

# Midwest Environmental ADVOCATES

*pro bono publico*

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VIA HAND DELIVERY

August 11, 2006

Scott Hassett, Secretary  
Wisconsin Department of Natural Resources  
101 S Webster Street - AD/5  
Madison WI 53703

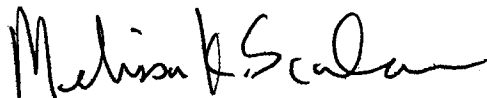
**RE: Petition for a Contested Case, Protient, Inc. WPDES Permit No. WI-0046957-03-0.**

Dear Secretary Hassett,

Please find attached a verified petition for review of the above matter. By hand delivery of this letter, I am serving the same on the Wisconsin Department of Natural Resources in accordance with Wis. Admin. Code § NR 2.03.

Sincerely,

MIDWEST ENVIRONMENTAL ADVOCATES, INC.



Melissa K. Scanlan  
Elizabeth Lawton

cc: Janet Boerboom (via first class mail)  
Van Ellig, Esq. (via first class mail)

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**BEFORE THE  
WISCONSIN DEPARTMENT OF NATURAL RESOURCES**

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**In the matter of Protient, Inc.  
Permit No. WI-0046957-03-0 to Discharge Under  
the Wisconsin Pollutant Discharge Elimination  
System (“WPDES”) dated June 9, 2006.**

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**VERIFIED PETITION FOR REVIEW AND REQUEST FOR HEARING UNDER  
SEC. WIS STAT. § 283.63 AND WIS STAT. § 227.42.**

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To the Department of Natural Resources:

In accordance with Wis. Stat. §§ 283.63 and 227.42 the undersigned Wisconsin Environmental Law Advocates, Janet Boerboom, Michael Klein, Richard Lavigne, and Benjamin Sykes hereby petition for review of the Wisconsin Department of Natural Resources’ (“DNR’s”) final decision to issue Wisconsin Pollutant Discharge Elimination System (“WPDES”) Permit No. WI-0046957-03-0 to Protient, Inc. (“Protient”). The effective date of Protient’s WPDES permit is July 1, 2006. The undersigned hereby request that a hearing be held as a contested case under Section 227.42 of the Wisconsin Statutes. Protient’s new WPDES permit will regulate treated effluent wastewater discharges into the North Fork Juda Branch Creek associated with both Protient and Grande Cheese Company (“Grande”) until Grande initiates an effluent discharge from its own newly constructed wastewater treatment facility into the North Fork Juda Branch Creek. At that time, Protient’s WPDES permit will continue to authorize discharges of treated effluent wastewater from Protient minus Grande’s effluent.

Grande and Protient are located in Green County, in the city of Juda, near the City of Monroe, Wisconsin. Grande and Protient both discharge into a drainage ditch which in turn discharges into North Fork Juda Branch Creek approximately 0.5 miles upstream from its

confluence with Juda Branch Creek. Juda Branch Creek, a “Fish and Aquatic Life” water, then joins Sylvester Creek, an Exceptional Resource Water, approximately 4.3 miles farther down stream.

North Fork Juda Branch Creek is officially listed by the DNR as “impaired” by low dissolved oxygen (“DO”) levels caused by Biological Oxygen Demand (“BOD”) and phosphorus from 2.5 miles upstream of Grande’s discharge to .5 miles downstream from Protient’s discharge at the confluence of the Juda Branch Creek.

Section 283.63(1) of the Wisconsin Statutes allows five or more persons to secure a review by the DNR of any permit denial, modification, suspension or revocation, and the reasonableness of or necessity for any term or condition of any issued, reissued or modified permit by filing a verified petition for review with the DNR Secretary setting forth the issues sought to be reviewed and stating the interest of the petitioners within 60 days after notice of permit issuance by the DNR.

Section NR 203.15 of the Wisconsin Administrative Code provides that if a hearing for review of the terms of a WPDES permit is treated by the DNR as a contested case pursuant to Wis. Stat. § 227.01(3), then rules governing the conduct of contested cases under Chapter 227 of the Wisconsin Statutes will apply to the extent they do not conflict with procedures for WPDES adjudicatory hearings.

