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NEWS FOR IMMEDIATE RELEASE

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State Files Notice of Voluntary Dismissal and Motions to Modify Briefing Schedule in two DNR Cases before the Wisconsin Supreme Court

MADISON, Wis. – The Wisconsin Department of Justice (DOJ), on behalf of the Wisconsin Department of Natural Resources (DNR), today submitted motions to the Wisconsin Supreme Court requesting that the briefing schedule be changed in two DNR cases: one involving high-capacity well approvals; and the other a Wisconsin Pollutant Discharge Elimination System (WPDES) permit for a concentrated animal feeding operation (CAFO).

In *Clean Wisconsin v. DNR*, the petitioners challenged a DNR decision to issue eight high-capacity well approvals. A circuit court vacated seven of the eight well approvals and remanded the other approval to DNR for additional evaluation. DOJ appealed the lower court's judgment. In January 2019, the court of appeals certified the appeal to the Wisconsin Supreme Court. Today's filing asks the Wisconsin Supreme Court to modify the briefing schedule and allow DOJ to file a brief on the Respondents' schedule, reflecting DNR's position that, on the issue of DNR's authority to consider environmental impacts of high capacity wells, the lower court judgment should be affirmed.

In a second *Clean Wisconsin v. DNR* case, petitioners challenged a DNR decision to issue a WPDES permit to Kinnard Farms, a CAFO in Kewaunee County. In particular, the challengers claimed that the permit issued to the farm should have: (1) included a maximum number of animal units; and (2) required that Kinnard install groundwater monitoring wells, if practicable, on or near the fields where manure is landspread.

A circuit court agreed with the challengers, holding that DNR had authority to impose the conditions in Kinnard Farms' permit. The court also awarded attorney fees to the challengers.

The state appealed on the issues of permit conditions and attorney fees. In January 2019, the court of appeals certified this appeal to the Wisconsin Supreme Court.

Today's filing voluntarily dismisses the appeal on the issue of attorney fees, which the parties have settled. The filing asks the Wisconsin Supreme Court to modify the briefing schedule for the remaining issues in the case, to allow DOJ to file a brief on the Respondents' schedule, reflecting DNR's position that, on the issue of DNR's authority to include conditions in WPDES permits to ensure groundwater standards are met, the lower court judgment should be affirmed.

Relevant court filings are attached.