

**BEFORE THE
WISCONSIN DEPARTMENT OF NATURAL RESOURCES**

**In the matter of Ridge Breeze Dairy
Permit No. WI-0062928-04-2 to Discharge Under
the Wisconsin Pollutant Discharge Elimination
System (“WPDES”) dated February 13, 2025.**

**VERIFIED PETITION FOR REVIEW UNDER
WIS. STAT. § 283.63**

To the Secretary of the Wisconsin Department of Natural Resources:

1. In accordance with Wis. Stat. § 283.63 and Wis. Admin. Code § NR 203.17, the undersigned, GrassRoots Organizing Western Wisconsin (GROWW), Larry Brenner, Ty Fisher, Kay Kashian, Dick Dart, and Gerald Steien (hereinafter collectively, “Petitioners”) hereby timely petition the Wisconsin Department of Natural Resources (DNR) for review of the final decision to issue the modified Wisconsin Pollutant Discharge Elimination System (WPDES) Permit No. WI-0062928-04-2 (hereinafter “Permit,” attached as Exhibit A) to Ridge Breeze Dairy. DNR signed the Permit on February 13, 2025. However, DNR stated that, due to a software issue, notice to the public was not provided until February 20, 2025.

2. Section 283.63 of the Wisconsin Statutes allows five or more persons to secure a review by DNR of “any permit denial, modification, termination, or revocation and reissuance, the reasonableness of or necessity for any term or condition of any issued, reissued or modified permit... or any water quality based effluent limitation established under s. 283.13 (5)” by filing a verified petition for review with the DNR

Secretary stating the interest of the petitioners and setting forth the issues sought to be reviewed and the reasons why a hearing is warranted within 60 days after notice of the permit issuance by the DNR.

I. FACTUAL BACKGROUND

3. Ridge Breeze is an existing large concentrated animal feeding operation (CAFO) for dairy cows that is located in Salem Township in Pierce County, Wisconsin.

4. In 2024, Ridge Breeze requested modification to its WPDES permit to accommodate a substantial expansion to the operation. Specifically, the CAFO proposed adding three waste storage facilities and a stacking pad with the intent of expanding the CAFO herd size from ~2,400 animal units (AU) to ~9,000 AU.

5. DNR noticed the proposed modification to the Permit on June 14, 2024.

6. According to the Permit Fact Sheet, following expansion, the CAFO is estimated to produce 77.7 million gallons of manure and process wastewater annually. The Fact Sheet also states that Ridge Breeze owns approximately 89.7 acres of cropland and controls 7,273.3 acres through rental or land contract agreements.

7. Ridge Breeze intends to manage the generated manure and process wastewater by spreading on agricultural fields. The Permit mandates compliance with Wis. Admin. Code § NR 243.14 and states that “land application practices shall not exceed crop nutrient budgets as determined in accordance with NRCS Standard 590.” Permit § 1.6.

8. The Permit authorizes Ridge Breeze to discharge to tributaries of the Rush River, to Plum Creek, and the Rush River Watersheds of the Lower Chippewa River Basin. Though not explicitly stated on the Permit cover page, sections of the Permit also authorize discharge to groundwater with the requirement that those discharges not cause exceedances of groundwater quality standards or, alternatively, prevent discharges to groundwater.

9. Pierce County residents rely on clean and safe groundwater for their drinking water. Specifically, all county residents rely on groundwater for drinking water, with an estimated 38% of the population withdrawing drinking water via 5,824 private wells. Pierce County Groundwater, Ad hoc Groundwater Committee Interim Report (Dec. 2024).

10. Many wells in Pierce County access water in the dolomite of the Prairie du Chien formation; dolomite cracks and fractures can create preferential flow paths, funneling water much faster than it moves through rock. This phenomenon has been widely acknowledged in Northeast Wisconsin (e.g., Door County, Kewaunee County, and the other 13 counties identified in Wis. Admin. Code § NR 151.075) as a contributor to pervasive water contamination in private wells.

11. In addition to rapid movement of water in the bedrock, sinkholes and fractures are a known occurrence in Pierce County's landscape. These surface features increase the likelihood of contaminants reaching groundwater.

12. As a result, the United States Geological Survey has identified areas of Pierce County as highly susceptible to groundwater contamination. USGS, Pierce County

Groundwater Contamination Susceptibility Map (available at: <https://wi.water.usgs.gov/gwcomp/find/pierce/susceptibility.html>).

