**Northern Water Alliance Update on 2018 Citizens' Petition for Environmental Assessment Worksheet (EAW) in the Pineland Sands Area - Dec 12, 2018**

By Mike Tauber, Northern Water Alliance

As most probably know, last spring the DNR accepted the Citizens' Petition and in early August declared intent to perform an Environmental Assessment Worksheet (EAW) that would start detailing ecological effects of RD Offutt Company (RDO) potato growing operations in Pine and Lake country. The DNR initially agreed to do this because the pending water appropriation applications in the Pineland Sands Area may have the *potential* for significant cumulative environmental effects due to *potential* nitrate contamination of groundwater.

The MN Dept of Agriculture's (MDA) Township Testing Program has shown there is more than just potential, demonstrating the connection between chemical intensive agriculture, large scale irrigation (which DNR has permit authority over), and nitrate contamination of groundwater. For example, as of 2016, irrigation dense Badoura Township in Hubbard County has 17% of wells testing over the state safe drinking limit for nitrate.

Groundwater withdrawal amounts by irrigators have become problematic also, as they happen to coincide with changes in both ground and surface water characteristics as documented in the DNR Straight River Groundwater Management Area Plan, yet the call for more study by state agencies continues.

In short, the sandy soils and interconnected aquifers and surface waters of the Pineland Sands have proven to be excellent for growing pines and producing pure water but poor for conducting industrial agriculture in a sustainable fashion.

[For reference, information from a DNR data practices request in May 2018 lists RDO as permittee for 108 irrigation wells in just the 8 counties in and around the Pineland Sands Aquifer, 26 of these were permitted 2014-2018. This does not include surrogate permit holders, who may, for example, rent irrigated field space to RDO.]

The DNR's letter to RDO in late July informing the company of the situation caused RDO's immediate withdrawal of 3 **new** irrigation permit requests. It appears this was a common tactical legal maneuver, done to try to make a project "disappear" from a regulatory authority's view. If there are no permits there is no project as viewed through courtroom eyes. According to DNR Region 1 Eco-Waters Manager Nathan Kestner, RDO did leave 4 amendments for existing water appropriation permits in the system with DNR, asking for more water from wells already in use at the Winnemucca Farm in Cass County, and this appears enough to keep the Petition for EAW under consideration for an undetermined period.

DNR Environmental Review Unit Supervisor Randall Doneen reported a complicating factor in reaching a decision on the petition was related to missing monitoring data that was required to be collected on the existing water appropriation permits. Doneen stated DNR is considering the company's phased activities and cumulative effects, acknowledging RDO's major role as contributor to the difficulties entailed when chemical intensive agriculture combines with large scale irrigation. "Determining if water appropriations are sustainable in the Pineland Sands is a requirement for DNR to issue water appropriation permits", he added.

The 2018 petition for an Environmental Assessment Worksheet in the Pineland Sands Area represents the 4th attempt at detailing RDO's ecological impacts in the Pineland Sands via the Environmental Review process. The first attempt was an inadequate EAW signed by Cass County in 2012 (which caused DNR and MPCA to request an Environmental Impact Statement), the second was a 2015 DNR discretionary EAW (proposed but denied), and the third was another citizen petition for EAW in 2015/2016 which was also denied.

Randall Doneen indicated DNR leadership would support a Generic Environmental Impact Statement (GEIS) or some other special study that would address sustainability issues that accompany chemical intensive irrigated agriculture statewide.

Representative Sandy Layman has signaled her interest in holding discussions with her colleagues on legislative options pertaining to this matter in the upcoming January session. Representative John Persell echoed that sentiment adding that he would support consideration of a statewide GEIS in this situation, and pointed out understanding the amount of water withdrawn from the Pineland Sands Area would be one of the first steps. Rep. Persell is to be the next Chairman of the House Environmental and Natural Resources Policy Committee.

Any GEIS would be time consuming affair, time some residents of the Pineland Sands believe they can no longer afford as chemical contamination from industrial agriculture continues to be discovered.

A GEIS also would need funding through the legislature, and that is where the Pineland Sands Land and Water Study faltered in 2016. In what could be called an engineered failure, the legislature asked to use $1.5 million from the LCCMR budget to fund the proposed RDO/DNR cooperative study. The two entities agreed to the study as part of a Memorandum of Understanding that resulted from RDO's lawsuit against DNR's attempted 2015 discretionary EAW. Governor Dayton vetoed the study's funding, citing the legislature's intent to operate against citizen council recommendations. It seems likely industrial agriculture interests would rally against a GEIS of this sort, if producer backlash to MN Dept of Ag's Groundwater Protection Rule is any indication.

On a positive note, in December, Governor-elect Walz made the rounds conducting listening sessions and pledged that he and his new commissioners will be much more available to citizens in public forums. At the listening session in Bemidji Dec. 2 he took in comments from Willis Mattison (ecologist, retired MPCA) on the wisdom of the governor forming an independent science advisory panel to combat "regulatory capture" of state agencies by industry. This panel would be free from threat of defunding by the legislature and at liberty to provide sound, unbiased science to Minnesota, lightening the burden on commissioners and staff who will need to speak truth to power.

The Northern Water Alliance is optimistic introduction of these ideas will guide the new administration to policies that will prioritize clean water and finally address how agricultural water appropriations are contributing to nitrate contamination, and, in some cases, drawdown of water tables.

As we move through winter, expectations are that the DNR and the legislature will take up the issue once the new administration settles in, or better yet, we can ask RDO to join with others in using regenerative farming practices that eliminate the intensive use of chemicals and heavy irrigation. These regenerative methods are already in use in Minnesota and surrounding states and, while yields are sometimes lower, profit is higher because the produce is more desirable.

Who wants chemicals in their food.... or their drinking water.... or their lake?

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