

2021 WI Supreme Court Decision

Off-site Groundwater Monitoring,
Animal Unit Caps &
Targeted Performance Standards

Tyler Dix – CAFO Permit Coordinator
Wisconsin Department of Natural Resources

Outline

- Background - Kinnard Farms
- Contested Case Hearing - timelines
- 2021 Supreme Court Ruling
- Background – Kewaunee County
- Silurian Bedrock Targeted Performance Standard
- Settlement Agreements & Permit Modifications

Kinnard Farms

- ~13,000 animal units (9,150 Milking Cows, 150 Calves)
- ~16,300 spreadable acres
- Generates ~100,000,000 gallons and ~6,000 tons of manure/process wastewater
- Located in Kewaunee County, WI



Robin Lane

S

C

Town of Lincoln

Contested Case Timeline

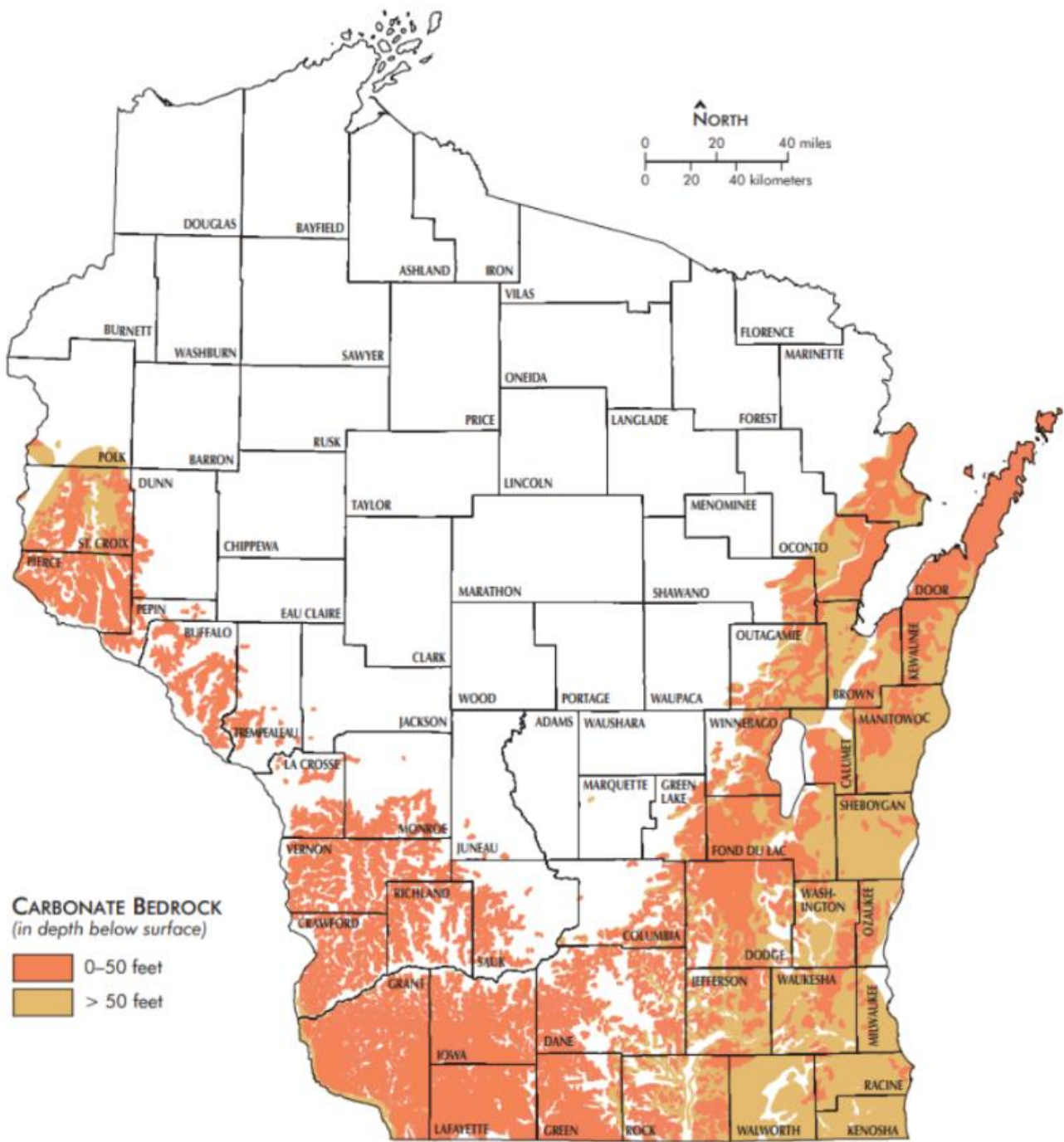
- 2012: Permit Reissuance – Petition for Review
- 2014: Administrative Law Judge Decision
 - Required an Animal Unit Cap and Off-site Wells
- 2014 – 2019: A series of appeals until the Court of Appeals asked the Supreme Court to assist

- *“We agree with the State and Clean Wisconsin that the court’s determination regarding the scope and breadth of Act 21 will have implications far beyond the permitting process for high capacity wells and pollution discharge elimination systems and will touch every state agency within Wisconsin.”*
- WI Supreme Court affirmed WDNR’s authority to require animal unit caps and off-site groundwater monitoring wells