Under Section 227.42 of the Wisconsin Statutes, in addition to any other right provided by law, any person filing a written request with an agency for hearing shall have a right to a hearing which shall be treated as a contested case if: (a) a substantial interest of the person is injured in fact or threatened with injury by agency action or inaction; (b) there is no evidence of legislative intent that the interest is not to be protected; (c) the injury to the person requesting a

hearing is different in kind or degree from injury to the general public caused by the agency action or inaction; and (d) that there is a dispute of material fact.

In support of their petition, Petitioners state:

**I. AGENCY ACTION WHICH IS THE BASIS FOR THE HEARING REQUEST**

1. The DNR's issuance of Protient's WPDES Permit No. WI-0046957-03-0 on June 9, 2006.

**II. THE SUBSTANTIAL INTERESTS INJURED OR THREATENED WITH INJURY BY THE AGENCY ACTIONS**

2. The Petitioners hold aesthetic and recreational interests in the waters and other natural resource of the State of Wisconsin, specifically, North Fork Juda Branch Creek and its downstream waters.

3. The Petitioners have a substantial interest in the continued protection of North Fork Juda Branch creek, in that they have made significant investments of time and resources to prevent the discharge of excessive pollution into North Fork Juda Branch Creek.

4. The Petitioners hold rights to clean surface water and use of natural resources, namely North Fork Juda Branch Creek and downstream rivers that may be affected by Protient's discharge of phosphorus, BOD, and other pollutants that consume dissolved oxygen in those waters and harm aquatic life.

5. All petitioners are citizens of the state of Wisconsin who are beneficiaries of the public trust duty of the state to protect the navigable waters that will be or are threatened by injury due to the DNR's issuance of WPDES permits that do not meet minimum state and federal water law standards.

**III. THE BASIS FOR FINDING THAT THERE IS NO EVIDENCE OF LEGISLATIVE INTENT THAT THE INTEREST IS NOT TO BE PROTECTED**

6. There is no legislative intent that these interests are not to be protected. On the contrary, there is substantial evidence of legislative intent that the interests stated above are to be protected.

Unabated pollution of the waters of this state continues to arouse widespread public concern. It continues to endanger public health; to threaten fish and aquatic life, scenic and ecological values; and to limit the domestic, municipal, recreational, industrial, agricultural and other uses of water. It is the policy of this state to restore and maintain the chemical, physical, and biological integrity of its waters to protect public health, safeguard fish and aquatic life and scenic and ecological values, and to enhance the domestic, municipal, recreational, industrial, agricultural, and other uses of water. In order to achieve this policy, the legislature declares that: (a) It is the goal of the state of Wisconsin to eliminate the discharge of pollutants into the waters of the state by 1985.

Wis. Stat. § 283.001(1)

7. Furthermore, the Legislature's intent to protect petitioners' interests is further recognized by section 283.63, of the Wisconsin Statutes, which specifically accords petitioners a right to a hearing to review the reasonableness or necessity of any term of a WPDES permit.

8. Regulatory intent that petitioners' interests are to be protected is expressed in chapter NR 203 of Wisconsin's Administrative Code. "The purpose of this subchapter [on WPDES Public Participation Procedures] is to provide adequate procedures to insure as broad a degree of public participation in administrative adjudication of WPDES permits and their conditions as is consistent with procedural due process to the parties involved in the proceedings." § NR 203.14, Wis. Admin. Code.

