

December 5, 2001 Wednesday STATE EDITION

SECTION: NEWS; Pg. 02B

LENGTH: 598 words

HEADLINE: Water warriors head to court;
But decision on lawsuits over drilling is a month off

BYLINE: JO SANDIN of the Journal Sentinel staff

BODY:

Montello -- From the snapshots taken and the hugs given, folks crowding the second floor of the Marquette County Courthouse on Tuesday could be mistaken for high school alumni assembled for a reunion.

Instead, these people -- ages 30-something to 70-something -- are the shock troops of Wisconsin's water wars.

They are present in hall-filling numbers at whatever legislative hearing, informational meeting or court session is considering any aspect of the question of whether central Wisconsin spring water should be tapped, pumped, bottled and sold.

To any such diversion, they are opposed.

Tuesday, they are waiting for final oral arguments before Circuit Judge Richard O. Wright in suits brought by the Concerned Citizens of Newport and the Ho-Chunk Nation against the state Department of Natural Resources and Great Spring Waters of America Inc., whose parent corporation is international bottled water giant Perrier. They hope for a precedent-setting decision.

As she talks with Carl and Carol Zimmermann, members of Waterkeepers of Wisconsin, Joan Christopherson-Schmidt of Shorewood stands out from the crowd in her red vest.

Tucked in her capacious handbag, so as not to give offense, is what she calls her "famous sign; it was in Time magazine." She also carries pictures of the children in the early childhood class at Palmer Elementary School.

After retiring last year, Christopherson-Schmidt was going back to substitute teaching "one day a week" to help pay for the lawsuit.

"I wound up teaching full time instead," she says.

Nearby, Hiroshi Kanno, whose name is on the lawsuit and whose farm is mortgaged to pay for the litigation, wonders whether there will be a decision this day. His Columbia County home and land are downstream from a bottling plant Perrier envisioned as part of a plan to tap the pure waters of Big Springs in Adams County, bottle them and distribute the results throughout the Midwest.

For Kanno and his neighbors, the public trust doctrine espoused by attorneys for the plaintiffs, Glenn Stoddard and Melissa Scanlan, is not some vague legal concept. It is a tangible defense they hope will protect public water from depletion for private profit.

They charge that the DNR failed to protect the public trust by approving an application for a high-capacity well without requiring a full-fledged environmental impact statement on the impact of a pipeline, bottling plant and truck traffic to and from that plant.

Even though the present well statute specifies that the DNR may consider environmental impacts only if municipal water supplies are threatened, Stoddard and Scanlan argue the DNR should have used its broader authority to protect state waters.

Carl Sinderbrand, a Madison lawyer hired to represent the DNR, argues that the state constitution places the obligation of protecting resources in the public trust not on the DNR but on the Legislature.

In the case of high-capacity wells, he says, it seems clear that the Legislature is limiting what the DNR may consider. However, Sinderbrand also brings up a new statute, passed along with the latest budget after briefs were filed in this case.

The provision seems to suggest that the DNR must impose on high-capacity wells the condition that the water may not be used for bottling unless the well application was specifically approved for that purpose.

"I want to be briefed on that law," says the judge.

So it will be January before there can be a decision in the case.

"Well, I've waited a year," says Kanno. "This is the way democracy works."

LOAD-DATE: December 5, 2001

Copyright 2001 Madison Newspapers, Inc.

Wisconsin State Journal

December 2, 2001 Sunday, ALL Editions

SECTION: LOCAL/WISCONSIN; Pg. C1

LENGTH: 566 words

HEADLINE: PERRIER FOES TARGET DNR;
LAWSUITS FOCUS ON GRANTING OF WATER RIGHTS

BYLINE: Ron Seely Environment reporter

BODY:

Critics of the state Department of Natural Resources' handling of Perrier's request for a permit to pump spring water in Wisconsin will have their day in court this week.

Arguments in lawsuits filed against the DNR by the Ho-Chunk tribe and by a citizen group that opposed Perrier's efforts to pump and bottle water in Adams County will be heard Tuesday before Judge Richard Wright in Marquette County Circuit Court in Montello.

The lawsuits were filed more than a year ago at the height of Perrier's efforts to get approval of the project, which included a 1-million-square-foot bottling plant. Although Perrier has put the plan on hold and is building a plant in Michigan, the Swiss-owned multinational corporation has retained its leases near the village of Big Springs, east of Wisconsin Dells in Adams County.

