

## The fine for months of manure spilling? Less than \$500



Ken Pozorski

Terry Kafka of the DNR holds a water sample of manure and liquid flowing from a farmfield in Marathon County in May.

By Lee Bergquist of the Journal Sentinel  
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More than 1 million gallons of manure flowed from a small farm for months, say Marathon County officials, quickly filling a storage tank the size of a small basement, then trickling into a wetland and eventually entering the Little Eau Pleine River on the far western edge of the county.

The fine? \$464.10.

In 18 other environmental cases involving farms since 2008, forfeitures levied by the Department of Natural Resources have often exceeded \$30,000. In 2009, one farm paid forfeitures and other penalties totaling \$85,000, according to DNR records of cases tracked for farms under 700 milking cows.

The farm is owned by Patrick Willcome and his brother Damian of Spencer. According to records in the case, the farm has 115 milking cows and other cattle.

Officials say there have been no reported fish kills in the case. Manure can contaminate waterways with bacteria and introduce excessive levels of nutrients, such as phosphorus, that can produce algae blooms and consume oxygen that is needed by aquatic life.

Phosphorus pollution has emerged as one of the state's most challenging water pollution problems, and in the most extreme cases, such as in Green Bay and Lake Winnebago, excessive nutrients have created "dead zones," bereft of oxygen.

Environmental groups have complained about weaker environmental enforcement under Gov. Scott Walker's administration. Enforcement by the DNR under Walker was lower in the first three years of his term compared to other administrations going back to 2000, [the Milwaukee Journal Sentinel reported](#).

But the agency has said much of the drop was caused by a wave of retirements and that enforcement activity has been on the upswing as new employees have entered the enforcement ranks.

DNR officials defended the handling of the matter and said small farms with a first-time violation, by law, do not face the same level of penalties as large farms. In Wisconsin, CAFOs — with a minimum of 700 milking cows — undergo more regulations than smaller farms.

Cases involving manure pollution have attracted growing attention in recent years as the number of larger farms has grown. In some cases, farmers wanting to expand or build from the ground up have faced strong local opposition. Legal challenges at the largest farms, known as concentrated animal feeding operations, are not uncommon.

In the Marathon County case, "the owners responded immediately," said Deborah S. Dix, an environmental enforcement specialist with the DNR. "They cleaned up the overflow."

Dix said other steps have been taken: The owners have agreements in place with neighbors to spread or store manure elsewhere if they run into storage problems.

The problem, she said, was caused when two manure spreaders were broken and the farmers didn't have the money to make the repairs.

DNR and Marathon county staff who worked on the case also said the farmers, when confronted, said they weren't aware that manure flowing unchecked was a problem.

"Obviously, we didn't buy that," Dix said.

The Willcomes did not return calls asking for comment.

## Handwritten tip

Authorities learned of the problem when the DNR received a handwritten note in the mail on May 2, stating the manure pit at the farm had been overflowing for months. A Marathon County conservation officer inspected the site that day and could smell "distinct manure odor," records show.

After reviewing satellite photos from Google maps, county officials estimated that more than 1 million of gallons of manure had flowed off the property since last September. The DNR estimated about 600,000 gallons, perhaps slightly less.

"It's the largest one I've dealt with," said Paul Daigle, Marathon County's land and water program director.

Marathon County [ranks second](#) in Wisconsin in number of cows. Daigle has worked for the county for 29 years.

Daigle declined to comment on the DNR's handling of this case, but he noted that the agency has levied heavier penalties in other cases.

He said the county could have taken the farm to court for violation of local manure storage regulations. But he said it would have taken more time, and generally, when pollution affects public waters, the DNR takes over.

Former DNR Secretary George Meyer, who has been critical of the agency under the administration of Gov. Scott Walker, believes the penalty in Marathon County was too low.

While the agency has the obligation to consider extenuating circumstances, hefty fines serve as deterrent for others, Meyer said.

"This is ultimately why you have forfeitures," said Meyer, who led the DNR's enforcement division for 10 years. "You can have hunting and fishing violations that are more than this."

Meyer questioned why the DNR did not refer the case to the state Department of Justice. In such cases, if parties are found liable, penalties would be higher.

Steve Sisbach, the DNR's top environmental enforcement official, said it would be difficult to prove in court illegal discharges over the period, despite the estimates.

Sisbach said the case was handled at the staff level. "Nobody in the secretary's office knew about this, or influenced this case at all," he said.

DNR spokesman Bill Cosh said Friday in a statement that DNR's top officials became aware of the violation this week.

"The DNR expects our staff to follow the law," Cosh said. "The people who handled this case are seasoned employees both in enforcement and in addressing ag runoff issues."