



Theo Miner <octagonacres@gmail.com>

Comments on the proposed Operations ordinance.

1 message

octagonacres@gmail.com <octagonacres@gmail.com>

Thu, Apr 10, 2025 at 12:58 PM

To: Rock Elm Town <rockelmtown@gmail.com>

To the Town Board, Town of Rock Elm.

I am honored to be one of the seven Rock Elm landowners and taxpayers who spent nine months working to review a proposed ordinance that will help protect the Town of Rock Elm from the negative impacts of industrial CAFO operations in our Town. Our committee reviewed hundreds of pages of documents and researched the issues facing the Town, property owners, and residents. The committee worked together, and all seven people agreed 100% of the time on the topics addressed in the proposed ordinance. I can only speak for myself when I say I hope we didn't waste our time.

The Ridge Breeze expansion is estimated to produce over 88 million gallons of manure, which will take roughly 12,000 semi-loads to haul and spread. Concentrating that many animals in confinement is hazardous to public health and causes concerns for groundwater and air quality. The wear on Town Roads will be expensive to repair and maintain. These CAFOs are not farms; they are industrial factories masquerading as farms.

Industrial dairy interests have recently attempted to intimidate local Town Boards by threatening legal action. The proposed ordinance only regulates the operations of CAFOs to protect the taxpayers from the costs of repairing the roads, degrading our ground and surface water, and protecting our property values.

The industry recently filed a lawsuit against a Town in Polk County, but the judge dismissed it for lack of standing. The industry also got a bill passed to prohibit local governments from regulating CAFOs, but the governor vetoed the bill. I question why they fear regulations if they are the good operators and neighbors they say they are.

Yesterday, this article was published, which spells out why the Town needs Surety Bonds in the operations ordinance. Compeer and Agri-Bank have facilitated thousands and thousands of deals for this industry. Agri-Bank is also part of Ridge Breeze's \$35 million Mega-Dairy proposal,

Lawsuit: 110,000 pigs were in 'imminent danger' due to billion-dollar check-kiting scheme

<https://iowacapitaldispatch.com/2025/04/08/lawsuit-110000-pigs-in-imminent-danger-due-to-billion-dollar-check-kiting-scheme/>

Some board members fear lawsuits. I fear not being able to regulate these CAFOs more. Anyone suing the Town would have to have legal standing. Once the groundwater goes bad, it can't be fixed. No one wants to see the value of their property go down because of their proximity to an industrial CAFO. The CAFO should pay the costs incurred by the Town. The Town of Rock Elm is not alone in regulating the impacts of industrial CAFOs.

I urge you to pass the Operations Ordinance to protect the Town of Rock Elm residents, taxpayers, and voters from the impacts of industrial CAFOs.

Ted and Virginia Miner
N4761 130th St.
Elmwood, WI 54740
715-639-5375

: TO ROCK ELM BOARD MEMBERS

The reason we need an ordinance in Rock Elm is to protect our township for future generations!
~~Not just~~

If you plan on staying here and keeping your farm/land/property in your family, it just makes sense to protect the township.

Huge corporate entities don't give a hoot about our lands, just their profitability!

Mike Holktaelt

Rock Elm Resident

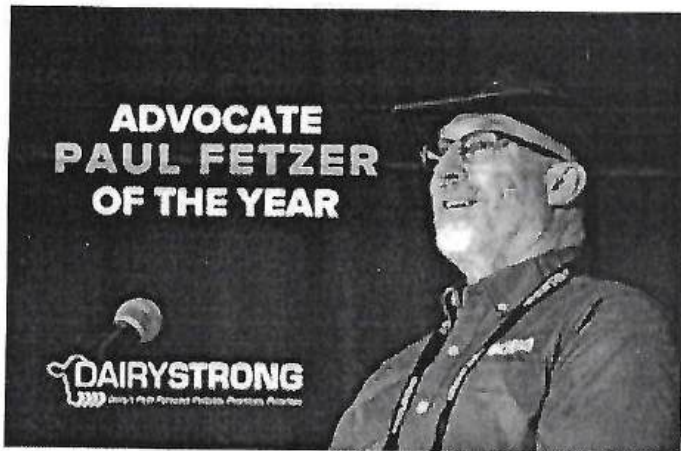
Attention Rock Elm Township Board,

4-10-25

I've been following the activity regarding the operations ordinance and I also heard Tim Bates try to table the ordinance at a recent meeting. I think there's a lot going on behind the scenes....