The DNR granted the company a permit to pump spring water but said the exact amount of water the company can pump would have to await completion of environmental studies. Results of those studies are still being analyzed.

Tuesday's arguments will actually involve two lawsuits that were combined. One was filed by the Ho-Chunk tribe, which claims the DNR failed to take into consideration the tribe's cultural ties to the springs and the land around them before it granted the permit.

The other lawsuit, filed by a group called Concerned Citizens of Newport, argues that the DNR violated the Wisconsin Environmental Protection Act, or WEPA, by not conducting environmental studies before issuing Perrier a permit. The suit also contends the agency violated the public trust doctrine, which requires the DNR to protect public waters.

Carl Sinderbrand, a Madison attorney representing the DNR, said he will argue that the Perrier proposal does not fall under WEPA or the public trust doctrine. He also said he will ask the judge to consider the motivations of those who filed the lawsuit.

"It's important and revealing," Sinderbrand said, "that the issues they are raising are procedural issues and not substantive issues. This is a case, when you go back to its essentials, of local residents who don't want this well in their back yard."

But Melissa Scanlan, a lawyer representing Concerned Citizens, said WEPA does apply. The law was designed, she said, to create a process that would require the DNR to consider environmental impacts of a project before a permit is granted.

"All of the information needs to be collected before a decision is made," Scanlan said.

In this case, she said, the agency granted Perrier a permit before completion of the environmental studies -- including a hard look at the impact of the proposed 1-million-square-foot bottling plant.

Sinderbrand said he will also argue that, under the state's high-capacity well laws, the DNR had no legal authority to deny Perrier a permit and that, as a result, the agency had to strike an agreement with the company under which it agreed to an environmental study and subsequent permit conditions.

"The only way the DNR could do any review," Sinderbrand said, "was because Perrier agreed they would not challenge the DNR's authority."

But Glenn Stoddard, another lawyer for Concerned Citizens, argues the DNR did not have the authority to enter into such an agreement and that, as a result, it offers no environmental protections.

"We don't think it's a valid agreement," Stoddard said.

GRAPHIC: Melissa Scanlan, a lawyer representing Concerned Citizens of Newport, says the Department of Natural Resources granted Perrier a water pumping permit before the completion of environmental studies.

LOAD-DATE: December 4, 2001

Copyright 2001 Knight Ridder/Tribune Business News
Copyright 2001 The Wisconsin State Journal

The Wisconsin State Journal

November 29, 2001, Thursday

KR-ACC-NO: WJ-SLAUGHTERHOUSE

LENGTH: 750 words

HEADLINE: Slaughterhouse Proposed for Adams County, Wis.

BYLINE: By Deborah Kades

BODY:

While a fight against Perrier's proposal to bottle water in Adams County continues in the state's courts, county residents also may have to decide if they want a large slaughterhouse just south of the city of Adams.

Randy Jones, a cattle buyer from Blenker in Wood County, has proposed building a slaughterhouse that would process 1,000 head of cattle daily. He also has talked to state officials about eventually adding an ethanol plant and methane digester to the site to use waste byproducts for energy production.

In addition, he has asked state officials about the possibility of running large cattle feedlots in the area.

Although Jones has not made any formal applications for any aspect of the proposal, he has spoken informally with Department of Natural Resources wastewater officials about his plan to spray wastewater from the slaughter plant on cropland.

The DNR has cautioned Jones that extensive testing must be done before a wastewater permit could be issued, said Peter Pfefferkorn, a wastewater engineer with the DNR in Wisconsin Rapids.

"There's a question about if they have enough land for the irrigation. We encouraged them to look into to this," Pfefferkorn said.

Pfefferkorn said the DNR also encouraged Jones to get public input early in the process, even before formal hearings would be required for zoning changes and the wastewater permit.

Jones could not be reached for comment.

According to DNR documents, the slaughter facility would be owned by Quality Beef Producers Cooperative, a farmer-owned co-op that Jones is assembling.

A plant slaughtering 1,000 head a day would be one of the largest in Wisconsin, second only to Packerland Holdings in Green Bay, which handles about twice that many, said Dennis Buege, a UW-Madison professor in animal sciences.

