregnant women, the elderly, and those that are immunosuppressed, HIV positive, or have had chemotherapy. This risk group now roughly constitutes 20% of the U.S. population."

There are many unknowns involved regarding the spraying of disease causing agents (pathogens) into the atmosphere, but existing studies show that when conditions are favorable, dangerous pathogens can travel for miles. **We also know that some pathogens are extremely tough and can withstand sun, rain, cold and heat for long periods of time. As the body of evidence grows, confirming the link between disease and these pathogens, who will be held accountable for the cost to human health?**

It is critical that there is public awareness and transparency from the beginning of these so called "Workgroups." The formation of this Irrigation Workgroup started back in April 19, 2011 when Secretaries Brancel

of the DATCP and Stepp of the WDNR indicated that there are several farms (CAFOs) in Wisconsin that have used center pivots to apply manure for many years with no demonstration of environmental or human health impacts. (And how would they know if this has never been researched?) They then asked the leaders of the Wisconsin Towns Associations and the Wisconsin Counties Association to work with members to make sure they do not adopt local ordinances that restrict the use of approved and accepted technologies unless it can be documented and demonstrated that there are environmental or public health risks associated with them.

Considering the potential harm to human health posed by manure spray irrigation practices, it is time we rethink where the burden of proof of harm is placed when considering such practices. Rather than this burden being placed upon neighbors of proposed projects, the project developers should be required to use the “precautionary principle.” This principle, applied in Europe and Canada, requires that the proposed practice is proven beyond a reasonable doubt to be harmless to society before it can be implemented.

William Iwen was raised on a small organic dairy farm in Kewaunee Co. He holds a degree in Pharmacy from U. of W. Madison and a Doctorate in Dental Surgery (D.D.S.) from Marquette University. After retiring in 2004, Dr. Iwen found a new passion in efforts to improve the natural environment with a focus on clean water and air. He is a member of CWAC and Kewaunee Cares and served as the President of Tri-Lakes Association for 10 years.

Residents Struggle to Participate in Proposed Digester Approval

By Lorri Havlovitz



The Village of Maribel has been approached with a business proposal to build an industrial waste digester near the I-43 and County Z intersection. The property is the site of

the former Ridge restaurant. The proposal also includes the purchase of the vacant 24 acres across the street for business related purposes. However, the developers are being evasive regarding questions on exactly what types of industrial waste will be put in the digester, whether the waste is harmful, where it is coming from, and why it is not processed at the source. The company, currently called Green Energy Holdings, has had several name changes and is evading questions regarding their business organization and ownership, and has even failed to show up for a public forum.

This proposed industrial waste digester is being promoted as a green energy project. Apparently, it would

bring in 20-30 truckloads each day of industrial waste. Speculation about the kind of waste includes meat processing plant waste, septic waste, and hospital waste. It would then digest the waste producing methane gas to sell, and dehydrate the remaining material for use as bedding and fertilizer.

A major concern about this proposed digester is its location on karst topography and the potential for groundwater contamination. Unfortunately, the company has not presented written plans but has only offered some limited verbal information. They have stated they will not be putting a protective bladder under the concrete holding tank to protect against leaks if the concrete should crack. Karst topography and sinkholes allow surface water, and the water contaminants it contains, to get into our drinking water quickly and easily. Once contaminated, karst bedrock does not allow one to just drill another well a few feet away—large areas can become contaminated for many years. How will the digester tank, and a possible holding lagoon, be constructed and inspected to insure protection of the ground water? Concrete can crack! Will a liner be required to protect the groundwater? How often will the concrete be inspected?

The business has stated they plan to capture and sell the methane gas. However, this company already operates a digester on County R near Denmark where there has been continual gas flaring all summer, even though they stated the gas would be sold. If the gas will be allowed to burn off, what air quality tests will be performed, how often, and by whom?

The company’s statement that they plan to dehydrate the waste to sell for bedding and fertilizer seems questionable. Again, they stated this was their plan for the County R digester. However, they currently digest the waste until it becomes a liquid and then spread it on surrounding farm fields. It appears they could not find a profitable market for dried waste as bedding or fertilizer. If the waste material is truly dehydrated, they will need holding lagoons for the 20-30 truckloads of waste they have stated would be delivered every day. We are concerned this is their intent for the property across the street from the proposed Maribel site. If there is not a market for the dry material, will they be allowed to spread it on already saturated soil atop karst topography? How will this affect the ability of our local farms to spread their manure locally?

