

Before the Secretary of the Wisconsin Department of Natural Resources

In the matter of a
Conditional High Capacity
Well Approval for Two Potable
Wells to be Located in the Town
of Richfield, Adams County
DNR file reference no. 01-03-0009

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DNR
OFFICE OF THE
SECRETARY

PETITION FOR A CONTESTED CASE HEARING

To the Secretary of the Wisconsin Department of Natural Resources:

Pleasant Lake Management District, and Jean MacCubbin, by their attorneys Garvey McNeil & Associates, S.C., hereby request a contested case hearing pursuant to Wis. Stat. § 227.42, and request a hearing be held as a contested case under Wis. Stat. § 227.42.

1. The agency action or inaction which is the basis for the request for a hearing is:
 - a. The Wisconsin Department of Natural Resources' ("WDNR") issuance of A Conditional High Capacity Well Approval for Two Potable Wells to be Located in the Town of Richfield, Adams County, ("High Capacity Wells") dated November 3, 2011, pursuant to its authority under Wis. Stat. § 281.34(2) and Wis. Admin. Code § NR 812. The High Capacity Wells permit is attached as **Exhibit A**.
 - b. The WDNR's determination that the High Capacity Wells will not have a significant adverse environmental impact on the waters of the state.

- c. The WDNR's decision to permit pumping up to 131.2 million gallons maximum from the two wells in any 365-day period, which is far beyond double the estimated pumping amount of approximately 52.2 million gallons per year.
- d. The WDNR's failure to disclose they would permit pumping up to 131.2 million gallons per year such that this inaction deprived petitioners the opportunity to submit concrete scientific evidence of harm to waters of the state based upon the 131.2 million gallons per year figure.
- e. The WDNR's failure to adequately review and address scientific reports that were submitted prior to issuing the permit that show increased groundwater pumping will cause significant harm to Pleasant Lake, including the reports and correspondence from Golden Sands dated October 13, 2011, predicting an increase in invasive species colonization in Pleasant Lake, and from Pleasant Lake Management District, dated October 13, 2011 detailing trauma to the Lake fishery, increased Eurasian milfoil infestation, disrupted littoral zone, and increased risks for lake boaters that will result from lowered lake levels.
- f. WDNR's failure to adhere to its duty pursuant to Article IX, Section 1 of the Wisconsin Constitution, commonly referred to as *the Public Trust Doctrine*, to adequately investigate the environmental impact of a proposed high capacity well when presented with sufficient concrete, scientific evidence of potential harm to Pleasant Lake and its surrounding streams.

2. The substantial interest injured or threatened with injury by agency action or inaction is: The petitioners' substantial interests are injured in fact or threatened with injury by the WDNR's decision to issue the High Capacity Wells permit. Pleasant Lake Management District

("PLMD") is a public inland lake protection and rehabilitation district created and organized under Wis. Stat. Ch. 33, whose purpose is to protect and improve the water quality of Pleasant Lake through programs that promote safety, cleanliness and environmental health of Pleasant Lake. PLMD has about 400 property-owner members within the district, in Waushara and Marquette Counties. Petitioner Jean MacCubbin is PLMD's president. Ms. MacCubbin owns property within the district and regularly uses the lake to swim, kayak and to enjoy natural scenic beauty. PLMD members represent a diverse group of individuals including town of Coloma full time residents, individuals from Wisconsin and beyond with second homes within the District, and members with rental properties. Many residents occupy homes that have been passed through families for multiple generations. Members live, vacation, and recreate on Pleasant Lake, utilizing it for swimming, sailing, personal water crafting, water-skiing, fishing and bird watching. In winter months, members snowmobile, ice skate, cross-country ski, and ice fish on the lake. The proposed High Capacity Wells are about two miles from the nearest district boundary, and about 2.7 miles from Pleasant Lake. PLMD's mission and interest in this case is in protecting the quality and quantity of lake water, preserving the Lake District members' property values, which depend heavily on proximity to the lake as well as the lake water quality and quantity, and the lake's ability to support the varied types of recreation noted above. Furthermore, PLMD has an interest in preserving Pleasant Lake's natural scenic beauty. Pleasant Lake is very small, covering about 125 acres plus a small wetland recharge area, with only about 50% of its depth greater than 15 feet. Pleasant Lake is currently only about 26 feet deep at its deepest point. WDNR's permit allowing an average 131.2 million gallons per year to be pumped from its groundwater supply will substantially jeopardize Pleasant Lake's water quality and quantity.

3. There is no evidence of legislative intent that the interest of the PLMD and its members is not to be protected. On the contrary, statutory and case law evince a legislative intent to protect petitioners' interests in preserving and protecting the waters of the state. Wis. Stat. §§ 281.11, 281.12, 281.34, and 281.35; *Lake Beulah Mgmt. Dist. v. DNR*, 2011 WI 54, 799 N.W.2d 73; Article IX § 1 of the Wisconsin Constitution. Wis. Stat. §227.42 allows persons and entities such as PLMD and Ms. MacCubbin that have been aggrieved by a WDNR decision, as in this case, a decision to issue a high capacity well permit, to petition for a contested case hearing to challenge the decision. In addition, the Wisconsin Supreme Court has held citizens may file suit under the Public Trust Doctrine on behalf of and in the State's name for the purpose of vindicating the public trust. *Gillen v. City of Neenah*, 219 Wis. 2d 806, 821; 580 N.W.2d 628 (1998).