Buege pointed out that Wisconsin cattle numbers have been on the low side. "They'd really need to encourage greater cattle production in the state. You can't run these plants half empty because the fixed costs are too high," he said.

A beef-slaughtering cooperative would give the farmer-members a stable market, he said. "I think it would be a good deal for farmers," he said.

DNR documents say a separate company, Nesnah, would own and operate the ethanol plant. No address or phone number for Nesnah could be located.

Under the proposal described to the DNR, corn meal from the ethanol plant would be fed to 25,000 head of cattle, some of whom would live onsite and others who would be raised on contract by area farmers.

Manure from the feedlots would be processed in an onsite anaerobic digester to produce methane fuel for generating electric power for use in the ethanol plant and possibly to be sold to the Adams County Electric Co-op.

Environmental groups have already begun to mobilize against the project.

"This is a huge impact to the land. It's only one mile south of Adams," said Andrew Hanson, an attorney with Midwest Environmental Advocates, an nonprofit advocacy law practice in Madison.

Hanson said his firm fears the facility could hurt the environment, small farmers and the rural lifestyle in Adams County. State and local officials said they do not have enough information yet to begin to answer those questions.

"We've had no formal requests for annexation or any other measure," said Jim Archambo, administrator of the city of Adams.

While internal DNR memos indicate that Jones has considered running feedlots for up to 25,000 head of cattle, Archambo said the feedlots will not necessarily be part of the formal proposal.

"My understanding is that there's no need for feedlots as far as the beef plant is concerned, and that is probably the most contentious aspect of the project," Archambo said.

The project could include between 100 and 350 jobs, Archambo said, and those jobs would be valuable to Adams County, where income levels are significantly lower than the state's average.

The per capita income in Adams County was \$ 18,606 in 1999, compared to statewide per capita income of \$ 27,370, according to figures from the state Department of Workforce Development.

Archambo would like to see the project get a fair hearing.

"I don't see it as being any different from any other development, whether for housing or business. There's always going to be competing issues," he said.

To see more of The Wisconsin State Journal, or to subscribe to the newspaper, go to <http://www.wisconsinstatejournal.com>

The Associated Press State & Local Wire

The materials in the AP file were compiled by The Associated Press. These materials may not be republished without the express written consent of The Associated Press.

November 28, 2001, Wednesday, BC cycle

SECTION: State and Regional

LENGTH: 383 words

HEADLINE: Slaughterhouse discussed in Adams County

DATELINE: MADISON, Wis.

BODY:

A slaughterhouse capable of killing 1,000 beef cattle a day is being discussed in Adams County, a group that supports grass-roots environmental protection efforts says.

Midwest Environmental Advocates, based in Madison, released Tuesday the results of two open-records requests from the state Department of Natural Resources.

Andrew C. Hanson, a lawyer for the group, said information received as a result of the request indicate three beef processing firms would locate the facility on 400 acres in the town of Adams.

Hanson said the project could also include a packing plant, a wastewater treatment system for that facility with spray irrigation, an ethanol plant and as many as 200 acres of feedlots.

John Hay, executive director of the Adams County Rural and Industrial Development Commission, said a project involving the slaughterhouse had been in the works for about two years but that everything was still extremely tentative.

Hay said he was not at liberty to release the name of the firm that had been making inquiries, but that the company did not anticipate having to add any feedlots in the county.

No zoning changes had yet been requested, he said, but any construction of a facility as large as that envisioned would require a change in zoning from agriculture to industrial.

Hanson said his organization is worried about the potential environmental impact, saying it could be severe.

"One thousand head per day with 25,000 cattle waiting in the wings has potential to increase the infrastructure burden on the county or the risk of ground and surface water pollution," he said.

Tom Jerow, the DNR water team leader for the central Wisconsin basin, confirmed that DNR staff members had met twice with beef processors to answer questions about permit requirements.

Representatives for the firms had suggested that scattered feedlot operations might not need discharge permits required of concentrated animal feeding operations but the DNR had told them otherwise, he said.

Jerow said an ethanol plant that might deal with some of the waste from feeding so many cattle also was mentioned.

Perrier, the Swiss-owned water-bottling company, has sought to sink high-capacity wells and build a bottling plant in the Adams County community of Big Springs.

LOAD-DATE: November 29, 2001

Copyright 2001 Journal Sentinel Inc.

