

# Committee mulls run-off rules

## Ordinances could regulate spills, require nutrient management plans

The Marathon County Land, Conservation and Zoning (LCZ) Committee on Dec. 2 voted unanimously to have county staff draft ordinances to better conserve what is estimated to be one million tons of soil and sediment lost off of 288,000 acres of county cropland annually.

The new regulations are meant to address both chronic sheet erosion off of cultivated farm fields, but also spills, such as the one on the Patrick Will-



**Andy Johnson**

come farm, town of Spencer, discovered in May. The spill sent one million gallons of dairy manure into ditches leading to the Little Eau Pleine River and netted the farm a minor \$436 fine from the Department of Natural Resources.

Conservation, Planning and Zoning specialist Andy Johnson said farm runoff takes two forms. One is sheet erosion, which he described as a chronic "drip, drip, drip" of soil and other sediments that wash off cultivated fields

each year "just because we farm." Johnson said county farmers have a stellar conservation record, losing the equivalent of only two tons of soil per acre each year on average. "This is a great performance," he said. This soil loss is the equivalent of half the thickness of a dime. Still, Johnson said, this loss sends one-half million tons of soil into creeks, streams and rivers each year. County losses are increasing, he said, due to an increase in soybean cropping.

A second type of runoff involves unpredictable events, Johnson said,

including manure spills and gully erosion after heavy rain storms. He estimated that this runoff doubles the soil and sediment loss of sheet erosion.

Johnson said the state requires all dairy farmers with over 300 cows (a Concentrated Animal Feeding Operation) to obtain a DNR permit, which bans winter spreading of manure and demands farmers document implementation of their Nutrient Management Plans. Fines for permit violations are equal to what industry or municipalities would pay for pollution discharges. Smaller farms, however, don't need

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to meet this level of regulation.

Johnson said his department could draft regulations for smaller dairy and crop farmers:

■ To require all farmers file Nutrient Management Plans. These plans detail how much manure or fertilizer can be applied to various fields, depending on slope, crop rotation, proximity to water bodies and other factors.

■ To mandate farmers obtain permits not just for manure pit construction, but also for operation and maintenance. The county could pull permits in the event of a spill or bad practices.

■ To make it a requirement that farmers post bonds when getting a permit for a new manure pit. The bond will pay for closing the pit if it is ever abandoned.

Johnson said state law requires the government to offer farmers 70 percent cost sharing for any mandated environmental practice, including filing a Nutrient Management Plan.

The committee unanimously voted to direct staff to begin drafting ordinances for review, but members, including those who are dairy farmers, took up divergent positions in regard to imposing new regulations on farmers.

Town of Wien dairy farmer Kelly King said new regulations were long overdue and needed to be implemented before spring 2015.

King said he favors having all farmers file Nutrient Management Plans and fining farmers who have major spills.

He said many farmers were un-

able to spread manure on harvested fields this fall until after the ground was frozen and snow-covered. He predicted that farmers who did spread manure will see significant runoff, while those who did not will have their manure pits overflow. Either way, said King, the county's streams and rivers will run brown.

He said he was most concerned about how the LCZ Committee will look after all of the lost manure eventually moves to the Big Eau Pleine Reservoir.

"The Eau Pleine will look like a green mess and everybody on the committee will have a black eye," he said. "They will say, 'What are you guys doing?'"

King predicted as many as 20 manure spills county-wide in the spring.

Committee vice-chairman Alan Kraus, himself a town of Day dairy farmer, said he was not in favor of imposing expensive new regulations on dairy farmers.

He called the task of regulating manure "a monster."

Kraus said the county does a good job of policing private septic tank waste, but he can't envision having a similar enforcement policy when it comes to animal waste.

"There is no agricultural community I've been in that is going to accept something like that," he said. "And I don't know that we want to put that type of burden on our agricultural industry."

Kraus said farmers are price-takers and are unable to sell their commodi-



**Alan Kraus**



**Richard Duerr**

ties for more money to pay for new regulations.

"They take the price they are given for that product on that day," he said. "End of story. There is no surcharge they can pass along."

Kraus acknowledged that farmers had to conserve their soil to protect their own business, but that any regulations had to be economically practical.

"You cannot just regulate the heck out of agriculture and expect anybody to make it," he said.

