

CLEAN WISCONSIN, INC.
634 West Main Street, Suite 300
Madison, WI 53703

and

PLEASANT LAKE MANAGEMENT DISTRICT
P.O. Box 230
Coloma, WI 54930,

Petitioners,

v.

WISCONSIN DEPARTMENT OF
NATURAL RESOURCES,
101 South Webster Street
Madison, WI 53707,

Respondent.

Case Nos. 16-CV-2817
16-CV-2818
16-CV-2819
16-CV-2820
16-CV-2821
16-CV-2822
16-CV-2823
16-CV-2824

Case Code: 30607
Administrative Agency Review

**MOTION FOR LEAVE TO FILE AN *AMICUS CURIAE* BRIEF ON BEHALF OF THE
TOWN OF ROME**

THE TOWN OF ROME, by counsel, MIDWEST ENVIRONMENTAL ADVOCATES, INC., hereby moves the Court pursuant to Wis. Stat. § 809.19(7)(a) and (c) for permission to file a non-party *amicus curiae* brief in the above-referenced matter. The Grounds for this motion are as follows:

1. The Town of Rome (hereinafter, "Town") is a body corporate and politic, located in Adams County, Wisconsin. The stated mission of the Town is to strive to be a diverse community offering a variety of residential living, year-round recreation and business opportunities with an emphasis on environmental preservation.

2. The Town has an abundance of natural resources and prides itself in its outdoor activity and recreation offerings. Significant to the Town's reputation as a premiere all-season vacation and outdoor-activity destination are its three large recreational lakes (the "Tri-Lakes."). Combined, the Tri-Lakes have a surface area of about 1,000 acres, and about 4,000 homes are sited near the lakes. Together with the Wisconsin River, streams, ponds and lakes total about 5,200 acres in the Town (approx. 13% of its total acres).

3. The mission and efforts of the Town's Board and community members establish a substantial interest in the State's ground and surface water resources; in particular, the Tri-Lakes and connected area waterways upon which tourism, recreation, and other local business opportunities depend.

4. The case at hand asks the Court to consider whether the Wisconsin Department of Natural Resources ("DNR") complies with its authority, as delegated by the Legislature, to protect public trust waters. Wis. Const. art. IX, § 1. Specifically, whether the DNR can constitutionally interpret its own authority as lacking the ability to restrict or deny a high-capacity well permit under Wis. Stat. § 281.34(2) if the well or wells will have negative impacts such as draw-down upon public trust waters.

5. As the Town's non-party brief will further detail, the DNR's extremely restrictive interpretation of its authority to protect public trust waters from the impacts of high capacity wells endangers the Town's interest in maintaining lake levels as well as maintaining the aesthetic beauty, biological quality, fishery and navigation purposes of the Tri-Lakes.

6. Movant's most acute interest is in preventing substantial adverse impacts to its groundwater, lakes, wetlands and other surface water resources due to unchecked individual and cumulative impacts of excessive groundwater pumping. The Town's brief refers the Court to

studies where evaluations of affected flow and ecology in nearby communities with established high capacity wells demonstrated such a substantial adverse impact.

7. Based upon the intentional, increasing focus of the Town upon water-based tourism and recreation, Movant has a substantial interest in the outcome of this matter and an interest the ample protection of groundwater and surface water resources including the Tri-Lakes.

8. The analysis of the Court will benefit from the reasoned, non-party perspective of the Town, an impacted municipality in a position that is not reflected by listed parties to the above-referenced matter.

9. A brief from the Town will prove valuable to the Court by informing legal analysis of the issues at hand with additional economic, recreational and environmental considerations.

10. This motion is timely filed under Wis. Stat. §§ 809.19(7)(c) and 801.15(1)(b), as Respondents' briefs are not due until July 31, 2017, per this Court's scheduling order. Granting this motion will not cause delay. If this motion is granted, Movant requests that their non-party brief be due on or before June 30, 2017.

CONCLUSION

For each of the reasons stated herein, the Town of Rome requests that this Court grant the Town permission to file a nonparty *amicus* brief pursuant to Wis. Stat. § 809.19(7).

Dated this 19th day of June, 2017.

Respectfully submitted,

Attorneys for Movant

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