After doing some research, I've discovered some interesting things about the big ag special interest groups that are showing up at meetings. The Dairy Business Association is one group at meetings trying to stifle the progress of the ordinance. Well, I wonder why:

DBA names Paul Fetzer 2024 Advocate of the Year



While meetings are open to the public, don't forget who you serve: citizens and landowners of Rock Elm Township. There are only a couple of "farmers" supporting the Big Ag agenda in our township and county, but their voices are loud, because their pockets are deep.

I know how they operate. Before starting my own farm business, I worked as an assistant to MN Hospital Association lobbyists at the MN state capitol. Believe me, I can see bullying and underhanded tactics a mile away. I can also see the fear in those being targeted by the bullies. I would suggest that the special interest groups are coaching Tim how to handle this ordinance and how to eventually get rid of it. That's right out of the playbook that the Farm Bureau of MN uses when such ordinances come before town boards. Fear and threats are all they got.

The Board needs to remember that it's here to protect all of us, not just a few loud voices with baseless claims. I know many folks in our community that don't come forward to say anything and I know a few farmers here that are scared to. Please see this ordinance through and make it tough and thorough enough to protect all of our township, not the special interest groups.

Sincerely,

Angelica Hollstadt, Rock Elm Resident and Farm Owner since 2001

Re: Rock Elm Operations Ordinance

These regulations that the townships are trying to put in place seem to be trying to keep CAFOs from doing their farm work, specifically, their manure hauling. We think you need to re-evaluate what you are trying to do because while we believe you are trying to regulate the CAFOs, you end up hurting all farms, especially small to mid-size farms. How? CAFOs often have the ability and can justify spending the money it takes to get around these ordinances (hoses, pumps, drag lines, etc.), but smaller farmers do not, therefore, they might end up selling their farm...possibly to a CAFO...because they simply cannot justify spending the money to meet the ridiculous regulations. So these ordinances might actually have the opposite effect of what we believe you're trying to do. The regulations are simply too costly for a small to medium sized farm to meet. We strongly feel that the pressure you get from anti-ag people currently, will lead to additional ordinances or revisions to this one that specify regulations for all farms in Rock Elm Township. We need to keep all farms, regardless of size, operational in Rock Elm Township. We also need to remember that farmers are working hard, sometimes that includes late nights and early mornings, to try to keep food on EVERYONE'S tables – not just our own. Which leads me to the nuisance ordinances.

These nuisance ordinances are too vague. Everyone has different definitions of a nuisance. It also isn't defined as to what the maximum costs might be and who decides what is the farmer's fault and what is simply normal wear and tear or lack of adequate roads and road maintenance. These are public roads and farmers are not the only large equipment/truck traffic on Rock Elm Township roads, so to be fair, you would need to regulate all who travel these roads in large equipment or trucks. The roads need to be built to stand up to the traffic that is normal, which in Rock Elm Township, is heavy farm equipment because it is a farming community. Just a reminder, everyone pays taxes to the center of the road and the roads have right-of-way privileges, but we own the land underneath the road and we all have a right to use it. People kind of forget that...

Farmers are already being regulated by many different organizations and laws...DNR, nutrient management plans, conservation plans, Department of Ag, Trade, and Consumer Protection, annual milk inspector, etc. We do not believe the Rock Elm Town Board needs to start over-regulating what farmers do, as no one cares more about the roads, environment, land, and future of our farms than the farmers.

Sincerely,

Todd & Billy Jo Mark

To Whom It May Concern, and to the Neighbors and Friends of Rock Elm,

I am writing to urge the Rock Elm Town Board to consider enacting ordinances that will protect our community from the ongoing excesses associated with Ridge Breeze Dairy, specifically related to their CAFO (Confined Animal Feeding Operation).

Among my many concerns is the significant wear and damage being caused by the hundreds of trucks hauling liquid manure on our township roads. I respectfully request that Ridge Breeze Dairy be held accountable for these damages and that they be required to follow the same road use and safety regulations that apply to all other township and county residents and businesses.

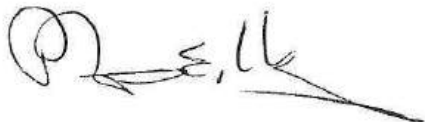
If such ordinances are enacted, the township can count on the support of hundreds of concerned Pierce County residents who are committed to ensuring accountability and protecting the well-being of our communities.

Thank you for your time and consideration.

