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### **Kinnard Farms sues DNR to block needed drinking water protections**

One of Wisconsin's largest dairy operations is pushing back against permit requirements meant to protect drinking water from cow manure pollution. On Earth Day, Kinnard Farms filed suit against the Department of Natural Resources (DNR) arguing it should not be required to test the water quality near farm fields where it spreads large amounts of manure. Kewaunee County residents have suffered for years from drinking water contaminated with harmful pollutants like nitrates and bacteria, which often come from cow manure and fertilizer.

"Kinnard is opposing the very basic step of checking to see if manure runoff is impacting the water supply. There is no doubt Kewaunee families are facing serious water contamination issues and have been for years," says Clean Wisconsin Staff Attorney Evan Feinauer. "This is about using science to understand what's happening to our water resources and guide us to effective solutions that protect public health. Groundwater monitoring can help us identify potential problems that lead to contamination and also validate whether the important conservation efforts that are already underway are making an impact."

The DNR recently included water quality monitoring requirements and animal limits as conditions of Kinnard's water pollutant discharge permit, a move that stems from last summer's *Clean Wisconsin vs. DNR* state Supreme Court ruling. In the case, Clean Wisconsin argued that the DNR does have the authority to require water testing and cap animal numbers as permit conditions for large-scale animal operations like Kinnard, and the Court agreed.

"After years of litigation and a Supreme Court ruling affirming DNR's responsibility to use these tools to ensure clean drinking water, it's concerning to see that the notion of monitoring water quality to protect public health is yet again being challenged," Feinauer says.

Kinnard Farms, which currently houses more than 8,000 animals, is also arguing it should not be subject to the DNR's cap on the number of cows it can safely support without risking contamination of local drinking water from manure runoff. The farm contends it has enough storage capacity and fields available for spreading manure that it could effectively double in size without violating the law or polluting water supplies. But

Feinauer pushes back on the notion that Kinnard could grow to 16,000 cows without harming drinking water.

“At some point, there is just no more land on which such massive amounts of manure can be safely stored or spread,” he says. “The Supreme Court understood this when it agreed that DNR has the authority to place limits on the size of these farms to protect water quality.”

The DNR recently proposed water monitoring requirements in its draft permit for Gordondale Farms in Portage County to help inform and address significant drinking water quality concerns in the nearby village of Nelsonville. The Gordondale and Kinnard Farms cases mark the first time the agency has used its permitting authority to require a Concentrated Animal Feeding Operation (CAFO) to monitor water quality around manure land spreading sites.

In a [press release](#), the DNR pointed to Clean Wisconsin’s lawsuit as reason for the new proposed requirement.

“In July 2021, the Wisconsin Supreme Court issued an opinion in *Clean Wisconsin, Inc. vs. DNR* concluding that the department has authority to include in a CAFO permit terms that ensure compliance with effluent limitations and water quality standards. The permit modification is required as part of a farm-specific settlement agreement that hinged on this Wisconsin Supreme Court opinion,” stated the release. “According to the settlement agreement, the department must modify Gordondale Farms’ permit, allow submission of additional information for consideration, and determine if an animal unit cap and groundwater monitoring of land spreading fields is warranted.”

Feinauer says it shouldn’t require legal action to ensure meaningful steps are taken in the fight against drinking contamination in rural Wisconsin. Everyone acknowledges that our critical water resources must be protected.

“We know everyone wants the same end result—safe drinking water and successful farms,” he says. “Clean Wisconsin will continue to fight for clean drinking water for all residents of Wisconsin, and for sensible protections against groundwater contamination.”

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