



# WISCONSIN LEGISLATURE

P. O. Box 7882 Madison, WI 53707-7882

February 15, 2024

The Honorable Tony Evers  
Governor of the State of Wisconsin  
115 East, State Capitol  
Madison, WI 53702

Dear Governor Evers:

As SB312 approaches the finish line in the legislature and then to your desk for enactment, we hope to reemphasize its importance for Wisconsin that we discussed in November. The bill addresses a reality that truly addressing PFAS pollution requires both funding and liability reform. Getting clean drinking water to brownfields that innocent landowners abandon due to legal structures helps no one. We have an opportunity now to help Wisconsinites with their health concerns and the environment, and do it without forcing them to choose personal economic ruin in the process.

Over the past two years, we and dozens of stakeholder groups and communities affected by PFAS have spent hundreds of hours working across the aisle on a good-faith compromise to address Wisconsin's PFAS crisis. We worked with the DNR Secretary Designee and senior administrators in the DNR representing the Administration at your direction for months, brainstorming and making dozens of changes at DNR request. The result was Senate Bill 312, which creates needed new programs to address PFAS-affected communities, while extending important legal protections to victims of PFAS pollution.

We are disappointed by your recent comments on 19 December that move the goalposts and inject groundwater rules and the REINS act into the discussion. We recognize the importance of establishing PFAS groundwater standards and intend on introducing legislation to continue that effort. However, it is cynical politics taking advantage of perceived public ignorance to conflate the groundwater standard rulemaking process with the SB312 grant program legislation. The efforts are mutually exclusive and we can work together to do both without derailing the process. You are not blocked from taking action on PFAS without a REINS act bill on groundwater standards as you've implied, and SB312 functions independently of groundwater standards. Let's not be short sighted seeking press attention at the expense of the long term goal.

Section 292 in the Wisconsin Statutes makes all emitters of a hazardous substance subject to remediation orders. It does not matter how the property became polluted by a hazardous substance, only that it emits the substance to another property. In practical application, innocent landowners finding themselves in the path of a pollution plume migrating through the water table

become emitters by law to their neighbors. The plumes next to farms or industry covers tens of thousands of acres and puts them into the category of emitters.

The DNR asserts that it rarely enforces §292 onto innocent landowners. When it does, the landowner will be obligated to pay for testing wells and remediation that could cost millions of dollars. A landowner faces \$5000 fines per day for noncompliance.

But, regardless of the DNR enforcement frequency, someone whose property tests positive for PFAS contamination will have to make such property disclosures to their mortgage provider and any potential buyer. The specter of enforcement orders will destroy land value instantaneously upon detection. Banks will refuse refinancing and call in their loans. The untenable scenario forces pollution victims into choosing between losing their largest asset or risking their health with high levels of contamination. The DNR's "solution" expressed is for neighbors to sue neighbors jointly and severally against international corporations to be made whole. It does not have to be that way.

SB312 provides legal protection for innocent landowners IF they let the DNR do testing and remediation. The protections do not extend to the point source of the pollution like a factory or test facility, and liabilities do not change for those who put PFAS into the ground from which the plumes spread. The middle path envisioned in SB312 protects the people who should be protected from effects of onerous government regulation while getting them clean water and protecting the environment.

While we support the need for groundwater standards, we first believe we need legal protections for innocent victims of pollution, and the framework necessary to expedite government support. SB312 creates needed new programs and protections that empower the Department to better serve local units of government, private community water system operators, private landfills accepting municipal solid waste, and, perhaps most importantly, innocent victims of pollution. Along with framework for programs known as the Municipal PFAS Grant Program and Innocent Landowner Grant Program, numerous other important measures are in SB312, including:

- Streamlining regulations around municipal water utilities' response to an emerging threat from PFAS contamination;
- Prioritizing in-state loan programs the extension of municipal water and sewer systems to unserved areas impacted by PFAS;
- Assurances that municipal utility projects, such as replacing lead water laterals, are not impeded by regulatory burdens because PFAS contaminated water may emerge while digging a hole;
- Starting response and remedial actions at certain contaminated sites where a culpable responsible party hasn't been identified;
- Assistance to private labs to get certified to test for PFAS, helping to lower the testing times and costs in our state;
- Protecting farmers and other parties from enforcement after PFAS was found on their property through no fault of their own;

- Review from the DNR on major test wells dug in areas with PFAS to ensure we're not exacerbating the contamination; and
- Additional studies from the DNR and UW-System to look at a number of issues, including the diversion, treatment and return of contaminated surface waters, the best means to dispose of contaminated biosolids, and effective measures to destroy PFAS.

We again ask that you take the time to listen to pollution victims and the PFAS-affected communities who are asking for Senate Bill 312. Please don't hesitate to reach out if we can be of assistance.

Sincerely,



Eric Wimberger  
Senator, 30<sup>th</sup> Senate District



Rob Cowles  
Senator, 2<sup>nd</sup> Senate District