4. The injury to the person requesting the hearing is different in kind or degree from injury to the general public caused by the agency action or inaction because:

- a. Unlike any other person, organization, municipality, or corporation, PLMD is a special purpose taxing district whose statutory purpose and responsibility is for protection and rehabilitation of Pleasant Lake, which includes protecting and preserving water quality and quantity.
- b. The WDNR approved an application to construct the High Capacity Wells in the worst possible location for Pleasant Lake in terms of the recognized southeasterly groundwater flow. The lake has a small watershed and is dependent upon the local groundwater supply. The PLMD has a substantial interest in this matter because the permitted wells will intercept and remove the tributary groundwater that sustains Pleasant Lake.

- c. Petitioner Jean MacCubbin's, and PLMD's members' recreational, aesthetic, and property interests in protecting Pleasant Lake's water quantity and quality are different in kind and degree than the general public's interests. PLMD's members own property along Pleasant Lake, many of whom are riparians, and their personal private property rights are affected by any action or inaction that will harm Pleasant Lake's water quality or quantity. Lake District members personally use the lake to recreate, and enjoy its natural scenic beauty. PLMD and its members have commented upon both Milk Source Holding LLC's High Capacity Well and WPDES permit applications at proceedings before the WDNR prior to the permitting decision, and have invested significant time, money and resources into opposing issuance of the permits. Therefore, PLMD has sufficient standing under Wis. Stat. § 227.42 to be entitled to a contested case hearing.
5. There is a dispute of material fact, and the facts are summarized as follows:
 - a. Whether the WDNR's determination that the High Capacity Wells would not have a significant adverse environmental impact is erroneous, because the WDNR did not consider or investigate the impacts a reduction in groundwater recharge to Pleasant Lake would have on its groundwater temperature, surface water temperature, groundwater chemistry, surface water chemistry, or other factors that would result in significant degradation of biological and ecological aspects of Pleasant Lake.
 - b. Whether the WDNR improperly used a simple groundwater model to determine the proposed wells would not adversely impact the waters of the state, including Pleasant Lake, and whether the incorrect assumptions associated with the

model—including but not limited to its failure to account for the actual hydrogeological boundaries found in the proposed Richfield Dairy well site, its failure to account for a pumping period beyond 300 days, its failure to include the very significant cumulative impact of approximately 50 high capacity wells currently located within three miles of the proposed well location, and its failure to account for changes in flow to streams, wetlands, springs or lakes in the area—produced incorrect and flawed results.

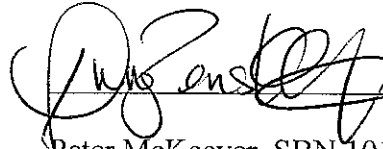
- c. Whether the WDNR's predicted 4,100 foot cone of depression finding is correct, and whether the WDNR adequately considered change in aquifer thickness and overlapping cones of depression from the many neighboring high capacity wells.
- d. Whether the WDNR's determination that a 2 inch drawdown of the water table will not cause significant adverse environmental impact is correct and whether it adequately considered the collateral harm caused by a two inch reduction, including harm to Pleasant Lake biota, wetlands, springs, water temperature, chemistry, pH, and littoral zone.
- e. Whether a drawdown greater than 2 inches, which PLMD's hydrogeology consultant predicted based upon maximum annual pumping of 52.5 million gallons per year accurately reflects the impact of water loss to Pleasant Lake based upon the permitted 131.2 million gallons per year.
- f. Whether the WDNR's analysis of the approved 131.2 million gallons of annual pumpage understates the actual drawdown that would occur during summer months, when pumping is expected to be at its highest and precipitation and groundwater are at the lowest.

- g. Whether Pleasant Lake's historical water level fluctuations can be accurately applied to present conditions.
- h. The WDNR did not consider whether Turtle Bay, a wetland contiguous with Pleasant Lake and which serves an important function, will be harmed as a result of the proposed High Capacity Wells. The WDNR position that no wetlands will be affected by the pumping of the Richfield Dairy wells is erroneous and in violation of Wis. Admin. Code § NR 103.
- i. Whether the WDNR failed to consider Pleasant Lake's unique topography in determining a 2 inch drawdown would not cause significant adverse environmental impact.
- j. Whether the WDNR performed required verification that the proposed pumping would result in less than 95% water loss, per Wis. Stat. § 281.34(4)(a) and Wis. Admin. Code § NR 820.32.
- k. These disputed facts are material in that they relate directly to the WDNR's affirmative duty to protect and preserve the waters of the state pursuant to its authority and duties under Wis. Stat. chapter 281 and Wis. Const. art. IX § 1, as described in *Lake Beulah Mgmt. Dist. v. DNR*, 2011 WI 54, 799 N.W.2d 73.
- l. PLMD reserves the right to submit additional disputed facts as they are discovered.

WHEREFORE, PLMD and Jean MacCubbin request the Wisconsin Department of Natural Resources grant its request for a contested case hearing under Wis. Stat. § 227.42.

Respectfully submitted on December 2, 2011.

Garvey McNeil & Associates, S.C.
Attorneys for Petitioners


A handwritten signature in black ink, appearing to read "Peter McKeever", written over a horizontal line.