#### **IV. INTEREST OF AND NATURE OF INJURY TO THE PETITIONERS**

9. The injury to the persons requesting the hearing are different in kind or degree from injury to the public caused by the agency actions because:

- a. The petitioners and the organization they represent recreate in, enjoy, use, hike beside and observe the watershed that includes the North Fork Juda Branch Creek. The environmental, health, aesthetic, pecuniary, and recreational interests of petitioners have been, are being, and will be adversely affected by the DNR's issuance of a WPDES permit to Grande in violation of state and federal water law, thus allowing discharges into already impaired waters of the State and the United States. In particular, the petitioners have been, are being, and will be adversely affected by the DNR's issuance of a WPDES permit to Grande that do not meet state and federal legal requirements.
- b. Petitioners use and enjoy the waters to be impacted by the Grande discharges, including waters in the immediate vicinity of, and downstream from, the Grande discharges into North Fork Juda Branch and the United States.
- c. The petitioners, as members of WELA, are substantially more aggrieved than members of the public because WELA spent valuable time and resources filing a legal action against Protient, Inc., aimed at preventing excessive pollution discharges into North Fork Juda Branch Creek. Now WELA's board members must ensure that their substantial efforts are not nullified and made worthless by this discharge to North Fork Juda Branch Creek. WELA and its members possess a significant legal, recreational, and aesthetic interest in ensuring that DNR's issuance of a WPDES permit to Protient does not further pollute North Fork Juda Branch Creek or hinder

that Creek's progress toward restoration that has resulted from WELA's advocacy. Specifically, WELA and its members, including the petitioners have a significant interest in preventing a further lowering of water quality in the Creek that would cause or contribute to an excursion above water quality standards.

d. A contested case hearing and decision that requires the DNR to issue a WPDES permit to Protient in accordance with state and federal water law will help restore and preserve water quality, thereby promoting and protecting the use and enjoyment of the impacted area by these petitioners.

10. Petitioners specifically use, recreate in and enjoy these areas as shown in the paragraphs 11 - 19.

11. Wisconsin Environmental Law Advocates ("WELA) is an unincorporated association whose mission is to protect Wisconsin's environmental resources, including air, water, and land, and ensuring compliance with both Wisconsin's and the United States' environmental laws and regulations. Many of WELA's members use rivers throughout the State of Wisconsin, specifically rivers in Green County, including the North Fork Juda Branch Creek, Juda Branch Creek, and Sylvester Creek. WELA is reasonably concerned that Protient's WPDES permit authorizes a lowering of water quality in the North Fork Juda Branch Creek and downstream Juda Branch Creek, a Fish and Aquatic Life Water, and Sylvester Creek, an Exceptional Resource Water. WELA is further concerned that issuance of Protient's WPDES permit without determining the North Fork Juda Branch Creek's ability to assimilate those pollutants will further damage the waterway. WELA is also concerned that Protient's discharge of phosphorus and BOD under the WPDES permit will cause or contribute to an exceedence of water quality standards in the already impaired North Fork Juda Branch Creek.

12. WELA is reasonably concerned that Protient's WPDES permit will exacerbate the already murky conditions, objectionable deposits, debris, scum, floating solids and unsightliness present in the North Fork Juda Branch Creek and obstruct its members continued enjoyment of the waterway. Moreover, WELA is concerned that the DNR's issuance of Protient's WPDES permit will not aid in the repair of the impaired creek, but rather will prevent the Creek from meeting its potential to support a diverse forage fishery, will hinder the restoration of the Creek to its viable designated use as a Fish and Aquatic Life community, and will further damage Juda Branch Creek and the pristine downstream waters of the Sylvester Creek.

13. Moreover, WELA is concerned that the unreasonable terms in Protient's WPDES permit will cause further harm to the animal, plant, and aquatic life present in the North Fork Juda Branch Creek and downstream Juda Branch Creek and Sylvester Creek. Finally, WELA has a substantial interest in the health of North Fork Juda Branch Creek, demonstrated by a citizen suit WELA filed against Protient, Inc. in the US District Court, Western District of Wisconsin, Case No. 04 C 0556 C to prevent excessive discharges of phosphorus and other pollutants to North Fork Juda Branch Creek. WELA has been adversely affected and aggrieved by DNR's decision to issue Protient's WPDES permit without ensuring that the pollution discharge limit does not have the reasonable potential to violate narrative water quality standards or actually cause or contribute to a violation of water quality standards. WELA is further adversely affected and aggrieved by DNR's failure to establish a Total Maximum Daily Load for this already impaired water and its decision to authorize continued pollutant discharges to the creek by issuing Protient's WPDES permit.

