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## **FOR IMMEDIATE RELEASE**

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### **ROCK COUNTY JUDGE RULES FOR CITIZENS' GROUP THAT CHALLENGED LARGE FACTORY FARM**

**Janesville, WI**—On Thursday, April 15, 2004, Rock County Circuit Judge Michael Byron ruled in favor of a citizens' group in their challenge to a large factory farm that was unlawfully approved in January, 2003 by the Town of Magnolia's zoning Board of Adjustment. This ruling reinstated the decision of the Town's elected officials.

After several hearings during the spring of 2002, the Town of Magnolia Planning and Zoning Committee voted to recommend denial of a request by Larson Acres, Inc., for a conditional use permit to house 1200 animal units – or 1,275 heifers and dry cows – in a 66,000 square foot slatted floor barn with a 6 million gallon manure pit below it. In making its recommendation, the Committee considered the intent of the Town's ordinance, as well as all of the standards in that ordinance, and determined that this facility would not be compatible with the public interest, its neighborhood or harmonious with the town. After holding its own hearing, the Town Board voted to deny the application, thus limiting Larson Acres to housing no more than 400 animal units in its confinement barn.

Instead of appealing to court, Larson Acres appealed the Town Board's denial to the Town Board of Adjustment, an unelected body appointed by the Town Board. Larson Acres and its attorneys threatened litigation and then proposed to "settle" this appeal to the Board of Adjustment if the Town would issue the conditional use permit. The settlement proposal went back and forth between the Town Board and the Board of Adjustment before the Board of Adjustment held additional hearings and first denied, then reversed itself and issued the conditional use permit in January, 2003.

Attorneys Glenn Stoddard and Diane Milligan, of the Garvey & Stoddard law firm in Madison, represented the citizens' group. The law firm contributed approximately one-third of its time and attorneys fees to the citizens' group as a pro bono, or public interest, contribution.

According to Attorney Milligan: "The court decided that the Town of Magnolia's zoning Board of Adjustment did not have jurisdiction or legal authority to hear or overrule the Magnolia Town Board's decision to deny the permit for the factory farm project.

The court's decision was based on zoning provisions in the Wisconsin Statutes and on a 1990 Court of Appeals decision that dealt with a nearly identical legal issue in the Town of Hudson, St. Croix County. The

court essentially agreed with our argument on behalf of the citizens' group and we are pleased the judge agreed with our analysis."

Attorney Glenn Stoddard said: "The court's decision represents an important victory for several reasons. First, it was a personal victory for the citizens' group and the individual plaintiffs who stood up to fight against a clear injustice. Second, it was a victory for grass-roots democracy and local control, because a majority of the local people were against Larson's factory farm project all along, and so was the Town of Magnolia's Planning and Zoning Committee and elected Town Board. Yet the Town's appointed zoning Board of Adjustment ended up trying to override the Town Board and the will of the people when it approved the project after being pressured by Larson Acres and its attorney. Third, it was a victory for environmental quality in the nearby area, because factory farms are big polluters of the air and water and this operation would have been no exception. Fourth, it was a victory for smaller scale family farmers who are constantly being driven out of business by factory farms. For all of these reasons, our law firm is very proud to have handled this case and we will continue to help other local citizens in Wisconsin in their efforts to stop the spread of factory farms like the one proposed by Larson Acres."

The citizens' group consisted of neighboring residents, retired farmers, small farm operators and other rural residents who had spoken against Larson Acres' project at the local level and later gathered together to challenge the approval of the conditional use permit in court. They were part of the original group that formed around the issue and crowded into the Magnolia Town Hall to be heard by the local officials two years ago when the issue first came up.

According to Tony Ends, one of the plaintiffs and group members, "We spoke up respectfully, and earnestly in those first public hearings. We told the appointed and elected officials what our concerns were, what we thought, what we wanted, and what we knew was right. The local officials listened and denied the application, but the Board of Adjustment eventually gave in to Larson Acres' pressure and approved the project. This was disheartening, yet it brought us all together and it motivated us to work hard and to go to court and try to protect our local property values, our quality of life, and our local environment. We had to sacrifice time and money, and it forced us to think about many of the simple things we take for granted—like the purity of the water we drink and the air we breathe. But it was all worth the effort when Judge Byron decided in our favor."

The citizens' group and the Garvey & Stoddard law firm are also appreciative of the helpful role played by Midwest Environmental Advocates, Inc. (MEA). a non-profit environmental law center based in Madison. MEA provided financial assistance to help defray the group's legal expenses through its "Impact Litigation Fund." MEA's Impact Litigation Fund is available to grassroots citizens groups and private attorneys that struggle to pay the legal expenses associated with defending their right to clean air and clean water. The Impact Litigation Fund money in this case was matched by a *pro bono* contribution of Garvey & Stoddard and by fundraising done by the citizens' group and individual plaintiffs in the case.

Despite the fact that the neighbors had filed their complaint, Larson Acres proceeded to construct its facility last year. During construction, the neighbors filed a motion for a temporary restraining order, but the court found that motion to be premature because Larson Acres had not put more than 400 animal units in the facility. Now they will not be able to.

According to Attorney Milligan, "It is unfortunate that Larson Acres gambled and continued to build the farm facility. They built a big and presumably expensive barn. But the bright side is that the large size barn may make it one of the most humane and spacious facilities for those 400 or so animals."