Peter McKeever, SBN 1015142
Anne Bensky, SBN 1069210
One Odana Court
Madison, WI 53719
Tel: 608-256-1003
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VERIFICATION

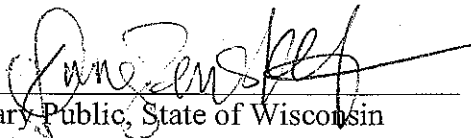
STATE OF WISCONSIN)
) ss
COUNTY OF DANE)

Under oath or affirmation, after being duly sworn, I state that I am the president of Pleasant Lake Management District, the petitioner in this matter, I am authorized by Pleasant Lake Management District to make this petition, I have read the foregoing petition and know its contents, and I attest that the facts alleged above are true and correct, to the best of my knowledge.

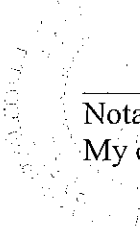


Jean MacCubbin, President
Pleasant Lake Management District

Sign and sworn to before me
This 2nd day of December, 2011.



Notary Public, State of Wisconsin
My commission is permanent.



State of Wisconsin
DEPARTMENT OF NATURAL RESOURCES
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Madison WI 53707-7921

Scott Walker, Governor
Cathy Stepp, Secretary
Telephone 608-266-2621
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November 3, 2011

File Reference: 01-3-0009

ATTN TODD WILLER
MILK SOURCE HOLDINGS LLC
N3569 VANDEN BOSCH RD
KAUKAUNA WI 54130

SUBJECT: A Conditional High Capacity Well Approval for Two Potable Wells to be Located in the Town of Richfield, Adams County

The Department of Natural Resources (department), Division of Water, Bureau of Drinking Water and Groundwater, received an application for two 500 gallon per minute (gpm), potable high capacity type well(s), on May 4, 2011. The application was submitted by you on behalf of your Limited Liability Corporation. You did not identify in the application a well driller to construct these wells. The application requested department approval for the construction and operation of the proposed high capacity wells on an existing high capacity property. Note that for department identification purposes a new high capacity file number has been created for this property. The original file number for this property was 01-1-0111 and the property consisted of only one 1,000 gallon per minute (gpm) irrigation well owned by Maranatha Farms, LLC. The property will now be used for dairy farming and the new file number, 01-3-0009, identifies this change. The existing irrigation well will be filled and sealed by Milk Source Holdings LLC.

Your proposed wells are approved, subject to all provisions of this approval letter, which includes the Conditions of Approval. This approval does not cover all situations you may encounter during the construction of the wells and the installation of the waterline up to and including the first storage vessel. Work closely with your well driller and pump installer and refer, as may be needed, to ch. NR 812, Wisconsin Administrative Code (Code) for a Code compliant installation. Keep this approval with your permanent well records for this facility.

In this approval the words proposed well, proposed wells, well, well(s) and new well(s) are used. It is to be understood that these words refer to the two wells in this approval called Well #1 the South Well and Well #2 the North Well that are proposed to be constructed.

The department is authorized by chapters 280 and 281 Stats., to have general supervision and control over the waters of the state and to establish and enforce standards and rules for obtaining drinking water and to establish safeguards necessary to protect the public health from polluted water supplies. Chapter NR 812, Wis. Adm. Code (Code) is adopted pursuant to this authority.

According to s. 281.34 (2) Wis. Stats., and Chapter NR 812, Wisconsin Administrative Code, a high capacity well must be approved prior to construction and operation. The definition of a high capacity well is any well on a high capacity property. A high capacity property is one property that has, or will have, one or more wells with a combined capacity of 70 gpm or more. According to Section NR 812.07(68), of the Code, "One property" means all contiguous land

controlled by one owner, lessee, or any other person having a possessory interest. Lands under single ownership bisected by highways or railroad right-of-ways are considered contiguous. Therefore, all existing and proposed wells on the property are high capacity wells.

This review and approval is specific to regulatory compliance with ch. NR 812, entitled Well Construction and Pump Installation of the Wisconsin Administrative Code (Code), and ch. NR 820 of the Wisconsin Administrative Code, entitled Groundwater Quantity Protection. There are conditions at the end of this approval for water well Registration, under the NR 856 Code and for water use Fees under the NR 850 Code. The department has not performed any review for structural integrity, for regulatory requirements of other departmental programs or for regulatory requirements of other State Agencies.

High capacity well approvals are issued to the property owner and are not valid after the property is sold. In the event you sell your property you are required to notify the new owner that he/she is required to apply to the department to have a new approval issued in their name. If you sell part of your property to an adjacent property owner, who is currently a high capacity property owner, you are required to notify this high capacity property owner that he/she is required to notify the department to have their approval modified to include the additional existing well(s) on their high capacity property. If you add adjacent property to your current holdings and this adjacent property has an existing well or existing wells on it (regardless of the capacity of the well(s)) you must apply for a new approval to include these wells. Lastly, if you sell some of your property that has a well or wells on it to an adjacent property owner you shall notify the adjacent property owner that if the combined pumpage on his/her existing and acquired property is equal to or greater than 70 gpm the adjacent property owner becomes a high capacity well property and he/she shall apply to the department as a new high capacity well property.

A file has been created at the Department's Central Office in Madison for your high capacity property. The file number is 01-3-0009. As part of the department's review process permanent high capacity well numbers 71786 and 71787 have been issued for the proposed wells. These numbers are in Table 1 at the end of this approval. The Table also contains information on the existing well which is proposed to be filled and sealed. Future correspondence with the department will require that you know your wells and their high capacity well numbers.

