

Capitol LINK

CURRENT ISSUES AFFECTING WISCONSIN AGRICULTURE & AGRI-BUSINESS

August 1, 2011

Wisconsin Supreme Court Decision Increases High Capacity Well Review

By Jordan Lamb -- DeWitt Ross & Stevens

The Wisconsin Supreme Court just issued a decision that could affect the ability to drill a high capacity well in Wisconsin. In *Lake Beulah Management District v. DNR*, the Supreme Court unanimously held that, despite the restrictions in Wisconsin's high capacity well statute, the DNR has a *duty* to "consider the environmental impact of [any] proposed high capacity well when presented with sufficient concrete, scientific evidence of potential harm to waters of the state."

Prior to this decision, Wisconsin statutes only required DNR to conduct an environmental review of: (1) a high capacity well that is located in a groundwater protection area; (2) a high capacity well with a water loss of more than 95 percent of the amount of water withdrawn; or (3) a high capacity well that may have a significant environmental impact on a spring. Wis. Stat. § 281.34(4). For all other high capacity wells, approvals and recordkeeping were required, but the statute does not impose a specific requirement for an environmental review for *every* well.

The *Lake Beulah* decision may affect a farmer's ability to get an approval for a high capacity well and also may increase the potential for citizen groups to challenge the approval of wells. The decision also brings into question the effect that the high capacity well statute has with regard to providing limits on DNR's duty and authority. The full effects of the *Lake Beulah* decision are not yet understood. However, there is no doubt that Wisconsin farmers who rely on high capacity wells for production will be affected by this decision.

AT&T / T Mobile Merger Could Expand Rural Broadband

By Jordan Lamb -- DeWitt Ross & Stevens

The Internet Innovation Alliance, a broad coalition supporting broadband availability, is working toward increasing rural broadband access, in part, by urging the support of the AT&T / T Mobile merger. IIA believes that the merger will provide an additional 46.5 million Americans with 4G LTE wireless service if the merger goes through. In addition, the merger will improve voice and data network performance across the U.S., particularly in small, rural areas. For more information about IIA and their work to expand rural Internet access, go to www.internetinnovation.org

Wisconsin Senate Recall Elections / 48th Assembly Dist. Special Election

By Jordan Lamb -- DeWitt Ross & Stevens

Now that the Legislature and Governor have completed action on the state's 2011-2013 biennial Budget, it's an appropriate time to provide an update on the pending recall elections and information on the forthcoming Special Election in the 48th Assembly District.

UPDATE: 48th Assembly District Special Election. Democrat Christine Taylor garnered 31% of the votes in the six-way Special Primary Election held in the 48th Assembly District (Madison's east side plus suburbs) on July 12. This seat was vacated by former State Rep. Joe Parisi who resigned after winning the Special Election for Dane County Executive held this spring. There is no Republican on the ballot so, barring a successful write-in effort on August 9, she will take the oath of office as a member of the Assembly shortly thereafter. Taylor is a lawyer and is currently now working as Public Policy Director for Planned Parenthood of Wisconsin. (<http://taylorforassembly.com/>)

UPDATE: Senate Recall Elections. The Government Accountability Board ("GAB") has certified recall elections to be held against nine incumbent State Senators – six Republicans and three Democrats. Because of the way the GAB reviewed the recall petitions and certified the elections, recall primary elections involving the six Republicans were held on Tuesday, July 12, and recall primary elections involving two of the three Democrats were held on Tuesday, July 19. As a result, the recall elections for the Republican Senators will be on Tuesday, August 9, and the recall elections for the Democratic Senators will be on Tuesday, August 16.

Recall primary elections were held in eight Senate districts. Candidates for these primaries were recruited specifically to force these primary elections to occur. This process began when the Republican Party of Wisconsin ("RPW") recruited candidates to run against the Democratic challengers in the Republican Senate district, in order to give the Republican incumbents an additional four weeks in which to campaign. Democrats initially responded by announcing that they would recruit Democrats to run against their three incumbents facing recall elections, in order to delay those elections as well. That strategy was abandoned when it became clear that RPW had recruited additional candidates in eight of nine Senate Districts.

Because there was no Republican primary in the 30th Senate District, the recall election for Sen. Dave Hansen (D-Green Bay) was held on July 19. Senator Hansen won with an unofficial 67% of the vote.

At stake in the August Senate recall elections is control of the Wisconsin Senate. Currently, Republicans enjoy a 19-14 majority, which means that Democrats need a net gain of three seats in the remaining eight recall elections to capture control of the Senate. When newly-elected Representative Christine Taylor (D-Madison) joins the State Assembly (see above), the Republicans will hold a 59-39 majority in the Assembly, with one seat occupied by an Independent who votes with the Republicans.

Candidates Running in Senate Recall Elections Set for August 9, 2011:

Second Senate District: Incumbent Sen. Rob Cowles (R-Green Bay) vs. Democrat Nancy Nusbaum. Nusbaum served four terms as Mayor of De Pere and also eight years as Brown County Executive. (<http://nancyforsenate.com/>)

Eighth Senate District: Incumbent Sen. Alberta Darling (R-River Hills) vs. State Rep. Sandy Pasch (D-Whitefish Bay).

Tenth Senate District: Incumbent Sen. Sheila Harsdorf (R-River Falls) vs. Democrat Shelly Moore. Moore is a high school English teacher in Ellsworth. (<http://mooreforwisconsin.com/>)

Fourteenth Senate District: Incumbent Sen. Luther Olsen (R-Ripon) vs. State Rep. Fred Clark (D-Baraboo).

Eighteenth Senate District: Incumbent Sen. Randy Hopper (R-Fond du Lac) vs. Democrat Jessica King. King, a lawyer in Oshkosh, is a member of the Oshkosh City Council and serves as Deputy Mayor. She lost to Hopper in 2008. (<http://www.jessicakingforsenate.com/>)

Thirty-Second Senate District: Incumbent Sen. Dan Kapanke (R-La Crosse) vs. State Rep. Jennifer Shilling (D-La Crosse). (<http://www.jennifershilling.com/>)

Candidates Running in Senate Recall Elections Set for August 16, 2011:

Twelfth Senate District: Incumbent Sen. Jim Holperin (D-Eagle River) vs. Republican Kim Simac. Simac is a Tea Party activist who led the effort to recall Holperin. She has a small business in which she trains and raises horses. (<http://kimsimacforstatesenate.com>)

Twenty-Second Senate District: Incumbent Sen. Bob Wirsch (D-Kenosha) vs. Republican Jonathan Steitz. Steitz is a lawyer who works out of the Chicago office of Latham & Watkins LLP, a 2000+ lawyer firm with 31 offices around the world. (<http://www.steitzforsenate.com/>)

Capitol Link Details

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