14. Benjamin Sykes is an adult resident of the State of Wisconsin, residing at 2116 University Ave., Apt 15, Madison, WI 53726. Mr. Sykes is a member of WELA and serves as

an Executive Board Member. As a member of WELA's board Mr. Sykes is particularly concerned about the health of Wisconsin's many water ways, particularly problems associated with increased algae, muckiness, and pollution discharges to the waters of the state. Given that the organization Mr. Sykes leads spent valuable time and resources preventing the further degradation of the North Fork Juda Branch Creek through a citizen suit aimed at preventing polluting discharges into the Creek, Mr. Sykes is particularly adversely aggrieved by DNR's issuance of the WPDES permits to Grande and Protient which fail to ensure compliance with water quality standards.

15. Mr. Sykes frequently utilizes southern Wisconsin's waterways as a drinking water source during camping trips and a food source when fishing, but after recreating on the North Fork Juda Branch Creek Mr. Sykes is now wary of using downstream waterways as either a water source or a food source. Mr. Sykes has been deterred from fishing in the watersheds associated with North Fork Juda Branch Creek because he is reasonably concerned that Protient's permitted discharges will negatively impact fish and aquatic life in the watershed and hence negatively impact his own health and recreational interests. Mr. Sykes feels that his rights to use North Fork Juda Branch Creek and downstream waters are impaired by the issuance of Protient's WPDES Permit. Ms. Sykes is reasonably concerned about the health and visual appeal of the waterway and will choose not to use downstream waters associated with the North Fork Juda Branch Creek, including, Juda Branch Creek and Sylvester Creek in the future due to the large amounts of algae and rotting odor he observed in the North Fork Juda Branch Creek. Mr. Sykes has been adversely aggrieved by DNR's decision to issue Protient's WPDES permit.

16. Mike Klein is an adult resident of the State of Wisconsin, residing at 836 Jenifer St., Madison WI 53703. Mr. Klein is a member of WELA and is on its Executive Board. As a

member of WELA's board Mr. Klein is particularly concerned about the health of Wisconsin's many water ways, particularly problems associated with increased algae, muckiness, and pollution discharges to the waters of the state. Given that the organization Mr. Klein leads spent valuable time and resources preventing the further degradation of the North Fork Juda Branch Creek through a citizen suit aimed at preventing polluting discharges into the Creek, Mr. Klein is particularly adversely aggrieved by DNR's issuance of the WPDES permit to Protient which fails to ensure compliance with water quality standards. Mr. Klein often uses the waterways of South Central Wisconsin to canoe and sail, and often chooses routes along these waterways for frequent hikes. But after a trip to North Fork Juda Branch Creek to hike and enjoy the natural scenery, Mr. Klein is reasonably concerned about the health and visual appeal of the waterway and will choose not to use downstream waters associated with the North Fork Juda Branch, including, Juda Branch Creek and Sylvester Creek in the future due to the muckiness, sediment, and white film he observed in the North Fork Juda Branch Creek. Mr. Klein is concerned about the further degradation of the already impaired waters of the North Fork Juda Branch Creek, the fish and aquatic life water of Juda Branch Creek and the exception resource waters of Sylvester Creek. Mr. Klein has been adversely aggrieved by DNR's decision to issue Protient's WPDES permit.

17. Janet Boerboom is an adult resident of the State of Wisconsin, residing at 902 Lake Court, Madison, WI 53715 . Ms. Boerboom is a member of WELA and serves as an Executive Board Member. As a member of WELA Ms. Boerboom is especially concerned for the health of Wisconsin's waterways and ensuring that all impaired rivers progress towards recovery rather than become further impaired. Given that the organization Ms. Boerboom leads spent valuable time and resources preventing the further degradation of the North Fork Juda

Branch Creek through a citizen suit aimed at preventing polluting discharges into the Creek, Ms. Boerboom is particularly adversely aggrieved by DNR's issuance of the WPDES permit to Protient which fails to ensure compliance with water quality standards.