Milwaukee Journal Sentinel

November 28, 2001 Wednesday METRO EDITION

SECTION: NEWS; Pg. 01B

LENGTH: 660 words

HEADLINE: No Perrier ;
No Perrier, but a slaughterhouse possible;
Adams County, town officials confirm tentative plans for project

BYLINE: JO SANDIN of the Journal Sentinel staff

BODY:

Adams County, where the water is so good that Perrier wants to bottle it, may soon be getting a slaughterhouse capable of killing 1,000 beef cattle a day, an ethanol plant and 200 acres of new feedlots fattening 25,000 head of beef cattle each year, an environmental group said Tuesday.

Midwest Environmental Advocates, a Madison-based group that seeks to support grass-roots environmental protection efforts, released the results of two open-records requests from the state Department of Natural Resources.

Based on information received as a result of the request, Andrew C. Hanson, a lawyer for the group, said the facility would be located on 400 acres in the Town of Adams in south-central Wisconsin.

Hanson said the facility, now being proposed by three beef processing firms, would include:

- A 1,000-head-a-day beef slaughterhouse and packing plant.
- A wastewater treatment system for that facility, with spray irrigation.
- An ethanol plant.
- As many as 200 acres of feedlots fattening 25,000 head of beef cattle annually.

John Hay, executive director of the Adams County Rural and Industrial Development Commission, said a project involving a slaughterhouse had been in the works for about two years but that everything was still extremely tentative.

He said he was not at liberty to release the name of the firm that had been making inquiries, but that the company did not anticipate having to add any feedlots in the county.

"They would be slaughtering animals from a large portion of the United States," he said.

Hay said though no zoning changes had been requested, any construction of a facility as large as that envisioned would require a change in zoning from agriculture to industrial.

"We're interested in listening to development projects, and we weigh them individually based on the merits," he said. "We have not been sent an annexation petition or been asked for any infrastructure."

However, he added: "Adams County is heavily agricultural. Anything that would enhance that would be good."

But Hanson said his organization is worried about the effect the facility could have on the local environment.

"The impacts of a project like this could be severe -- 1,000 head per day with 25,000 cattle waiting in the wings has potential to increase the infrastructure burden on the county or the risk of ground and surface water pollution," he said.

He said the group had released its findings about the possible project because "it seems obvious that a community like Adams County would like to know well in advance before any zoning decisions were made or any permits applied for."

Tom Jerow, the DNR water team leader for the central Wisconsin basin, confirmed that DNR staff members had met twice with beef processors to answer questions about permit requirements.

"Obviously, depending on what they do, the permit requirements would be different," said Jerow.

He said representatives for the firms had suggested that scattered feedlot operations might not need discharge permits required of concentrated animal feeding operations but that the DNR had told them otherwise. An ethanol plant that might deal with some of the waste from feeding so many cattle also was mentioned, he said.

"We made certain that they understood that public information and a chance for public comment was a part of the permitting process for the DNR," said Jerow.

Jerow said it was not unusual for businesses seeking locations in the state to inquire first about what permits would be needed.

"It's a fact-finding mission before they put their proposal together," he said. "Sometimes they get off the ground. Sometimes they don't. We let them know what the rules and regulations are."

Adams Mayor Kenneth Romell said he and Administrator James Archambo had been approached informally about a proposal involving a slaughterhouse and other facilities. Talks have been no more than tentative, he said.

LOAD-DATE: November 29, 2001

Copyright 2001 Madison Newspapers, Inc.

Wisconsin State Journal

October 6, 2001 Saturday, FIRST Edition

SECTION: LOCAL/WISCONSIN; Pg. B1

LENGTH: 385 words

HEADLINE: COUNTY, TRIBE AGREE TO DELAY AT SKI SITE;
DEVELOPMENT OF SKI AND TUBING AREA RAISED CONCERNS ABOUT SACRED
SITES; LAWSUIT WAS FILED.

BYLINE: Susan Lampert Smith Wisconsin State Journal

DATELINE: WISCONSIN RAPIDS

BODY:

Wood County has agreed to again delay expanding the ski and tubing hill at its Powers Bluff County Park as it negotiates with the Prairie Band Potawatomi Nation over ways to preserve religious and cultural sites on the hill.

