The watchdogs: After Wisconsin landowners discover plans to spread pig manure without permission, critics call for stronger oversight

*State leans on citizens to scrutinize big farms’ manure plans. Opponents fear serious environmental harm.*

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*Wisconsin Watch*

*This story was originally* [*published by Wisconsin Watch*](https://wisconsinwatch.org/?p=1284524)*. It is the final story in a three-part series called* [*Hogtied*](https://wisconsinwatch.org/tag/hogtied/)*, which examines the political, regulatory and economic forces shaping a proposal to build the state’s largest pig farm.*

Tim Schmitz spent the dead of his first winter in Trade Lake, Wisconsin, settling into the farmhouse he just bought.

The retired handyman sought to escape his former town and PTSD exacerbated by community changes; Forest Lake, in neighboring Minnesota, had swollen from a vacation destination to a fast-growing exurb of the Twin Cities. Schmitz, 63, needed a reprieve from the noise and neighbors.

“My skin was crawling.”

After locating his tawny clapboard-clad farmstead on Facebook Marketplace, Schmitz visited Trade Lake and noticed the roadside signs.

“No factory hog farm,” they said. “The Saint Croix Watershed is not a sacrifice zone.” “No Hog CAFO,” a banner blared.

Schmitz thought nothing of it. His seller had said the CAFO feud had simmered for years — not to worry.

“He didn't show me where it was supposed to be,” Schmitz said. “So I didn't know it was local here.”

While visiting a nearby village to look at an old car, Schmitz chatted with a resident who mentioned Schmitz’s 5-acre property sat in the thick of it all: next door to the possible site of Wisconsin’s largest swine breeding farm.

Schmitz’s breathing is impaired from a past lung infection. Now, he was discovering the fields on three sides of his new home were going to be periodically injected with pig manure — two of his own acres included.

“No way, how could this possibly be?” Schmitz thought. “I've done everything to get away from these problems.”

Nobody had told him a swine farm was coming to this location or that his land previously was rented for farming. All his money is tied up in his house. He’s boxed in.

Almost four years earlier, Schmitz’s neighbors discovered [a concentrated animal feeding operation, or CAFO, was destined for Trade Lake](https://wisconsinwatch.org/2023/12/wisconsin-cafo-pig-farm-agriculture-town-hogtied-chairman/). The $20 million livestock farm, known as Cumberland LLC, could have housed more than 26,000 pigs.

As details of the project unfurled, residents and property owners attempted to stop it. Several sued their town chairman after they discovered he was selling land to Cumberland and [cried foul on the developer](https://wisconsinwatch.org/2023/12/wisconsin-cafo-pig-farm-developer-businessman-town/), who they allege provided false information to the state.

Wisconsin’s “right-to-farm” and livestock siting laws limited options to fight the proposal. But after the town chairman left office, an advisory group [devised](https://wisconsinwatch.org/2023/07/wisconsin-towns-big-farms-local-control-cafo-regulations/) a model ordinance to regulate how CAFOs operate. Trade Lake was one of five municipalities that [adopted operations rules](https://wisconsinwatch.org/2023/10/wisconsin-farm-cafos-eureka-polk-county-agriculture-livestock/) recommended by the group.

But Cumberland’s critics found an additional tack for stalling the swine farm: preventing land use for spreading the millions of gallons of manure the operation would generate annually.

State rules require CAFO owners to have a sufficient land base on which to apply livestock manure, but several property owners, who had permitted use of their fields for farming, discovered their property had been designated for manure spreading without their consent. They informed the Wisconsin Department of Natural Resources they opposed the proposed fertilizer source.

In March, Wisconsin Watch verified the discrepancies were more pronounced than opponents initially understood. Owners of more than 11% of the designated spreading acres forbid the use of their properties. Several Cumberland critics called the inclusion of unauthorized land in the plan the latest deception they have encountered since the farm was pitched.

The practice might extend beyond Cumberland.

Opponents have documented field inconsistencies in at least two other CAFO proposals in recent years. Although the state’s Department of Natural Resources can require developers to verify landowner permission to apply manure, it considers proposals on a “case-by-case basis” and only may do so when limited acreage is available for spreading.

Those who call for greater regulation say the occurrences reveal a gap in oversight with potentially dire environmental consequences.

### **Manure volume sparks alarm**

Opponents have railed against Cumberland for more than four years, and the state rejected the company’s application twice.

The developer again returned in May, proposing a scaled-down version of the breeding facility that would house up to 19,800 pigs — still dwarfing anything in the region. In what some property owners consider a perpetually fragile situation, like the regenerative heads of the mythological Hydra, Cumberland keeps coming back.

