



## WI Supreme Court Asked to Rule on DNR Water Pollution Permit Decision Would Have Far-Reaching Implications for All State Agencies

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**Madison, WI**—A case involving the authority of the Department of Natural Resources to regulate water pollution from concentrated animal feeding operations may soon be headed to Wisconsin’s Supreme Court. In a decision today, Wisconsin’s District II Court of Appeals declined to issue a final ruling in the case, but instead asked the Wisconsin Supreme Court to take the case directly and issue a decision.

This development marks a new phase for a case that began more than 6 years ago when neighbors of Kinnard Farms, one of the state’s largest concentrated animal feeding operations, filed a petition with the DNR requesting a review of the water pollution permit issued to Kinnard in 2012. The petitioners, represented by Midwest Environmental Advocates, filed the challenge because Kinnard’s water discharge permit did not do enough to protect water resources and public health from the impacts of the large industrial farm.

In 2014, an administrative law judge issued a decision in the water pollution permit challenge. Two of the most important parts of the decision included orders for groundwater monitoring and capping the number of animals as enforceable permit conditions. Although DNR originally agreed with the 2014 decision, the agency later did an about-face and denied that it had that authority. Former DNR Secretary Cathy Stepp reversed course based on the Department of Justice's interpretation of Act 21, which states that DNR can impose permit conditions only if they are “explicitly” authorized by statute or rule. A Dane County Circuit Court later overturned Sec. Stepp’s decision and rejected the Department of Justice's narrow interpretation of DNR’s authority.

DNR appealed the Dane County Circuit Court decision, and today the Court of Appeals asked the Wisconsin Supreme Court to take this case directly along with another environmental case that also deals with Act 21. The Court of Appeals explained, *“We agree with the State and Clean Wisconsin that the court’s determination regarding the scope and breadth of Act 21 will have implications far beyond the permitting process for high capacity wells and pollution discharge elimination systems and will touch every state agency within Wisconsin.”*

Midwest Environmental Advocates Staff Attorney Sarah Geers said, “The Wisconsin Supreme Court must now decide whether it will accept or deny the Court of Appeals’ request. We look forward to arguing the

merits of this case and reaching a resolution for Kewaunee County residents who want to protect the water they drink and the value of land that has been in their families for generations .”

Visit Midwest Environmental Advocates’ website for [more information on this case](#).

*Midwest Environmental Advocates is a public interest organization that uses the power of the law to support communities fighting for environmental accountability. Learn more about MEA on the web at [midwestadvocates.org](http://midwestadvocates.org), like MEA on [Facebook](#) or follow @MidwestAdvocate on [Twitter](#).*

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