

Judge Sends Environmental Assessment for Richfield Dairy Back to the DNR

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COLOMA – Judge John Markson of the Dane County Circuit Court agreed late last week that the Wisconsin Department of Natural Resources (WDNR) environmental assessment (EA) of the Richfield Dairy was deficient because it failed to evaluate the environmental effects of the permitted 131.2 million gallons per year pumping rate at the dairy's two high capacity wells. The Judge has sent the EA back to the DNR for further consideration. He also said DNR erred in not allowing Friends of the Central Sands to challenge certain aspects of the water discharge (WPDES) permit in a separate contested case hearing.

Friends of the Central Sands (FOCS), a non-profit organization dedicated to promoting natural resource stewardship in Wisconsin's Central Sands, along with Family Farm Defenders and several local residents and land owners, filed lawsuits along with requests for contested case hearings following the WDNR's approval of the high capacity wells and other permits in early November.

"This is a significant victory for the people of Wisconsin," said Steve Deery, a local resident. "We have been asking all along for the DNR just to do its job and now the judge agreed."

The high-capacity well permit approval allows the dairy to pump up to 131 million gallons of groundwater per year, yet evidence was submitted to the DNR that a lower amount of annual withdrawal—52 million gallons—would lower levels in nearby lakes by an average of 2 inches per year and would reduce stream flows by 5%. The DNR stated that it did not view these reductions as a "significant adverse environmental impact." While recognizing and agreeing with the impact based on 52 million gallons, the DNR actually approved an amount 2.5 times that amount. Equally concerning, several world class trout streams may see effects from pumping. Additional research has shown that pumping at the approved rate of 131 million gallons per year will reduce stream volumes in some sections by 10% or more having a significant negative impact.

"These factory farms do not represent what is the best for Wisconsin. By their very size and nature they cause great economic harm to the family farm and the communities they supposedly support," said John Peck of Family Farm Defenders.

The FOCS lawsuits and contested case hearing requests also challenged approval of the WPDES (Wisconsin Pollution Discharge Elimination System) permit for the dairy. The DNR had denied FOCS's request for contested case hearing relating to permit provisions that would allow groundwater around the dairy to exceed normal state standards for pollutants like nitrate. The judge however disagreed and overturned that decision allowing for that portion of the contested case to move forward as well.

“Very few Wisconsin CAFO’s have been successfully challenged in court,” said Bob Clarke of FOCS. “The citizens have had enough. These two rulings by Judge Markson are a welcome change from the rapid growth of CAFO’s in Wisconsin. From the recent expansion plans of the newly opened New Chester CAFO near Grand Marsh to the just announced plans for the Golden Sands CAFO near Saratoga, it is clear that we need to take a stand. I am pleased to have a victory in our efforts to protect the area from the negative impacts of these CAFO’s.”

FOCS continues to play a role to ensure the stewardship of the natural environment in the Central Sands and is currently involved in other activities such as the development of a ground water coalition in the Central Sands and supporting the efforts of Sustain Rural Wisconsin Network, a statewide coalition of individuals and organizations dedicated to preserving the environment while maintaining the health and economic vitality of rural communities. "We have important work to do protecting our natural world and opposing the Richfield Dairy is critical in accomplishing this mission," said Bob Clarke. "We will continue as long as necessary."