

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRBa1513/P1dn  
RNK:wlj:rs

January 27, 2014

This amendment is in preliminary form.

The drafting instructions for this amendment are based, in part, on language from the case of State v. Michels Pipeline Const. Co., 63 Wis. 2d 278 (1974). The language in that case is somewhat archaic and is not typical of language used in modern statutes. For example, the language refers to a “possessor of land or his grantee.” It is not clear from the language what is intended by the term “grantee.” I have assumed that a grantee is someone whom the landowner allows to withdraw groundwater from the landowner’s land. Is my assumption correct? Also, the language refers to groundwater withdrawn for a “beneficial purpose.” The amendment does not specify what type of purpose is a beneficial purpose. Furthermore, the language implies that a person may be liable for damages in a nuisance action **only** if the groundwater is withdrawn for a beneficial purpose. That is, the language in the amendment may lead a court to infer that a person who withdraws groundwater for a malicious purpose may not be subject to damages for nuisance. Is this intended?

I have redrafted the language so that it comports with current drafting style. Please let me know if the resulting language is inconsistent with your intent.

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