Philip Kashian

N4119 400th street

El Paso Township/Ellsworth WI

A handwritten signature in black ink, appearing to read 'P. Kashian', with a long horizontal line extending to the right.

Dear Town of Gilman Board,

I am writing in support of your plan to possibly implement a town ordinance that will help mitigate and pay for damages done by Ridge Breeze and other Mega dairies that may move into Pierce County in the future.

Ridge Breeze at its current size is already causing damage to roads, lives of residents, noise pollution, light pollution, air pollution and water pollution.

Ridge Breeze brings little or no benefit to the area, it brings destruction.

Our County has housed agriculture for decades, it was built on it. Most farms are small to medium size, the large Mega Dairies and other types of CAFOs push out the small and medium farms that are the backbone of our region. It has happened in States like California, Iowa, South Dakota and parts of Minnesota. These investor financed entities will build their own processing plants, incinerators, and bio-digestors. They will foul the air and water causing hardship for residents causing a collapse of small towns, lowering property values, allowing the investors to snatch up land at a reduced price.

The history of these factory farms is not a good one, what often happens is they cause damage that is expensive to fix and walk away, leaving the clean-up to local government. It is not an accident that they are LLCs.

The fact that outside investors are lining up to finance Ridge Breezes expansion is a tell. They are willing to gamble with, what residents cherish.

Kay Kashian

N4119 400th Street

Ellsworth



Rock Elm Township Board Members:
April 9, 2025

The RE CAFO ordinance has rules written throughout that are simply not feasible. Yours requires a slate of studies and plans (approved by what "experts"?) including but not limited to the:

- impact on community economic land use;
- property value assessment.
- waste management;
- odor and toxic air pollution;
- water usage;
- animal population control and depopulation plans;
- infectious diseases;
- biosecurity and animal health;
- animal transportation;
- fire and roads;
- construction;
- compliance assurance through testing;
- sampling and monitoring.

This amount of regulation would be stifling to most new businesses coming into Rock Elm township, let alone CAFO farms who already plan and comply with state and federal regulations. CAFO farms work with the state DNR, DATCP, land conservation, local veterinarians, third-party engineers, insurance agencies and their milk processors to meet or exceed regulations. The only thing defined in your plan is that farmers will have 100% of the burden of paying for anything the town board wants from the so-called "experts" they have found to address these issues. There is no mention (or even an estimate of cost) for the person/company hired to oversee CAFO operations. No lender would agree to loan a farmer money with basically an unidentified amount of reaching into the farmer's checkbook annually by the town board when the CAFO already pays substantial fees to state and federal regulatory agencies. This is why, even though we hear this is not an anti-ag ordinance, it truly is. It would prevent or hinder a CAFO farmer's ability to conduct/grow its farming operation.

As we have proven to you through presentations by:

- Victoria Ziegler, WI CAFO Dept Supervisor at WDNR,
- Mark Serier – Ag Strategies – 590 plan writer (Owner of Ag Strategies)

- Farmers
- Brad Olson, WI State Farm Bureau President,
- Erin Tomaski and Tim from WI Dairy Business Association
- Kim Bremmer, Venture Dairy Cooperative

We have shown you that CAFO farms are regulated and your township is safe from harm as they conduct their daily farming operations. We have shown you current and recent data and actual Manure Nutrient Plans and correspondence between farmers and the DNR.

The finding of fact and sites provided to you in writing the ordinance, in most cases, is untrue and very old information. And it is written by those with an anti-ag agenda, including a person from outside Pierce County with minimal input from your Rock Elm farming community.

Are you going to cave under the screaming and hysteria directed at you by anti-ag GROWW members and others who do not even live in Pierce County? OR, Are you going to stand by the science and evidence presented to you and do the right thing? Please stop the implementation of this ordinance!

As a CAFO owner, I am always willing to show you the depth of regulation I have and to answer any questions you may have.

Respectfully,

Steve Brand

715-307-0904

Mike Davis Ordinance Comments

To the Rock Elm Town Board:

I would like to submit the following comments both specific and general regarding the Concentrated Animal Feeding Operations Ordinance (CAFO OO) currently under consideration. In general I feel that it is absolutely necessary to have this in place to protect our township in a much similar fashion as has been done in the past with other operations such as non-metallic mining (NMM). I would like the board to consider the people who live here first and foremost when reviewing this proposed ordinance. There has been a lot of people who do not live in our community and have no real skin in the game when it comes to our health, safety, and tax dollars at work. I am very discouraged that these outside lobbyist groups feel as though I (we) should subsidize their operations by paying for their road damage and their environmental damage. As I will point out in my comments here, we have many conditions already in ordinances that should also apply to such large corporate agriculture operations.