At full capacity, the three-barn facility — about the size of 2 ½ Home Depot box stores — could annually generate 6.8 million gallons of manure and wastewater. That’s roughly equivalent to the daily output of a 38,000-person city.

The pigs’ manure would fall through slotted floors into deep pits before being pumped and applied to farm fields. Unlike human waste, manure largely goes untreated or is minimally treated before its discharge into the environment, according to the U.S. Environmental Protection Agency.

The original proposal stated Cumberland possessed agreements for 1,846 acres of farmland atop which the liquids would be spread or injected into the soil in the spring before planting and the fall after harvest, six to eight days each month. Also to be added to the fields were 20 tons of solid waste, derived from incinerated hogs, stillbirths and placentas.

Whenever a new large livestock farm is proposed, Wisconsin’s CAFO permit coordinator becomes the Department of Natural Resources staff member whose attention constituents seem to most covet. Tyler Dix received a continuous trickle of emails following Cumberland’s initial application in 2019, punctuated by deluges whenever a new milestone approached. Writers ranged from the outraged to the demanding to the dismayed.

“I work for a commercial airline in flight control,” wrote Trade Lake resident Judi Clarin, 62. “When I go into work Tyler, people’s safety and lives are in my hands. This responsibility I take very seriously. I was thinking about your job, and it is much the same. You have been given an immense responsibility to make a decision that could keep our water clean and preserve life, or jeopardize the lives of an entire community.”

Livestock farms like Cumberland are subject to [federal and state](https://grist.org/food/fertilizer-is-a-major-pollutant-why-doesnt-the-government-regulate-it-as-one/#:~:text=Agriculture%2C%20in%20fact%2C%20has%20evaded%20much%20of%20the%20federal%20environmental%20oversight%20that%20falls%20on%20other%20polluting%20sectors.%20The%20%24133%20billion%20industry%20is%20largely%20the%20regulatory%20responsibility%20of%20state%20authorities%2C%20who%20favor%20recommendations%20and%20voluntary%20cooperation%20instead%20of%20rules%20and%20enforced%20compliance.) discharge and runoff regulations. An engineering firm hired by former Trade Lake board members in 2019 determined the facility itself poses minimal risk to groundwater given the depth to bedrock at the site. But opponents also fear that the manure spread on fields will run into nearby lakes and streams — ultimately draining into the St. Croix River, which forms part of a national scenic riverway.

Some spreading fields in the original plan are adjacent to or within a protected wildlife area, about 1 ½ miles from Cumberland.

Others border the northern shore of the 53-acre Bass Lake, a popular fishing and swimming destination, on whose southern shore famed American transcendentalist philosopher and poet Ralph Waldo Emerson purchased parcels in the 1850s. Subsequent owners said runoff could easily “flow into and pollute the lake from all directions.”

Wisconsin has established guidelines for manure application, but Cumberland’s opponents feel enforcement falls short. The state often relies on self-reporting and citizen complaints to catch improper spreading.

Market pressures, meanwhile, incentivize manure overapplication, according to the U.S. Department of Agriculture, particularly on fields near the farm where it’s generated. That increases the risks of runoff, surface and groundwater contamination, spread of pathogens, algae blooms and fish kills.

Cumberland’s developer, Jeff Sauer, has said that concerns over manure get “blown out of proportion.” Farmers call it “liquid gold” because it adds nutrients, including nitrogen, phosphorus and potassium, to fields, sometimes at lesser expense than commercial fertilizer, and improves soil structure and composition.

Trade Lake crop and beef cattle farmer Erik Melin, 38, whose fields would receive Cumberland’s manure, says its effects on water quality wouldn’t differ from the commercial fertilizer that’s already applied to the land. The net quantity of nutrients won’t increase, he said, and his family has for years applied manure from their livestock without incident.

He pointed to a University of Wisconsin-Division of Extension private well testing initiative, conducted in 2021, that found of 154 Trade Lake samples, just 14% contained detectable concentrations of nitrates. None tested above federal health safety standards.

“I’m a fifth-generation farmer here, so we’ve been here for over 150 years, and there’s been animal agriculture here the whole time,” Melin said. “So we’ve been doing something right.”

### **Landowners: Don’t spread on me**

Multiple area property owners alerted Department of Natural Resources staff to errors in Cumberland’s field spreading list, noting their lack of authorization.

“Make sure the facts are actually truthful. Anybody can put numbers on a paper to make it look appropriate for their purpose,” Pam Johnson said in a February letter in which she informed Dix her parents’ 56 acres were off-limits to manure. “I recommend auditing this information. It has a bad smell to it.”

The state can reject a nutrient management plan, which outlines where and the quantity of nutrients that will be applied to farmland, if it contains inaccurate information, according to Dix, but the agency typically works with applicants to obtain accurate details.