The enterprise has stated the proposed digester would send about 60,000 gallons of waste water daily to the Maribel wastewater treatment facility. In November, the DNR sent a notice to the Village that the discharge from the facility is already exceeding several limits. How then, would the current water treatment facility handle this increase? The Village of Maribel has stated that their backup plan for the Maribel wastewater treatment facility is to pipe the discharge down to the West Twin River, which is already on the DNR list of impaired waters!

The Village of Maribel also appears to be unresponsive to citizen's concerns. The three member board voted against rezoning in August and then again in September. However, the one member who voted against rezoning was so bullied and harassed by proponents that he resigned. Fortunately, since an interim board member was appointed, the rezoning question has not been on an agenda.

While it appears that the village president is a strong supporter of the project, the village board must consider the wishes of its citizens who are concerned about the infrastructure costs and how the proposed project conflicts with the requirements of the Village of Maribel's 20-Year Comprehensive Growth Plan. Over 600 people have already signed a petition to express their opposition to the project.

The proposed digester would require the building sites be rezoned from business to industrial. This is a direct conflict of the Village of Maribel's 20-Year Comprehensive Growth Plan in several ways:

- Environmental corridor—wetlands, floodplains, slope, surface waters
- Cooperation with neighboring communities
- Maintain visually appealing natural environment
- Protection of water resources—specifically considering karst features and controlling the spread of industrial waste
- Business development to be free of dust, smoke, odor, degradation of groundwater, or other nuisance factors

The sites being considered for the digester operations are on the corridor into our beautiful Maribel community. This is the first impression for those visiting the Hidden Valley ski area, Maribel Caves Park, Devil's River State Trail, and Devil's River Campground.

There is a group of concerned citizens that have meticulously documented the case's history, held meetings, invited specialists to meetings to educate attendees, videotaped water treatment plant effluent, videotaped meetings, gathered many documents, and much more. Some of the documents can be viewed on our website: www.LedgeGuardians.com including a chronology of events.

Lorri Havlovitz is a member of Ledge Guardians, a group of concerned citizens formed to research proposed business uses of sensitive environmental corridors in the Maribel area.

Editor's note:

It is generally recognized that as a society we need to more effectively "mimic nature" by closing nutrient and materials loops such as connecting food 'waste' back to where it came from. On the other hand, this proposal, how it has proceeded and where it is being proposed, is of great concern. This same business entity has tried to locate a similar facility in Whitewater, which has since been rejected by city officials, and they are currently trying to establish a facility in Stanley located east of Eau Claire. Board members Charlie Frisk and John Hermanson have been involved in this issue. Frisk did a presentation on Karst at one of the Ledgeview Guardian's meetings and Hermanson continues to follow developments.

CAFO Tour Raises Awareness and Concerns

By Bev Watkins

In an effort to promote awareness of the growing number of Concentrated Animal Feeding Operations (CAFOs) and the real danger they could pose to the water quality of our rivers and streams, Kewaunee Cares, our partner organization, sponsored a bus tour of several of these factory farms in Kewaunee County in November of this year. As a CWAC board member and resident of New Franken, where a very large CAFO is located near my home, I am very concerned about these farms for several reasons; well water contamination, air pollution, property values, humane animal treatment and the beauty of our countryside. As a landowner in Brown County, which currently has 18 CAFOs, I rode along with environmentalists from around the state to get a first-hand account of this type of operation and to learn how these mega-dairies are addressing the issue of manure handling and the disposal of waste products used in the care of the thousands of animals they manage.

Unfortunately, what I saw did not allay my fears. The East Twin River, our first stop on the tour, has levels of coliform, e. coli and nitrates, which far exceed safety limits (see chart on pg. 8). It's important to note that the East Twin runs right through a very large CAFO at its northern edge and is now considered to be a dead river. Residents say it used to be a class one trout stream. Now it is devoid of even crayfish. Driving by it, we saw a hillside full of calf hutches. This particular CAFO is currently seeking a permit to expand. According to DNR documents, it currently has 4,800 calves and wants to expand to 6,800. Sadly, the permit will most likely be approved.

