



HIGH CAPACITY WELL LEGISLATION 2017

Over the past few years, law suits, legislation and the Wisconsin Attorney General's decisions, have threatened scientifically based permitting and management of high capacity wells (HCWs). In a *Milwaukee Journal Sentinel* Opinion of May 17, 2016, Wisconsin's Attorney General Brad D. Schimel wrote "The issue of HCWs is a policy matter that must be decided by elected lawmakers who are directly accountable to the citizens of our great state."

<http://archive.jsonline.com/news/opinion/high-capacity-wells-opinion-was-correct-on-the-law-b99727021z1-379835571.html> He also said that the DNR can't consider the collective impacts of HCWs in a given region when issuing new well permits.

<http://www.wpr.org/schimel-says-dnr-doesnt-have-broad-authority-over-high-capacity-wells>

If HCW policy must be decided by the legislature, concerned citizens might reasonably ask what our elected lawmakers have done this legislative session in proposing and passing HCW legislation.

Background on HCWs:

Section [NR 812.07\(53\) \[exit DNR\]](#), Wisconsin Administrative Code defines a HCW system as one or more wells, drill holes or mine shafts on a property that have a combined approved pump capacity of 70 or more gallons per minute. A property is defined as contiguous or adjacent land having the same owner. <http://dnr.wi.gov/topic/wells/HighCapacity.html> According to Wisconsin law, a HCW is any well located on a property on which all wells together have the collective capacity to withdraw 100,000 gallons per day or more (70 gal/minute). <http://dnr.wi.gov/topic/WaterUse/documents/WithdrawalReportDetail.pdf> In accordance with Sections [NR 812.09\(4\)\(a\) & \(b\) \[exit DNR\]](#), Wisconsin Administrative Code, prior department approval is necessary for the construction, reconstruction, or operation of a HCW system, school well or wastewater treatment plant well. Prior approval is also necessary before a HCW or well system can be operated after a change of ownership. <http://dnr.wi.gov/topic/wells/HighCapacity.html>.

2017 Legislation

Assembly Bill (AB) 105/Senate Bill (SB) 76, proposed by Rep. Gary Tauchen (R-Bonduel) and Sen. Scott Fitzgerald (R-Juneau), makes changes to the laws regulating HCWs by providing that no additional approval is needed for the owner of an approved HCW if it is repaired, reconstructed, replaced or transferred giving such wells no opportunity for their permits to be reviewed. This creates a right to withdraw water that doesn't expire. <https://docs.legis.wisconsin.gov/2017/related/proposals/sb76.pdf>

Assembly Bill (AB) 50/Senate Bill (SB) 22, proposed by Rep. Cory Mason (D-Racine) and Sen. Mark Miller (D-Monona), establishes standards and a process for designating areas as groundwater management areas (GMAs). The bill creates a subcommittee of the Groundwater Coordinating Council (GCC) to examine areas of the state that may qualify as GMAs and to recommend to the DNR that a qualifying area be designated as a GMA. The bill authorizes the DNR to promulgate a rule designating the area as a GMA, and also requires DNR to develop and adopt a groundwater management plan for the GMA. The bill requires DNR to include water conservation requirements in HCW approvals issued in GMAs. The bill also requires DNR to review all approvals for HCWs in the groundwater management area that were issued prior to the plan and modify the approvals as necessary to ensure consistency with the groundwater management plan. This bill would require a Wisconsin Environmental Policy Act (WEPA) (consider environmental effects of policy and actions) analysis for the majority of the HCW applications the department receives. This bill limits HCW approvals to a maximum of ten years and provides staggered expiration dates for existing HCW approvals. <https://docs.legis.wisconsin.gov/2017/related/fe/sb22>

2017 Legislation Elements	AB 105 /SB 76	AB 50 /SB 22
If a HCW is repaired, reconstructed, replaced or transferred, no opportunity to review permit	X	
Creates right to withdraw water that doesn't expire	X	
Limits HCW approvals to 10 years		X
Establishes groundwater management areas		X
Requires WDNR to consider water conservation in HCW approvals		X
Requires Wisconsin Environmental Policy Act analysis for majority of HCW applications		X

League of Women Voters of the United States (LWVUS) and LWV of WI (LWVWI) Natural Resource Policy Recommendations:

The LWVUS believes that natural resources should be managed as interrelated parts of life-supporting ecosystems. Resources should be conserved and protected to assure their future availability.

<http://lwv.org/content/natural-resources> The LWVWI believes that water quality and quantity standards need to be addressed in terms of whole basin management and the hydrologic cycle. That is, management not just of the water itself, but of the land and watersheds which drain to wetlands, aquifer, meteoric groundwater, river, lake or other body of water, whether it is naturally occurring or constructed, and wherever it is located. Water management is therefore accomplished as management of all parts of an integrated system within basin boundaries and of any water which may move into or out of that system. http://www.lwvwi.org/Portals/0/IssuesAdvocacy/PDF/NaturalResources_Water_Rev2014.pdf

In summary:

Assembly Bill (AB) 105/Senate Bill (SB) eliminates the need to re-permit HCWs and in so doing eliminates the opportunity to evaluate the total impact of that well on the aquifer and watershed. It eliminates the consideration of water conservation in permits. In effect, it privatizes the long-term rights of current HCW permit owners and eliminates the protection of other water users in the same watershed. **It is moving through the legislature and is likely to pass.**

Assembly Bill (AB) 50/Senate Bill (SB) 22 is an attempt to establish a rational groundwater management planning approach, in which long-term sustainable aquifer yield is the goal. The WDNR is given authority to periodically review HCW permits. Permit renewals consider water conservation and cumulative use. **It is likely that this bill will not get a hearing and will die, unless there is significant and widespread pressure for a hearing.**

As citizens and members of the LWV, we are right to be concerned at the short-sighted approach of the current legislative leadership in both houses, who are representing interests including, large fruit and vegetable growers, confined animal feeding operations (CAFOs), aggregate producers, agri-business owners, a biofuels organization, Wisconsin Manufacturers and Commerce, and many others.

<https://lobbying.wi.gov/What/BillInformation/2017REG/Information/13861>

These legislators make it pretty clear that Wisconsin is open for business on HCWs!

Wisconsin's water resources belong to us all and to our children and our children's children. We need legislators who support long-term sustainable stewardship of Wisconsin's groundwater resources and will work to pass legislation that requires evaluating the cumulative impact of HCW water withdrawals and water conservation as the basis for permits.

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