Wisconsin Watch verified that at least 11 of 39 landowners listed in Cumberland’s plan, excluding Melin and his family, were not contacted. Some hadn’t decided if they would consent, while many objected to manure application.

“My wife would probably divorce me if the whole place smelled like pig shit,” said Twin Cities software engineering manager John Rivera. “I’m a hard ‘no’ on that.”

Rivera, who grew up in Burnett County and intends to retire there, guessed he has rented land to the Melins for at least 20 years.

“I know ‘Not In My Backyard’ has caused a lot of problems for different things,” he said, “but for a hog farm with 20,000 pigs, ‘Not In My Backyard’ is my policy.”

Those who would refuse manure outright owned about 217 of the 1,894 designated acres.

“The whole world wants clean air and clean water,” said retired teacher Betty Linden, 77. “Why would we do anything to jeopardize that? That’s one of the big things that this area has going for it.”

Another 20 property owners could not be reached for lack of available contact information or did not respond to requests for comment. The remaining landlords didn’t mind or supported manure application on their fields.

“I have to rent out my fields. Otherwise, I would have to sell them because I can't afford to keep it,” Sandra Chouinard said. “I'm an elderly lady, and it’s just the way it is. It pays my taxes on my farm.”

### **Cumberland project rejected again**

Department of Natural Resources staff grew alarmed as additional landowners discovered they were unwittingly included in a project they opposed. Even agency property located inside a state wildlife area was included in the plan without approval.

“I am getting really concerned about the fields,” Dix told a colleague in early February. “This is the third or fourth email stating that a landowner has not given the farm permission to spread.”

Sauer, who said he is now the project’s owner, denied involvement. Rather, Melin generated the list, consisting of acres owned by or rented to him.

“I wish I would have maybe went and talked and tried to track down a lot of these landlords,” Melin said. “But when this first started, Jeff came and tried to talk to everybody at a town hall meeting. We were open about everything, and I guess that didn’t get us much.”

Melin added that landowners likewise did not reach out to him to share their concerns.

“I wish I knew which landowners it was because I could have removed them,” he said.

The Department of Natural Resources required Cumberland to provide written verification of land rental agreements, but after the deadline passed in March, it still had not received the documentation.

Later, an agronomist working with Cumberland told agency staff that Cumberland was considering hauling manure out of state to unspecified locations in Minnesota.

The Department of Natural Resources rejected Cumberland’s application the following week for lack of a complete nutrient management plan, and Dix informed Sauer by telephone before the agency announced its decision.

“He was quite upset and questioned my credentials and DNR’s authority to impose application deadlines,” Dix told a superior. “It was a colorful conversation.”

### **Limited scrutiny of fields flagged for spreading**

Critics say the Cumberland case reveals the ease with which CAFO operators can list fields for manure application without permission. The state takes testimony of land agreements at face value unless there is information to suggest otherwise.

Midwest Environmental Advocates, a Madison-based nonprofit law center, calls the system vulnerable.

“When I brought it up to DNR, they talked about their internal process of when they require more information, which leads me to believe it’s happened a number of times,” staff attorney Adam Voskuil said.

Typically, spreading fields are examined for overlaps with other CAFOs, permitted land spreading from municipalities and industrial plants, and public lands, but they are not compared against land agreements.

“So far, I’ve only had one CAFO that had to provide land agreements, and I found significant issues when comparing the land agreements themselves to the list of fields and landowners,” the agency staff member who reviewed Cumberland’s field list told Dix earlier this year.

**Other counties call for field verification**

Opponents identified land discrepancies in another large livestock farm proposal in [Bayfield](https://www.wpr.org/landowners-odds-cafo-operator-over-manure-spreading-plans) County. There, residents linked Sauer to a hog CAFO, called Badgerwood LLC, a tie he dismissed in a court deposition.

But in a 2015 letter to the editor published in the Ashland Daily Press, one landowner said he leased property to Sauer, believing that Sauer would be the one to farm it. After the landowner discovered his property would be used by Badgerwood, he called the experience a “bait-and-switch” that made him less trusting of CAFO operators.

Ultimately, six others claimed Badgerwood “improperly” designated their land for manure spreading, effectively removing hundreds of acres from the plan. The Department of Natural Resources subsequently required field verification and later deemed the application incomplete.

“It's something that folks have asked for for years,” Voskuil said, noting that cases in which verification reveals incorrect designations reaffirms the belief it should be a standard practice.

Badgerwood’s owners denied listing properties owned by some signatories and said other banned fields had changed owners after the seven landlords contacted the state.