These are not idyllic Wisconsin farms. They are not the picturesque red barns that have so beautifully represented our state for centuries. As we saw, they consist of row after row of long, grey, metal buildings and rows and rows of small, white hutches for calves. They take up acres and acres of land and have enormous lagoons filled with toxic waste from their operations. There are huge fans at the ends of the buildings (I saw over 60 at the end of just one) and the lights have been reported to be on 24/7, which can't help but disturb the natural sleep patterns of the animals inside. Add the milking machines, the farm machinery, truckloads of feed, and the pumps necessary to process the waste and it amounts to a tremendous use of fossil fuel and water. Dairy Dreams Farm in Casco, one that granted us a personal tour, has two deep wells and they say they get most of their energy from methane produced from their manure processing. While I applaud their use of renewable energy, it doesn't make me feel any better about their operation. We drove our bus down the center of one of their barns and although the animals appeared well cared for, I felt truly

uncomfortable with the idea of consuming milk from cows that have been raised in such unnatural surroundings. As calves, they are taken from their mothers within a week of birth, and as adults, they exist in these metal barns the rest of their lives. It's simply wrong.

At the end of the tour, our bus stopped at the top of a hill looking down at a beautiful valley. This valley we were told will soon be covered by acres of cattle barns. As a citizen of this beautiful state, I find this appalling. As these CAFOs expand, they will continue to squeeze out the smaller family farms that used to dot our countryside. Are we moving toward a new agricultural model where only a few wealthy farmers own most of the land?

As it stands, I will need to have my well tested frequently for signs of contamination and I recommend my neighbors do the same. I shouldn't have to worry about it, but even though the millions of gallons of chemical slurry and manure may currently be contained in plastic-lined lagoons, someday one or more of them will leak. And when it happens, residents of this part of Wisconsin will end up paying for it with lower property values, higher taxes and most importantly, with their health and well being. The karst bedrock of our land simply cannot absorb this vast amount of pollution. It would be yet another man-made disaster, which could have been prevented, had we moved earlier to stop it. Are CAFOs worth the risk? I don't think so. I will continue to buy my milk from organic dairy farmers who raise their animals in a natural way with far less environmental impact.

I understand that Wisconsin needs to be competitive in the dairy industry. But do we need to sacrifice our land, air and water in the process? Do we need to sacrifice quality for quantity? There is currently a movement in Wisconsin toward small, organic dairies, which produce quality milk and superb, award-winning cheese. This is the direction we need to go. This is a better way.

Legacies, memorials, and direct gifts to

CWAC are deeply appreciated.

Please contact our treasurer,

John Hermanson at

tug3@centurytel.net for more information.



The Action in CWAC

By Dean Hoegger

Clean Water Action Council board members took a variety of actions on behalf of the membership and the community of northeast Wisconsin since the Fall 2012 newsletter. Membership dues, our annual meeting fundraiser, and donations are paying the expenses for this work, including printing, mailing, annual fees, posters, media campaigns, fees associated with legal actions, and limited travel to hearings, action events and conferences. This is why your participation is so important. Your 2012/2013 paid membership will help us continue to take these actions and to keep you informed.

If your address label has a '12 after your name, we have received your 2012 membership dues. Your volunteer check-off will help CWAC connect you to volunteer opportunities. Our Green Bay office is a great place to work on issue research and communication projects. Also, please call or email us when issues arise that are of special concern for you. Listing your e-mail address in the Action Alerts box on the membership form will keep you informed of environmental issues, actions we have planned, and ways you can participate.

Read below about actions we have taken in the last three months. In bold and italic letters you will learn how you can be active in CWAC activities. Be sure to contact us if environmental issues arise in your community. CWAC is here to support citizen action. The following are our most significant activities since June.

Gasification Incinerator Opponents Succeed in Overturning Permit

Clean Water Action Council led the efforts to overturn the Oneida Seven Generations Corporation's (OSGC) Conditional Use Permit after area residents sought our support in August of 2011. When it became clear that OSGC had misrepresented the project's environmental impact to the public and to Green Bay city officials, we worked tirelessly to have the permit overturned. On October 16, 2012 the Green Bay city council rescinded the permit on a vote of 7-5.