In my preparation for this review and submittal, I reviewed our current NMM ordinance and found many similarities setting a precedence that the board does have the authority and it's not an unreasonable action. Specifically the NMM ordinance calls out under (2) License Renewal Part (e) that additional fees necessary to review the NMM application may be necessary as part of a third party engineering review. These fees are not specifically defined, however, it is described as being the responsibility of the Operator. This is identical to the request within the CAFO OO. Therefore, this is not something that has no precedence and is not unreasonable to request.

Through this process there have been many entities pushing the Town Board on the fact that everything here is already regulated and we have to adopt and follow the Siting law that was actually written by and for such large industries. The siting law regulates local towns from approving for the expansion or creation of a farm. This ordinance is not a regulation of whether or not someone can own or expand a farm but simply a license to operate in our town. You are not preventing them from expanding, we are just saying that if you intend to expand to a certain size then you need to follow these rules. If you choose not to follow these rules then you won't receive a license and you are free to operate somewhere else, it is no different than the non-metallic mining license that we already have as part of our Town. I also believe that many of the things that we want to accomplish with the CAFO OO are already described very well in our other ordinances for mining and blasting and I encourage you to review those ordinances in detail to help with this one.

My specific comments and suggestions for the ordinance are as follows:

1. Section 1 - Authority

While I think this section does a good job of outlining the Town's authority in being able to have such an ordinance, I am wondering if there is anything additional that should also be added from the Non-metallic mining ordinance. Some of the Wisconsin Statutes in the NMM ordinance are different and they should be double checked to see if they make sense here.

2. Section 2 - Purpose

Contained within the NMM ordinance under (2) Purpose is defined as:

"The purpose of this Ordinance is to provide minimum standards for all nonmetallic mining operations in the Town, and to require licenses for nonmetallic mining operators in order to protect public health and safety, to preserve the scenic beauty of the Town's landscapes and environment, to protect the public from damage to both the quantity and quality of ground and surface waters, to minimize or prevent adverse impacts from on-site and off-site operations, and to promote the general welfare of the people and communities within the Town of Rock Elm."

I would like to see the addition of or adaptation of this verbiage into the purpose statement in the CAFO OO, specifically **...in order to protect public health and safety, to preserve the scenic beauty of the Town's landscapes and environment, to protect the public from damage to both the quantity and quality of ground and surface waters, to minimize or prevent adverse impacts from on-site and off-site operations, and to promote the general welfare of the people and communities within the Town of Rock Elm."**

3. Section 4 - License Required

- a. I would like to see the addition of language that addresses how to handle current CAFOs operating within the Town. I didn't see that spelled out specifically in the current adaptation. I believe that under the current conditions a simple statement such as **"CAFOs currently operating within the Town upon the adoption of this ordinance shall begin application within 30 days, and cease or limit any operation until the license has been approved by the board and must obtain a license within 6 months of adoption"**.

4. Section 8 - Application Procedure

- a. In the NMM ordinance (Section 6 License Application), I would like to see Ownership Information added to the CAFO OO as well, similar to or identical to what is required by the NMM.
- b. Within the NMM ordinance I would like to see the adaptation and or adoption of the following parts into the CAFO OO:
 - i. (2) Site Information and Maps, Part (e) regarding a map of all wells including residential, agricultural, and municipal wells within 1 mile of the site and/or spreading fields
 - ii. Part (f) regarding the location and name of all surface waters drainage ditches, wetlands, drainage patterns and other water features within 1/2 mile of the site and/or spreading fields.
 - iii. Part (k) regarding a site specific Stormwater Pollution Prevention Plan (SWPPP) for a farm site located in the Town

