

**FILED**

AUG 25 2020

CLERK OF SUPREME COURT  
OF WISCONSIN

STATE OF WISCONSIN  
WISCONSIN SUPREME COURT

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No. 2018AP1239

APPLEGATE-BADER FARM, LLC

Plaintiff-Respondent-Cross-Appellant-Petitioner,

v.

WISCONSIN DEPARTMENT OF REVENUE AND RICHARD  
CHANDLER, IN HIS CAPACITY AS SECRETARY OF THE  
DEPARTMENT OF REVENUE,

Defendants-Appellants-Cross-Respondents.

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ON APPEAL FROM THE FINAL ORDER OF THE CIRCUIT COURT  
FOR GREEN COUNTY, THOMAS J. VALE, PRESIDING

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**MOTION TO FILE NON-PARTY BRIEF ON BEHALF OF CLEAN  
WISCONSIN & MIDWEST ENVIRONMENTAL ADVOCATES**

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CLEAN WISCONSIN and MIDWEST ENVIRONMENTAL  
ADVOCATES, INC., (jointly *Amici*) hereby move the Court pursuant to  
Wis. Stat. 809.19(7) for permission to file a non-party brief as *amicus*

*curiae* in the above-captioned matter. The grounds for the motion are as follows:

1. Clean Wisconsin is a Wisconsin non-profit whose purpose is to advocates on behalf of its members for clean air, water and energy in the legislature, before regulatory agencies, and in the courts.

2. Midwest Environmental Advocates, Inc. (MEA) is a Wisconsin non-profit, non-stock corporation that operates an environmental law center in Madison, Wisconsin. MEA works with the public throughout the state on issues relating to healthy water, air, land, and government.

3. *Amici's* work is dependent on and responsive to information developed during state administrative agencies' environmental review processes. Therefore, *Amici* have a strong interest in ensuring that these agencies continue to develop and release information about the environmental impacts of projects.

4. Both Petitioner and Respondent have explained that publication is appropriate in this matter, further suggesting the potential impact of a decision in this case on the ability of *Amici* and others to allege environmental effects that trigger a WEPA review.

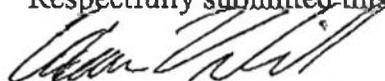
5. A non-party brief from *Amici* is desirable because *Amici* will provide the Court with valuable insight into the purpose and breadth of WEPA and the environmental effects that trigger WEPA review, in particular. Further, *amici* will clarify and reconcile the apparent discrepancies identified by the Court of Appeals between *Wisconsin's Env'tl. Decade, Inc. v. PSC*, 79 Wis. 2d 409, 428, 256 N.W.2d 149 (1977) and *Wisconsin's Env'tl. Decade, Inc. v. DNR*, 115 Wis. 2d 381, 340 N.W.2d 772 (1983). *Amici* are ideally situated to provide helpful background because they consistently engage with state agencies during the environmental review process.

6. Clean Wisconsin is uniquely suited to address the issues in this case because it litigated the two WEPA cases at issue here as Wisconsin's Environmental Decade.

7. This motion is timely filed under Wis. Stat. §§ 809.19(7)(c) and 801.15. Applegate-Bader Farm, LLC filed its brief on July 9, 2020. The Department of Revenue filed its response brief on August 10, 2020. *Amici* now file this motion and the amicus brief within the statutorily required fourteen-day deadline.

8. For the reasons stated herein, *Amici* request that this Court grant *Amici* permission to file a non-party brief pursuant to Wis. Stat. § 809.19(7).

Respectfully submitted this 24th day of August, 2020,

  
CLEAN WISCONSIN

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