Prior to the council vote, CWAC hired Midwest Environmental Advocates to take our research and use it to present a legal opinion at the October 3 rescission hearing. The opinion presented a strong case showing that the city was well within their right to void the permit. To the shock and dismay of the large group of citizens present, the Green Bay Plan Commission voted not to recommend the city council rescind the permit. However, the final vote was left to the city council.

CWAC immediately went to work to assist opponents to lobby their council members to vote for a rescission. We conducted an extensive mailing and calling effort with the help of Incinerator Free Brown County and the Mather Heights Neighborhood Association. We also mailed out a

revised legal opinion to all the council members. After 14 months of sustained effort we were very pleased to see the council's vote to rescind the permit!

However, our work needed to continue since Mayor Jim Schmitt still held veto power over the council's decision, and we doubted we would have the votes to override a veto. After more calls, emails, and a CWAC meeting with the Mayor, we were relieved that the veto did not occur. Then the waiting began to see what, if any, legal action the Oneida's LLC would take. On November 15, after an extensive Oneida Tribe media campaign to confuse the issues and make OSGC appear to have been mistreated by the city, OSGC filed a lawsuit against the City of Green Bay claiming they were not given proper notice of the meeting and that the permit was rescinded arbitrarily.

After the lawsuit was filed, we were given first hand reports that Mayor Schmitt was pressuring council members to give in and reinstate the permit. CWAC led an email canvassing effort to inform Green Bay District 6 residents of the issues and to let them know their councilman, Joe Moore, did not vote to rescind the permit, reportedly because his constituents had not expressed their opposition to the project.

Our efforts must not subside if we are to be successful. We must continue to encourage Green Bay residents to urge their council members to stand firm. The legal opinions we sought view the Oneidas' complaints to be without merit and that the City should ask the court to dismiss the complaints.

If you are a Green Bay resident, we urge you to contact your city council member. Ask them not to give in to a frivolous lawsuit. OSGC misrepresentations are all in the public record.

Email us at contact@cleanwateractioncouncil.org for a complete list of the misrepresentations made to the city or go to our Facebook page.

We are still accepting donations for legal fees, which could be as high as \$5000. We have a long way to go to raise the money for this expense.

CWAC to Help Lead Citizen Coalition to Promote 0-Waste

Success with having the gasification incinerator permit overturned has inspired many of the key opponents to turn their efforts toward promoting 0-waste concepts by forming a coalition of local citizens and leaders. As reported in our Summer 2012 newsletter, the national 0-waste movement does not embrace incineration as a strategy to reduce the waste stream to landfills. Rather, it promotes ways to reduce, reuse, and recycle materials that would otherwise be landfilled.

CWAC was invited to be a member of this coalition and to have representation on its steering committee. The coalition is made up of Brown and Door County citizens and government elected and non-elected officials. The

first meeting was held on November 29 where tremendous enthusiasm was demonstrated by the more than 20 participants. A steering committee was formed and a meeting was scheduled for January 17. A full coalition meeting is planned for sometime in February. That meeting may be open to the general public and the details will be posted on our Facebook page.

Contact Dean at 920-421-8885 if you would like to join the 0-waste coalition. It would be great to have representation from other counties in northeast Wisconsin. Also, contact us if you would like to represent CWAC at meetings of an area environmental group or would like to seek support from CWAC for another organization.

Help move your household toward zero waste by logging on to the following website for safe disposal of household and agricultural hazardous waste collection. http://datcp.wi.gov/Environment/Clean_Sweep/index.aspx Once there, click on 2012 Agricultural and Household Hazardous Waste Collections - 32 page PDF (updated 9/7/12) for a statewide list of collection centers.

MEA to Represent CWAC in Judicial Review of Appleton Coated Discharge Permit

Midwest Environmental Advocates (MEA) will represent the Clean Water Action Council in a judicial review of Appleton Coated LLC's Wisconsin Pollutant Discharge Elimination System wastewater permit. MEA filed a lawsuit on our behalf against the Wisconsin Department of Natural Resources (DNR) alleging that when the DNR issued the permit, they violated state law in potentially two ways. First, the limits in the permit exceed the limits of phosphorus and suspended solids allowed by the Lower Fox River Basin's total daily maximum loads. Second, we are challenging the compliance schedule in the permit because it appears that the DNR did not make any of the findings that their own regulations require them to make when determining the length of the compliance schedules.