- iv. Part (m) regarding a map identifying and locating all known archeological or historical features and a plan to protect those features for a specific farm site and/or spreading fields
5. Section 9 - Financial Surety
- a. I request that Part 4 be removed and that financial surety applies to all operators within the Town regardless of their building site location.
 - b. The NMM ordinance calls out some of the exact items that we are concerned about from these large CAFOs operating. I would like to see these added to Section 9 of the CAFO OO. They would need to be written to address CAFOs rather than mines, but could be easily adapted to suit the same purpose.
 - i. **NMM Ord. Section 10 Financial Assurance, Part (a) Road Repair:** An amount deemed necessary by the Town Board for the repair and extraordinary maintenance of Town roads used for vehicular traffic transporting materials to or from the site. Repairs and extraordinary maintenance is, defined as everything other than crack filling, minor surface repair, chip seal, shoulder pull-up, mowing and less than annually required pavement marking
 - ii. **NMM Ord. Sec. 10, Part (b) - Water Supply:** An amount deemed necessary by the Town Board to provide an alternative water supply to residences or agricultural operations within 1 mile of the site, or such other area shown to have been adversely affected by the mining operations, where the quantity or quality of water to such residences or agricultural operations has been adversely affected by the mining operation.
6. Section 10 - Conditions of Approval
- a. I would like to have added after the word "Town" on line 27 of page 33, "which will be dependent upon size, location, and facility type."
7. Under Section 7 Minimum Standards of Operation within the NMM ordinance I would like to see Part (5) Town Roads (pg 18-19) adopted into the CAFO OO. I believe this should be adapted and adopted into the proposed ordinance. Part (5) reads as follows:
- a. **"When trucks used in the non-metallic mining operation will haul non-metallic minerals (excluding gravel) or Mine Tailings over Town roads as a designated haul route, the operation shall first enter into a separate road use agreement pursuant to Wis. Stats. 349.16, the purpose of which shall be to fund a complete traffic impact analysis of the Town road at issue and the highway upgrades, maintenance and repair of the road during the license term for the convenience and safety of the traveling public and to prevent financial burdens from being imposed on Town taxpayers due to road use in association with a non-metallic mining operation. The road use agreement shall be in place before a license is issued or renewed under this ordinance."**

Mike Davis Ordinance Comments

- b. While the entire section may be more than what is necessary, I believe it is a good ground work for what could be added to the proposed CAFO OO, specifically regarding an agreement and at a minimum pre and post inspection of the road proposed for hauling or heavy use.

8. Section 15 - Penalties

- a. I would like to have added into Sec 15 of the CAFO OO the following:
 - i. Any person or entity adjudicated guilty of a violation of this Ordinance shall pay court costs and reasonable attorney fees and other associated fees and costs.
- b. I would also like the penalties to be higher so that it deters operators from simply violating and paying a small fine instead. It needs to be such that compliance will be easier.

Town of Rock Elm Operations Ordinance Written Comments, April 11, 2025
Submitted by Teresa Davis, private resident of the Town of Rock Elm since 2011

1. Are all facilities associated with the CAFO considered part of the CAFO, for this ordinance purposes? For example, if the milking barn is on a separate piece of property than a heifer raising facility, are both facilities considered one CAFO together, or are they separate CAFOs? How would that work for permitting for this ordinance? It is something to think about.
2. In the March 20, 2025 Town of Rock Elm meeting, there was discussion about trucks and tractors using Town of Rock Elm roads for hauling manure. A member of the public asked about these trucks and tractors using town roads for hauling even if the manure is not being spread in the township. This issue should be considered by the township, and I believe that these vehicles still could cause damage to the town roads, and the ordinance should apply regardless - the vehicles are using the roads. With the average manure application rate of 12,000-14,000 gallons per acre, and each semi/tanker holding between 6,000-7,000 gallons each, that is a LOT of trips to move manure, with a lot of potential impacts to the township roads. This is also why trucks and tractors hauling manure THROUGH Rock Elm Township need to be included in the ordinance language - the road damage is still occurring whether those vehicles stop in the township or not.
3. There was a question asked about where the money comes from for the Surety Bonding, for things like road damage. This wording in the Operation Ordinance and this situation/question can be treated like what Rock Elm already has in the Nonmetallic Mine Operator's License Ordinances (2013-03) under Section (5) Town Roads and Section (10) Financial Assurance. A full copy of Ordinance 2013-03 is included in the written comments. I ask that the Town Board add whatever language they feel is necessary regarding Surety Bonding (Section 9 in the Operations Ordinance). Surety Bonding seems like a good way to not only protect the township, but make sure there is money available
4. There was discussion about clean-up/remediation in the event a CAFO closes. These CAFOs sometimes have things like underground piping, parking/manure drop-off areas, etc. that are located in the town. The town board should consider how they would want to have these items handled and cleaned up (remediated).
5. The attorney who spoke at the town board meeting on March 11 said we need to identify the problem to find a solution. I think residents have spoken up about their concerns enough to identify the problem, and the ordinance is a way to work toward a solution.
6. People who spoke at the Town of Rock Elm meetings talked about how residents' concerns should be regulated at the state level. However, these same groups are suing the DNR to reduce the DNR power/oversight! <https://midwestadvocates.org/our-work/legal-action/preserving-environmental-oversight-of-large-livestock-facilities/> (printout included in this comment packet)
7. Emergency response plan - it was mentioned to provide more details about the manure pits for rescuers, including size (depth), etc. Any information that would make emergency responders' jobs easier would be good to include in the ordinance.
8. A comment was made in a town board meeting from an outside the township group member who said that roads that shouldn't be used by heavy equipment should be noted. Perhaps the Town Board should consider developing such a map of the roads deemed too fragile to receive heavy truck or tractor traffic. Like was said by town leadership, it is important to protect what we have our township roads. Going to gravel roads in the township can get very expensive very quickly, with more equipment and personnel to maintain that type of roadway system.
9. The township mentioned at a meeting regarding road bans, that they want the road users to have something signed from the township that proves permission to be on the roads during road bans (please correct this if I am not stating this right). The letter needs to be on town letterhead.