13. Further, DNR's proposed 2019 targeted rulemaking for nitrogen identifies substantial portions of Pierce County that would have had fertilizer and/or manure spreading restrictions based on groundwater susceptibility.

14. Based on the increased susceptibility and limited spreading acreage, many commenters asked DNR to verify Ridge Breeze's access to fields, and as part of the permitting process, DNR required Ridge Breeze to submit land affidavits to certify that the CAFO could spread on the acreage identified in its NMP.

15. As a result of DNR's requirement, some acres needed to be removed from the NMP. Based on a recent review, additional fields still need to be removed from Ridge Breeze's NMP.

16. DNR also received comments noting the necessity of groundwater monitoring at landspreading fields. DNR did not prepare a hydrogeologic analysis as part of the Ridge Breeze permitting process.

17. On February 13, 2025, DNR signed Ridge Breeze's permit.

18. DNR provided notice of the Department's final determination to issue the permit on February 20, 2025. Notice was provided via e-mail of the Notice of Final Determination to all members of the public who submitted public comment, signed up for, and/or attended the public hearing for the modification. (See Exhibit B.) The Notice of Final Determination was also sent to Ridge Breeze on February 20, 2025. (Exhibit C.)

II. INTERESTS OF PETITIONERS

19. All Petitioners attended the July 11, 2024 public informational hearing on the proposed modification. Many of the Petitioners spoke that day and others submitted written comments to DNR.

20. Petitioner GrassRoots Organizing Western Wisconsin (GROWW) is a 501(c)(4) organization in western Wisconsin committed to building power to create the change we all need through community action so that everyone can make ends meet, live with dignity and have a voice in the decisions that impact us. GROWW has an active presence in Barron, Buffalo, Dunn, Pepin, Pierce, Polk, and St. Croix Counties. GROWW is made up of community members of all ages and walks of life who have come together to tackle issues impacting families, homes, and communities. GROWW and its members have been actively engaged in the Ridge Breeze permitting process since the application for expansion was first submitted. GROWW engages with community members who will be impacted by the expansion and are concerned about the water quality in Pierce County following the proposed expansion.

21. Individual Petitioner Larry Brenner is a resident, property owner, and business owner in Pierce County, Wisconsin. Mr. Brenner resides at W3826 450th Ave., Maiden Rock, WI 54750. His business, Vino in the Valley, a unique outdoor dining and special events venue, has operated at that same location for over 19 years. Mr. Brenner's property is within 2 miles of the Ridge Breeze operation and even closer to the fields on which Ridge Breeze intends to land-apply manure. Mr. Brenner relies on two wells for drinking water, one for his residence and another for Vino in the

Valley, and he is reasonably concerned that either or both of his wells may become contaminated with nitrate or bacteria from Ridge Breeze spreading its waste. Moreover, Mr. Brenner enjoys spending time outdoors and is concerned about the potential drastic impact to surface waters that may occur following the proposed expansion, particularly those tributaries downhill of the operation. Mr. Brenner has been an active participant in the permitting process, attending the July 11, 2024 public informational hearing on the proposed permit. He has a substantial interest in this permit modification and the associated nutrient management plan.

22. Individual Petitioner Ty Fisher is a resident, property owner, and business owner in Pierce County, Wisconsin. Mr. Fisher has lived at his current residence, W2395 410th Ave., Elmwood, WI 54740, for over 43 years. He currently operates a family farm and owns about 300 acres in Pierce County. Mr. Fisher relies on a private well for his drinking water. He and his family are very concerned about elevated nitrates and the potential health impacts that may result from Ridge Breeze's proposed expansion. In the last two years, Mr. Fisher has had two well tests return results above the safe drinking water standard and the nitrate levels appear to be increasing (2 mg/L 17 years ago, 12.9 mg/L in 2023, and 13.9 mg/L in 2024). He only recently began testing again because relatives were getting sick. Mr. Fisher has serious concerns about whether Ridge Breeze will be able to safely spread the ~80 million gallons of manure and process wastewater it intends to generate; if the CAFO cannot, he is concerned about further elevated, unsafe nitrate levels. Further, Mr. Fisher enjoys spending time outdoors and believes permitting this expansion will

impact his enjoyment of his property. Mr. Fisher has been an active participant in the DNR permitting process, attending the July 11, 2024 permit modification public informational hearing as well as every other public hearing DNR has held regarding Ridge Breeze's operation.