- 18 CAFOs (17 Dairy, 1 Calf Facility)
- Susceptible to Groundwater Contamination
 - Karst Geology
 - Thin Soils
- 2014 Safe Drinking Water Act Petition
- Groundwater Collaboration Workgroup
- Silurian Bedrock Targeted Performance Standard

Silurian Bedrock TPS

- NR 151.075, Wis. Adm. Code
- Intended to prevent impacts from bacteria
- Requires various setbacks based on depth to bedrock
- Setbacks are less stringent if manure is processed through a digester
 - Requires pathogen testing to demonstrate bacteria reduction
- Nitrate TPS



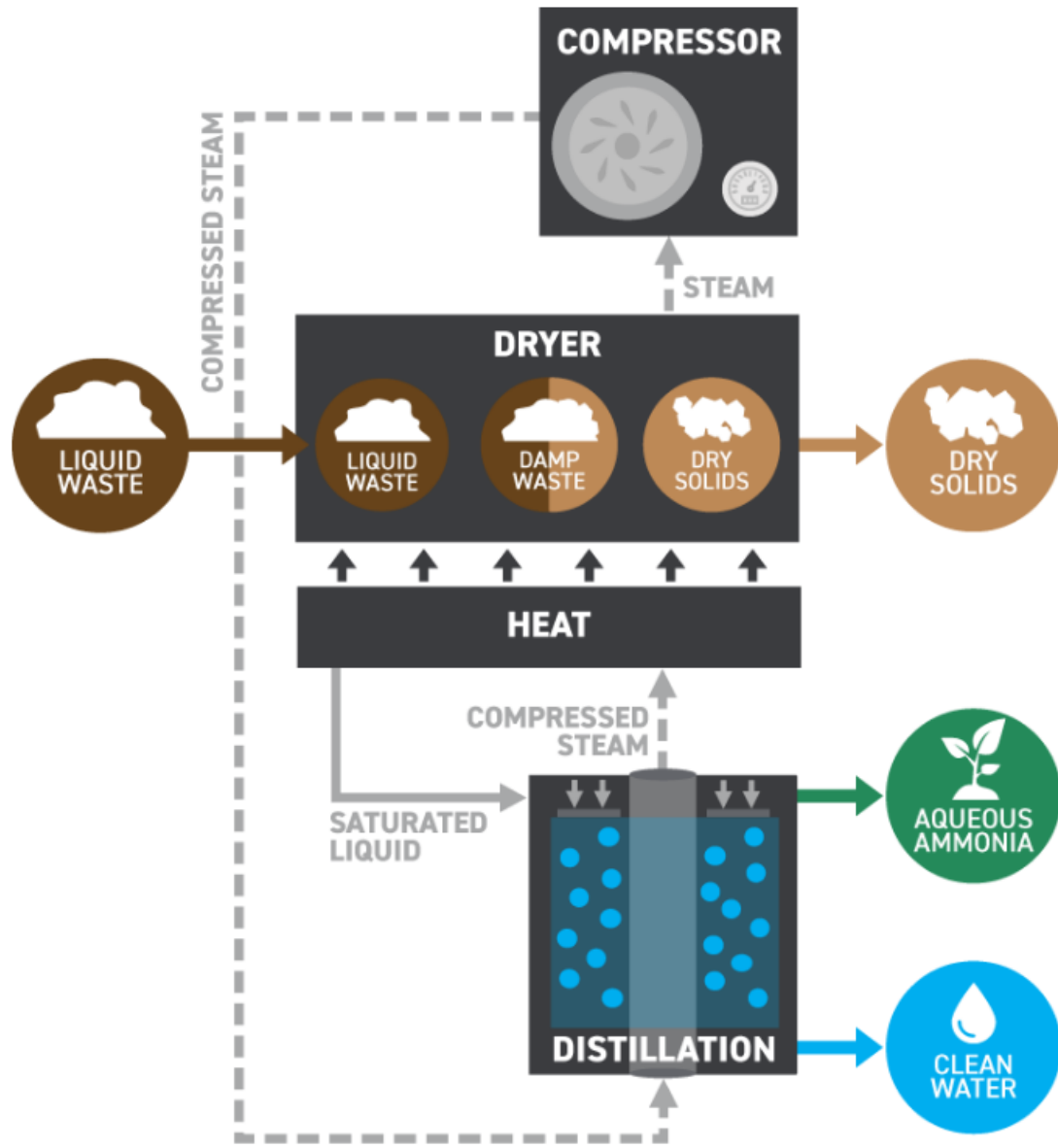
Settlement Agreements

- Four WPDES permits received petitions for contested case hearings. One permit is for a facility that has not been built.
- The settlements were executed with a contingency tied to the potential Supreme Court Decision
- All three WPDES permits were modified as a result of the Decision and settlement agreements. All three required off-site groundwater monitoring.
- Only one permit required an Animal Unit Cap

Kinnard Farms

- In lieu of installing off-site GW monitoring wells, the permittee proposed eliminating most of their liquid manure spreading.
- The permit was written with an “either or” clause. Install groundwater monitoring wells OR install a waste treatment system.
- The Varcor System has been constructed and should be up and running soon.
- I am aware of existing systems in Texas and Indiana

Varcor System



Questions?

Tyler Dix

CAFO Permit Coordinator

Wisconsin Department of Natural Resources

101 S Webster St

Madison, WI 53707

Cell: (608) 220-2096

Tyler.Dix@wisconsin.gov

