



**Before the
State of Wisconsin
DIVISION OF HEARINGS AND APPEALS**

Department of Natural Resources, Environmental
Management Division, Findings of Fact,
Conclusions of Law, and Diversion Approval

Case No. DNR-18-0006

PREHEARING CONFERENCE REPORT AND AMENDED SCHEDULING ORDER

On November 8, 2018, a status conference was held by telephone at 4822 Madison Yards Way, Madison, Wisconsin, Brian Hayes, Administrative Law Judge with the Division of Hearings and Appeals (“Division”) presiding. The Wisconsin Department of Natural Resources, the Petitioners, City of Racine/Racine Water Utility, Wisconsin Manufacturing Commerce, Village of Mount Pleasant, and Racine County appeared by their respective counsel.

This report is filed pursuant to Wis. Stat. § 227.44(4)(b) and Wis. Admin. Code § NR 2.12.

The PARTIES to this proceeding are certified as follows:

River Alliance of Wisconsin, Minnesota Center for Environmental Advocacy, Milwaukee Riverkeeper, League of Women Voters of Wisconsin, League of Women Voters Lake Michigan Region, and Natural Resources Defense Council (collectively, “Petitioners”), by

Attorney James E. Parra
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Madison, WI 53703-4714

Attorney Jodi Habush Sinykin
Of Counsel, Midwest Environmental Advocates, Inc.
1970 West Green Brook Road
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Wisconsin Department of Natural Resources (“Department”), by

Attorney Jacob Curtis
Attorney Cheryl Heilman
Attorney Judith Mills
Wisconsin Department of Natural Resources
101 South Webster Street
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City of Racine/Racine Water Utility, (“City”), by

Attorney Lawrie Kobza
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1 South Pinckney Street, Fourth Floor
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Wisconsin Manufacturers & Commerce (“WMC”), by

Attorney Corydon Fish
Wisconsin Manufacturers & Commerce, Inc.
501 East Washington Avenue
Madison, WI 53703

Village of Mount Pleasant (“Village”), by

Attorney Andrea Roschke
von Briesen & Roper, s.c.
411 East Wisconsin Avenue, Suite 1000
Milwaukee, WI 53202

Racine County (“County”), by

Attorney Deborah C. Tomczyk
Reinhart Boerner van Deuren, S.C.
1000 North Water Street, Suite 1700
Milwaukee, WI 53202

STIPULATIONS

1. The Village and County filed a Motion to Intervene via U.S. Mail on October 11, 2018. The parties did not object to the Village and County becoming parties to this action, and the Administrative Law Judge granted their admission as parties.
2. The Petitioners advised they will provide additional facts.
3. The parties agreed that this action can proceed through summary judgment briefing.
4. The Petitioners requested an extension to submit their reply brief due to the addition of four more parties to this action. The Administrative Law Judge granted this extension, and the parties agreed upon an amended scheduling order.
5. The Department agreed to publish the amended scheduling order on the DNR website so interested Amicus parties are aware of the new deadline to file their briefs.

AMENDED SCHEDULING ORDER

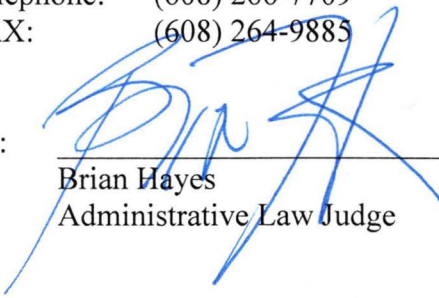
Based upon the representations of the parties, the following schedule has been amended as follows:

1. In this order, whenever the term “filed” is used, it shall be understood that this means received by mail, facsimile, or email by the Division and all other parties listed above.
2. Any party wishing to participate as an amicus shall file a motion to the Administrative Law Judge by November 15, 2018, requesting leave to file an amicus brief.
 - a. Petitioners shall file their Summary Judgment Motion Brief by December 17, 2018.
 - b. The Department and all other parties shall file their Response Brief by January 31, 2019.
 - c. Petitioners shall file their Reply Brief by March 4, 2019.
 - d. Any Amici allowed to file a brief shall file their brief by March 4, 2019.
 - e. The parties reserve the right to request permission from the Administrative Law Judge to file a sur-reply to any Amicus brief that raises an issue not previously addressed in a brief submitted by the Department or Petitioners. Any request will be filed, with a copy of the sur-reply, by March 22, 2019.

Dated at Madison, Wisconsin, on November 14, 2018.

STATE OF WISCONSIN
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By:



Brian Hayes
Administrative Law Judge