23. Individual Petitioner Kay Kashian is a resident, property owner, and business owner in Pierce County, Wisconsin. Ms. Kashian has lived with her husband at N4119 400th St Ellsworth, WI 54011 for five years; they also run an AirBnB rental property at that same address. Ms. Kashian considers living on the Rush River "the dream of her life." She enjoys kayaking and fishing on the Rush River, as do many of the guests that stay at the rental property. Ms. Kashian's property sits at the bottom of a valley and is near a number of fields that Ridge Breeze spreads on. She is concerned about manure flowing from the fields or Ridge Breeze's production site down into the valley and contaminating her private well or discharging to the Rush River. Ms. Kashian is adversely affected by DNR's decision to issue the modified WPDES permit to Ridge Breeze without off-site groundwater monitoring and potentially lacking sufficient acreage in the operation's NMP. She is reasonably concerned that the Permit limits DNR's regulatory oversight of Ridge Breeze's operation and puts waters of the state at risk.

24. Individual Petitioner Dick Dart is a resident and property owner in Pierce County, Wisconsin. Dr. Dart has lived at W3338 State Rd 35, Maiden Rock, WI 54750 for over ten years. Dr. Dart enjoys hiking, canoeing, and kayaking along the Rush, Chippewa, and Mississippi Rivers. Dr. Dart is concerned about aesthetic damage to

these surface waters, which would negatively impact his ability to recreate near his home. As a medical doctor, Dr. Dart is also concerned about the health impacts associated with nitrate contamination in groundwater and release of particulate matter during land spreading of manure. Dr. Dart is adversely affected by DNR's decision to issue the modified WPDES permit to Ridge Breeze without off-site groundwater monitoring and potentially lacking sufficient acreage in the operation's NMP. He is reasonably concerned that the Permit limits DNR's regulatory oversight of Ridge Breeze's operation and puts waters of the state at risk.

25. Individual Petitioner Gerald Steien resides at W3144 450th Ave, Maiden Rock, 54750. He and his wife Roxanne built the house 16 years ago with the hope of retiring and enjoying the country. Mr. Steien raises longhorn cattle and generally enjoys recreating outdoors. Mr. Steien is very concerned about the proposed expansion's impact on the Rush River as well as groundwater quantity and quality, and he believes accountability and adequate oversight of the CAFO is necessary. Mr. Steien has been following the permitting process since the Ridge Breeze modification was publicly noticed and he is reasonably concerned about the proposed expansion's effect on the quality of the Rush River, a waterbody widely considered one of the best trout streams in Wisconsin.

26. Substantial interests of the Petitioners are injured or threatened with injury because of DNR's decision to issue the Permit with terms that threaten water resources in Pierce County. Specifically, Petitioners are injured or threatened with injury because of the Permit's impacts on groundwater and surface water quality in

the areas downstream, downhill, or down-gradient of Ridge Breeze the fields on which the CAFO intends to spread manure.

27. The injury to Petitioners is different in kind and degree from the injury to the general public. As noted above, the anticipated impacts from the modified Permit will uniquely and substantially burden the Petitioners who rely on potable groundwater and clean surface water that is within, and down-gradient of those areas affected by the activities authorized under the Permit.

III. PETITIONERS' RIGHT TO ADMINISTRATIVE REVIEW

28. Section 227.42 and 283.63 of the Wisconsin Statutes accord Petitioners a right to an administrative review.

29. Section 283.63(1)(a) of the Wisconsin Statutes provides that a verified petition filed with the secretary “within 60 days after notice” is reviewable by the Department. (Emphasis added).

30. Sections NR 203.13 and 203.135(5) of the Wisconsin Administrative Code outline notice requirements for DNR following a final decision to modify a permit. Regarding the issuance or denial of a permit, Wis. Admin. Code § NR 203.13(3)(b) mandates that DNR provide notice to “[a]ll persons filling out appearance slips at the public informational hearing, or who submitted written comments with respect to issuance of the permit even if a public informational hearing was not held.” Wis. Admin. Code § NR 203.135(5)(a) incorporates those notice requirements to final determinations to modify a permit.

