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Danielson v. Sun Prairie, 619 N.W.2d 108 (Wis. Ct. App. 2000)

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narrative conditions could not make up for the discrepancy, Soundkeeper contended the permit violated the statute. Noting that the AKART provision required using reasonable "methods" to control toxicants, the court concluded the permit's conditions, which directly addressed the refinery's pollution control methods, better satisfied AKART than numeric limits alone. The court reasoned that the limits only indirectly related to the pollution control methods. Thus, the court found the permit both implemented the AKART requirements and did not violate either the federal Clean Water Act or Washington's Water Pollution Control Act.

Dawn Watts

WISCONSIN

Danielson v. Sun Prairie, 619 N.W.2d 108 (Wis. Ct. App. 2000) (holding that (1) a sewage interceptor, by nature of design, was not subject to Wisconsin law because it was not a part of a sewer system to which an abutting property owner can connect, and (2) pursuant to Wisconsin law, a relocation order is not a required first step in the condemnation process).

Norman Danielson ("Danielson") owned property in the Town of Burke ("Town"). Danielson brought an action challenging the City of Sun Prairie's ("City") condemnation of his property in order to obtain an easement and place a sewer interceptor for the City's sewer system on his property. Danielson argued both that the City did not obtain the Town's approval pursuant to Wisconsin law before condemning his property and that the City did not adopt a relocation order as its first step in the condemnation process as required under Wisconsin law. The Town intervened against the City, claiming the City erroneously did not obtain the Town's approval before constructing the interceptor. The circuit court entered judgment in favor of the City. Danielson and the Town appealed.

Wisconsin statutory law required the town board's approval when a joining city proposed to construct and maintain extensions of its sewer or water system in the town. Further, such approval was subject to the rights of abutting property owners who were permitted to connect with and use the sewer or water system. Danielson and the Town contended the Wisconsin law referred to any part of a sewer system within the physical perimeter of the Town. The City maintained the same law was meant to include only the part of the sewer system that extended sewer service in town.

The court looked to the statute's plain meaning and determined it was ambiguous. The court then turned to the statute's legislative intent. The court concluded the legislative history supported the statute's construction, which did not include interceptors as extensions

of sewer or water systems in the Town. Additionally, due to the nature of the inceptor, no financial or impact provision on the Town residents existed. The court concluded the sewer interceptor, constructed by the City, received sewage from main-line sewers but not from laterals or collectors. Also, the interceptor did not permit a property owner to connect with or use the sewer because it was not a part of a sewer system to which an abutting property owner could connect. Thus, the court held the City was not required to seek town approval prior to either the condemnation for or the construction of the contested interceptor.

Most condemnations required that the condemning municipality make a relocation order pursuant to Wisconsin law. Danielson and the Town contended the relocation order was the required first step in the condemnation process. The City disagreed. The court looked to the plain language of the relevant Wisconsin statutory law and determined it was facially unambiguous. The court reasoned that such relevant Wisconsin statutory law permitted several steps to take place before initiating a relocation order. Therefore, the court held that the Wisconsin law clearly and unambiguously permitted a condemning authority to take some steps before making a relocation order.

In sum, the court of appeals affirmed the judgment of the circuit court and held both that Wisconsin law was not applicable to the interceptor and that the Wisconsin law did not require the City to make a relocation order as the first step in the condemnation process.

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Grafft v. Wis. Dep't of Natural Res., 618 N.W.2d 897 (Wis. Ct. App. 2000) (holding the Wisconsin Department of Natural Resources did not exceed its regulatory authority by promulgating the undeveloped shoreline standard).

Grafft applied to the Department of Natural Resources ("DNR") for a permit to construct a permanent boat shelter. DNR denied the permit pursuant to Wisconsin statutory law, finding the proposed project contrary to the public interest. Specifically, DNR concluded the proposed boat shelter did not conform with a Wisconsin administrative regulation code, which provided that permits could only be granted for locations adjacent to developed shorelines. This regulation defined developed shorelines as having at least five visually intrusive structures when viewed from a location on the water. DNR found only four visually intrusive structures and concluded the proposed project was located adjacent to an undeveloped shoreline, thus precluding it from granting Grafft's permit application.

Grafft petitioned the circuit court to review the denial of his permit application. The circuit court concluded that the Wisconsin