Based on information in the application, the department is of the opinion that this well will be used as a public water system, as that term is defined in Section NR 812.07(80) of the Code. As a Non-Transient Non-Community Water System you are required to follow the requirements of the Safe Drinking Water Act. More specific information on Non-Transient Non-Community Water Systems is provided in the following pages of this approval.

OWNERSHIP, PROPERTY AND WATER SUPPLY SUMMARY

As of the date of this approval the ownership, property and water supply information is as stated below. If any information is incorrect immediately contact Paul L. Kozol, P.E; his address information is in his signature block at the end of this approval.

Property Owner: Milk Source Holdings LLC
N3569 Vanden Bosch Rd.
Kaukauna, WI 54130

Officials: Todd Willer
Telephone: 920-766-5335

Operator: Richfield Dairy, LLC
N3569 Vanden Bosch Rd.
Kaukauna, WI 54130

Certified Operator: Unknown at this time, Proposed Non-Transient Non-Community Public Water System

Property Location: A copy of a Plat Book map outlining the property was submitted with the application. This map will remain in your high capacity file. Update any changes to property boundaries and wells on your yearly inventory and pumpage reports which are due in March of each year for the previous year's pumpage amounts. The proposed wells will be constructed in the SW Quarter of the NE Quarter of Section 25, Township N18, Range 7E, Town of Richfield, Adams, County.

Existing Water Supply, Proposed Modifications to the Water Supply, Proposed Pumping Capacities and Proposed Daily Water Usage Rates: According to the applicant, there is one existing well on the property. This existing well has high capacity well number 00146 and this well is proposed to be filled and sealed. The existing well is under the footprint for the proposed free stall barn. Table 1 is a summary of information on the existing and proposed wells. With the proposed wells in operation this high capacity property will have a maximum potential pumpage of 1,000 gpm.

LOCATION CRITERIA

The department has not inspected the proposed well site and the department may not have fully evaluated the distance from the proposed well or wells to all potential contaminant sources for compliance with Chapter NR 812, Wisconsin Administrative Code. It is the responsibility of the owner to provide a complete description of potential contaminant sources to the driller and it is the responsibility of the driller to ascertain that the proposed well or wells is located and constructed in compliance with NR 812 and this approval. The well or wells shall be installed and maintained in accordance with the applicable requirements of Section NR 812.08, and NR 820 of the Wisconsin Administrative Code.

Proximity to Landfills: There are no reported landfills within 1,200 feet of the proposed well. Therefore, no additional review of landfill locations is required by department regulations.

Contamination Sites: There were no reported groundwater contamination sites regulated by the department's Remediation and Redevelopment Program within a quarter mile of the site, based on the database maintained by that program. No additional review is required.

Groundwater Management Areas: The department has established groundwater management areas in accordance NR 820 Wis. Adm. Code. The well site will not be located in an area within which the level of the groundwater potentiometric surface in any of its underlying aquifers has been drawn down by more than 150 feet when compared to historic levels. Thus, this well is not in a groundwater management area.

Proximity to Nearby Springs: The department believes that the proposed wells will not have a significant adverse impact on any springs, as a spring is defined in s. 281.34(1)(f), Wisconsin Statutes. The nearest identifiable spring that meets the statutory definition of a spring is located at least 3.5 miles from the proposed well location. The proposed wells are not expected to have any significant adverse impact on this type of defined spring.

Groundwater Protection Areas: The proposed wells are located about 3.5 miles from Tagatz Creek, a Class I Trout Stream, and about 3.5 miles from Chaffee Creek, an Outstanding Water Resource. No significant adverse impacts to these water bodies, that form the core of the nearest groundwater protection areas, as defined in s. 281.34(1)(a), Wisconsin Statutes, are expected from the operation of the proposed wells.

Proximal Public Utility Well: The nearest well serving a public utility within the State of Wisconsin is a Coloma Waterworks Well which is located approximately 5 miles northeast of the proposed well. No impairment of the water supply to this public utility well is expected from the operation of the proposed wells.

Other Potential Contaminant Sources: Chapter NR 812.08 Wisconsin Administrative Code, Table A, lists minimum separation distance requirements between individual wells and sources of contamination. The well driller shall confirm the separation distance between the proposed well, and any other potential sources of contamination, and maintain the required minimum separation distances from these sources as stated in Table A of the NR 812 Wisconsin Administrative Code. The property owner shall assist the well driller with the confirmation of these potential sources of contamination. Once this well is constructed it becomes a fixed point. Any future planned potential sources of contamination shall maintain the required separation distance from the existing well(s) based on the well Code in effect at the time of placement of the potential source(s) of contamination. Also, NR 243 Wisconsin Administrative code has separation distances between a well and reviewable facilities. A department contact for discussing the requirements of NR 243 Wisconsin Administrative Code is Gretchen Wheat. Her phone number is 608-264-6273.

VARIANCES

No Code variances were requested and no variances are granted. It is expected that the proposed well(s) will be constructed in strict compliance with the NR 812 Code.

