

Groundwater Advisory Committee
Options Paper
for
November 15 Ballot

Date: November 14, 2007

From (list GAC members): Ron Kuehn

Title (Subject): Retain 1200-Foot Protection Zone

DISCUSSION:

Act 310, Laws of 2003 provides that the DNR may not approve a high capacity well located in a groundwater protection area unless it is able to include and includes in the approval conditions, which may include conditions as to location, depth, pumping capacity, rate of flow, and ultimate use, that ensure that the high capacity well does not cause significant environmental impact.

A “groundwater protection” (“GPA”) is defined to mean an area within 1,200 feet of any of the following:

- (i) An outstanding resource water (see Section 281.15).
- (ii) An exceptional resource water (see Section 281.15)
- (iii) The Class I, II, or III trout stream (as identified by the Wisconsin DNR).

The one exception to this rule is for a high capacity well that is a water supply for a public utility engaged in supplying water to or for the public. For a public water supply well, the DNR may allow a high capacity well to be constructed even though it may cause a significant environmental impact to a GPA if the DNR (a) determines that there is no other reasonable alternative location for a well, and (b) is able to include and includes in the approval conditions that ensure that the environmental impact of the well is balanced by the public benefit of the well related to public health and safety.

High capacity wells that are not public water supply wells may not be constructed in any case if the well would cause a significant environmental impact to a GPA. In other words, high capacity wells that are not public water supply wells, regardless of their need or usefulness, are banned in GPAs if they would cause a significant environmental impact to a GPA.

During the course of the GAC’s analysis of the operation of Act 310, we learned the following:

- That the 1,200 foot limit, while providing significant protection to the surface waters affected by the limit, has no basis in science. The 1,200 foot limit was the result of a consensus by affected interest groups and the Wisconsin Legislature when the law was passed in 2003.

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- That propertyowners have been encouraged by the DNR not to seek approval for a high capacity well within the 1,200 foot limit.
- That since May 2005, the DNR has approved the construction of 16 high capacity wells within GPAs.

RECOMMENDATION:

We recommend that the 1,200 foot limit provision of current law be retained at this time. Current law in essence creates a water use priority system. High capacity wells (other than public water supply wells) that cause a significant environmental impact to a GPA are banned within that GPA. Stated conversely, this means that GPA surface waters are granted priority over high capacity wells (other than public water supply wells) within the 1,200-foot GPA area.

This de facto priority system should not be extended beyond the 1,200 foot limit contained in current law without further discussion about the relative uses of water and how to balance conflicting demands on Wisconsin water resources. If further protections beyond 1,200 feet are to be considered, those protections should be considered in the context of or weighed against the benefits of the high capacity well to the propertyowner, the locality and the State of Wisconsin. Further protection should not be handled by simply extending the ban on high capacity wells that may cause a significant environmental impact to a GPA without first engaging in this balancing discussion.