



## **Executive Summary**

### **Cold Spring Brewing Company and City of Cold Spring Water Issues**

April 4, 2014

Updated July 18, 2014

Updated September 17, 2014

Updated October 16, 2014

Updated July 15, 2015

Cold Spring Brewing Company has been operating since 1874. The trout stream, wells, and Company have co-existed for decades.

The City of Cold Spring and the Cold Spring Brewing Company (CSBC) each have encountered challenges related to existing, functioning wells. Restrictions pertaining to wells used by the City and CSBC have been imposed by the Minnesota Department of Natural Resources (DNR). The restricted wells are located near a trout stream. The restrictions emanate from legislation passed in 2010, which is intended to protect trout streams [Statute 103G.285 Surface Water Appropriations].

The CSBC has wells #1, 2, 3 near the trout stream. The City has wells #1, 2, 3 near the trout stream. City wells #1 and #2 were shut down due to nitrate contamination. The DNR will not allow the City of Cold Spring to construct a nitrate-removal treatment facility to restart these wells which eliminates 800 gallon per minute of water capacity. The DNR has also requested the City of Cold Spring to reduce capacity from City well #3, after new wells are constructed, because of its proximity to the trout stream. It's a small well with 220 gallon per minute capacity but still critical to the City water supply. Similarly, Cold Spring Brewing Company has been informed by the DNR that they must close all wells by December 31, 2014. The DNR cites MN Statute enforcement for the protection of the water supply to a nearby trout stream as the reason for closing the wells.

The City and CSBC rely on these 6 wells and must find alternate sources of water if they are closed or their capacity is reduced. The City has been using these wells for 64 years. CSBC has been operating with wells located adjacent to the trout stream for nearly 140 years.

While the DNR has cited the need to protect the trout stream, they have not provided specific criteria related to the protection. The Surface Water Appropriation statute does not include specific criteria for the determination: "Permits issued after June 3, 1977, to appropriate water from streams designated trout streams by the commissioner's orders under section 97C.005 must be limited to temporary appropriations."

The closing of the City wells forces the City to find another source of water. The DNR has indicated the City bears the burden of proof to demonstrate a new well will not be "detrimental" to the trout stream. The apparent remedy will burden the City with substantial costs associated with building two water treatment plants and piping the water to where it is needed. These costs are currently estimated to be up to \$8 million.

The closing of the CSBC wells forces the brewery to find alternative sources for the water its needs for production, as well. In all likelihood, CSBC would purchase the water from the City. Currently, CSBC treats most of its water with Reverse Osmosis for energy drink production, but does not treat the water used for brewing. If the supply was solely City water, chlorine must be removed before use as production water (brewing and specialty drink production). The additional reject water from Reverse Osmosis for brewing will waste 3,000,000 gallons per year. Annual cost for water purchased by CSBC would be approximately \$200,000 at current rates. If the City was to take on \$8M as stated above the monthly billing could triple and cost CSBC \$600,000 per year.

DNR reports identify sources of potential detrimental impacts to the trout stream, none of which reference the wells.

The City and CSBC have been working to resolve these issues since February, 2012. The December 31, 2014 deadline, as extended, by the DNR is looming, but realistic and mutually agreeable solutions have yet to be identified. The solution will need to address the following issues:

- All costs associated with achieving necessary protection to the trout stream to meet the State statute provisions adopted in 2010 need to be secured from the State of MN.
- The December 31, 2014 deadline for Permit termination will need to be further extended to reflect the timeline needed to determine criteria, site, design, permit, fully fund and construct an adequate, new water supply that meets the needs of the City and CSBC.
- The DNR needs to provide the City and CSBC with definitive criteria that must be met to demonstrate new water supply sources will not be detrimental to the trout stream and that will meet all regulatory requirements for successfully attaining a new & adequate water supply.
- All parties must participate in identifying mutually agreeable ways to preserve the water supply needed by the City and CSBC

- If the solution necessitates CSBC using City supplied water for their operation, the State needs to provide funding to cover the monthly cost to purchase water, the capitol cost of the removal of chlorine as well as the cost to re-plumb the facility from its own supply to the City supply

## Permits:

### **Temporary Brewery Permit #1984-3211** -

Applies to CSBC Well #3, CSBC Well #1 and Leased City Well #1 – Currently volume is 145 MGY (million gallons per year). This permit expires at the end of 2014.

### **Brewery Permit #1988-3220** – Not a part of original discussions

Applies to CSBC Well #2, 20 MGY, used only for beer production.

### **City Permit #1976-3179**

Applies to City Wells # 2 – 6. Well # 2 has not been used since 2004.

## Chronology of Important Events:

1984 – The first permit (#1984-3211) was issued for 24 MGY. Capacity varied over the years. Capacity is currently at 145 MGY (temporarily).