31. Section NR 203.16 of the Wisconsin Administrative Code establishes the deadline to petition for administrative review of a WPDES permit. Specifically, it states: “The petition shall be filed within 60 days after notice of any action, which is reviewable under this section, is issued by the department.” (Emphasis added).

32. In addition to review of the reasonableness or necessity of permit terms, Section 283.63 of the Wisconsin Statutes also accords Petitioners the right to review “any permit denial, modification, termination, or revocation and reissuance.” (Emphasis added).

IV. ISSUES FOR REVIEW

Petitioners seek review of the following issues related to both the issuance of a modified permit as well as the absence of necessary terms and conditions in Ridge Breeze’s permit.

Issue One: Section 1.6 and the nutrient management plan are unreasonable because the plan submitted by Ridge Breeze as part of its WPDES permit application did not comply with Wis. Admin. Code § NR 243.14.

33. WPDES program requirements specifically applicable to CAFOs such as Ridge Breeze require permit applicants to prepare and follow an NMP that meets the standards given in Wis. Admin. Code § NR 243.14.

34. A complete NMP that meets the requirements of section NR 243.14 is a necessary component of a CAFO’s permit application. *See* Permit § 1.6. Moreover, without such an NMP, the application itself cannot be ruled complete. Wis. Admin. Code §§ NR 243.14(1)(a) & NR 243.12(2)(a)(6).

35. Here, Section 1.6 and the NMP fail to ensure compliance with state standards (NR 243.14 and NRCS 50) for a myriad of reasons. Currently, there are ~475 acres that are not included in the land affidavits DNR required. Also, the CAFO established incongruous tillage and application designations on ~2,500 acres of fields. Third, Ridge Breeze's NMP identifies almost 1,600 acres that the operation intends to apply manure and process wastewater above the UW nitrate recommendations. Finally, many of the field maps show features that should have additional setbacks or restrictions that are not included in Ridge Breeze's restriction maps. Each of these issues are briefly explained below through an analysis of Crop Year 2026.

36. First, in reviewing land affidavits provided by Ridge Breeze to DNR, the following fields are not identified as those the CAFO can access: 04-02-081, 04-02-082, 04-02-083, 04-02-084, 04-02-085, 04-08-007, 04-08-014, 04-08-015, 04-08-016, 04-08-017, 04-08-024, 04-09-001, 04-09-002, 04-10-002, 04-10-008, 04-16-003, 04-16-004, 04-16-005, and 04-16-006. Those fields account for 474.7 acres. Despite not being included in land affidavits, many of these fields are included as future crop fields that may receive manure and process wastewater.

37. Next, on 2,479.1 acres in 2026, the NMP provides fields where the crop is listed as "no-till." Despite this, the manure application is listed as "subsurface." This is likely incorrect and if the correct application method were used, it would reduce the amount of manure and process wastewater that could be spread on many those fields. Moreover, when following up with DNR staff, it did not appear that the Department

was aware of this discrepancy, further raising concerns about whether the NMP can comply with NR 243.14, NRCS 590, and the Permit generally.

38. On almost 1,600 acres, Ridge Breeze intends to spread manure and process wastewater at levels that exceed the UW recommendations for nitrate application. Exceedances on fields range from 5 pounds of nitrogen to 80 pounds of nitrogen over the recommended amount. Though CAFO land application is most often limited by phosphorus, Section 1.6 of the Permit states that NMPs should “prevent delivery of manure and process wastewater to waters of the state and minimize the loss of nutrients to waters of the state to prevent exceedances of groundwater and surface water quality standards.” Here, consistent and pre-planned overapplication runs afoul of the Permit requirements.

39. Finally, satellite imagery indicates the likely presence of wells, sinkholes, concentrated flow channels, and other features that have mandatory setbacks or restrictions associated with their presence. Despite visual identification of these features by members of the public, Ridge Breeze’s restriction maps do not indicate spreading limitations. These issues were raised to DNR during the comment period and while some fields were updated, there remain many that require additional restrictions.

40. Taken together, there is substantial concern as to whether Ridge Breeze can appropriately manage the manure and process wastewater it intends to generate following expansion. Field access, crop rotation and application, nutrient delivery to

waters of the state, and additional field restrictions all likely limit the number of spreadable acres, as well as the rate of manure application, for the CAFO.

