

Sub 1 to 2014 RES-391

REGARDING GROUNDWATER LEGISLATION AND CURRENT AND  
FUTURE REVIEWS OF HIGH-CAPACITY WELL APPLICATIONS

Groundwater and surface waters are connected and comprise a single interconnected resource, and that withdrawals of groundwater affect the amount of water available to maintain the quantity and quality of surface waters.

~~and~~ The demand for groundwater continues to increase throughout Wisconsin and in Dane County for agricultural, industrial, commercial, and residential uses.

Dane County already has over 400 operating high-capacity wells ~~in place.~~

Adequate quantities of groundwater are critical in Dane County to sustain agriculture, industry, municipal and private drinking water supplies, and healthy rivers, lakes, streams, and wetlands for recreation.

Adequate quantities of groundwater in Dane County are critical to sustain and enhance the exceptional economic well-being security and quality of life of the citizens of Dane County.

Recent studies show that the cumulative effects of groundwater pumping in central Dane County has reduced, and sometimes reversed, groundwater flow to the Yahara chain of lakes, affecting both lake water and ground water supply and quality.

The cumulative effects of groundwater pumping in Dane County also has the potential to cause adverse impacts to other protected waters, including area streams, springs and wetlands.

Wisconsin's constitutional Public Trust Doctrine establishes that Wisconsin's navigable waters belong to the people of Wisconsin and shall be forever free, and therefore it is the state's duty to protect Wisconsin's navigable waters for all Wisconsin residents.

Wisconsin's Supreme Court unanimously ruled in *Lake Beulah v. Wisconsin DNR*, on July 6, 2011, that "the DNR has the authority and general duty to consider whether a proposed high-capacity well may harm waters of the state", in order to implement its responsibilities as the trustee of public waters.

Wisconsin's District IV Court of Appeals ruled in Family Farm Defenders, et al. v. DNR, on December 19, 2013, that the DNR must consider cumulative impacts of high-capacity wells on the environment when preparing an Environmental Assessment that will be used to evaluate whether or not to approve, condition, or deny a high-capacity well application.

In his conclusions of law in In the Matter of Richfield Dairy, on September 3, 2014, Administrative Law Judge Jeffrey D. Boldt, ALJ, with respect to a contested case hearing for two high-capacity well approvals by Wisconsin DNR, stated that: "the DNR possesses the authority to consider cumulative impacts to waters of the State caused by high-capacity well pumping, climate, and other factors when assessing applications for high-capacity wells. The failure to consider these impacts is a gap in public trust enforcement..."

NOW, THEREFORE, BE IT RESOLVED that the Dane County Board urges the Department of Natural Resources to exercise its authority and general duty to consider cumulative impacts when evaluating high-capacity well applications; and

BE IT FURTHER RESOLVED that the Dane County Board formally requests that the Wisconsin legislature pass no new legislation that will limit, interfere with, or compromise the July 2011 Lake Beulah vs. Wisconsin DNR Supreme Court decision or the December 2013 Family Farm Defenders, et al vs. Wisconsin DNR District IV Appellate Court decision DNR's duties, as trustee of public waters, to protect public trust resources from both

56 | the individual and cumulative effects of groundwater withdrawals, or the public's ability to contest DNR's  
57 | administration of such public trust duties; and

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59 | BE IT FURTHER RESOLVED that a copy of this Resolution be sent to ~~the Governor of Wisconsin, Majority~~  
60 | ~~and Minority leaders of the Assembly and Senate, the Secretary of the Wisconsin Department of Natural~~  
61 | ~~Resources,~~ all Dane County members of the state legislature, all municipalities within Dane County, and the  
62 | Wisconsin Counties Association,; the Wisconsin Towns Association, the Wisconsin League of Municipalities,  
63 | the Dane County Cities and Villages Association, the Dane County Towns Association, and

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65 | BE IT ~~FURTHERINALLY~~ RESOLVED that Dane County add groundwater conservation, a balanced water  
66 | budget, and enhanced groundwater recharge to its priorities for watershed management; and

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68 | BE IT FINALLY RESOLVED that Dane County develop and implement plans and take such additional actions,  
69 | in conjunction with Dane County municipalities and neighboring counties as warranted, that are necessary and  
70 | appropriate to protect the quantity as well as quality of Dane County water resources.

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