1988 – The second permit (#1988-3220) was issued. Volume is currently at 20 MGY.

2006 – CSBC installs rain garden to protect Cold Spring Creek. City and other governmental entities were involved with stream enhancements, including Sauk River Watershed District and Stearns County Soil and Water. CSBC has a 10-year maintenance agreement through 2015.

~2006 – CSBC requests modification of permit #1984-3211 to increase 80 MGY, and to modify permit #1988-3220 to decrease to 20 MGY (for a total of 100MGY between all wells).

2007 – CSBC leases City Well # 1.

2009 – CSBC requests modification to permit #1984-3211 to increase to 145 MGY.

2010 – Legislation regarding surface water appropriations is passed. It appears to be the source of the DNR restrictions imposed on City of Cold Spring and CSBC related to well closings and protection of the trout stream.

Feb 29, 2012- DNR Replies to CSBC's 2009 request appropriations increase. 'Some appropriations from Brewery and City can be expected'

Limited Appropriations Permit was issued for permit **#1984-3211**; "for evaluation purposes only and will be modified no later than Feb 28, 2014

May 4, 2012 - CSBC submits a letter requesting a public hearing as required by the process. The letter was filed within thirty days of the postmark on the DNR letter. CSBC submitted a bond of \$500.00. DNR responds in October, 2012.

Nov. 29 2012 - DNR Letter states **-#1984-3211**, expires Feb 28, 2014. At that time; the appropriations will revert back to **24** million gallons...

DNR explains to CSBC the monitoring requirements from the Feb 28, 2012 letter and temporary permit.

Jan. 24, 2013 – DNR letter ‘Letter serves as notification that limited amendment permit #1984-3211 will not revert to 80 million gallons on March 1, 2013. Cold Spring Brewing Company may appropriate up to 145 million gallons of water under permit **#1984-3211** until its expiration date. However, please remember that Feb. 28, 2014 is the date at which the permit will revert back to the original permitted volume of **24** million gallons per year.

May 29, 2013 –DNR, CSBC, City staff and Representative Jeff Howe meet in St. Paul. The DNR and the CSBC have differing understandings of the outcome of the meeting.

July 25, 2013 – Based on a multitude of factors facing the City in the search for water, DNR agrees to extend the expiration date of the Limited Appropriations Permit to Dec. 31, 2014.

\*Requirements of the extension state that ‘limited permit 1984-3211 and permit 1988-3220 will be terminated after Dec 31, 2014...In no case shall pumping be continued in excess of 24 MGY on 1984-3211’“ ...unless substantial documentation confirms that nitrate levels in the City of Cold Spring water supply system are worsening due to reduced pumping from Wells authorized under these permits. In no case shall pumping be continued in excess of 24 MGY from Limited Permit **#1984-3211**”

August 23, 2013 - CSBC submits another letter requesting a public hearing as required by the process. The letter was filed within thirty days of the postmark on the DNR letter. CSBC submitted a bond of \$500.00.

June 2013 – City tries to find a well that can provide water for the Brewing Company and to the City without negative impact to the trout stream.

Honer site:

\*June 2013 Drilled piezometer #797618 and a 6” test well #797607 at the Lance Honer site

\*July 2013 above mentioned well successfully test pumped

Cost estimate for a production well and piping at this site is \$970,000.

Began to search other sites after DNR opposition due to its proximity to the trout stream (9/10 mile)

Drilled a Test Hole at the Kevin Deirkhising site – 260 feet mostly clay. Hole sealed.

September 2013– City tries to find a well that can provide water for the Brewing Company and to the City without negative impact to the trout stream.

South Tower Site:

\*September 2013 Drilled 2” peizometer #803447 near South water tower. Vulnerable, no confining lay

October 2013- January 2014– City tries to find a well that can provide water for the Brewing Company and to the City without negative impact to the trout stream.

Blue Heron Heights Site:

\*October 2013 Drilled 2” peizometer #803440 on the South side of the City at Blue Heron Heights

\*January 2014 drilled a 10” test well #803455 at Blue Heron Heights. The wells was efficient but the aquifer could only sustain 130 gpm. Water quality tests are not valid. The well must be cleaned and resampled.

December 2014 – City tries to find a well that can provide water for the Brewing Company and to the City without negative impact to the trout stream.

Molitor Site:

\*December 2013; Molitor property.

-Drilled test hole #318311 in the NW corner. All clay.

-Drilled piezometer #802951 in the SE corner.

-Drilled piezometer #788570

-Drilled 6” test well #788570 in the SW corner. Pumped 235gpm for 50hrs.

Confined aquifer. Aquifer did not return to static level after 1 week

February 28, 2014

The City, CSBC and DNR met to further discuss the ongoing issues, also to determine whether the Brewery could get an extension of the expiration date of the well permits. In this meeting the DNR stated they would provide information to the City on natural features and wells located in City search areas.