10. There have been a lot of comments on the Livestock Siting (Wisconsin 93.90). The Town of Rock Elm Operations Ordinance, as currently written, is not a siting ordinance. Mr. Andy Marshall said in his talk at the 3/20/2025 Rock Elm Town Board meeting that siting is a separate issue from an operations ordinance. He also said that townships have authority to enact an ordinance to protect the township. I ask that this ordinance stays this way and **strongly ask that the Township DO NOT adopt the 93.90 statute about livestock siting (DO NOT adopt authority for siting) or change the language of the original ordinance in this section in any way, shape or form.** It is imperative to keep this language as-is in the ordinance. Please see the attached short memo about the basic information on Wisconsin 93.90, as well as the full documents of Wisconsin statute 93.90 and ACTP 51. The way it appears, adopting the Livestock Siting Law takes local powers/control away. **Please do not do this to - protect the township and its residents!**

A. Mr. David Crass, the attorney hired by Dairy Business Association (DBA), who is also a registered lobbyist, helped write and pass the Livestock Siting Law. It appears, on the law firm's website, that they are mainly concerned about the industry, NOT the local power/control over what happens in LOCAL COMMUNITIES; or the health and welfare of local governments (townships), its residents and its natural resources. I wonder if this is why those from DBA and other groups have come to our township meetings and discussed livestock siting so many times? And why they are trying to convince the Town of Rock Elm to pass the livestock siting law? It makes a township resident wonder, especially after finding the following information:

1. From Mr. Crass' law firm's website, <https://www.michaelbest.com/Industries/Agribusiness>, under "Experience". He helped draft and move the bill through the legislature! See last paragraph below of the website language, my emphasis added: **"David helped guide it through the state legislature, providing testimony, educating lawmakers,** and advising the DBA's board on the bill's progress." The statement about landfills is also very curious, and I don't agree (statement is at the second to last paragraph below of the website comments: "Working with the DBA, **David drafted the Wisconsin Livestock Facility Siting Law,** which provided that livestock operations would be treated **with the same considerations as landfills** — environmentally sensitive but socially valuable enterprises." If CAFOs are the same as landfills, are the regulations the same? Are requirements for permitting, water pollution, leachate treatment, environmental issues and concerns, etc. the same? I'm guessing not...

<https://dnr.wisconsin.gov/topic/Landfills>
<https://dnr.wisconsin.gov/topic/cafo>

"Adams v. State of Wisconsin

After the attorneys at Michael Best helped the industry launch Wisconsin's Livestock Facility Siting Law in 2004, it didn't take long before a municipality in the state challenged the statute's new standards for issuing permits to livestock operations. When that challenge came, we were there, defending the law in court as we'd done in the legislature — and once again, our arguments prevailed.

The case originated in the Wisconsin township of Magnolia in Rock County, a town of fewer than 1,000 residents. The Larsons are a fifth-generation family of farmers hoping to build a new facility to raise heifers for their expanding dairy operation. When they applied for a permit for that facility, the town issued a conditional permit, imposing standards that contradicted the language in the new Livestock Facility Siting Law. The Larsons hired Michael Best. Our team of agribusiness counselors and litigators fought the case all the way to the Wisconsin Supreme Court, where we successfully argued that the Livestock Facility Siting

Law preempted local authority. The court's agreement with our statutory construction argument marked a seminal legal moment and a turning point for the Wisconsin dairy industry.

