

NEWS RELEASE

FOR IMMEDIATE RELEASE:
November 13, 2015



Nick George, President
608-255-9946
Nick.George@mwfpa.org

Brian Elliott
Dir. of Communications
608-255-9946
Brian.Elliott@mwfpa.org

Midwest Food Processors Praise Court Ruling on High Capacity Well Permitting

The Midwest Food Processors Association ([MWFPA](#)) praised the ruling of an Outagamie County Circuit Court yesterday which found that the Wisconsin Department of Natural Resources (DNR) had imposed unlawful permit conditions for high capacity wells in the case of a Town of New Chester dairy.

“This ruling is very important in that it protects Wisconsin businesses and property owners from state agencies acting beyond the specific authority given to them by the legislature” said MWFPA President Nick George. “We are pleased with the decision of the Circuit Court,” he added.

-MORE-

The Circuit Court decision stems from New Chester Dairy's 2012 application to the DNR seeking approval to construct two high capacity wells for its dairy operation in the Town of New Chester. The DNR conditioned its approval on the dairy installing groundwater monitoring wells, collecting data, and submitting that data to the agency. New Chester Dairy complied but contested the monitoring requirement. An administrative law judge determined that the DNR had the authority to require high-capacity well owners to monitor groundwater levels. New Chester Dairy appealed this decision to the circuit court.

The Midwest Food Processors Association, the Wisconsin Manufacturers and Commerce, Dairy Business Association, and the Wisconsin Potato and Vegetable Growers Association, in conjunction with the Great Lakes Legal Foundation (GLLF), filed a motion to intervene in the case (*New Chester Dairy v. Wisconsin Department of Natural Resources and Clean Wisconsin*) which was granted.

George said this legal action was important to “ensuring that state agencies properly follow the law when issuing permits and making certain that state agencies do not impose unlawful conditions in all types of permits.”

The court found the DNR lacked the required explicit authority to impose costly monitoring requirements in high capacity well permits. A related finding was that under state law, agencies cannot use implied authority to impose regulatory requirements.

According to George, “The clarification represented by this court decision is important as growers, processors, and other high capacity well owners make business decisions. Still, ultimately we are going to need legislation that better clarifies DNR's authority over high capacity wells.”