

# FIRST PERSON: PROMISING NEW WAYS OF PROTECTING WISCONSIN'S WATER QUALITY

Recent laws aim to reduce phosphorus, nitrate runoff into state's waterways by enabling innovative 'pollution prevention partnerships'



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Having been born and raised in northeast Wisconsin, it seems not that long ago when it was ill-advised to swim in or eat fish from the Fox River and lower portion of Green Bay. After a long cleanup process, we're almost ready to put the issue of PCBs (polychlorinated biphenyls) in the past.

But as we begin enjoying our local waters again, new challenges await.

The waterways of my youth continue to be plagued by algal blooms that lead to fish kills. Nutrient pollution doesn't only impact my region; this issue overwhelms waterways throughout the state, halting recreation, harming our \$7.8 billion outdoor recreation economy, and damaging aquatic wildlife and their habitat for years to come.

Wisconsin has more than 1,500 impaired waterways, including more than 800 impaired by phosphorus or total suspended solids. Unfortunately, tackling these pollutants isn't as easy as it often sounds.

One source of contamination is point source dischargers, such as municipal wastewater treatment plants, paper mills and cheese factories. These facilities, which discharge treated wastewater through a pipe, are stringently regulated under the federal Clean Water Act and are removing nearly all pollutants before

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discharging into a body of water under a Wisconsin Pollutant Discharge Elimination System (WPDES) permit from the state's Department of Natural Resources.

Phosphorus regulations promulgated in 2010 tightened these regulations even more, resulting in expensive upgrades for minimal improvements to waterways. To reduce the cost burden on municipal utility ratepayers and small businesses while securing noticeable water quality improvements, Wisconsin decided that we must be more innovative.

Nonpoint sources don't discharge from a pipe, but rather from land runoff at places like some farms, golf courses and roadways. The Clean Water Act, designed in 1972, largely didn't address nonpoint sources because there wasn't a good way to measure the true impact from landscape-scale runoff.

Now, 50 years later, it's easier to model runoff thanks to technology.

### NEW POLLUTION PREVENTION PARTNERSHIP

That's why Rep. Joel Kitchens and I authored 2019 Wisconsin Act 151, which became law in March 2020.

Recognizing a largely ineffective party-to-party water quality trading system, we set out to create the nation's first statewide third-party trading clearinghouse to improve connections between parties, ease the administrative and regulatory burdens, and absorb party liability via what we call "Pollution Prevention Partnerships."

The clearinghouse should facilitate water quality trades in which a farmer or other nonpoint source can voluntarily agree to get payments from a point source to implement more advanced land

and water management practices.

While this doesn't let a point source off the hook, it gets flexibility in meeting our state WPDES permit standards in exchange for paying for these practices. To account for uncertainty in land conservation practices, at least 1.2 times more nonpoint pollution must be prevented than the flexibility granted to the point source.

The result?

A point source avoids costly facility upgrades to prevent utility ratepayer bills and consumer product prices from skyrocketing; a nonpoint source has the financial incentive to reduce runoff and reap benefits such as increased yields and decreased fertilization costs; the rest of us enjoy the net improvement to water quality.

This legislation (SB 91 of 2019) had more than 50 bipartisan co-sponsors and was supported by 30 stakeholder groups representing agricultural, business, environmental, local government and property development interests.

Since Act 151 was signed, I've been in constant contact with the governor's administration on implementation, including the drafting of guidance and release of a request for proposals for a clearinghouse operator.

In July, Texas-based RES was chosen by a selection committee, and contract negotiations are underway. Our hope is that the clearinghouse will be operating by the start of the 2023 growing season.

### MORE OPTIONS WITH NEW LAWS

While Act 151 was one of the larger efforts we've undertaken to reduce the impacts of nutrients in Wisconsin waterways, it isn't the only one.

Laws signed in 2013 (Act 378) and 2015 (Act 205) created the "Multi-Discharger Phosphorus Variance" (MDV) program, which allows point source polluters to pay \$50 per pound of phosphorus to their county land and water conservation department instead of upgrading infrastructure to reduce phosphorus discharges.

County officials then work with farmers or other nonpoint sources to reduce nearby runoff.

A recent five-year review of the program found that with 122 WPDES permit holders across 28 watersheds participating, this program prevented about 19,000 additional pounds of phosphorus annually from entering waterways versus what would have been otherwise achieved.

An almost 15 percent increase in pollution reductions while creating cheaper permit-compliance options shows the program was undeniably successful.

Beyond those efforts (in partnership with Rep. Amy Loudenbeck), I co-authored (with Rep. Kitchens) a bill last year providing farmers with incentive payments and technical assistance for land and water conservation practices.

Introduced with the support of agricultural and environmental groups, 2021 Wisconsin Act 223 pilots funding for farmers to implement Commercial Nitrogen Optimization Projects which use new methods to reduce nitrate leaching and runoff. Results may be used as new best-management practices in the clearinghouse or MDV programs.

Act 223 further provides payments of \$5 per acre as a crop insurance rebate for planting cover crops. It also creates a new hydrogeologist position in the University of Wisconsin System to assist local governments with requests for groundwater data to help farmers with more effective nutrient applications.

Not only do Wisconsin residents and visitors rely on clean and safe ground and surface water for their health and safety, but the natural scenery and recreation we enjoy from our pristine waterways enhances our standard of living and sustains our tourism industry.

Tackling water quality woes in Wisconsin has required the Legislature to look beyond inflexible regulation and work towards innovation. While our goals have been to create a reduction in pollutants entering our waterways, programs created by these acts will have numerous ecological, financial and recreational benefits across our state.

With these new laws and others, Wisconsin is again set apart as a leader in nonpoint source pollution solutions. I look forward to continuing to see the positive results of our efforts to provide everyone in Wisconsin with even more drinkable, fishable and swimmable waters.

Sen. Robert Cowles was first elected to the Senate in 1987, after serving in the Assembly from 1982-86. He serves as chair of the Senate Committee on Natural Resources & Energy and is co-chair of the Joint Legislative Audit Committee.

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