18. Ms. Boerboom often uses the waterways of South Central Wisconsin to swim and kayak. Ms. Boerboom frequently hikes along South Central Wisconsin's many waterways. But after a trip to North Fork Juda Branch to hike and enjoy the natural scenery, Ms. Boerboom is reasonably concerned about the health and visual appeal of the waterway and will choose not to use downstream waters associated with the North Fork Juda Branch Creek, including, Juda Branch Creek and Sylvester Creek in the future due to the scum, algae, and excessive sediment she observed in the North Fork Juda Branch Creek. Ms. Boerboom is concerned about the further degradation of the already impaired waters of the North Fork Juda Branch Creek, the fish and aquatic life water of Juda Branch Creek and the exception resource waters of Sylvester Creek. Ms. Boerbom has been adversely aggrieved by DNR's decision to issue Protient's WPDES permits.

19. Richard Lavigne is an adult resident of the State of Wisconsin, residing at 210 N. Blount St. Apt. 26, Madison WI 53703. Mr. Lavigne is a member of WELA and serves on its Executive Board. As a member of WELA's board Mr. Lavigne is particularly concerned about the health of Wisconsin's many water ways, particularly problems associated with increased algae, muckiness, and pollution discharges to the waters of the state. The organization Mr. Lavigne leads spent valuable time and resources preventing the further degradation of the North Fork Juda Branch Creek through a citizen suit aimed at preventing polluting discharges into the Creek. Mr. Lavigne has visited North Fork Juda Branch Creek, and would have waded through the creek to cool his feet on the hot summer day, but was deterred from doing so by Protient's

foul effluent discharges to the Creek. Further, Mr. Lavigne would use the Creek more but for the rotting algae, scum, and unsightly and discolored effluent flowing into North Fork Juda Branch from Protient's effluent ditch. Mr. Lavigne is adversely aggrieved by DNR's issuance of the WPDES permit to Protient which fails to ensure compliance with water quality standards.

#### **V. MATERIAL DISPUTES OF FACT**

20. Whether permitted discharges of phosphorus and BOD contained in section 2.2.1 of Protient's WPDES permit have a reasonable potential to cause, or contribute to an excursion above in-stream narrative water quality standards.

21. Whether permitted discharges of phosphorus and BOD contained in section 2.2.1 of Protient's WPDES permit have a reasonable potential to cause, or contribute to an excursion above in-stream dissolved oxygen water quality standards.

#### **VI. PETITIONERS' RIGHT TO A HEARING**

22. The statute other than Wis. Stat. § 227.42 which accords a right to a hearing is Wis. Stat. § 283.63.

#### **VII. ISSUES REQUESTED TO BE REVIEWED AND REASONS WHY A HEARING IS WARRANTED.**

The specific issues to be reviewed are:

##### **ISSUE ONE: ISSUANCE OF A WPDES PERMIT WITHOUT CONDUCTING A REASONABLE POTENTIAL ANALYSIS AND SETTING WATER QUALITY BASED EFFLUENT LIMITS**

23. Petitioners request review of the reasonableness of section 2.2.1 of Protient's WPDES Permit. Section 2.2.1 unreasonably authorizes Protient to discharge phosphorus and BOD in violation of Federal Clean Water Act regulations found at 40 CFR 122.44(d)(1) and without establishing requirements necessary to achieve water quality standards, including state water quality standards and without determining whether these pollutants are or may be discharged at levels which have the reasonable

potential to cause, or contribute to an excursion above state water quality standards, including narrative water quality standards.

24. Federal Clean Water Act regulations found at 40 CFR § 122.44(d)(1) require discharge permits to include requirements necessary to achieve water quality standards, including State narrative criteria for water quality even where such requirements are more stringent than promulgated effluent limitations. In order to determine whether such limitations and requirements must be included in a WPDES permit DNR must determine whether the pollutants discharged will cause, have the reasonable potential to cause, or contribute to an excursion above any State water quality standards, including State narrative water quality standards. The absence of numeric water quality standards is clearly irrelevant to this analysis as the federal regulations explicitly state that the requirements of the regulation and the reasonable potential analysis apply to narrative water quality criteria.

