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Are Waters in Wisconsin Meeting Water Quality Standards?

By
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“The bottom line is: Are waters meeting water quality standards?” George Meyer told the Audit Committee at a recent hearing.

“[Wisconsin is] adding hundreds of impaired waters every year,” Mr. Meyer added. “It’s because of discharged nitrates and phosphorus.”

“Regulations and laws are only as good as enforcement.” Mr. Meyer said. “In the last few years [there has been] a substantial reduction in enforcement actions both in the wildlife area and the environmental area.”

Mr. Meyer knows about enforcing laws to protect our natural resources. For eight years, he served as the DNR Secretary under Governor Thompson. His 30-year DNR career also included ten years as head of the department’s enforcement efforts. He now runs Wisconsin Wildlife Federation, a nonpartisan coalition of nearly 200 conservation groups.

The Audit Committee was examining the findings of the Legislative Audit Bureau’s review of ten years of permitting, monitoring and enforcement of wastewater discharge. DNR is responsible for monitoring water discharged from about 350 industrial permittees and 650 municipal permittees and about 250 large farms (Concentrated Animal Feeding Operations or CAFOs) – mostly dairies.

Inspections and permits are supposed to make sure those who discharge into our waterways do so following the rules.

The DNR has long followed a “stepped enforcement” process, which means working with those violating the rules to find ways to bring them into compliance with the law. DNR staff notifies potential polluters through a Notice of Noncompliance and a more “stepped-up” Notice of Violation that lists problems and penalties if rules are not followed. When DNR makes a referral, the Attorney General enforces penalties on those who continue to violate the rules.

From 2005 through 2014, LAB Auditors found DNR did not issue either a Notice of Noncompliance or a Notice of Violation in 84% of cases for which a Notice of Violation should have been issued to an industrial or municipal permittee.

In addition to not notifying polluters of violations, DNR did not refer any municipal or industrial permittee cases to the Attorney General for enforcement action in 2013 or 2014. DNR Secretary Stepp described the current DNR approach as “creating a safe space” and “getting people into compliance.”

But we don’t know if industries, municipalities and CAFOs are actually becoming compliant. There is ample evidence of inconsistencies, overlooked reports, incomplete or missing inspections. From 2005 through 2015, the DNR never met its goal of issuing 90% of industry permits on time. The backlog was blamed on a lack of staff.

With regard to missing inspections, in 2010-2011, only two of every ten major industrial permittees were inspected according to DNR’s goal of inspecting major industrial permittees at least once every two years.

CAFOs are required to send in annual reports including any manure spills and required testing. Auditors found almost 98% of the required 1,900 CAFO reports were not electronically recorded as being received. This lack of oversight meant the DNR had no way of knowing or tracking emerging problems. DNR staff said they were too busy with other duties to thoroughly review the reports.

With the problems attributed to staff shortages, one would expect Secretary Stepp to request more staff. According to former Secretary Meyer, DNR staff levels dropped from a high of 3,300 to a current workforce of about 2,500. The Governor proposes eliminating another 43 positions in his budget.

Secretary Stepp acknowledged the problems created by staff shortages. The committee also heard how long it takes DNR to train staff for the very technical jobs of issuing wastewater permits and conducting inspections. Despite the problems and expense created by staffing issues, the Secretary refused to ask for additional staff or resources to retain staff saying, “The private sector doesn’t have the luxury of hiring additional staff.”

Audit Committee members were clearly worried about staff morale and the department’s ability to complete its mission as required by state law. Lawmakers talked about efforts to hire and retain the best and the brightest, increasing salaries, and valuing workers. However, the Secretary offered little assurance the work environment at DNR would change.

Mr. Meyer captured worries about the future of water protections when he mentioned that changes in the federal Environmental Protection Agency could result in “a substantial reduction in oversight of the states.”

Oversight at the state level is something Wisconsin waters need right now.