

ORDINANCE NO. 2002-1

AN ORDINANCE RESTRICTING THE WITHDRAWAL OF GROUND WATER, FROM LANDS WITHIN THE TOWN OF NEW HAVEN, ADAMS COUNTY, WISCONSIN, SO AS TO CAUSE UNREASONABLE HARM.

THE TOWN BOARD OF THE TOWN OF NEW HAVEN, ADAMS COUNTY, WISCONSIN, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Certain Uses Of Ground Water Prohibited: No owner or possessor of lands within the Town of New Haven, Adams County, Wisconsin, or the agent, grantee, or employee of said owner or possessor, shall withdraw groundwater from such lands under any of the following circumstances or conditions:

- a. The withdrawal of water causes unreasonable harm through lowering the water table or reducing artesian pressure,
- b. The ground water forms an underground stream,
- c. The withdrawal of water has a direct and substantial effect upon the water of a watercourse or lake.

SECTION 2: Definitions:

- a. "Ground Water" (or groundwater) as used herein, means any water occurring in saturated subsurface geological formation of rock or soil, including those waters coming to ground surface as natural springs or artesian wells.
- b. "Unreasonable Harm", as used herein, shall be interpreted as follows:
 1. It shall be deemed unreasonable harm if later users of water, with superior economic resources, withdraw groundwater to an extent that it imposes costs upon smaller water users that are beyond, or which stress, their economic means.
 2. It shall be deemed unreasonable harm if ground water is withdrawn under circumstances which result in persons, or other legal entities, similarly situated, receiving unequal treatment, or bearing unequal burdens, as a result of the withdrawal.

SECTION 3: Penalties: Any person or other legal entity violating the provisions of this ordinance shall be subject to any or all of the following:

- a. A forfeiture of not less than \$500.00 nor more than \$5000.00. For purposes of this paragraph, each calendar day during which the violation exists shall be deemed a separate violation.
- b. An order of abatement, as a public nuisance.

- c. An order requiring the violator to pay the costs and disbursements incurred in the enforcement of this ordinance and appeals relating thereto, including reasonable attorney fees.

SECTION 4: Severability: If any part of provision of this ordinance is declared unconstitutional or otherwise unenforceable, the remaining provisions shall remain in full force and effect.

Effective Date: This ordinance shall be in full force and effect as of the date of passage and publication.

Dated this 2 day of May, 2002.

Passed and Adopted:

Charles R. Hill
Charles R. Hill, Chairman

Attest:

The above ordinance was duly adopted by the Town of New Haven of Adams County, Wisconsin, at a regular Meeting of said Board conducted on the 2 day of May 2002, by a vote of 2 for and 0 against.

Bernice J. Langner
Deputy Clerk

Publication Date: 5/22 & 5/29, 2002

*Note: See State v. Michels Pipeline Construction, Inc. 63 Wis. 2d 278