

Midwest Environmental ADVOCATES

pro bono publico

June 27, 2002

Chancellor Kevin P. Reilly
University of Wisconsin-Extension
432 North Lake Street
Madison, WI 53706

Dear Chancellor Reilly,

I received a copy of a June 19, 2002, letter you sent to John Peck of Family Farm Defenders in reply to his letter of May 21, 2002.

I am writing to you because your response showed that the concerns of the Family Farm Defenders were not being fully understood and addressed. Regardless of one's position on the future of the dairy industry in Wisconsin, it is a misappropriation of state funds and a violation of the University of Wisconsin's policy for a UW employee to advocate on a legal matter. The issue is not whether UW employees would hypothetically advocate similarly for small farms, but that they are taking a position of advocacy, regardless of the substance or beneficiary of that advocacy.

The University of Wisconsin's policy on this recognizes that faculty and staff members will be asked to provide expert testimony in legal matters, but requires that when "such testimony is sought, voluntarily or through a subpoena," UW employees must follow the following policy guidelines:

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1. Faculty and staff are discouraged from testifying unless they are subpoenaed. When subpoenaed, faculty and staff must testify.
2. In any legal matter, faculty and staff should limit their testimony to facts. They should not offer opinions or judgments or expert testimony.

See UW-Extension's Guidelines for Testimony in Court (7/10/98).

In Mr. Peck's letter to you he detailed facts showing that Jennifer Keuning, UW Extension Agent for Kewaunee County, had provided advocacy assistance to Dairy Dreams, LLC at a Zoning Committee hearing held by the Town of Lincoln, Wisconsin and obtain a Wisconsin Department of Natural Resources discharge permit. We have heard from other residents that the goal of the presentation by Dairy Dreams was to convince the Town of Lincoln that zoning was unnecessary, implicating Ms. Keuning in Dairy Dream's efforts. Dairy Dreams, LLC is a multi-million dollar livestock operation and plans to house 2,600 cows at its facility.

I witnessed a similar and more severe incident of this type of advocacy by Irv Possin, UW-Extension Agent for Fond Du Lac County. Mr. Possin testified at a conditional use permit hearing in the Town of Calumet for Lake Breeze Dairy, a concentrated animal feeding operation that will house 1,500 cows, and eventually up to 3,000 cows. He clearly identified himself as an Extension Agent and went on to just as clearly testify in favor of granting the conditional use permit. He used the power of the State of Wisconsin to insult the residents and small farmers concerned about the permit by deriding their unwillingness to yield to the industry's trend towards the increasing size and scale of livestock operations.

Both Ms. Keuning's and Mr. Possin's conduct were inappropriate and inconsistent with the UW-Extension's stated policy of prohibiting faculty and staff from testifying in legal matters unless subpoenaed.

Ms. Keuning provided assistance to Dairy Dreams in its application for a Wisconsin Pollutant Discharge Elimination System (WPDES) permit by operating a powerpoint presentation and speaking in favor of the operation at various public meetings. An application for a WPDES permit is a "legal matter" to which the UW-Extension's policy applies.

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Mr. Possin appeared at a conditional use permit hearing for Lake Breeze Dairy. This hearing was of a quasi-judicial nature and also constituted a "legal matter" to which the policy applies. Mr. Possin was not subpoenaed and did not limit his testimony to presenting objective facts. Instead, he appeared along with at least one other extension employee, and encouraged the board to issue the permit for this facility. Mr. Possin acted as an advocate for Lake Breeze Dairy, and breached his duty to act as an impartial expert and public servant.

We respectfully request that you take appropriate action to stop UW employees from continuing to expend public money and misappropriate the authority of the State of Wisconsin to testify as advocates at public hearings on permits for individual facilities. One obvious answer is to require all employees to adhere to the UW-Extension's policy on providing testimony in legal matters only when subpoenaed.

Sincerely,

Andrew C. Hanson, Attorney
Midwest Environmental Advocates, Inc.

Cc: John Peck, Family Farm Defenders
John Nichols, Capitol Times
Debra Kades, Wisconsin State Journal
Jennifer Keppert, Fond Du Lac Reporter
Kerry Schumann, WISPIRG
Caryl Terrell, Sierra Club
Pam Porter, Wisconsin Citizen Action