Kraus said farmers in Marathon County are often caught in a bind when it comes to getting rid of manure.

"We have such wicked weather to work with," he said. "Sometimes, you have an easy spring or fall. But that doesn't happen very often."

Committee member Rick Duerr said there needed to be some parity between farmers and industry when it comes to environmental regulation.

He said an industrial business that dumped 300 gallons of diesel fuel into a ditch would be fined by the DNR "literally thousands and thousands of dollars" but the Willcome spill fine was less than \$500.

Kraus countered that any farmer found dumping diesel fuel would be subject to the same

fine.

Duerr argued in return, however, that release of a million gallons of cow manure did much more damage to the environment than 300 gallons of spilled diesel fuel.

King agreed with Duerr. "Every time," he said.

# Something must be done

In 2015, Marathon County takes a perilous journey between farming and clean water

**The Marathon County Land**, Conservation and Zoning Committee embarked on a perilous journey this month. It wants to regulate farm runoff, including manure, and directed county staff to draw up some draft ordinances.

The regulations will propose, as far as I can tell, requiring all farmers to file Nutrient Management Plans, to get permits to build manure pits and operate them, and finally, to mandate that farmers post bonds to take care of old manure pits once they've have been abandoned.

The point of these regulations is to improve water quality, hopefully to minimize the manure-fed green sheen of algae that plagues the Big Eau Pleine Reservoir and Lake Wausau each August.

The committee took its first steps toward this county-level regulation with bold determination tempered by fear and loathing.

Committee member and Town of Wien dairy farmer Kelly King supplied the bold determination. King said the county must put in place manure spill regulations within four months or risk an epidemic of overflowing manure pits. He noted that early winter weather this year kept farmers from harvesting crops and spreading manure. Dairy farm manure pits will run over this spring, turning the Big Eau Pleine Reservoir "into a green mess," unless government can intervene, he said.

Supervisor Alan Kraus, a committee member and Town of Day dairy farmer, provided the fear and loathing.

He said farmers can't make a living if the government "regulates the heck out" of their profession. Kraus argued Marathon County farmers might like to be good conservationists, but have "wicked weather" to contend with and no ability to recoup the costs of meeting new runoff regulations

The county, restricted by state law, had little power to regulate farm runoff and, even if it wanted to, couldn't deal effectively with the issue, Kraus said. "That road has been run down pretty hard."

Despite all of these misgivings, the committee unanimously voted to have staff at the Conservation, Planning and Zoning Department prepare some sample ordinances.

It had to. And there are two compelling reasons why.

The first is the 1-million-gallon Patrick and Damian Willcome manure spill discovered this past May in the town of

Spencer. The spill, caused when Willcome, for months, pushed barn manure into an already overflowing county-permitted temporary holding tank, resulted in an embarrassingly small \$464 fine from the DNR. The episode revealed the county to be naked and impotent in dealing with a major manure spill, the result of gross mismanagement.

The second reason is a denied Fenwood Creek Project grant. Back in 2009, 60% of the fish in the Big Eau Pleine Reservoir, including huge muskies, died when oxygen disappeared from miles of water un-

derneath the ice—the result of chronic annual farm runoff. The major fish kill inspired a county task force which after meeting for nearly two years came up a single action item: a data-driven, community effort to strategically reduce phosphorus and sediment loads in a single subwatershed near Fenwood Creek, between Stratford and Edgar.

Yet, several weeks ago, the DNR announced it would not fund the project. That meant the county, once again, found itself powerless to deal with a major environmental catastrophe.

Thus the county began to act because it had little choice. To not act would have been tantamount to removing "conservation" from its committee name.

I don't know what the committee's efforts will yield. Effective, efficient regulation? A hornet's nest of angry farmers?

We'll see. There is some reason for optimism, however.

Marathon County is a policy leader. It was this county that confronted the manure-hauling issue a year or two ago. The state, in a bill sponsored by state Sen. Jerry Petrowski, turned county regulation into state policy. The same thing could happen here with the runoff issue.

In my view, any new regulation of farm runoff or manure has to be effective, but, at the same time, practical. All viewpoints need to be heard. All options need to be thoroughly discussed.

There's only one option that should not be explored: doing nothing. **CP**



Peter Weinschenk is editor of the Record-Review newspaper, serving Marathon, Athens, Edgar and Stratford, where this column also appears.