

Clean Wisconsin: High stakes for Wisconsin's water

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Contact: Evan Feinauer, Staff Attorney, (608) 251-7020 ext. 21
or efeinauer@cleanwisconsin.org
Jon Drewsen, Communications Director, (608) 251-7020 ext. 28
or jdrewsen@cleanwisconsin.org

MADISON, WI — Clean Wisconsin stressed the implications for Wisconsin's water in two legal cases against the Department of Natural Resources (DNR) that were certified to the State Supreme Court on Wednesday.

"The Wisconsin Supreme Court now has the future of our water management in their hands," said Evan Feinauer, Staff Attorney for Clean Wisconsin. "Both of these cases require the court to decide whether water will be protected for public benefit, or instead overused or polluted for the private gain of a handful of corporate farms. The stakes for our water and for all Wisconsinites could not be higher."

The first case concerns DNR's authority to consider the negative impact that groundwater withdrawals have on surface waters when issuing permits to drill high-capacity wells. For over 120 years, courts at all levels have consistently held that the state has the authority and duty to protect Wisconsin's water—our lakes, rivers, streams—for everyone. As part of this legacy, in 2011 the State Supreme Court unanimously ruled the DNR must consider impacts to surface waters when permitting wells as part of its duty to uphold the Public Trust Doctrine.

"The State Supreme Court has long ruled that the Public Trust Doctrine requires the state to protect our water for everyone," said Feinauer. "If the Court rules otherwise, it would be at odds with 120 years of precedential case law."

The second case concerns DNR's authority to require large farms to monitor groundwater for contamination caused by manure spreading, and to limit the number of animals present at the farm at a given time. Both the administrative law judge who heard the initial challenge and the circuit court judge in this case agreed that monitoring and farm size limits are sensible approaches to address groundwater contamination, and that DNR has ample statutory authority to require farms to follow them.

"Too many people who rely on private wells for their drinking water have had to struggle with unsafe water coming from their taps due in part to manure spreading," said Feinauer. "We trust that the Supreme Court will agree with these judges, rather than finding that DNR's hands are tied when it comes to addressing water pollution in this state.

"As these two cases go before the Wisconsin Supreme Court, we urge the Court to recognize the significance of this moment and understand the monumental consequences their decisions could have on the water we treasure as a state, and on the health and wellbeing of every Wisconsin resident."