



Before The
State Of Wisconsin
DIVISION OF HEARINGS AND APPEALS

In the Matter of the Wisconsin Pollutant Discharge
Elimination System Permit No. WI-0022942-09-0
(WPDES Permit) Issued to Ellsworth Cooperative
Creamery

Case No. DNR-12-027

NOTICE OF TELEPHONE PREHEARING CONFERENCE

On February 28, 2012, the Department of Natural Resources issued WPDES Permit No. WI-0022942-09-0 to Ellsworth Cooperative Creamery to regulate discharge from a facility located at 232 North Wallace Street, Ellsworth, Wisconsin to Isabelle Creek in the Trimbelle and Isabelle Creek Watershed of the Lower Chippewa River Basin in Pierce County. Isabelle Creek is considered a disappearing stream (seeps to groundwater) at the discharge point. The Permit was issued with effluent limitations, monitoring requirements and other conditions.

On April 2, 2012, Attorney Michael P. Screnock, on behalf of Ellsworth Cooperative Creamery, filed a Verified Petition for Review with the Department of Natural Resources to review the reasonableness of and necessity for certain terms in the permit.

By letter dated July 18, 2012, the Department of Natural Resources granted the request for hearing pursuant to Wis. Stat. §§ 283.63 and limited the hearing to the following issues:

- A. Whether the Permit's water quality based phosphorus limits are reasonable and necessary;
- B. Whether the Permit's chloride effluent limits of 550 mg/L and 400 mg/L are reasonable and necessary;
- C. Whether the Permit's nitrogen and ammonia limits are reasonable and necessary; and whether the compliance schedule to achieve those limitations is reasonable.

On May 24, 2013, the Division of Hearings and Appeals received a Request for Hearing from the Department.

NOTICE IS HEREBY GIVEN that the State of Wisconsin Division of Hearings and Appeals will initiate a telephone prehearing conference on the above matter pursuant to Wis. Stats. §§ 227.42 and 283.63 on **July 11, 2013, at 10:00 a.m.** Any person, organization or

governmental unit wishing to become a party to this proceeding must appear at the conference in person or by an authorized representative. **To so participate, said persons must write to the Division of Hearings and Appeals, at least three days prior to the July 11th telephone prehearing conference, in care of the undersigned and indicate a phone number where they can be reached at the above mentioned time.** If necessary, the purpose of the prehearing conference will be to identify parties to the proceeding, to simplify the issues which may be contested at the hearing, establish a discovery schedule and set a date for hearing. No testimony will be heard at the prehearing conference; however, a date may be set for the hearing on the merits at the conference.

When the hearing is held it will be a Class 1 contested case pursuant to Wis. Stat. § 227.01(3)(a) and the fair play provisions of Wis. Stat. ch. 227 will apply. The procedures relating to contested cases set forth in Wis. Admin. Code ch. NR. 2 will be followed. The procedure that will be followed at the public hearing will closely resemble that normally followed at a court hearing. All parties are advised that they have the right to seek the aid and assistance of legal counsel and to be represented by legal counsel at the public hearing.

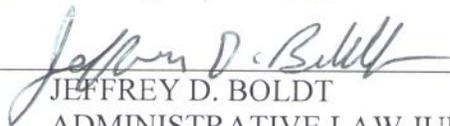
The permits, petitions and other information relating to the petitioner are on file and may be inspected and copied at the offices of the Department of Natural Resources, 101 South Webster Street, Madison, Wisconsin, between the hours of 9:00 a.m. and 3:30 p.m., Monday through Friday, holidays excepted. Copies of documents on file for the applicant may be obtained by writing to the Department of Natural Resources, WPDES Permit Section, P.O. Box 7921, Madison, Wisconsin, 53707-7921. Reasonable costs will be charged for copies of all information excluding public notices and fact sheets.

Pursuant to the Americans With Disabilities Act, reasonable accommodations will be made to any qualified individual upon request. Please call the Division of Hearings and Appeals at (608) 266-3865 with specific information on your request at least 10 days before the date of the scheduled hearing.

Dated at Madison, Wisconsin on May 29, 2013.

STATE OF WISCONSIN
DIVISION OF HEARINGS AND APPEALS
5005 University Avenue, Suite 201
Madison, Wisconsin 53705
Telephone: (608) 266-7709
FAX: (608) 264-9885

By


JEFFREY D. BOLDT
ADMINISTRATIVE LAW JUDGE