41. Therefore, the modification to the Permit is invalid because the Nutrient Management Plan, as submitted by Ridge Breeze for this permit modification, fails to account for reduced acreage and spreading restrictions (whether they are phosphorus-based, nitrogen-based, topographic, or geologic restrictions).

Issue Two: The modification is unreasonable because it fails to ensure that discharges authorized by the permit comply with groundwater quality standards.

42. The primary water pollutants associated with CAFOs are bacteria and nitrate contaminants. DNR may issue a WPDES permit that authorizes discharges to waters of the state only if the discharges allowed under the permit meet groundwater protection standards established under Chapter 160 of the Wisconsin Statutes. Wis. Stat. § 283.31(3)(f). DNR is required to include conditions in WPDES permits “to assure compliance with” groundwater protection standards. Wis. Stat. § 283.31(4); see also Wis. Stat. § 283.31(3); Wis. Admin. Code NR § 243.13(1). At a minimum, DNR must include conditions that ensure “the discharge of any pollutant more frequently than or at a level in excess of that identified and authorized by the permit shall constitute a violation of the terms and conditions of the permit.” Wis. Stat. § 283.31(4)(a). Further, DNR is required to include a monitoring and inspection program in the WPDES permit that will determine compliance with permit conditions. Wis. Admin. Code NR § 243.19(1).

43. The terms and conditions in the Permit are unreasonable because they fail to ensure compliance with groundwater quality standards, particularly underneath and downgradient of landspreading fields.

44. The Permit includes a standard condition noting that the Permit does not authorize “any injury or damage to private property or any invasion of personal rights, or any infringement of federal, state or local laws or regulations.” Permit § 4.4.3. This condition, without additional groundwater monitoring requirements, is unreasonable because DNR is unable to evaluate whether Ridge Breeze will contribute to groundwater contamination above the state regulatory level as a result of this substantial expansion.

45. DNR was presented information explaining the susceptibility of the region. Moreover, the Department independently determined that much of the County was susceptible to nitrate contamination in the proposed 2019 targeted nitrogen rulemaking. Finally, the UW-Stevens Point Well Water Quality Viewer shows elevated nitrates in much of central and eastern Pierce County.

46. Given the higher groundwater susceptibility of the region, particularly in central and eastern Pierce County, DNR has failed to include necessary conditions in the Permit to fulfill DNR’s authority.

V. REASONS WHY A HEARING IS WARRANTED

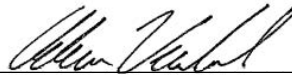
For the foregoing reasons, a hearing is warranted to resolve the above material disputes of fact, to determine the reasonableness of the above-mentioned sections of Ridge Breeze’s Permit, and to address DNR’s failure to include necessary conditions

to fulfill its duty to restore and maintain the chemical, physical, and biological integrity of the waters of the state.

Dated this 21st day of April, 2025.

Respectfully submitted,

MIDWEST ENVIRONMENTAL ADVOCATES, INC.

A handwritten signature in cursive script, appearing to read "Adam Voskuil", is written over a horizontal line.

Adam Voskuil (SB 1114260)
Michael Greif
634 West Main Street, Suite 201
Madison, Wisconsin 53703
Tel. 608-251-5047 (ext. 807)
Fax 608-268-0205

Attorneys For: GrassRoots Organizing Western Wisconsin,
Larry Brenner, Ty Fisher, Kay Kashian, Dick Dart, and
Gerald Steien

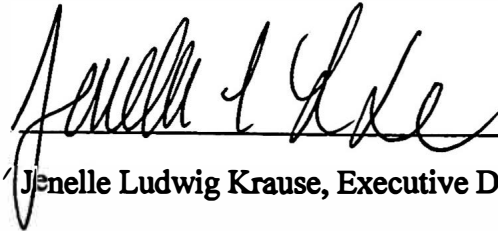
VERIFICATION

STATE OF WISCONSIN)

) ss.

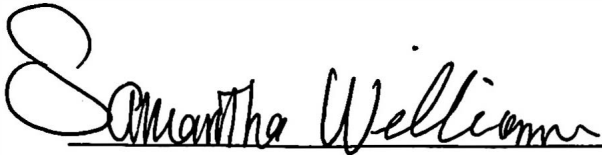
COUNTY OF PIERCE)

I verify that GrassRoots Organizing Western Wisconsin is a petitioner in this request for a Contested Case hearing. I have read the foregoing Petition for review and the information contained therein is true and correct, to the best of my knowledge and belief.