PROPOSED WELL, PUMP AND DISCHARGE DETAILS

Proposed Well Construction: The two proposed wells are expected to be drilled to identical specifications. It is anticipated that the geologic materials will be unconsolidated deposits to a depth of about 145 feet below ground surface (bgs), followed by a soft sandstone to about 165 feet bgs. Solid, hard sandstone is expected at about 165 feet bgs. The well casing will extend 20 or more feet into the solid sandstone bedrock. An open borehole will extend to the well termination point of 350 feet bgs. The proposed well construction exceeds the minimum requirements of Table IV for high capacity wells drilled in bedrock. Additional specifics for the proposed well construction include:

- Rotary mud/air drilling methods to construct an upper enlarged drillhole of 17 inches in diameter through the unconsolidated materials and 20 or more feet into the solid, hard sandstone.

- A nominal 12 inch steel casing set in the upper enlarged drillhole following the requirements of NR 812.14 for rotary mud drilling methods.
- The steel casing shall meet the material requirements of Section NR 812.17 of the Code. The casing joints shall be welded.
- The annular space between the casing and the drillhole wall shall be filled with neat cement grout, which is the only annular space sealing material allowed for high capacity potable wells.
- The neat cement grout shall be placed using an approved pressure grouting method. The department recommends the Bradenhead or Grout Shoe method.
- At completion, the casing shall terminate a minimum of 12 inches above the finished ground grade elevation and a minimum of 24 inches above the 100 year flood elevation.

Proposed Pump Installation: Each proposed well is approved to be equipped with a submersible pump with a capacity of up to 500 gpm. Additional specifics for this installation include:

- The pumped water will discharge through a pitless adapter or pitless unit. The pitless adapter or pitless unit shall be pressure tested in accordance with NR 812.31 (2) (c). Refer to Condition # 14 below.
- A sampling faucet shall be installed on the discharge line from the well and prior to the pressure tank. (Each well discharge line shall have its own sampling faucet.)
- A meter that measures cumulative hours of pump operation or a meter that measures cumulative gallons that were pumped shall be installed on each well's discharge line and prior to any pressure/storage vessel. The rate of water usage will be calculated from the recorded hours of pump operation or read from a direct reading flow meter that measures the total gallons pumped. If a variable speed pump is used, a meter that measures the cumulative gallons that are pumped is the only acceptable method to determine water usage.
- As an owner's option the water levels in each well can be measured during well operation with an air line and pressure gage installation. If the read out will not be at the well head but at a remote location then the air line shall be in a separate conduit and not combined in any other conduit. See Condition #10 below.
- According to the applicant, the proposed wells will be interconnected after a separate pressure tank for each well. A drawing was provided with the application showing this proposed installation. You are approved to install the water system in accordance with the proposed drawing. No check valves are allowed between a pitless adapter or pitless unit and the first pressure tank.
- Any piping to any non-potable portions of the plumbing system shall either be protected from backflow by an air gap or by a backflow preventer in accordance with Department of Safety and Professional Services Codes, and if applicable, Section ATCP 60.08(2), Wisconsin Administrative Code. The

backflow preventer shall meet ASSE Standard Number 1013 or a standard that is deemed equivalent in accordance with Chapter Comm. 84, Wisconsin Administrative Code. If an RP valve is used, it must comply with Chapters Comm. 82 and 84, Wisconsin Administrative Codes. An RP valve includes requirements for plan review prior to installation and periodic testing by a certified cross connection control tester.

Refer to the Conditional Approval Section for additional requirements.

PUBLIC WATER SUPPLY CONSIDERATIONS

According to the applicant, water from the proposed wells will be used as a public water system. The definition of the anticipated type of public water system is as follows:

- **NON-TRANSIENT NON-COMMUNITY WATER SYSTEM.** NR 809.04(58) Non-transient non-community water system means a non-community water system that regularly serves at least 25 of the same persons over 6 months per year. Note: Examples of non-transient non-community water systems include those serving schools, day care centers and factories.

Your department contact for public water supply issues is Peggy Norris. Contact Peggy within 30 days after the start of operation of the wells to determine the requirements of the Safe Drinking Water Act. Requirements will include Operator Certification, Vulnerability Assessment and sampling requirements.

WELL FILLING AND SEALING (ABANDONMENT) REQUIREMENTS FOR EXISTING IRRIGATION WELL

A copy of the well construction report for the existing irrigation well is attached to this approval. The existing well appears to be located in the area where the free stall barn is proposed to be located. A gravel pack for the existing well starts at 93 feet bgs. At a minimum, this well shall be filled and sealed (abandoned) in accordance with the requirements of s. NR 812.26. The department recommends that you consider using the well filling and sealing process that was used for the New Chester Dairy, namely, the removal of the casing and over drilling of the well prior to the Code required process for filling and sealing of the well. For this existing well, the top of the gravel pack is at a deeper distance from the ground surface than the New Chester Dairy and as such the Code required filling and sealing (abandonment) requirement is an acceptable minimum requirement.

APPROVED WATER USAGE AND APPROVED PUMPING CAPACITIES

The approved water usage rates and approved pumping capacities in existing and proposed wells are listed in Table 1 at the end of this approval. In addition, there is a special water use condition as part of this approval. See Condition #6 below.

CONDITIONAL APPROVAL

Because the operation of the high capacity well system is not expected to cause impairment of groundwater availability to the nearest public utility well, the proposed construction and operation of the high capacity well system is approved subject to the conditions noted below. This approval is granted based upon information provided to the department by the well owner or authorized agent. The information provided to the department is assumed to be accurate and this approval is granted based upon that information. Department personnel have not

inspected the proposed well construction or pump installation at the time of approval. This approval does not guarantee that the existing or proposed water system will produce acceptable water quality or quantity.