If we are successful, we would hope to obtain an order from a judge sending the permit back to the DNR and requiring the agency to follow state law when reissuing the permit. MEA noted there is no guarantee that even after the agency reconsiders the permit the terms would be different. However we hope to get a ruling that state law necessitates at least some changes to the permit. At the very least, we would be holding the DNR accountable and ensuring that they follow their own rules.

CWAC signed on to this lawsuit because of our interest in reducing the amount of phosphorus entering the Lake Michigan watershed. Although there are many factors that contribute to the recent outbreaks of *Cladophora* blooms, biologists believe that controlling the amount of phosphorus entering the lake is the mitigation that could have the greatest positive affect on the problem, and is the most easily achieved.

If you feel a company is in continual violation of their air or water pollution permit, contact us. We may be able to help file a citizen suit to end the violation.

CWAC Joins Greater Green Bay Community Foundation

The CWAC Board of Directors is pleased to announce our new partnership with the Greater Green Bay Community Foundation with the opening of an endowment fund. Last year, our organization received a financial boost with a significant contribution from the estate of Roger Simurdiak. Having funds with the foundation will secure resources for CWAC's future operations while giving us immediate exposure to the philanthropic wishes of other donors such as Mr. Simurdiak.

Go to the Greater Green Bay Community Foundation website if you would like to make a bequest to CWAC or contact CWAC treasurer John Hermanson for more information.

Kewaunee Cares Tests the Waters

By Jim Olson - CWAC/Kewaunee Cares committee member

Regular water testing began on Monday, September 24, 2012 to establish baseline data about the health and safety of waters in the Kewaunee County watershed. Areas currently being tested represent the East Twin River, Kewaunee River and the Ahnapee River. Samples are being collected by people trained by the Wisconsin Department of

Natural Resources in the WAV (Water Action Volunteer) protocol and analysis is conducted by a state certified laboratory.

It's important to look at the results from this first sampling as a snapshot in time. We of course have had a severe draught and streams and lakes are being stressed by falling water levels and low flow. However, over time as we accumulate more data we'll be able to show a much clearer picture of the condition of our water resources.

On October 15, 2012 more samples were taken and analyzed only for Total Coliform and E-coli bacteria levels. This sampling occurred 24 hours after a 3+ inch rain event.

A third sampling was done on October 30, 2012.

See the chart below showing the most recent results. More test results and analysis will be added monthly or as data becomes available.

Hall's Calf Ranch Expansion Permit Hearing in Luxemburg

By Bev Watkins

CWAC board member Beverly Watkins, attended a DNR hearing on Thursday, Dec. 13 at which Hall's Calf Ranch, located on County Hwy F in the town Montpelier in Kewaunee County, made a request to expand operations from 4,800 calves to 6,800 calves. According to the proposed permit, "Annual manure generation is estimated to be 2,998,971 gallons of liquid manure and process

Kewaunee Cares Water Sampling Program—2012

Test Parameter and Result
MPN bacteria results in CFU/100ml
Analyzed by: Analytichem-Luxemburg, WI

