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Supreme Court of Wisconsin

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06-25-2025
CLERK OF WISCONSIN
SUPREME COURT

June 25, 2025

To:

Hon. Frank D. Remington
Circuit Court Judge
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You are hereby notified that the Court, by its Clerk and Commissioners, has entered the following order:

No. 2024AP673

Sierra Club v. Wisconsin Department of Natural Resources,
L.C. #2023CV2379

On May 15, 2025, the court of appeals issued its decision in this matter.

On June 13, 2025, respondent-appellant-petitioner, Wisconsin Department of Natural Resources (“DNR”), timely filed a petition for review. In the petition, DNR states the following: “This case involves an error that likely could be addressed by this Court’s upcoming decision in Wisconsin Manufacturers & Commerce v. DNR, No. 2022AP0718, involving when an agency communication or document constitutes an invalid ‘unpromulgated rule.’ Depending on the outcome of WMC, this Court may wish to grant this petition, vacate the court of appeals’ decision in this case, and remand for further consideration in light of WMC.” Pet. at 6 (footnote omitted).

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June 25, 2025
No. 2024AP673

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On June 19, 2025, the court received a joint motion filed by DNR; petitioner-appellant-respondent, Sierra Club; and interested parties-respondents, Wisconsin Public Service Corporation and Wisconsin Electric Power Company (the “Utilities”). The motion notes that this court heard oral argument in WMC on January 14, 2025, but had not yet issued a decision as of the filing date of the motion. Citing the anticipated effect that the court’s decision in WMC would likely have on the parties’ briefing in this case, and to accommodate the demands of Sierra Club’s counsel’s calendar, the parties jointly ask for an order: (1) allowing DNR to file a notice of supplemental authority discussing the court’s decision in WMC as applied to DNR’s petition for review by July 31, 2025; (2) extending the deadline for Sierra Club to respond to DNR’s petition for review until August 15, 2025; (3) extending the deadline for the Utilities to file a cross-petition, if any, until August 29, 2025; and (4) allowing Sierra Club and the Utilities to incorporate in those filings any response to DNR’s notice of supplemental authority addressing this court’s decision in WMC.

The court notes that it issued a decision in WMC on June 24, 2025.

In light of the above,

IT IS ORDERED that the joint motion is granted in part. The following schedule shall apply in this case. By July 25, 2025, DNR shall either: (1) file an amended petition for review that includes a discussion of any impact of WMC, if any, on the issues raised therein; or (2) file a statement that it no longer seeks review under Wis. Stat. § (Rule) 809.62. Any amended petition for review filed by DNR pursuant to this order shall be the operative petition for review in this case. Any ensuing response or petition for cross-review shall be filed in compliance with the deadlines set forth in Wis. Stat. § (Rule) 809.62(3) and (3m).

Samuel A. Christensen
Clerk of Supreme Court