Wisconsin Livestock Facility Siting Law

For decades Wisconsin, like most states, relied on local governmental bodies to issue permits to livestock operations, based on non-point-source pollution regulations. Serving as outside counsel to the Dairy Business Association (DBA), Michael Best attorney David Crass saw that the failure to take the farm operations' social and economic benefits into account when issuing those permits was not only limiting farmers' ability to expand, but also creating a significant threat to the state's dairy industry. Working with the DBA, David drafted the Wisconsin Livestock Facility Siting Law, which provided that livestock operations would be treated with the same considerations as landfills — environmentally sensitive but socially valuable enterprises.

After drafting the bill, David helped guide it through the state legislature, providing testimony, educating lawmakers, and advising the DBA's board on the bill's progress. The passage of the bill in 2004 marked a major turning point for the state's dairy industry — and a signature moment for our agricultural practice, which remains highly attuned to our clients' issues and needs in the legal, regulatory, and social climates where they operate."

5. Section 15 "Penalties". Regarding penalties, the Town of Rock Elm has a Citing Ordinance that was last updated as Ordinance No. 2014-2. This is in regards to the Town of Rock Elm's Blasting Ordinance (2014-01), Section 19 Penalties. Mr. Loberg also discussed increasing the fees in his March 7, 2025 memo to the Town Board. I ask that the township leadership review the blasting ordinance and discuss increasing the fees of the Operations Ordinance to more closely or exactly match the Blasting Ordinance, since the precedence has already been set by the township and due to the risk of township and resident impacts. The full blasting ordinance along with the citation amendment are included in this comment packet.

6. Section 15 "Penalties". Regarding penalties, the Town of Rock Elm has a Citing Ordinance that was last updated as Ordinance No. 2013-04. This is in regards to the Town of Rock Elm's Nonmetallic Mine Operator's License Ordinance (2013-03). Mr. Loberg also discussed increasing the fees in his March 7, 2025 memo to the Town Board. I ask that the township leadership review the blasting ordinance and discuss increasing the fees of the Operations Ordinance to closely match or exactly match the Nonmetallic Mine Operator's License Ordinance, since the precedence has already been set by the township due to the risk of township and resident impacts. The full Nonmetallic Mine Operator's License Ordinance along with the citation amendment are included in this comment packet.

7. **Town of Rock Elm Blasting Ordinance (2014-01)**, under "Section 2 Authority": "This ordinance is adopted to protect the public health, safety and welfare of residents of the Town of Rock Elm." The township has set precedence to protect its residents. The Operations Ordinance's purpose is the same!

- A. Section 4(8) discusses damage or unreasonable annoyance to persons or property located outside the controlled blasting area. Town residents could be/are impacted by CAFO facilities or operations, current or future, in a related/similar manner.
- B. Section 4(9) talks about leased land and "the operator has leased or has other agreement with the owner of that area...". Similar to CAFOs using rented land for manure application, etc.
- C. Karst is featured in Section 4(12) - this is very important to have in an ordinance. If the township feels that karst is not discussed enough in the Operations Ordinance, then I