Date Sampled	Time Sampled	Watershed	Location*	Total Coliform	E. Coli	Nitrates	Phosphorus	Technician's Comments:	Weather Conditions	Sampler's comments:
9/24/12	10:50 AM	East Twin River	Cty BB & Mill Lane	1413.6	224.7	2.86 mg/l	<0.088 mg/l	n/r	Clear/67°/Windy	low flow, good clarity
9/24/12	11:28 AM	Kewaunee River	Kewaunee Marina	1203.3	18.5	<0.014mg/l	0.13 mg/l	n/r	Clear/67°/Windy	low flow, poor clarity
9/24/12	12:23 PM	Ahnapee River	Olson Park, Algoma	1046.2	131.4	0.7mg/l	<0.088 mg/l	n/r	Clear/67°/Windy	low flow, poor clarity
9/24/12	1:00 PM	Ahnapee River	Cty H & 1.4 mile E of Stevenson Pier Rd.	1203.3	24.6	8.61mg/l	<0.088 mg/l	n/r	Clear/67°/Windy	low flow, good clarity
9/24/12	1:35 PM	Kewaunee River	CTY S & Maple	>2419.6	325.5	19.7mg/l	<0.088 mg/l	n/r	Clear/67°/Windy	low flow, good clarity
9/24/12	2:10 PM	East Twin River	Cty F & AB	1986.3	206.4	7.63mg/l	<0.088 mg/l	n/r	Clear/67°/Windy	low flow, poor clarity
9/24/12	2:25 PM	East Twin River	Townline Rd & Rt. 29	2419.6	410.6	6.66mg/l	<0.088 mg/l	n/r	Clear/67°/Windy	low flow, poor clarity
10/15/12	1:50 PM	East Twin River	Cty BB & Mill Lane	>2419.6	>2419.6	n/r	n/r	Unsafe	Partly Cloudy/58°/Calm	followed 3+ inch rain
10/15/12	1:20 PM	Kewaunee River	Kewaunee Marina	>2419.6	1553.1	n/r	n/r	Unsafe	Partly Cloudy/58°/Calm	followed 3+ inch rain
10/15/12	3:00 PM	Ahnapee River	Olson Park, Algoma	>2419.6	816.4	n/r	n/r	Unsafe	Partly Cloudy/58°/Calm	followed 3+ inch rain
10/15/12	3:30 PM	Kewaunee River	CTY S & Maple	>2419.6	1299.7	n/r	n/r	Unsafe	Partly Cloudy/58°/Calm	followed 3+ inch rain
10/15/12	2:20 PM	East Twin River	Townline Rd & Rt. 29	>2419.6	>2419.6	n/r	n/r	Unsafe	Partly Cloudy/58°/Calm	followed 3+ inch rain
10/30/12	9:45 AM	East Twin River	Cty BB & Mill Lane	1413.6	410.6	1.39 mg/l	<0.088 mg/l	n/r	Overcast/41°/Windy	mod. flow, fair clarity
10/30/12	9:10 AM	Kewaunee River	Kewaunee Marina	2419.6	160.7	1.36mg/l	0.18 mg/l	n/r	Overcast/41°/Windy	mod. flow, poor clarity
10/30/12	11:20 AM	Ahnapee River	Olson Park, Algoma	1203.3	34.1	0.79mg/l	<0.088 mg/l	n/r	Overcast/41°/Windy	mod. flow, poor clarity
10/30/12	12:00 PM	Ahnapee River	Cty H & 1.4 mile E of Stevenson Pier Rd.	770.1	34.1	5.95mg/l	<0.088 mg/l	n/r	Overcast/41°/Windy	mod. flow, fair clarity
10/30/12	12:20 PM	Kewaunee River	CTY S & Maple	>2419.6	517.2	15.49mg/l	<0.088 mg/l	n/r	Overcast/41°/Windy	low flow, good clarity
10/30/12	10:15 AM	East Twin River	Cty F & AB	1732.9	172.5	2.46mg/l	<0.088 mg/l	n/r	Overcast/41°/Windy	mod. flow, good clarity

E.Coli level <235 CFU per 100 ml is safe for swimming
Total Coliform <1 CFU is safe for drinking
E. Coli level <1 CFU is safe for drinking
Nitrate level <10 mg/l is safe

Measurement description:
MPN is most probable number of CFU (colony forming units) per 100 mL sample
*All samples obtained by public access to waterways
n/r = none recorded

wastewater and 22,856 tons of solid manure. They currently have a total of 1,094 acres available for manure and process wastewater.”

Upon entering the hearing, Nancy Utesch, from Kewaunee Cares, handed out literature documenting Hall’s poor history of meeting environmental regulations. The hearing was well attended with standing room only. Most spoke against the expansion. As quoted from their blog, *KewauneeCares.org*, “Devoid of any WPDES permits for pollution, this non-permitted CAFO has incurred NO FINES or ENFORCEMENT from either the EPA, which busted this facility June 22, 2011, or the Department of Natural Resources, in spite of the fact that it is clearly breaking the Clean Water Act. The DNR has referred to Hall’s as “an anomaly”, as they try to save face with the EPA for their lack of oversight and action with this facility. To learn more access the Freedom of Information site at the EPA, and ask for the report on Hall’s Ranch, June 22, 2011. Check the box that you will pay up to \$25 for the info. It’s available without this charge, but still check this box. Also remember we don’t have the EPA in Wisconsin, so check the box for Region 5 for your information. This is an eye opening report on the truth of the amount and types of pollution occurring here in Kewaunee County. The volume of waste pollution the East Twin is astounding. Exercise your right today to the Freedom of Information and your RIGHT to Know the truth!”