Meanwhile in Crawford County, the department last year approved a permit for a proposed 8,160-head swine farm called Roth Feeder Pig II Inc., which anticipates populating its barns and spreading manure no sooner than 2025.

Shortly after the project was greenlighted, opponents ascertained that hundreds of acres — potentially a third of the total — would likely not be available for spreading. Critics claim that field verification would have revealed the [inconsistencies](https://www.swnews4u.com/local/public-safety/landfill-and-cafo-continue-occupy-crawford-county-committee/) in the project’s initial plan, which they believe still lacks sufficient acreage for safe manure application.

Dix said that, generally speaking, the department might remain unaware of some errors in manure spreading plans, but added that by publishing them, the public can draw the attention of staff. However, Forest Jahnke, programs coordinator of the Crawford Stewardship Project, an environmental group, takes issue with putting the onus of verification on citizens.

Dix agreed that requiring verification would make the permitting process “a lot more straightforward,” but noted state rules circumscribe the agency’s authority to do so.

**Former senator to irked landowners: Contact your legislators**

Republican lawmakers in 2011 added bureaucratic hurdles to promulgating new rules. Among its provisions, the law prohibits any state agency from enforcing standards or requirements that aren’t explicitly permitted by law or another rule.

“Unfortunately, what it sounds like to folks who are fighting CAFOs is the DNR is making excuses,” said Bayfield County Supervisor Mary Dougherty, who also is a cofounder of the now-defunct organization Farms Not Factories. “But the question becomes: Is that an accurate depiction of what's really going on here or are legislators the ones that ultimately hold the ability to make these changes?”

Nearly a dozen lawmakers from both political parties who sit on the Wisconsin Senate or Assembly agriculture or environmental committees did not respond to or declined requests for comment related to the state’s verification policy.

“Industry is very much aware of the constraints the Legislature has put on the DNR because it benefits them. At the end of the day, this isn't about happy cows in fields. This is millions and millions of dollars,” Dougherty said. “Ag is a powerful, powerful lobby.”

Former Democratic senator Kathleen Vinehout, of Alma, said field verification is a perennial problem, even 15 years ago when she took state office. The retired dairy farmer said the issue must be solved legislatively.

“If the people of Wisconsin really, really want to have this done — which I would think these landowners would be upset enough to want to do something — they need to contact their legislators,” she said. “If it’s written in statute, the DNR will do it.”

### **Another CAFO application pending**

Sauer [returned](https://permits.dnr.wi.gov/water/SitePages/DocSetView.aspx?DocSet=AG-APP-NO-2023-7-X05-03T11-11-07&Loc=undefined) in May with a new plan to reduce Cumberland’s swine capacity but maintain the size of its CAFO barns, enabling the company to comply with a controversial California law that mandates minimum livestock space standards to sell products within that state. The extra room also would enable third-party certification of Cumberland’s pork, paving the way for its sale at Whole Foods Market groceries — the closest being about 70 miles southwest of Trade Lake.

“We feel this gives the community an exciting new opportunity to be involved in producing protein in a more natural way,” Sauer wrote in the new filings.

The Department of Natural Resources will not review Cumberland’s latest proposal until the company provides additional paperwork. In July, an engineer working with Cumberland attributed the delay to “payment issues with the client.”

Sauer told Wisconsin Watch he doesn’t know when he will submit the remaining documentation, but said the project is moving ahead and the necessary spreading acreage has been acquired.

“Every acre that we need,” Sauer said, “the manure’s going on.”

He reiterated that Cumberland plans to haul manure to Minnesota, while some will be applied in the Trade Lake area.

Schmitz, the town resident whose land was included in Cumberland’s original spreading plan, is waiting with trepidation.

From his yard, he can see the fields where his new neighbor might locate.

Schmitz is unsure what will happen if the state approves Cumberland, but he doesn’t think he’ll stay in Trade Lake — if he can sell his home.

“This was supposed to be ‘the place,’ you know?” Schmitz said. “I don't know that I feel that way anymore.”

This spring, Schmitz encountered a tractor, whose driver was planting corn in Schmitz’s fields. As the farmer, whose name Schmitz cannot recall, approached, Schmitz confronted him and told him to stop.

“He didn't know that it wasn't OK to plant on my property,” Schmitz said. “We didn't really have anything much to say.”

*This story is a product of the* [*Mississippi River Basin Ag & Water Desk*](https://agwaterdesk.org/)*, an editorially independent reporting network based at the University of Missouri School of Journalism in partnership with Report For America and funded by the Walton Family Foundation.* [*Wisconsin Watch*](http://www.wisconsinwatch.org/) *is a member of the network*. *Sign up for our* [*newsletter*](https://www.wisconsinwatch.org/subscribe) *to get our news straight to your inbox.*