25. The DNR is only authorized to issue WPDES permits for the discharge of pollutants where such discharges meet federal or state water quality standards and those discharges also comply with any applicable federal law or regulation. See Wis. Stat. § 283.31(3)

26. Wisconsin Administrative Code regulations authorize DNR to establish water quality based effluent limits (“WQBELS”) for phosphorus. Wis. Admin. Code § NR 102.06.

27. Wisconsin regulations contain narrative water quality standards on which such WQBELS may be established. Wisconsin Administrative Code establishes water quality standards. Wis. Admin. Code § NR 102.04. Narrative water quality standards applicable to all industrial and commercial discharges require that all waters, including mixing zones, and effluent channels, under all flow conditions, meet the following standards:

- a) Substances that will cause objectionable deposits on the shore or in the bed of a body of water, shall not be present in such amounts as to interfere with public rights in waters of the state.
- b) Floating or submerged debris, oil, scum or other material shall not be present in such amounts as to interfere with public rights in waters of the state.
- c) Materials producing color, odor, taste or unsightliness shall not be present in such amounts as to interfere with public rights in waters of the state.
- d) Substances in concentrations or combinations which are toxic or harmful to humans shall not be present in amounts found to be of public health significance, nor shall substances be present in amounts which are acutely harmful to animal, plant or aquatic life.

Wis. Admin. Code § NR 102.04(1).

28. The permit limitations for phosphorus and BOD found in Protient's WPDES Permit section 2.2.1 are unreasonable because those limits do not ensure compliance with Wisconsin's State water quality standards established in Wis. Admin. Code § NR 102.04(1), including but not limited to the presence of objectionable deposits on the shore and bed of the body of water in such amounts as to interfere with public rights in waters of the state; the presence of scum and nuisance algal growth in such amounts as to interfere with public rights in waters of the state; the presence of suspended solids and nuisance algal growth that produce color, odor, taste, and unsightliness in such amounts as to interfere with public rights in waters of the state; and the presence of substances, including algal growth, phosphorus, suspended solids, and BOD which are acutely harmful to animal, plant and aquatic life.

29. The phosphorus and BOD limitations found in Protient's WPDES Permit section 2.2.1 are unreasonable because DNR has not determined whether these discharges will not be discharged at levels which will cause, or contribute to an excursion above Wisconsin narrative quality standards established in Wis. Admin. Code § NR 102.04(1).

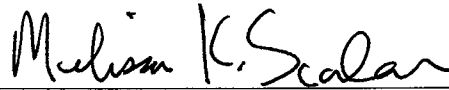
30. For the foregoing reasons a hearing is warranted to determine whether Protient's WPDES Permit section 2.2.1 is unreasonable because it violates Federal Clean Water Act

regulations found at 40 CFR § 122.44(d)(1), Wisconsin State Law at Wis. Stat. § 283.31(3), and Wisconsin water quality standards found at Wis. Admin. Code § NR 102.04(1).

Dated this 11th day of August, 2006.

Respectfully submitted,

**MIDWEST ENVIRONMENTAL ADVOCATES, INC.**



Melissa K. Scanlan  
SBN 1034783  
Elizabeth R. Lawton  
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VERIFICATION

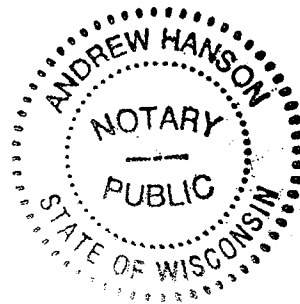
STATE OF WISCONSIN )  
 ) ss.  
COUNTY OF DANE )

Janet Boerboom verifies that Wisconsin Environmental Law Advocates is a petitioner in this request for a Contested Case Hearing. Wisconsin Environmental Law Advocate's Authorized Representative has read the foregoing Petition for Review and the information contained therein is true and correct to the best of her knowledge and belief.

Janet Boerboom  
Authorized Representative  
of Wisconsin Environmental Law Advocates

Subscribed, sworn to, and signed before me this 10<sup>th</sup> day of August, 2006.

Andrew Hanson  
Notary Public, State of Wisconsin  
My Commission Expires is permanent.