Jenelle Ludwig Krause, Executive Director

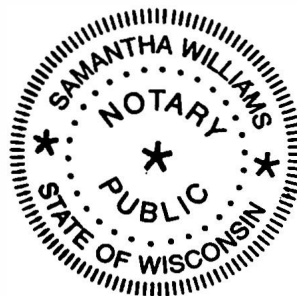
Subscribed, sworn to, and signed before

me this 18 day of April, 2025



Notary Public, State of Wisconsin

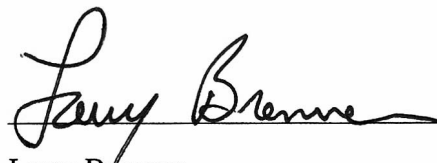
My commission expires on 04/09/29



VERIFICATION

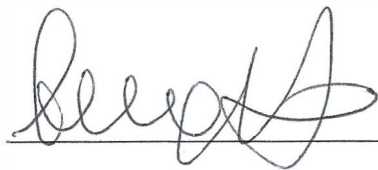
STATE OF WISCONSIN)
) ss.
COUNTY OF PIERCE)

I verify that I am a petitioner in this matter. I have read the foregoing Petition and know its contents, and I attest that the facts alleged above are true and correct, to the best of my knowledge.



Larry Brenner

Subscribed, sworn to, and signed before
me this 18 day of April, 2025



Notary Public, State of Wisconsin

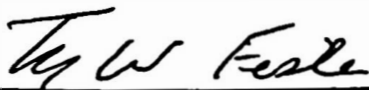


My commission expires on 08/26/2027

VERIFICATION

STATE OF WISCONSIN)
) ss.
COUNTY OF PIERCE)

I verify that I am a petitioner in this matter. I have read the foregoing Petition and know its contents, and I attest that the facts alleged above are true and correct, to the best of my knowledge.



Ty Fisher

Subscribed, sworn to, and signed before
me this 18th day of April, 2025



Notary Public, State of Wisconsin



My commission expires on 8-28-2028

VERIFICATION

STATE OF WISCONSIN)

) ss.

COUNTY OF PIERCE)

I verify that I am a petitioner in this matter. I have read the foregoing Petition and know its contents, and I attest that the facts alleged above are true and correct, to the best of my knowledge.

Kay S. Kashian
Kay Kashian

Subscribed, sworn to, and signed before
me this 18 day of April, 2025

Tracey L. Hines
Notary Public, State of Wisconsin

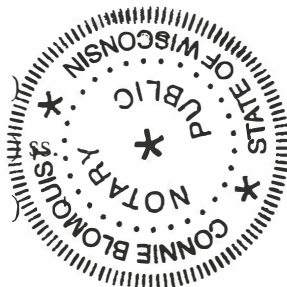


My commission expires on 7/18/26

VERIFICATION

STATE OF WISCONSIN

COUNTY OF PIERCE



I verify that I am a petitioner in this matter. I have read the foregoing Petition and know its contents, and I attest that the facts alleged above are true and correct, to the best of my knowledge.

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Dick Dart

Subscribed, sworn to, and signed before

me this 18th day of April, 2025

A handwritten signature in cursive script, appearing to read "Connie Blomquist", written over a horizontal line.

Notary Public, State of Wisconsin

My commission expires on 4/15/2029

VERIFICATION

STATE OF WISCONSIN

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) ss.

COUNTY OF PIERCE

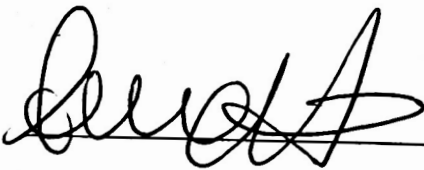
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I verify that I am a petitioner in this matter. I have read the foregoing Petition and know its contents, and I attest that the facts alleged above are true and correct, to the best of my knowledge.



Gerald Steien

Subscribed, sworn to, and signed before
me this 18 day of April, 2025



Notary Public, State of Wisconsin

My commission expires on 08/26/2028