The department reserves the authority to limit the pumpage in any amount that may be necessary to eliminate impairment of the water supply of any public utility well that may be affected. If the operation of the well or wells adversely affects the operation of any private wells on neighboring properties, this department approval will not negate the protection to which private well owners are entitled under Wisconsin case law relating to groundwater. Approval by the department does not relieve the property owner or well operator of any liability which may result from injury or damage suffered by any person upon operation of the well or wells. You should also be aware that the department has the authority to require either the alteration or the decommissioning, relocation, and reconstruction of any existing water supply wells if, during any future inspection of the wells, the department determines such work is required for compliance with the current requirements of Chapter NR 812, Wisconsin Administrative Code.

If construction has not commenced within two years from the date of this letter, this approval shall become void. After two years, therefore, a new application must be made for approval of the plans and specifications before any construction work is undertaken.

1. Table 1 lists the latitude and longitude of the proposed well locations. The proposed locations of the wells are approved. If the locations of the wells are moved more than the distance listed in Table 1 as the location tolerance (**660 feet**) from the proposed locations, prior department approval is necessary before construction. It is still the responsibility of the well owner and the well driller to confirm that the wells meet all setback distances required in Chapter NR 812, Wisconsin Administrative Code.

2. The well driller shall determine accurate latitude and longitude coordinates for the final, as constructed, proposed well location(s) with a Global Positioning System (GPS) unit and shall include those coordinates on the well construction record. The correct format is degrees and decimal minutes (Example: Latitude 43° 04.517' Longitude 89° 22.825'). Refer to the most recent CD from the department. Under the Images Folder click the Lat Long Conversion Spreadsheet and follow the directions to convert Latitudes and Longitudes to the correct format.

3. The well or wells shall be constructed as described in this approval, except that the depth of casing and total depth of well may vary from the specified depths due to unanticipated geological conditions. The depth of casing and depth of upper enlarged drillhole however may not be less than the depths specified for a potable high capacity well in Table IV of the Code. Your proposed well construction exceeds the minimum requirements.

4. The pump or pumps and discharge from the pump(s) shall be as described in this approval. Approval was not sought for a pressure tank with a capacity greater than 1,000 gallons and an approval for a tank with that capacity is not granted. Approval was not sought for a non-pressurized storage vessel and an approval for such a vessel is not granted. This approval is contingent upon compliance with the backflow prevention criteria specified above.

5. In accordance with NR 820.13 Wis. Adm. Code, all high capacity well owners must record the amount of water that they pump each month. This information

shall be reported to the department on an annual basis. A guidance brochure is attached that lists several options of measuring or estimating pumpage for different types of high capacity wells. (Table One (below 70 gpm, see Notes) or Table Two (≥ 70 gpm)).

6. Based on annual water use of about 52.5 million gallons per year (estimate provided by Milksource, Inc.), the Department has determined that operation of the wells will not result in significant adverse environmental impacts. However, operation of the wells at or near their maximum capacity for an extended period could result in adverse impacts to the private well located at 1721 1st Drive. Therefore, the maximum total gallons pumped from the two wells in any 30-day period may not exceed 21.6 million gallons, and the maximum total gallons pumped from the two wells in any 365-day period may not exceed 131.2 million gallons. In addition, the Department may require monitoring and may impose additional restrictions or conditions on the use of the wells if available information indicates that pumping of the wells is resulting in adverse impacts to private wells or surface water.
7. Chlorine residual shall be maintained in the drilling water during the entire drilling operation.
8. All sampling, reporting and other requirements for both the construction and operation of the well or wells shall be complied with. These requirements include the well driller preparing and submitting a construction report of the well or wells to the department within 30 days after completion of drilling of the well or wells.
9. For the new wells, the construction reporting also requires that the well driller collect drill cuttings at 5 foot intervals throughout the depth of the well and at each change in formation. The samples must be sent to the Wisconsin Geological and Natural History Survey for examination and preparation of an accurate geologic log of the well.
10. The department reserves the authority to require any schedule of reporting water levels within high capacity wells that it deems necessary. If a water level measuring device is not permanently installed in any well that the department requires to report water levels, the department's authority shall extend to require the well to be taken out of service until the reporting can be conducted. While no water level measuring device is required to be installed at this time, the owner, at his option, can install a water level measuring device.
11. Notification of the start of the drilling operation shall be given to the department's Paul Kozol at (608) 267-9787. You can leave a voice mail. Or, notification can be provided via e-mail at paul.kozol@wisconsin.gov. Provide notification not less than 3 business days and not more than 5 business days prior to the beginning of drilling. Provide the file number 01-3-0009 with the notification. If any schedule changes occur after Mr. Kozol is notified, Mr. Kozol shall be notified as soon as practical of those schedule modifications.
12. Notification of the proposed time of grouting shall be given to the department's Peggy Norris; her phone number at the time of this approval was 715-421-7833. You can leave a voice mail. Notification can also be given via e-mail at peggy.norris@wisconsin.gov. Provide notification not less than 48 hours prior to the beginning of the grouting operation. In conducting this grouting, the Halliburton double or single plug method may only be used if prior approval is obtained in writing from the department.

13. Within 30 days after the start of the operation of the proposed well(s), the owner is required to contact Peggy Norris to complete the outstanding Safe Drinking Water Act requirements. Peggy's phone number at the time of this approval was 715-421-7833. You can leave a voice mail. Notification can also be given via e-mail at peggy.norris@wisconsin.gov. Requirements will include Operator Certification, Vulnerability Assessment, and sampling requirements.