VERIFICATION

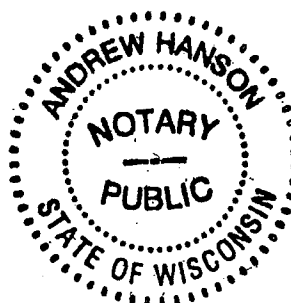
STATE OF WISCONSIN )  
 ) ss.  
COUNTY OF DANE )

Janet L. Boerboom verifies that she is a petitioner in this request for a Contested Case Hearing. She has read the foregoing Petition for Review and the information contained therein is true and correct to the best of her knowledge and belief.

Janet Boerboom  
Janet Boerboom

Subscribed, sworn to, and signed before me this 10<sup>th</sup> day of August, 2006.

Andrew C. Hanson  
Notary Public, State of Wisconsin  
My Commission Expires permanently



VERIFICATION

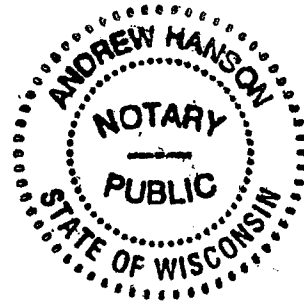
STATE OF WISCONSIN )  
 ) ss.  
COUNTY OF DANE )

Michael Klein verifies that he is a petitioner in this request for a Contested Case Hearing. He has read the foregoing Petition for Review and the information contained therein is true and correct to the best of his knowledge and belief.

  
\_\_\_\_\_  
Michael Klein

Subscribed, sworn to, and signed before me this 10<sup>th</sup> day of August, 2006.

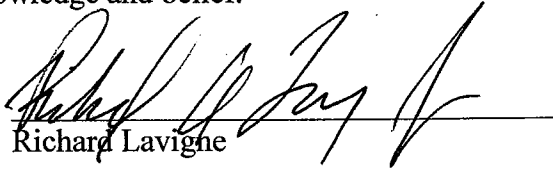
Andrew C. Hanson  
Notary Public, State of Wisconsin  
My Commission Expires - is permanent



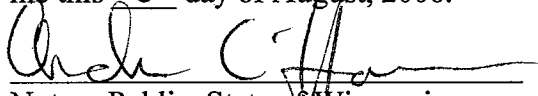
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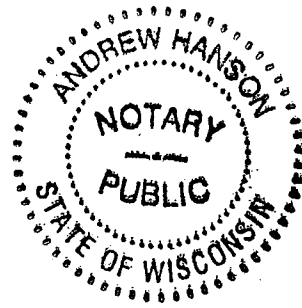
STATE OF WISCONSIN )  
 ) ss.  
COUNTY OF DANE )

Richard Lavigne, Jr verifies that he is a petitioner in this request for a Contested Case Hearing. He has read the foregoing Petition for Review and the information contained therein is true and correct to the best of his knowledge and belief.

  
Richard Lavigne

Subscribed, sworn to, and signed before  
me this 10<sup>th</sup> day of August, 2006.

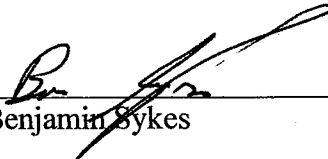
  
Notary Public, State of Wisconsin  
My Commission Expires is permanent



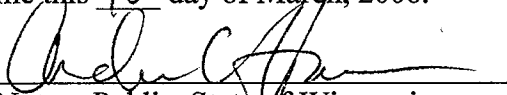
VERIFICATION

STATE OF WISCONSIN )  
 ) ss.  
COUNTY OF DANE )

BENJAMIN P. SYKES verifies that he is a petitioner in this request for a Contested Case Hearing. He has read the foregoing Petition for Review and the information contained therein is true and correct to the best of his knowledge and belief.

  
\_\_\_\_\_  
Benjamin Sykes

Subscribed, sworn to, and signed before  
me this 10<sup>th</sup> day of March, 2006.

  
\_\_\_\_\_  
Notary Public, State of Wisconsin  
My Commission Expires is permanent