- suggest a robust description of the karst bedrock geology features and groundwater features be added to the Operations Ordinance language.
- D. Section 6, Application discusses a lot of documents required for the application. I ask that the Town Board review this information and see if there is anything they would like carried over to the Operations Ordinance permit requirements, if there is any information the Town Board feels the Operations Ordinance language is missing.
 - E. Section 6(3) - I like this statement of a "complete" application, and feel that something like this should be added to the Operations Ordinance.
 - F. Section 7(1) discusses pre-blasting surveys and water quality. I request the Town Board read through this section and consider adding this wording (or something similar to capture the spirit of this paragraph) to help protect wells and groundwater in Rock Elm Township. This includes well testing within a distance of the activity (in the case of blasting, 1 mile).
 - G. I like section 7(4) that talks about affected residents being notified of activities taking place. I feel like something similar could be added to the Operations Ordinance.
 - H. Section 8(2) allows the town board to have conditions of the permit, just like the Operations Ordinance is proposing in Section 10.
 - I. Section 9 - pre-inspection: I would request that the spirit of this section of the ordinance be considered and added to the Operations Ordinance. Inspect the haul route (either to a place within the township or the haul route THROUGH the township to get to another location outside of the township). This is where well tests for the homes within a certain distance of fields receiving manure would be very helpful and create township resident peace of mind. The mention of KARST, sinkholes, etc. and finding them in inspections is excellent - and again I feel like we could perhaps even more language to the ordinance to protect our karst geology and the sensitive Rock Elm Disturbance area. Please consider including additional/stronger language to protect our township resources.
 - J. Section 10: Notification: I do like the idea of notification, and feel it is a useful tool to have in an ordinance. Is there a way to include some sort of notification for manure application or other operations in the Operations Ordinance? I also like the idea of a resident call list in the event of an emergency, spill, etc. Making sure that those folks (and their animals and properties) most affected are notified immediately is so important. Please consider adding this requirement to the Operations Ordinance.
 - K. Section 12: Blasting Log: Having a log of operations in the town (especially hauling and manure application) is so important for a reference in case there is an issue. Other operations such as construction and in this case, blasting, need to keep good records for many reasons. The logs should be provided as part of the Operations Ordinance and should be produced upon request within a certain amount of time (72 hours? Not sure) and also included with the yearly permit reapplication process.
 - L. Section 16: Proof of Insurance: This is so important, for both CAFOs themselves along with anyone doing business for them in the township (custom harvesters, manure haulers, forage haulers, etc.). Having insurance included in the application permit is a really great idea to protect the township, its residents and its natural resources!
 - M. Section 19 (b) and (c) - this is an excellent idea to include in the Operations Ordinance. (b) Any person or entity adjudicated guilty of a violation of this Ordinance shall pay court costs and reasonable attorney fees and any other associated fees and costs. (c) The remedies provided herein shall not be exclusive of other remedies.
 - N. Section 20 - Severability - well written, perhaps wording needs to be updated in the Operations Ordinance?
 - O. Section 21 - No Liability for Damages - a great section that should be considered to be added in the Operations Ordinance.

8. Please refer to the Rock Elm driveway ordinance too, and how that applies when trucks/tractors/equipment (like a manure dumpster) are parked on the edge of town road and

township right of way - what should be allowed or not allowed, following the driveway ordinance and only using driveway? What about the funds for fixing the town road right of way if it is damaged? The town chair asked everyone at the March 9, 2024 special Town meeting to please use driveways and don't drive in the ditches. Attendees seem to agree, so I hope that this has been happening and will happen in the future, but I feel that the township still needs language to protect the residents and resources (roads and roadway rights of way)

9. Please discuss road damage with Wisconsin Towns Association - maybe they have guidance, language and assistance they can provide to help write language that protects the township roads. This comment was brought up at the March 20, 2025 town board meeting

10. Surety Bonding: examples of why this could be needed to help protect the town (new developments beyond the findings submitted in the ordinance language): An April 8th, 2025 news article from the Iowa Capital Dispatch discusses CAFO owners in Iowa being part of a check kiting scheme (information about that provided too, at the end of the packet). It is for reasons like this that Surety Bonding is needed to protect the township. Sure, the lender is concerned about the pigs, which we all should be, but what happens if/when the business goes belly-up? Who pays for clean-up of the facilities? Carcass removal, if applicable, etc.? Who is "on the hook" for all these costs? It certainly shouldn't have to be the local/state/federal taxpayers.

11. Rock Elm Township has done a great job of writing ordinances to protect its residents from the impacts of nonmetallic mining and blasting. I urge the board to review these and ALL township ordinances to find language to use in the Operations Ordinance. The Nonmetallic Mine Operator's Licenses Ordinance (2013-03) and the Blasting Ordinance (2014-01) are great places to start for language examples and for showing the spirit of the town leadership in protecting its residents and resources.

Overall, I want to **thank the Town Board** for their willingness to allow residents to study the ordinance, answer questions, give feedback and listen to concerns from all sides. I know that the board has dealt with a lot of pressure from groups and individuals outside of the township and perhaps some not-very-pleasant situations due to the pressure.

I strongly urge the Town Board to think very seriously about this ordinance, and to consider passing the ordinance to protect township residents and township resources. Thank you!

I also included an article about a recent Manure Spill in western WI - more reasons to protect the township & its residents & resources!

Use Wberg 1st, Nick is
a good 2nd person
totally to

Legal - *Nicholas Vivian*

- Eckberg Lammers Law Firm
- Lead attorney for municipal, banking & finance, business, commercial real estate groups
- Works throughout Western Wisconsin
- Trade Lake town counsel
- Led development of the Trade Lake large livestock ordinance