The 90-day moratorium, announced last week, continues an initial agreement that began this summer. The hill is a sacred site, containing graves, old dance circles and village sites that speak to generations of its use by several of Wisconsin's native tribes. It was home to an American Indian village until the 1930s. It is also home to rare plants, some of them apparently planted by native healers, that are of interest to botanists and ecologists.

In March, Americans Indians and others were angered to learn that the county had begun cutting trees along a ski and tubing hill on the bluff.

The Prairie Band Potawatomi Nation, formerly of Wisconsin and now headquartered in Kansas, sued over the issue, but the agreement puts the lawsuit on hold as talks continue. Relationships between the Indians and the county appear to be improving.

"The last two (Wood County) long-range planning meetings have been much more respectful," said Melissa Scanlan, a Madison attorney who represents the tribe. Scanlan said the tribe is most concerned about protecting the sacred sites, which are mostly located away from the sledding and tubing hill.

Lance Pliml, chairman of the Wood County parks board, said the tribal representatives and county are close to agreement on what parts of the park need greater protection.

"I think there's been a meeting of the minds," Pliml said, saying that a survey by the state archaeologist has helped define the areas that have historic sites and shows that other parts of the park don't appear to have sites needing protection.

The county can work on the ski hill, although not expand its boundaries, Pliml said.

The only work continuing on other parts of the bluff is a cleanup effort after a June 11 storm, which knocked down a number of trees on the bluff, causing the area to be eligible for Federal Emergency Management Agency clean-up funds. The violent storm hit just as representatives of the Prairie Band Potawatomi Nation, who had journeyed to Wood County from Kansas, were finishing a meeting with county officials at the bluff.

EDITOR-NOTES:

A shorter version of the story appeared in the second edition on page B3. The headline was: County, tribe agree on delay at ski site.

LOAD-DATE: October 7, 2001

The Associated Press State & Local Wire

The materials in the AP file were compiled by The Associated Press. These materials may not be republished without the express written consent of The Associated Press.

September 30, 2001, Sunday, BC cycle

SECTION: State and Regional

LENGTH: 362 words

HEADLINE: Finals hearings going ahead on emissions reductions

BYLINE: By The Associated Press

BODY:

The state Department of Natural Resources will hold its final three public hearings this week on a first-in-the-nation proposal that would require utilities to cut mercury emissions by 90 percent over the next 15 years.

The rules are primarily aimed at 13 coal-burning power plants owned by four electric utilities, which together account for 40 percent of the state's mercury emissions. Mercury emissions would be cut by 30 percent in five years, 50 percent in 10 years and 90 percent in 15 years.

At hearings around the state, the proposed limits have been portrayed conversely as long overdue safeguards and useless regulations. The debate comes to Milwaukee on Monday, Appleton on Tuesday and Madison on Wednesday.

William R. Skewes, executive director of the Wisconsin Utilities Association, which represents six electric companies in the state, said technology is not sophisticated enough yet to implement the tough rules.

But Wisconsin Electric Power Co. already is testing one mercury-removal method at its Pleasant Prairie plant, said Jon Heinrich of the DNR Bureau of Air Management.

"We're fairly confident that the technology is going to be there when it is needed," Heinrich said. "Also, we have built in evaluation periods for adjustment."

The mercury rules do not go far enough, said Melissa Scanlan, executive director of Midwest Environmental Advocates.

"The DNR has a responsibility to the public to ensure that our waters are fishable. Right now they aren't for the most part," she said.

Mercury affects the brain, spinal cord, kidneys and liver, and can affect the ability to feel, see, taste and move.

Electric companies want Wisconsin to wait for the U.S. Environmental Protection Agency to develop national mercury emission reduction rules by the end of 2003, said Jeff Schoepke, of Wisconsin Manufacturers & Commerce, the state's largest business organization.

The Legislature must approve any final regulations.

On the Net:

Department of Natural Resources: <http://www.dnr.state.wi.us>

Wisconsin Manufacturers & Commerce: <http://www.wmc.org>

Midwest Environmental Advocates: <http://www.midwest-e-advocates.org>

LOAD-DATE: October 1, 2001

Copyright 2001 Journal Sentinel Inc.

