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2 | Sub 2 to 2014 RES-391

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4 | REGARDING GROUNDWATER LEGISLATION AND CURRENT AND
5 | FUTURE REVIEWS OF HIGH-CAPACITY WELL APPLICATIONS
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7 | Groundwater and surface waters are connected and comprise a single interconnected resource, and that
8 | withdrawals of groundwater affect the amount of water available to maintain the quantity and quality of surface
9 | waters.

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

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

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

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

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

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

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

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

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

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

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48 | NOW, THEREFORE, BE IT RESOLVED that the Dane County Board urges the Department of Natural
49 | Resources to exercise its authority and general duty to consider cumulative impacts when evaluating high-
50 | capacity well applications, as required by Wisconsin law; and

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52 | BE IT FURTHER RESOLVED that the Dane County Board formally requests that the Wisconsin legislature
53 | pass no new legislation that will limit, interfere with, or compromise ~~the July 2011 Lake Beulah vs. Wisconsin~~
54 | ~~DNR Supreme Court decision or the December 2013 Family Farm Defenders, et al vs. Wisconsin DNR District~~
55 | ~~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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