Having attended two DNR hearings in the last few months, both of them in Kewaunee County and both concerning requests to expand already large CAFOs, I have found the DNR to be generally indifferent to public comment. They listen to residents and take their statements, but they don’t seem to take their concerns seriously. At both hearings, when asked about inconsistent monitoring of these farms, they have indicated lack of staff or budgetary shortfalls. To be fair, they also said they don’t have the staff to monitor small farms either. Yet they continue to approve the permits. At this hearing, they could not answer why Hall’s was not previously cited for environmental damage.

If you live in the country near one of these factory farms, be sure to attend any hearings that come up regarding any expansion they request. Make a statement to the DNR regarding your opposition or just complete and sign the comment slip giving your reasons for opposition. This doesn’t just affect residents of Kewaunee County; it affects all of us because we all share the water. Make your voice heard!

CWAC Hires Interim Director and Posts Position Opening

The CWAC Board of Directors decided at their November meeting to hire a part-time executive director. The amount of work had reached a level of 20 hours or more per week, which was more than what the board of directors could sustain. CWAC President, Dean Hoegger, was hired as interim director until the position could be

posted and applications accepted. Interested persons are encouraged to submit a letter of interest and resumé to Jane Blameuser, CWAC Secretary, 3574 Algoma Rd., Green Bay, WI 54311.

CWAC Opens Green Bay Office, Volunteers Needed

WE NEED YOUR HELP. *The office saw a lot of activity leading up to the gasification plant permit rescission, but now we need volunteers for other work! Some of the tasks are assisting with mailings for our membership drive, issue research, preparing presentations, setting up a computer, and computer record keeping. Please contact Dean at 920-495-5127, if you can help.*

S.S. Badger Owners Resist Environmental Upgrades

By Dean Hoegger

As reported in our Fall, 2011 Newsletter, the SS Badger was still operating with coal fired engines that were over a hundred years outdated. The issue with coal as a fuel, although a source of toxic air emissions, was primarily about the water pollution it created. During each lake crossing, the vessel dumps about one ton of coal ash containing low concentrations of arsenic, selenium, lead, and mercury according to the EPA. Multiply this times the 500 or so crossings per year, and it is easy to see why the EPA developed regulations in 2008 requiring this practice to end for all vessels using the Great Lakes.

Last fall we expressed concern about the apparent lack of progress that the owners, Lake Michigan Carferry (LMC), were making toward a retrofit with environmentally friendly natural gas engines. In 2008, the EPA granted an extension to give the company more time to meet the regulations. That extension expires this December. Rather than working on engine retrofit, or ways to do land based coal ash disposal, the owners continue to seek ways to avoid being an eco-friendly company.

Their most recent effort, spearheaded by two U.S. Congressmen, Tom Petri of Wisconsin and Bill Huizenga of Michigan, was to bury language placed in a Coast Guard reauthorization bill that would grant permanent exemption from the regulations that ended coal ash dumping on all Great Lakes vessels in 2008. Fortunately, the language was identified as an earmark and removed from the bill. However, there are still other environmentally unfriendly options.

One such option allows LMC to make another extension application to the EPA by showing it is not economically feasible to make the upgrades. Yet the MINNPOST, at <http://www.minnpost.com/>, indicated that LMC’s own data shows that the cost of a round trip would be nominal. Increasing the current fare of \$375 by \$25 would enable the company to do proper land filling rather

than dumping coal ash into Lake Michigan. The Milwaukee based competing ferry service, the Lake Express, provides a similar service, for slightly more money, and they do so with diesel power. The Lake Express owners see the lenience by EPA to have given the Badger an unfair competitive advantage over their own law-abiding operation. Another extension should not be granted!

CWAC's position on the S.S. Badger, as stated to Green Bay's TV-26, is that the Lake Michigan Carferry should be held accountable for making no measureable effort to upgrade their operation and meet the EPA's extension deadline of December 19, 2012.

Students Perform Real Stream Research

By Charlie Frisk



Luxemburg-Casco and Green Bay Preble High School students examine water samples.

Approximately ten years ago a group of local educators organized a research program that has influenced the lives of hundreds of young people. The Lower Fox River Monitoring Project (LFRMP) now involves 11 high schools, a research team from the Green Bay Boys and Girls Club, and the University of Wisconsin Green Bay. The project was originally financed with funds from the Fox River PCB settlement but has lived on because of generous donations from corporations and individuals.