14. The pitless adapter or pitless unit must be pressure tested before the well is placed in service. Notification of the proposed time of pressure testing shall be given to the department's Peggy Norris; her phone number at the time this approval was issued was 715-421-7833. You can leave a voice mail. Notification can also be given via e-mail at peggy.norris@wisconsin.gov. Provide notification not less than 48 hours prior to the beginning of pressure testing.

15. Department personnel shall be allowed to perform unscheduled inspections for purposes of verifying compliance with the conditions of approval and compliance with Chapter NR 812, Wisconsin Administrative Code.

16. The existing irrigation well, (high capacity well number 00146) shall be permanently filled and sealed (abandoned) according to the requirements of Section NR 812.26 Wisconsin Administrative Code, prior to, or at the time that the new wells are being constructed. In addition to submitting the filling and sealing (abandonment) report for the well to the appropriate DNR office, an additional copy of the filling and sealing (abandonment) report with the high capacity file number of 01-3-0009 shall be submitted to Paul Kozol. Mr. Kozol's mailing address is below his signature block in this approval.

17. As required by s. NR 810.24, Wisconsin Administrative Code, this water system must complete a "Capacity Evaluation" prior to construction. Capacity in this sense refers to a water system's ability to comply with all the requirements listed in s. NR 810.24, Wisconsin Administrative Code. You will be contacted by Adam DeWeese, Capacity Development Coordinator, regarding this requirement. You may reach the Capacity Development Coordinator by calling (608) 264-9229 or via e-mail at adam.DeWeese@wisconsin.gov

18. This approval is contingent upon obtaining any and all WPDES permits that the department's wastewater program deems necessary for the facility. And, if a WPDES permit is necessary, approval to operate any of the high capacity wells on the property is contingent upon compliance with all conditions of approval of the plan approval issued by the department's wastewater program and upon all conditions established in the WPDES permit. In addition, the penalties and forfeitures specified in Section 281.98, Wisconsin Statutes shall apply.

19. Drill cuttings shall not be disposed in any ravines, wetlands or near any sensitive environments. Sensitive environments include threatened wildlife species habitat that may exist on the property.

20. In the event that a pumping test is to be performed for the purpose of estimating aquifer transmissivity and storage coefficient, the department's wastewater program must first be contacted to determine if a short duration WPDES permit is necessary for disposal of the pumped water.

21. In the event that a pumping test is performed and aquifer transmissivity and storage coefficient are estimated, two copies of the raw data and the analysis must be submitted to the department within 30 days after the pumping test is performed. The analysis must be submitted in paper format, the raw data may be submitted in either paper or electronic format. If electronic format is

used, use a CD and it must be readable by a Windows based computer system, preferably in Excel or Arqesolv data formats. Submit that data with the high capacity file number 01-3-0009 to Paul Kozol. Mr. Kozol's mailing address is below his signature block in this approval.

22. Constructed wells are expected to be used. No well may be constructed and remain as an unused backup well. The proposed wells are planned to be interconnected on a pressure or mechanical (timer) basis. Any well that is not used for three (3) or more years shall be filled and sealed (abandoned) according to the requirements of Section NR 812.26, Wisconsin Administrative Code unless a written approval is obtained from the department for the temporary abandonment of the well. A well/drillhole/borehole filling and sealing (abandonment) form must be completed and submitted to the department within 30 days of filling and sealing each well. The person performing the filling and sealing of the well must meet the requirements of s. 280.30(2), Stats.

23. The owner, well driller and pump installer are required to determine if the new waterline from the proposed well(s) will cross or come close to any sewer lines. If this situation does occur you are required to follow s. NR 812.32(4) (b) of the Code.

24. NR 812.32(4) (a) of the Code requires back pressure on the waterline from a pitless adapter to the first pressure tank. No check valves are allowed between the pitless adapter and the first pressure tank.

25. **WATER WITHDRAWAL REGISTRATION.** Your high capacity well application and this approval fulfill the statutory requirement to register your withdrawal with the Department. You do not need to take any additional steps to register. Registration is required for persons who have a water supply system with the capacity to withdraw an average of 100,000 gallons per day (70 gallons per minute). (Wisconsin Statutes s. 281.346, NR 856 Wisconsin Administrative Code) For more information go to <http://dnr.wi.gov/org/water/dwg/greatlakes/registration.htm> or call the Water Use Program at (608) 266-2299.

26. **WATER USE FEES.** You are required to pay an annual water use fee of \$125 for each registered property. This high capacity well approval may be rescinded if the fees are not paid. (Wisconsin Statutes s. 281.346(12), Wisconsin Statutes s. 281.34(7) and NR 850 Wisconsin Administrative Code) For more information go to <http://dnr.wi.gov/org/water/dwg/greatlakes/fees.htm> or call the Water Use Program at (608) 266-2299.

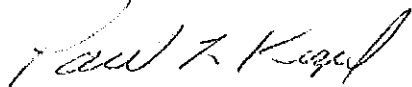
NOTICE OF APPEAL RIGHTS

If you believe that you have a right to challenge this decision, you should know that the Wisconsin statutes and administrative rules establish time periods within which requests to review Department decisions must be filed. For judicial review of a decision pursuant to sections 227.52 and 227.53, Wis. Stats., you have 30 days after the decision is mailed, or otherwise served by the Department, to file your petition with the appropriate circuit court and serve the petition on the Department. Such a petition for judicial review must name the Department of Natural Resources as the respondent.

