

February 27, 2006

Richard Gorder
5683 E. Pleasant View Road
Mineral Point, WI 53565

Dear Richard:

I am a member of Wisconsin Farm Bureau Federation.

I spent my business career in the dairy and food industries. In the early 1980's I served on the executive committee of the International Dairy Federation in Brussels, Belgium, and was a member of the U.S. national committee to the federation. In 1987 I testified before the U.S. Trade Representative at a Washington, D.C. hearing on dairy and food commodities. For a number of years our company sponsored research projects at the Center for Dairy Research of UW-Madison.

I'm semi-retired and own a 400-acre farm in central Dodge County. I support many of the programs of Farm Bureau. And, I've written to and spoken with Dan Poulson, Bill Bruins and Tom Thieding on Farm Bureau positions with which I disagree.

Several months ago I wrote to Tom Thieding about two issues I find particularly troubling. I've heard nothing from Mr. Thieding and I assume that neither he nor Paul Zimmerman shared my concerns with you. I feel strongly enough about these issues to write directly to you.

The first issue is the contamination of groundwater and private wells from runoff of manure. This problem seems to be getting worse and is causing more public health concerns in our rural communities. And from what I can tell, the Farm Bureau's position in this regard seems to be denial of the problem and deflection of responsibility.

A year ago a number of my neighbors in the Town of Oak Grove, near Juneau, had their private wells contaminated by manure runoff that had percolated into groundwater following a warm period. Manure from a large dairy farm had been spread on frozen ground in that area a month earlier. Four wells had to be abandoned and new, deeper wells dug at great financial cost to the owners. Several children became ill from drinking manure-contaminated water and one older couple, retired farmers themselves, was sick for a week with intestinal problems. I had the two wells at my home and farm tested for bacteriological quality.

At one of the public meetings held by the DNR, public health and land conservation departments following the contamination event, a young mother shared with the crowd that she and her husband had only recently moved from Milwaukee to the country to have a safe, healthy place to raise their family. "And now this has happened," she said.

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This family was displaced from their home for two weeks, had to dig a new well and install a new water pressure system at a cost of over \$18,000, replace the water softener and plumbing fittings, disinfect the plumbing system and fumigate their house and nurse a sick child back to health. The new well, dug deeper into bedrock to get below the contaminated aquifer, brought its own problem – a high concentration of radium.

I imagine this scene is being repeated across the state. Now there are well contaminations from manure runoff in Brown County. And a couple of years ago Manitowoc and Kewaunee Counties experienced the same problems.

In the midst of the concern, frustration and disruption in our neighborhood and county, I would have thought that Farm Bureau and our county affiliate would step forward to assist and work diligently with others to find solutions. I was chagrined that Farm Bureau was silent about and absent from these problems. That was not responsible action, in my view, and unfortunately appears to mirror the hands-off approach adopted by the Farm Bureau administration in dealing with these matters statewide.

This hard-line approach belies the Farm Bureau's mission of "Building on our rural values."

We're harming our neighbors and the rural communities within which our farms are located. And the Farm Bureau administration seems to have a policy of circling the wagons and shooting at anyone who comes near. Rather than be responsible and responsive to these problems, the Farm Bureau seems to deny its accountability.

These are not the traditions and ethics of the American farmer that I remember.

My second concern pertains to what I believe are distortions in recent *Rural Route* articles that dealt with the state's lawsuit against a cranberry grower in Sawyer County.

My readings on the cranberry issue suggest that action by the state is against only one alleged polluter of public waters. This is similar to other actions taken by the attorney general against industrial, commercial and municipal sources of pollution. I've not seen Wisconsin Manufacturers & Commerce claim that the attorney general's action against an industrial polluter is a threat to industry in Wisconsin and that the attorney general displays a negative attitude towards business. However, Mr. Thiedings's articles ask us to believe that the attorney general's "... action remains threat to farming in Wisconsin" and that the attorney general "... shows negative attitude toward agriculture." I don't believe it.

The action by the state in the cranberry case is not an attack on s. 823.08, Wis. Stats., the so-called right-to-farm provision. Since waste discharge from cranberry operations is exempt from federal and state regulation, protection of public health and safety can only be afforded under common law principles of nuisance and trespass.

To my knowledge, the Farm Bureau and other members of the Agriculture Coalition were denied intervenor status in the cranberry grower case in August 2004 and, thus, the Farm Bureau is not involved in this lawsuit. Yet, *Rural Route* devoted front-page headlines and considerable space to a lawsuit in which Farm Bureau is not a party. I shared with Mr. Thieding that it appears to me that he has distorted the context of a limited water pollution case and extrapolated it into a right-

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to-farm *cause celebre*. This, in turn, is being used as a springboard to push for legislation to curb common law protection of the state's citizens from negligent acts of others. This is a dangerous path to follow, I believe.

The so-called Fairness in Litigation Act proposed by Senator Zien and Representative Suder is an unfortunate step that seems to be motivated more by political expediency, power and greed than by a desire to protect the public and private rights of Wisconsin citizens. And, I suspect that Farm Bureau influence is responsible for the Zien-Suder proposal.

Politicizing the law enforcement responsibilities of the attorney general, as proposed in the legislation, would be a serious mistake. I would not want our county board of supervisors and/or our county board chair to have a veto over the enforcement activities of our district attorney. Equally, I would not want our state legislature and/or governor to have veto power over enforcement actions of the attorney general. Political football would lead to either law enforcement paralysis or, perhaps worse, enforcement solely based on political influence.

Further, the Zien-Suder proposal seeks to contravene the common law protection afforded to the state's citizens. We curb common law protection at our own peril, I'm afraid. The next public nuisance and act of trespass may be our next-door neighbor and we will then very much want an effective legal remedy. Common law protection is an important safety net for all citizens and we need to be careful to not tear the fabric.

In this regard, I see the Farm Bureau operating in the worst tradition of Wall Street and big business: buy legislative influence to shift the enforcement spotlight away from the injurious and negligent acts of a few of its members. By tying up with the Zien-Suder proposal, Farm Bureau seems to be saying, "Let us do what we want, don't hold us accountable and the public and taxpayer be damned!"

The Wisconsin public, including most Farm Bureau members, is likely ignorant of what the Farm Bureau administration is trying to accomplish surreptitiously through the Zien-Suder proposal. I hope that our farm and non-farm citizens learn about this quickly, otherwise we will wake up one morning and find that important legal rights have been taken from us.

Gutting common law protection in Wisconsin is not the answer. Finding solutions to the alleged water pollution in Lac Courte Oreilles Lake, Sawyer County, and to groundwater contamination from animal manure runoff are the answers. I ask the Farm Bureau to devote its considerable resources to those tasks.

Sincerely,

Gregory M. Farnham

