

STATE OF WISCONSIN
COURT OF APPEALS
DISTRICT II

Case Nos. 16AP1688 and 16AP2502

CLEAN WISCONSIN, INC., LYNDIA COCHART, AMY COCHART,
ROGER DEJARDIN, SANDRA WINNEMUELLER AND CHAD
COCHART, PETITIONERS-RESPONDENTS,

v.

WISCONSIN DEPARTMENT OF NATURAL RESOURCES,
RESPONDENT-APPELLANT,
and

KINNARD FARMS, INC.,
INTERVENOR-CO-APPELLANT

**JOINT MOTION FOR LEAVE TO FILE *AMICUS CURIAE* BRIEF BY
WISCONSIN MANUFACTURERS AND COMMERCE, INC., MIDWEST
FOOD PRODUCTS ASSOCIATION, WISCONSIN CHEESE MAKERS
ASSOCIATION, DAIRY BUSINESS ASSOCIATION, INC., WISCONSIN
POTATO AND VEGETABLE GROWERS ASSOCIATION, AND
WISCONSIN FARM BUREAU FEDERATION**

On Appeal from The Dane County Circuit Court,
The Honorable John W. Markson, Presiding,
Case No. 15-cv-2633

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July 9, 2018

Movants, Wisconsin Manufacturers and Commerce, Midwest Food Products Association, Wisconsin Cheese Makers Association, Dairy Business Association, Inc., Wisconsin Potato and Vegetable Growers Association, and Wisconsin Farm Bureau Federation, by their counsel, Great Lakes Legal Foundation, pursuant to Wis. Stat. § 809.19(7) respectfully request this Court grant Movants leave to file an amicus curiae brief in the above referenced matter. The grounds for this motion are as follows:

1. Wisconsin Manufacturers and Commerce, Inc., (WMC) is the state chamber of commerce and manufacturing association, with approximately 3,800 members statewide. Since 1911, WMC has represented the interests of Wisconsin's business community before administrative agencies, administrative law judges, the legislature and the courts to ensure that commerce is not impeded by regulatory actions.

2. The Midwest Food Products Association (MWFPA) is a trade association advocating on behalf of food processing companies and affiliated industries in Illinois, Minnesota, and Wisconsin. Established in 1905 as the Wisconsin Cannery Association, today MWFPA represents a diverse group of food producers on a variety of food issues, with its primary government relations function to shape public policy in the legislature and before administrative agencies.

3. Wisconsin Cheese Makers Association is a non-profit statewide organization representing over 80 dairy product manufacturing facilities in Wisconsin and more than 100 companies in Wisconsin supplying goods and services to the dairy industry. The association provides information, conducts advocacy, and sponsors educational events for its members.

4. Dairy Business Association, Inc. (DBA) is a non-profit, statewide organization of dairy producers, vendors, allied industry

partners, and professionals actively working to ensure that dairy producers, large and small, remain an active, thriving part of Wisconsin's economy, communities, and food chain. DBA works to foster a positive business and political environment for dairy farming in Wisconsin, including the creation and preservation of consistent water, environmental, and waste management regulation.

5. Wisconsin Potato and Vegetable Growers Association (WPVGA) is a non-profit statewide organization representing 300 farm operations and related business associate members, who provide over 35,000 jobs in Wisconsin and generate \$7.5 billion in gross state product. WPVGA represents its members before the legislature and regulatory agencies on a range of issues affecting the agricultural sector.

6. Wisconsin Farm Bureau Federation (WFBF) is Wisconsin's largest general farm organization with more than 46,000 members, coming from every one of Wisconsin's 72 counties. WFBF advocates on behalf of its members on a broad range of legislative and regulatory issues before the legislature and administrative agencies.

7. Movants' members are global leaders in manufacturing, making everything from faucets to giant earth moving equipment. Wisconsin has more than 7,970 manufacturers, employing over 472,000 workers, with an output value that exceeds \$53 billion annually. Movants members are dairy, corn, potato, vegetable, and other food producers, large and small. They are the companies that process these agricultural products for consumers around the world. There are over 68,000 farms in Wisconsin. Wisconsin's farms and agricultural businesses generate \$88 billion in economic activity and over 400,000 jobs.

8. Movants' members are of every type and size. They range from small town main street businesses to large industrial operations. They are diverse, but share concerns over the complexity, volume, and burdens

imposed by unchecked state and federal administrative agencies. Movants, on behalf of their members, are united in their long-standing advocacy for fair and balanced development, implementation, interpretation and application of government regulation properly grounded within our constitutional framework of separation of powers.

9. Movants, on behalf of their members, have an interest in assuring that Wisconsin executive branch agencies strictly follow the procedures and limits set forth in Wisconsin Statutes Chapter 227, and for this case, the requirement of Wis. Stat. § 227.10(2m) that agencies regulate only when explicitly authorized by the legislature to do so.

10. Movants' brief should be considered desirable to the court because it will set forth the unique and valuable perspective of the regulated community and those associations representing them before the legislature and administrative agencies. Movants understand how excessive regulatory burdens arise when courts expand administrative agencies' powers and reach when finding implied authorities in the statutes.

11. Petitioners-respondents Clean Wisconsin, Inc., Lynda Cochart, Amy Cochart, Roger Dejardin, Sandra Winnemueller and Chad Cochart, filed their Response Brief on June 25, 2018, Hence, this motion is timely filed, pursuant to Wis. Stat. § (Rule) 809.19(7)(c).

WHEREFORE, Movants respectfully request that the court grant leave to file an *amicus curiae* brief in this case by July 16, 2018.

DATED this 9th day of July, 2018.

Respectfully Submitted,

By:_____

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