Different schools are responsible for the studies on different tributaries of the Fox. For example, Luxemburg-Casco and Green Bay Preble work together as a team conducting research on Baird Creek. Appleton North and Appleton East do Apple Creek, West DePere and Green Bay East do Ashwaubenon Creek, Green Bay Southwest has Duck Creek, Ashwaubenon High School and the Green Bay Boys and Girls Club do Dutchman's Creek, Oshkosh North does Spring Brook, and Pulaski and Oneida Nation High Schools do Trout Creek.

The students study water chemistry; testing phosphorus, nitrogen, and oxygen levels as well as conductivity and pH. They also test turbidity, stream flow, macro-invertebrates, amphibians, and birds of the watershed. The Baird Creek team has also tallied the fish populations for the last 15 years as well. The students and their advisors conduct four stream studies a year. Each team also chooses their own research question to explore. The Baird Creek team has been documenting the changes in phosphorus levels and turbidity since the Brown County Land and Water Conservation Dept. started installing vegetative buffers along the stream banks of the upper watershed. Their research has shown a progressive drop in both phosphorus levels and suspended solids since the buffers have gone in. Without the baseline data accumulated in previous years, it would be impossible to document the improvements in stream quality. The fish studies on Baird Creek have documented the loss of one species, the fantail darter, last seen in 2003, and the return of another species, the log perch, documented twice in 2012.

The LFRMP is very unique in that high school students are performing real, professional quality research. This is a tremendously valuable learning experience for the students, and at the same time they are also developing valuable baseline data on the water quality of their streams. Their data is tabulated and kept in a permanent database at UWGB. Once a year the students attend a symposium at UWGB where they present their research findings and share ideas and experiences with the other teams.

The LFRMP is an incredible learning experience for the students. Students who have worked on the project throughout high school can accumulate more field research experience than most college biology majors do in four years of college. Few of the students receive any academic credit for the research; they do it because they enjoy the learning experience.

Some LFRMP students go on to major in biology or environmental science, but for others, this will be their last opportunity to do real research. All of the students involved come away with a better understanding of how streams work and an appreciation for the factors that affect water quality in those streams. The students also develop a feeling of ownership of their streams. For example, the Baird Creek team has been heavily involved in invasive species removal,

prairie plantings, trail building, and garbage cleanup in the Baird Creek watershed.

Students say that the LFRMP is the most fun they can have while still learning.



Join or Renew Your Membership to Clean Water Action Council!

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() Non-member donation of \$ _____ for _____

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☐ mailings ☐ office work
☐ joining or leading one of the committees ☐ other

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Phone numbers are listed under Board Members



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MARK YOUR CALENDAR! Meetings, Events and Happenings

~**CWAC Board of Directors** meet the last Wednesday of every month at 6 PM. Board meetings are at the Riverside Drive office.

~**Thursday & Friday, January 10th and 11th - Niagara Escarpment Symposium: Cultivating a Sense of Place** at UWGB. This year's event is entitled "Cultivating a Sense of Place: The Niagara Escarpment, the Great Lakes and Human Perception" and it was developed to emphasize the subtleties of what comprises the cultural landscape along the Niagara Escarpment corridor.

~**Tuesday & Wednesday, February 26 & 27 - The 2013 Midwest Manure Summit**, at the Radisson Hotel & Conference Center in Green Bay. Organized by UW-Extension, this conference was started in 2009 with the goal of bringing new on-farm manure

handling and processing technologies and ideas to Wisconsin. New speakers and ideas are lined up for the 2013 event.

~**Saturday, May 11 - Eco-Expo**, Shopko Hall, Green Bay. 9:00 AM - 4:00 PM. The Eco Expo hopes to inspire people to create a positive change in the environment, leading by example in their daily lives. The show will provide access to information, education, and resources to increase sustainability, reduce waste, restore the environment, and make improvements to lead a healthy lifestyle.

~**Coming this Spring, iPat* Film Series - "Vegucated", "If a Tree Falls" and "No Impact Man"** at UWGB Christie Theatre. Watch for specific dates! A new environmental film/discussion series. iPat stands for impact=population*affluence*technology