Beef Operation/Water Use Challenge: Iowa Appellate Court Addresses Exhaustion of Administrative Remedies Issue

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The Iowa Cout of Appeals ("App. Court") addressed in a June 10th Opinion an issue arising out of an Driftless Water Defenders' ("DWD") request that the Iowa Department of Natural Resources ("IDNR") investigate a complaint regarding water use. *See Driftless Water Defenders v. Iowa Department of Natural Resources*, Case No. 25-1219.

The question addressed what whether DWD's request was properly dismissed by a lower court based on an alleged failure to exhaust administrative remedies.

The Iowa Department of Natural Resources ("IDNR") issued a water use permit to Supreme Beef, LLC ("SB") in 2017 for purposes of:

… diverting, storing, or withdrawing water from any surface or groundwater source.

SB is described as a cattle-feeding company that operates in Clayton County, Iowa.

DWD appealed the renewal of the previously referenced permit, expressing concern about the operation's impact on the environment in and around Bloody Run Creek. An Administrative Law Judge ultimately remanded the matter back to the IDNR and neither party appealed the proposed decision which became final.

DWD concurrently filed an administrative complaint with IDNR to rescind SB's water use permit. This complaint was filed under an Iowa Administrative Code provision which provides:

… The [IDNR] shall investigate the following types of complaints: alleged unauthorized depleting uses of water pursuant to Iowa Code section 455B.274; alleged violations of air or water pollution statutes, rules or permits when requested by any state agency, political subdivision, local board of health, or 25 residents of the state…

DWD submitted its complaint with the signatures of more than twenty- five Iowa residents.

In regard to SB's permit renewal, IDNR issued a memorandum on January 29, 2025, articulating its final statutory analysis that SB's proposed use was beneficial and consistent with Iowa law. This was stated to be its final agency action and reaffirmed its prior decision approving the renewal of the water use permit. DWD did not appeal this decision.

The lower court dismissed DWD's petition regarding its previously referenced request for IDNR to investigate. It held that DWD had not exhausted its administrative remedies before petitioning for judicial review.

The App. Court noted that two conditions must be satisfied before imposing an exhausting requirement:

1. An administrative remedy exists for the claimed wrong; and,
2. The involved statute expressly or impliedly requires the remedy to be exhausted before resorting to the courts.

Section 455B.278(2) was noted to provide:

… [a]ction by the [DNR] upon an application for a permit . . . may be appealed to the [EPC] by the applicant or an affected person within thirty days of the department's action.

Further, the App. Court noted that DWD's action was not necessarily challenging the previous renewal of a water use permit. It instead was utilizing this section addressing IDNR's obligation to investigate alleged water and air pollution.

The Code provision involved was noted not to provide an administrative remedy for DWD to have followed. As a result, an administrative remedy was deemed to not have existed for the claimed wrong as required by the exhaustion rule. Therefore, the lower court was held to have erred in holding that DWD failed to exhaust its administrative remedies.

A copy of the Opinion can be found here.