

Judge orders air and water study before dairy expansion can proceed

RAY MUELLER

MANITOWOC

A Manitowoc County Circuit Court judge has ordered the Wisconsin Department of Natural Resources to conduct a site specific environmental impact study for air and water quality before it renews a permit under the Wisconsin Pollution Discharge Elimination System to accommodate an expansion at one of the largest dairy farm operations in the state.

Judge Darryl Deets ruled on Thursday, June 9, that the DNR consider air and water quality to show that an expansion at Maple Leaf Dairy,

owned and operated by Tod and Diane Leiteritz, would not cause environmental problems. Indicating that it did not include site-specific studies on air and water quality, Deets rejected an environmental assessment prepared by the DNR in 2004 because he considered it inadequate. Technically, Deets ordered the DNR to review its original findings by including the potential for air and water pollution in its review.

An air impact study of ammonia and hydrogen sulfide emissions would be the first formal study of its kind in Wisconsin for a dairy facility, according to Andrew Hanson, an attorney for

Midwest Environmental Advocates Inc., which is based in Madison. MEA provided legal services to the local Centerville Citizens for Air, River and Environmental Solutions (Centerville CARES) organization, which filed a lawsuit in December 2004 challenging the adequacy of the DNR's environmental review on expansion plans at Maple Leaf Dairy, which is based at 6832 County Trunk X (adjacent to Interstate 43) north of Cleveland in southeast Manitowoc County and which also has dairy cattle at five satellite farms.

Maple Leaf Dairy continues to operate under a permit that expired on June 30, 2002, and was then amended. The latest official documentation is that Maple Leaf Dairy has about 3,800 animals.

A permit renewal application filed by Leiteritz in December of 2001 indicated an intention to expand to about 9,000 animals. The application included a plan to consolidate the satellite operations at a new facility about one mile from the main farmstead. About two years ago, Leiteritz indicated that the consolidation and expansion would be scaled back significantly so the total animal number would be about 4,500.

Hanson still doubts Leiteritz's claim on the plans for the total number of cattle. He cites a master plan submitted to the DNR that shows storage facilities for 35.5 million gallons of liquid manure, which he says suggests an expansion by thousands of head rather than by hundreds.

In addition to the modified and strengthened WPDES permit that was to begin on June 1, Maple Leaf Dairy had obtained the local building permits on new facilities for livestock housing, feed storage, and manure handling and storage. Hanson indicated that no construction can proceed until the DNR has complied with the court's order.

Maple Leaf Dairy's attorney, Timm

Speerschneider, disagrees with the ruling by Deets and with the stance taken by CARES. He indicates that the DNR fulfilled its obligations in preparing the new permit.

That revised permit was issued according to the law, state attorney Christopher Blythe stated. He noted that the DNR does not have the staff or resources to thoroughly evaluate each site for the points raised in the CARES lawsuit.

"We turned to everyone we could think of for help - the DNR, local officials and our state Senator Joe Leibham, R-Sheboygan," CARES President Russ Tooley said in the wake of the court ruling. "When they failed to step in, we finally turned to the court for justice. The court's decision confirmed what we already knew - the DNR has not given our community a complete accounting of the air and water pollution that will result from the Maple Leaf Dairy's expansion."

"We think the DNR could have done a better job of evaluating Maple Leaf Dairy's impacts, but legislative cuts by the powerful Joint Finance Committee are preventing the agency from fulfilling even the most basic mandates of Wisconsin's environmental laws," Hanson stated. He noted that Leibham, who represents the state Senate district in which Maple Leaf Dairy is located, is a member of the JFC, which has a major role in setting the DNR budget.

Tooley and other members of CARES say there are times they cannot tolerate being outside of their residences because of odors coming from Maple Leaf Dairy. They also attribute at least a portion of the significant cladophora algae growth in nearby Lake Michigan in recent summers, and the E. coli and fecal coliform found in water samples taken at 17 points in the summer of 2004 along Point and Fischer points, to runoff of manure from adjacent land operated by Maple Creek Dairy.

6/17/05 Wisconsin State Farmer