

RESOLUTION NO. 2014-5R

**RESOLUTION REQUESTING THE WISCONSIN TOWNS ASSOCIATION TO
OPPOSE EXTENSION OF THE “DIMINISHING ASSET RULE” IN ITS 2015-
2016 LEGISLATIVE AGENDA**

**Town of Frankfort
Pepin County
STATE of WISCONSIN**

WHEREAS, the “diminishing asset rule” was developed by the courts in cases involving 40-80 acre gravel pits; and

WHEREAS, the “diminishing asset rule” protects the use of a natural resource that has a value that diminishes as it is extracted from the earth; and

WHEREAS, under the “diminishing asset rule,” a landowner who is excavating is deemed to be “using” all of that natural resource, including the portions that are on the landowner’s contiguous land but have not yet been excavated; and

WHEREAS, when determining the use that is being protected as a nonconforming use, the right to continue to extract all of the natural resource previously allowed is protected; and

WHEREAS, in the 2013-2014 legislative session, legislative proposals were introduced to extend the “diminishing asset rule” to include contiguous land “under common ownership or control” including leasehold interests and including industrial sand mines which can be more than 1,000 acres, to extend to “off-site nonmetallic mineral processing facilities” and “off-site transportation facilities related to nonmetallic mining” to cover nonmetallic resources that have been registered even when the property is not being actively mined; and

WHEREAS, extension of the “diminishing asset rule” would restrict, and possibly prevent, the ability of local governments to regulate mining activity in any way, even if new technologies and discovery of health impacts would justify changes in local regulation; thus denying the towns abilities to exercise their local control.

NOW, THEREFORE, BE IT RESOLVED that the Town of Frankfort Board of Supervisors requests the Wisconsin Towns Association, through its 2015-2016 legislative agenda, to actively oppose legislation extending the “diminishing asset rule” wherever it may be introduced.

BE IT FURTHER RESOLVED that the Town of Frankfort Board of Supervisors directs the town clerk to forward this resolution to the governor and Wisconsin Towns Association and to request that the intent of this resolution be included in its 2015-2016 legislative agenda.

Adopted December 16, 2014

s/s Bryce Black, Chair

s/s Denny Richardson, Supervisor

s/s Curt Stine, Supervisor

s/s Donna Juleff, Supervisor

s/s Kay Hamilton, Supervisor

s/s Attest: Maureen Manore, Clerk

Published: December 25, 2015