



## **Appeals Court Decision Threatens Public Health by Undermining the State's Ability to Address Toxic PFAS Contamination**

*Ruling in WMC Lawsuit is Expected to be Appealed to State Supreme Court*

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**Madison, WI**—In a 2-1 decision today, the Wisconsin Court of Appeals [upheld a lower court ruling](#) that undermines the state's ability to regulate PFAS and other emerging contaminants under Wisconsin's Spills Law.

Environmental and public health advocates expressed hope that the state Supreme Court will ultimately reverse the decision, saying that if it stands, the decision could have far-reaching implications for the state's ability to protect Wisconsinites from toxic environmental pollution.

The appeals court decision is the latest development in a [lawsuit](#) filed in Waukesha County Circuit Court by Wisconsin Manufacturers & Commerce (WMC) and Leather Rich, Inc. WMC sued the DNR in 2021 in an effort to limit the agency's ability to investigate PFAS contamination and require responsible parties to clean up contaminated sites.

Midwest Environmental Advocates (MEA) filed an [amicus, or 'friend of the court', brief](#) asking the Court of Appeals to uphold the DNR's decades-long application of the Spills Law and to reverse the circuit court decision. MEA filed the brief on behalf of a group of environmental and public health advocates, including Citizens for a Clean Wausau, Clean Water Action Council of Northeast Wisconsin, River Alliance of Wisconsin, Wisconsin Environmental Health Network and Doug Oitzinger, a former mayor of Marinette and a current city alderperson.

Rob Lee, Staff Attorney with Midwest Environmental Advocates, said, "While we are disappointed by the court's decision, we expect it to be appealed, and we are confident that the DNR's efforts to keep Wisconsin families safe from PFAS contamination will ultimately be vindicated. In the meantime, a stay on the decision is in effect, which will limit the harm suffered by those living in and around PFAS contamination sites in Wisconsin until this case is ultimately resolved."

PFAS are a class of highly-toxic synthetic compounds found in a wide variety of consumer products. They have been linked to serious health problems including cancer, reproductive issues, thyroid disease, immune system issues and more.

In a dissenting opinion, Judge Lisa Neubauer recognized that the court's ruling is at odds with 45 years of history and with the legislature's clear choice to apply the Spills Law to a broad category of potentially hazardous substances. Judge Neubauer wrote, "Today, for the first time since the statute was enacted, the court holds that the DNR must promulgate rules identifying certain substances as hazardous before the Spills Law applies to discharges of those substances."

"Our participation in this lawsuit is about defending a long-standing law that protects public health and prevents exposure to toxic contamination, especially for those who are most vulnerable—pregnant women, infants and young children," said Beth Neary, M.D., Co-President of Wisconsin Environmental Health Network.

Allison Werner, Executive Director of River Alliance of Wisconsin, said, "WMC's assault on the state's ability to address PFAS contamination is a significant threat to Wisconsin's water resources, to public health, and to all the sectors of our economy—including tourism and agriculture—that rely on clean water."

The lawsuit is part of a larger effort by WMC to roll back environmental protections across Wisconsin. WMC filed a similar lawsuit in Jefferson County Circuit Court in 2023. A third lawsuit, filed by WMC in 2023 on behalf of two factory farm groups, was aimed at eliminating environmental oversight of large livestock farms. That case [was decided](#) in January when a Calumet County Circuit Court rejected WMC's flawed legal arguments.

"WMC is using the courts to attack bedrock environmental laws that are used to hold PFAS polluters accountable for the harm they have caused in communities like mine," said Doug Oitzinger, a former mayor of Marinette and a current city alderperson. "Undermining the Spills Law would have real-world consequences for people living in Marinette, Peshtigo, La Crosse and other communities impacted by PFAS contamination."

Tom Kilian of Citizens for a Clean Wausau said, "This case could have implications for virtually every community in the state, not just those facing PFAS contamination. Here in Wausau, the Spills Law has enabled us to address decades of industrial contamination that has disproportionately impacted residents of Wausau's diverse, working class neighborhoods. Their health depends on the state's continued ability to remediate that contamination."

Dean Hoegger, President and Executive Director of Clean Water Action Council of Northeast Wisconsin said, "Whatever the size or scale of a hazardous spill, Wisconsinites expect the state to respond quickly and get it cleaned up. We want to make sure the state doesn't lose that ability and that it continues to prioritize public health over industry profits."

Learn more about this case [here](#).

**Midwest Environmental Advocates** is a nonprofit law center that combines the power of law with the resolve of communities facing environmental injustice to secure and protect the rights of all people to healthy water, land, and air. Learn more at [www.midwestadvocates.org](http://www.midwestadvocates.org) or [www.facebook.com/midwestadvocates](https://www.facebook.com/midwestadvocates).

**Citizens for a Clean Wausau** is an environmental watchdog group whose volunteers monitor the activities and impacts of significant current and past local polluters. CCW works primarily on issues related to defining the extent and nature of industrial contamination in a footprint on Wausau's southwest side, so that it can and will be remediated. Learn more at [www.cleanwausau.com](http://www.cleanwausau.com) or [www.facebook.com/cleanwausau](https://www.facebook.com/cleanwausau).

**Clean Water Action Council of Northeast Wisconsin** is a nonprofit corporation organized to promote a safe, healthy, and sustainable environment in northeast Wisconsin, to educate and inform members and the public on

environmental issues, and to take action on behalf of members and the public to protect the environment and human health. Learn more at <https://www.cleanwateractioncouncil.org/>

Formed in 1993, **River Alliance of Wisconsin** is a statewide nonprofit, nonpartisan advocacy organization that empowers people to protect and restore Wisconsin's waters. The organization's membership includes more than 1,500 individuals, businesses, and local watershed groups. For more information, visit [www.wisconsinrivers.org](http://www.wisconsinrivers.org)

**Wisconsin Environmental Health Network** is a group of healthcare professionals collaborating with local environmental advocates. WEHN works to inform healthcare professionals, the public, and policy makers about the effects of environmental toxins and climate change on public health. WEHN develops and promotes clinical tools, offers environmental health education for public and healthcare professionals, and advocates for strong environmental regulation to protect human health. WEHN is a program of the nonprofit Physicians for Social Responsibility Wisconsin. Learn more at <https://www.wehnonline.org/>

**Doug Oitzinger** is a former Mayor of the City of Marinette who came out of retirement after learning about the PFAS contamination impacting his community. He is now a Marinette City Council Member representing people who have been impacted by the plume of PFAS contamination stemming from Tyco Fire Products' testing operations.

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