
To: Groundwater Advisory Committee, Technical Advisory Committee, DNR

From: Jodi Habush Sinykin, Bob Nauta, George Kraft

Re: Rationale and Recommendations Regarding Designated GPA Resources

BACKGROUND AND RATIONALE:

Presently, Groundwater Protection Areas or “GPAs” are defined by a specified distance from a designated water body. Under current groundwater law, the only water bodies designated for protection from high capacity well groundwater withdrawals are the following: Outstanding Resource Waters (ORWs), Exceptional Resource Waters (ERWs) and trout streams.

Unfortunately, this limited designation of protected waters does not encompass the vast majority of Wisconsin’s water resources, leaving unprotected a spectrum of valuable water resources, including the majority of the state’s lakes and warm water fisheries.

For instance, the limited scope of the GPA designated water inventory applies to less than 1% of Wisconsin’s more than 15,000 lakes. Only ninety-seven lakes are designated ORWs (there are no ERW lakes). Based on available data, two-thirds of the state’s lakes are either seepage or spring lakes, which rely on groundwater flow for all or part of their water supply. Yet, notwithstanding the groundwater dependency of the majority of the state’s lakes, our groundwater law’s current designation of protected waters excludes 99% of Wisconsin lakes from protection.

Without an expansion of the scope of “designated waters” under statutory law, there is certain to be growing numbers of lakes associations seeking protection from adverse groundwater impacts through litigation. As such, if no legislative action is taken, case law, not statutory law, will determine the direction of Wisconsin policy in this important regard.

Moreover, whereas most of the ORWs and ERWs are located in the least developed areas of the state, there remain other categories of waters in the more populated areas of the state, such as southeastern Wisconsin, which provide important environmental and economic value to Wisconsin citizens. Many of these waters have received significant expenditures of state and federal funds in the preceding decades to address water quality concerns. It seems discordant to provide legal protection for water quality impacts, but *not water quantity* impacts, especially given that many of these non-ERW/ORW waters are already in a vulnerable condition.

As set forth below, a solution to these identified gaps under the current law is for Wisconsin to include additional resources under the protected waters designation for Groundwater Protection Areas (GPAs). Another, more comprehensive, solution to these identified gaps would be for Wisconsin to implement a statewide regulatory program for high-capacity wells which provides for an environmental review process that evaluates and aims to mitigate withdrawal impacts to hydraulically connected surface water resources.

RECOMMENDATION:

Designation of Groundwater Protection Areas (GPAs) should not be restricted to Exceptional Resource Waters, Outstanding Resource Waters and Trout Streams only.

Additional valued water resources, including seepage lakes, rivers, and wetlands that are not trout water or ORWs or ERWs should be considered for GPA designation by the legislature.