To request a contested case hearing pursuant to section 227.42, Wis. Stats., you have 30 days after the decision is mailed, or otherwise served by the Department, to serve a petition for hearing on the Secretary of the Department of Natural Resources. All requests for contested case hearings must be made in accordance

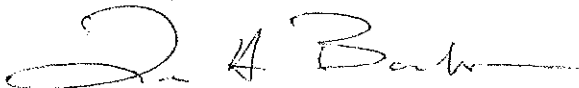
with section NR 2.05(5), Wis. Adm. Code, and served on the Secretary in accordance with section NR 2.03, Wis. Adm. Code. The filing of a request for a contested case hearing does not extend the 30 day period for filing a petition for judicial review.

STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES
For the Secretary



Paul L. Kozol, P.E.
Water Supply Engineer
Public Water Supply Section
Bureau of Drinking Water and Groundwater
(608) 267-9787 FAX (608) 267-7650

WDNR, Mail Code DG/5
P.O. Box 7921
Madison, WI 53707-7921



Lee Boushon, P.E. Chief
Public Water Supply Section
Bureau of Drinking Water and Groundwater
(608) 266-0857 FAX (608) 267-7650

Enclosures:

Table 1, Approved Well Inventory Summary
Pumpage Guidance (yellow sheet)
Well Abandonment Form

Cc with enclosures:

Owner - (2 additional copies, 1 for driller and 1 for pump installer)
Jennifer Keuning - Conestoga-Rovers & Associates

Cc without enclosures:

File 01-3-0009

Electronic cc with enclosures:

Roger Peters - WGNHS
Steve Ales - Central Office
Mike Blodgett - West District
Peggy Norris - West District
Adam DeWeese - Central Office
Gretchen Wheat - Central Office WT/3
Eric Ebersberger - Central Office
Judy Ohm - Central Office

**TABLE I
APPROVED WELL INVENTORY SUMMARY**

<p>PREVIOUSLY APPROVED WELL DNR HIGH CAP WELL#: 00146 WELL STATUS: TO BE ABANDONED SITE WELL NUMBER: 001 WELL NAME: F WUWN: BB432 PWSID NUMBER: NONE LATITUDE: NONE LONGITUDE: NONE LOCATION TOLERANCE (FT): N/A LOCATION: CT 1/4 NE 1/4 S25 T18N R7E CIVIL TOWN: RICHFIELD COUNTY: ADAMS DATE COMPLETED: 04/10/1976 WELL DEPTH: 123 PUMP CAPACITY (GPM): 1000 USE: AGRICULTURAL IRRIGATION AVG USE (GALLONS PER DAY): 720,000 MAX USE (GALLONS PER DAY): 1,440,000</p>	<p><u>Notes:</u> 1. The acronym WUWN means the Wisconsin Unique Well Number. 2. The acronym PWSID means Public Water Supply Identification Number 3. The latitude and longitude coordinates for the proposed well(s) are from the applicant.</p>
<p>PROPOSED WELL DNR HIGH CAP WELL#: 71786 WELL STATUS: APPROVED NEW WELL SITE WELL NUMBER: 001 WELL NAME: SOUTH WELL WUWN: NONE PWSID NUMBER: NONE LATITUDE: 44 Deg .308 Minute LONGITUDE: -89 Deg 36.475 Minute LOCATION TOLERANCE (FT): 660 LOCATION: SW 1/4 NE 1/4 S25 T18N R7E CIVIL TOWN: RICHFIELD COUNTY: ADAMS DATE COMPLETED: NONE WELL DEPTH: NONE PUMP CAPACITY (GPM): 500 USE: DAIRY FARMING MAX USE: (GALLONS PER 30 DAY PERIOD) 10,800,000¹ MAX USE: (GALLONS PER 365 DAY PERIOD) 65,600,000²</p>	<p><u>Footnotes:</u> 1. This number is based on a combined maximum 30-day pumping amount of 21,600,000 gallons for wells 71786 and 71787. Refer to condition #6 above. Actual pumpage for each well may exceed the listed amount, provided total water usage for both wells remains below the 30-day maximum.</p>
<p>PROPOSED WELL DNR HIGH CAP WELL#: 71787 WELL STATUS: APPROVED NEW WELL SITE WELL NUMBER: 002 WELL NAME: NORTH WELL WUWN: NONE PWSID NUMBER: NONE LATITUDE: 44 Deg .39 Minute LONGITUDE: -89 Deg 36.466 Minute LOCATION TOLERANCE (FT): 660 LOCATION: SW 1/4 NE 1/4 S25 T18N R7E CIVIL TOWN: RICHFIELD COUNTY: ADAMS DATE COMPLETED: NONE WELL DEPTH: NONE PUMP CAPACITY (GPM): 500 USE: DAIRY FARMING MAX USE: (GALLONS PER 30 DAY PERIOD) 10,800,000¹ MAX USE: (GALLONS PER 365 DAY PERIOD) 65,600,000²</p>	<p>² This number is based on a combined maximum 365-day pumping amount of 131,200,000 gallons for wells 71786 and 71787. Refer to condition #6 above. Actual pumpage for each well may exceed the listed amount, provided total water usage for both wells remains below the 365 day-maximum.</p>