Milwaukee Journal Sentinel

September 30, 2001 Sunday FINAL EDITION

SECTION: NEWS; Pg. 02B

LENGTH: 760 words

HEADLINE: Debate rages over mercury contamination;
Public hearings seek input on state's proposed restrictions on emissions

BYLINE: JO SANDIN of the Journal Sentinel staff

BODY:

At public hearings across the state, Wisconsin's proposed limits on mercury emissions -- the nation's first -- are being portrayed conversely as essential safeguards long overdue and premature, useless regulations.

Expect variations on those two themes at the final three hearings on the proposed rules to be held this week in Milwaukee, Appleton and Madison.

At stake is the final shape of Wisconsin's mandatory emission controls for the state's 13 coal-fired power plants. Environmentalists and the Department of Natural Resources say the rules would reduce the amount of mercury ending up in the state's lakes and tainting fish.

Under the proposed rules:

-- Mercury emissions would be cut by 30% in five years, 50% in 10 years and 90% in 15 years.

-- If conforming to the regulations should be technologically infeasible or would harm electric reliability, utilities could seek a variance from the DNR, which would consult with the Public Service Commission in deciding on the request.

-- Utilities could satisfy state requirements by providing safe disposal for such items as mercury thermometers and switches, and by trading credits for emission reductions with other companies.

Milwaukee-area residents can express their opinions at 4:30 p.m. Monday in the auditorium of Havenwoods State Forest, 6141 N. Hopkins St. Input from that hearing and others around the state will be considered as the DNR comes up with the final rules.

According to Jon Heinrich of the DNR Bureau of Air Management, the rules would take effect over 15 years to allow for technological advances. Wisconsin Electric Power Co. already is testing one mercury-removal method at its Pleasant Prairie plant.

"We're fairly confident that the technology is going to be there when it is needed," Heinrich said. "Also, we have built in evaluation periods for adjustment."

Utilities oppose measure

William R. Skewes, executive director for the Wisconsin Utilities Association, which represents six power generating and electric transmission companies in the state, disagreed.

"There is no technology that exists today to reduce mercury emissions by the amount proposed," he said.

He said power companies felt betrayed by the DNR. Utilities had offered last December to reduce mercury emissions by 10% in five years and by 40% in 10 years, but the DNR insisted on greater reductions, he said.

By contrast, Melissa Scanlan, executive director of Midwest Environmental Advocates, said: "The mercury rules do not go far enough. The DNR has a responsibility to the public to ensure that our waters are fishable. Right now they aren't for the most part."

In February, the state expanded its consumption advisory on mercury-contaminated fish to include all inland waters.

Airborne mercury falls back to Earth in precipitation, where bacteria in lake sediment convert elemental mercury into a form easily absorbed in turn by aquatic organisms, fish and people. Humans who regularly consume fish containing mercury can experience damage to the nervous system. Such damage can be especially severe in children and developing fetuses.

Jeff Schoepke, environmental policy director for Wisconsin Manufacturers & Commerce, the state's largest business organization, argued that Wisconsin should wait until the U.S. Environmental Protection Agency develops national standards for mercury by the end of 2003.

He said 90% of mercury deposits in Wisconsin surface waters came from sources outside the state, and about half that total from natural sources such as forest fires and volcanoes.

"These rules are not going to remove one lake from the fish consumption advisory list," he said.

But Marc Looze, power plant campaign coordinator for Wisconsin's Environmental Decade, said water-rich Wisconsin stands to gain more than a lot of states by imposing limits on mercury emissions, he said. Further, Looze said, by acting now the state can create a "more Wisconsin-friendly rule at the federal level."

For more information, visit the DNR's Web site at www.dnr.state.wi.us. Click on "Environmental Protection" and then "Mercury in the Environment."

MERCURY HEARINGS

Hearings on the Department of Natural Resources' proposed rules on reducing mercury emissions will be held at 4:30 p.m. on the following days:

- Monday: Havenwoods State Forest, 6141 N. Hopkins St., Milwaukee
- Tuesday: Dar Boy Club, N9695 County Highway N, Appleton
- Wednesday: Room 027, State Natural Resources Building (GEF 2), 101 S. Webster St., Madison

LOAD-DATE: October 4, 2001

Send To: SCANLAN, MELISSA
MIDWEST ENVIRONMENTAL ADVOCATES
22 E. MIFFLIN ST
SUITE 301
MADISON, WISCONSIN 53703