

February 16, 2022

Regional Administrator Debra Shore
U.S. Environmental Protection Agency, Region 5
77 West Jackson Boulevard
Chicago, IL 60604
Sent via email only

RE: Petition for Emergency Action Pursuant to the Safe Drinking Water Act, 42 U.S.C. §300i, to Protect the Citizens of Kewaunee County, Wisconsin from Imminent and Substantial Endangerment to Public Health Caused by Nitrate and Bacteria Contamination of an Underground Source of Drinking Water, and Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. § 9604, and Resource Conservation and Recovery Act, 42 U.S.C. § 6973 (hereinafter, “the Petition”)

Dear Administrator Shore:

This letter requests a conversation regarding a 2014 Petition to the U.S. Environmental Protection Agency (“EPA”) from Midwest Environmental Advocates, Clean Wisconsin, Clean Water Action Council of Northeastern Wisconsin, and Kewaunee CARES (hereinafter, “the Petitioners”). The Petitioners’ last substantive conversation with EPA about the Petition was a September 2018 conference call organized at the Petitioners’ request. Following that call, we are not aware of any substantive updates from EPA. The Petition is still outstanding.

We would like the opportunity to meet with you to discuss the groundwater contamination situation in Kewaunee County and your response to the Petition.

Groundwater experts and conservation professionals in northeastern Wisconsin have continued to document the ongoing groundwater contamination crisis that we presented to your office in 2014. Recent well testing has shown contamination, including across Kewaunee County, and in Lincoln Township specifically. A study based on well samples from 2014 and 2015, estimated that 27% of Kewaunee County wells exceeded Wisconsin’s groundwater standards, which includes 10 mg/L nitrate-N and zero total coliform.¹ The study found that well contamination with total coliform and nitrates were associated with nearby agricultural land use and depth to bedrock at well sites, but not septic systems.² Another investigation examined pathogens in groundwater from fecal contamination. The most frequently detected pathogens were *Cryptosporidium*, and *Salmonella*.³ The study estimated that 301 people become sick with acute

¹ Mark A. Borchardt et al., *Sources and Risk Factors for Nitrate and Microbial Contamination of Private Household Wells in the Fractured Dolomite Aquifer of Northeastern Wisconsin*, 129 *Environmental Health Perspectives* 7 (2021).

² *Id.* at 1.

³ Tucker R. Burch et al., *Quantitative Microbial Risk Assessment for Contaminated Private Wells in the Fractured Dolomite Aquifer of Kewaunee County, Wisconsin*, 129(6) *Environmental Health Perspectives* 6 (2021).

gastrointestinal illness per year due to contaminated wells, with 230 of those individuals becoming sick from cow manure, 12 from human waste, and 59 cases could not be successfully associated with either fecal source.⁴ This result was consistent with actual reported cases of gastrointestinal illness reported to the Wisconsin Department of Health Services given underreporting and underdiagnosing factors.⁵ The study noted that this rate of GI illness is higher than the acceptable level for a public drinking water system.⁶

Ongoing testing of private wells in Kewaunee County continued in 2021 and showed that groundwater contamination continues unabated. In July 2021, researchers from UW-Stevens Point collaborated with Kewaunee County and others to test 299 wells in Kewaunee County. Approximately 23% of the samples tested positive for total coliform bacteria, which was higher than previous sampling.⁷ About 9% of the wells exceeded the drinking water standard for nitrates of 10 mg/L.⁸ The slide below is a screen shot from a webinar:

⁴ *Id.*

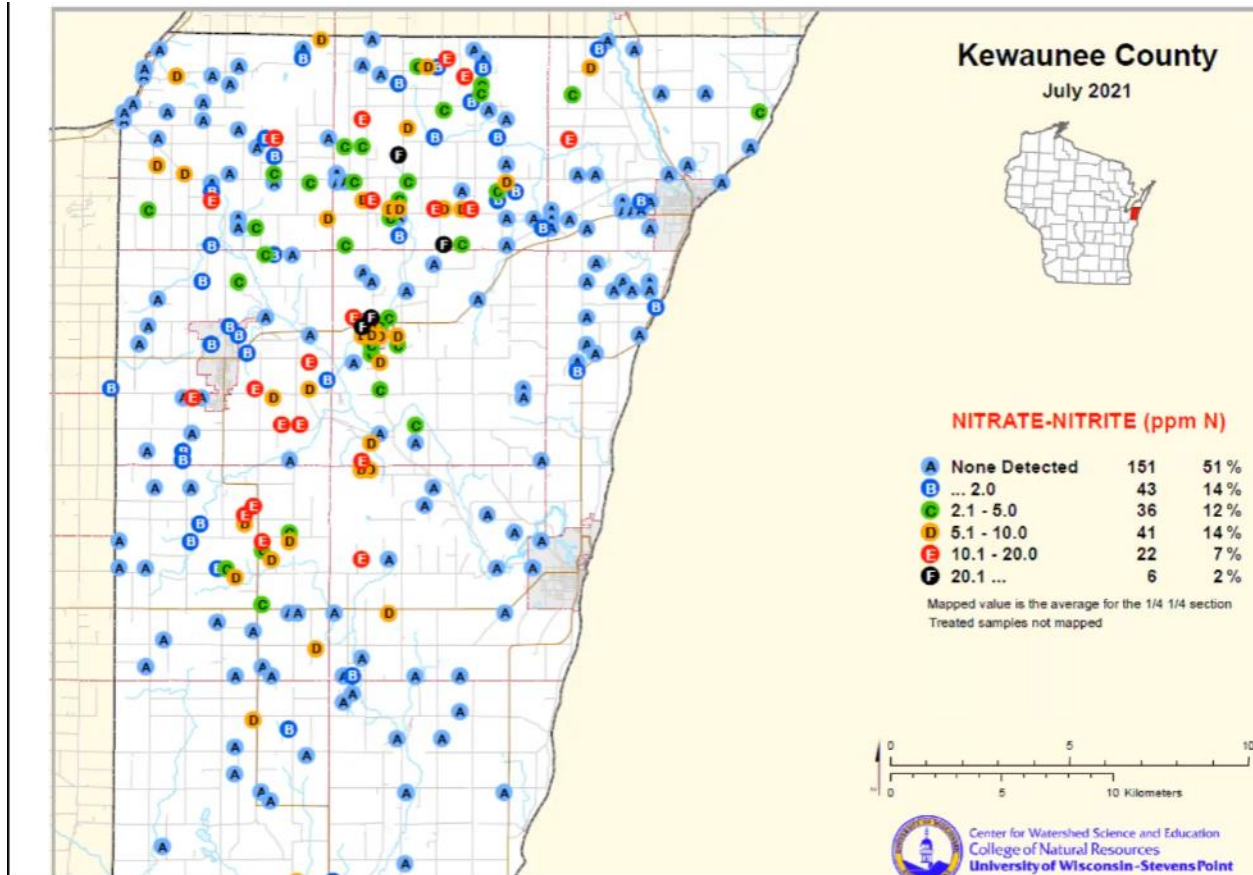
⁵ *Id.* at 7–8.

⁶ *Id.* at 7.

⁷ See Kewaunee County Well Water Education Program (Aug. 24, 2021), at minute 24:10-25:14 & 26:00-26:05. *Available at*,

https://wisconsin-edu.zoom.us/rec/play/W46XwSRe6lDJIPJhXcdmMicM1fdAwsKqvArU7nVzwJq4EX-i4iAgEorGnxzhidgqepvvzAn6wY_bkwP2.wERZ0TGKXC41nJIo?continueMode=true&_x_zm_rtaid=XyDbPeWSSBiiZmpyRlw-9w.1631538681906.0bea909a08616fea601be73b0ceaba18&_x_zm_rtaid=609

⁸ *Id.* at minute 46:00-46:42.



Regulatory updates

Since we filed our Petition, Wisconsin DNR promulgated Wis. Admin. Code § NR 151.075, which established manure landspreading standards for areas with Silurian bedrock, including Kewaunee County. The rules were less restrictive than the recommendations of a 2007 Task Force Final Report.⁹ For example, the Final Report recommended barring all application of manure on land with less than three feet of soil to bedrock. As the sampling from 2021 shows, the community continues to suffer from groundwater contamination despite these regulatory changes.

⁹ In February 2007, UW-Extension released the Final Report of the Northeast Wisconsin Karst Task Force, concluding that “a uniform approach to regulation and enforcement across the entire carbonate bedrock region of northeastern Wisconsin is critical to the development of a stable and effective framework for environmental protection.” The Task Force was composed of the State’s leading experts on groundwater quality, hydrogeology, and conservation management, and its findings and qualifications have not been challenged by any entity. See Kevin Erb and Ron Stieglitz, *Final Report of the Northeast Wisconsin Karst Task Force*, University of Wisconsin Extension at ii (2007).

A demand for clean water

Petitioners stress that the most critical relief sought in the Petition is the provision of clean drinking water to Kewaunee County residents and money to cover the cost of private well testing. The workgroups in the mid-2010s were a first step, but Kewaunee County residents need more as their water is still not clean.

Kewaunee County residents need their federal government to provide reliable access to clean drinking water because government agencies have failed to protect their aquifer. They need more than meetings and voluntary practices inconsistently adopted across the county. They need the DNR to enforce the law and, in the interim, they need clean bottled water.

That is why the Petitioners need the EPA to step in and order immediate, enforceable actions to provide clean drinking water and prevent further groundwater pollution. In La Crosse County, on the western side of Wisconsin, the DNR has, in recognition that people's wells were contaminated by PFAS through no fault of their own, committed to providing bottled water to allow them to drink clean water. In Kewaunee County, no such effort is underway, despite problematic contamination that is also largely not the fault of the water drinkers who reside there. Kewaunee County would also like clean water provided to them in a convenient, respectful manner, that allows residents to access the water during their normal shopping activities or, best case, by delivery to their own homes. Many elderly residents in Kewaunee County with contaminated wells are not able to drive to pick up water themselves but must rely on their neighbors.

We look forward to discussing these concerns and ways that EPA could support residents in Kewaunee County in seeking clean water.

Please contact us as soon as possible to schedule this meeting. We appreciate your consideration of the Petition, and we look forward to your response.

Sincerely,

/s/

Andrea Gelatt & Adam Voskuil

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