March 26, 2014

In a letter to the City and CSBC, the DNR outlined the conclusions and next steps from the February meeting. One step was that the City and CSBC would draft a progress plan that the DNR and other state agencies could review and comment on (Item #7).

May 2, 2014

The City and CSBC replied to the DNR with a variety of information and clarification requests.

May 23, 2014

In a letter to the City and CSBC, the DNR responded to issues and questions from their March 26<sup>th</sup> letter as well as the response letter which pertained to a search area on the south side. The May 23 letter from the DNR included a list of many concerns with the drill area the City was considering. Concerns listed included natural features to the south, southwest, north and east of the drill area. An email expressed concern about maintaining water levels in Byer Lake.

While the DNR letter listed concerns, it did not prohibit drilling in the search area. Other items included in the letter were:

- Re: wells 1 and 2, "...neither well presents a viable water supply option that will not impact the trout stream."
- "Based upon the DNR technical analysis and current operation of City wells 4, 5 and 6, these wells can be considered for future use as a viable water supply for the City that will not impact the trout stream."

The DNR was in favor of meeting with other state agencies to ensure they are aware of the water supply challenges faced by the City and the Brewery.

After reviewing the May 23 letter and technical document from the DNR, engineers for the City from Stantec and SEH questioned the modeling used by the DNR. One stated; "Decisions that could potentially affect thousands of people and cost millions of dollars should not be based on the application of an oversimplified screening tool for a complicated groundwater-surface water interaction system." Another asked if the modeling accounts for recharging the aquifers (?), and further noted that South side exploration has its own set of potential water use issues.

#### July 8, 2014

The City and CSBC again replied to the DNR with a variety of information and clarification requests. The most notable of the requests are; an official determination on CSBC wells 1, 2 and 3, advanced research from the DNR on Wells 4, 5 and 6 and detailed guidance on well drilling areas to the South.

#### August 21 2014

Local Legislators and representatives of the City of Cold Spring, Cold Spring Brewing Company, GNP Company, Greater St. Cloud Development Corporation (GSDC), and MN Irrigation Association met at the GNP Company plant in Cold Spring with DEED (Kevin McKinnon, John Schoffner, Brad Brzezinski, and Kari Howe) to present the issues, the problems with finding a water source and the economic impact on the City of Cold Spring, the Cold Spring Brewing Company, GNP and its future expansion, and the agricultural related issues of the ongoing water search and the looming deadline of December 2014 for closing the existing wells. Discussion focused on the implications of the 2010 statute provisions, the prescriptive enforcement role of DNR in the legislation and the degree of latitude in interpretation and enforcement afforded in the existing statute provisions, the far reaching economic implications for other cities and businesses including all the agricultural uses with wells near State designated trout streams, the appropriate role for DEED, the apparent need for legislative action to address the requirements and provide for the cost impacts of this unfunded mandate, and the need to meet with the DNR Commission and Governor. Contact with MN Agri-Growth Council is suggested to determine alignment and collaboration in addressing this issue. A follow up meeting with DEED of this same group was scheduled for October 2<sup>nd</sup> at the Cold Spring Community Bank conference room (rescheduled to 9 a.m. on October 29<sup>th</sup>).

August 22, 2014

Sen. Tom Saxhaug (DFL-Grand Rapids) and Sen. Julie Rosen (R-Fairmont) announced the formation of a rural legislative task force. The bipartisan panel of eight Senators will work this fall to identify specific needs for rural Minnesota. Task force members include DFL Senators Tom Saxhaug, Kent Eken, Vicki Jensen and Kevin Dahle and Republican Senators include Julie Rosen, Gary Dahms, Bill Weber and Paul Gazelka. The group will concentrate on topics relating to education, health care and nursing home access, transportation, economic development, and property taxes. The implications of the 2010 trout stream legislation need to be shared with this task force.

August 25, 2014

Contact is made by GSDC with Perry Aasness, Executive Director of the MN Agri-Growth Council. Strong alignment is apparent and effort to secure a meeting with DNR Commissioner Landwehr and potentially Governor Dayton is agreed upon. Perry also indicates intent to apprise Senator Rosen of this situation and a desire to have it presented to the bipartisan rural legislative task force.

September 3, 2014

St. Cloud Area Chamber of Commerce members host a round table discussion with Minnesota Speaker of the House Paul Thissen to discuss economic development. Rep. Howe is in attendance along with Patti Gartland and Bill Kemp from GSDC. Rep. Thissen is made aware of the issues facing Cold Spring and the Cold Spring businesses because of the 2010 Statute and he is provided a copy of the most recent Executive Summary.

September 5, 2014

Kari Howe, DEED, provides the following update to GSDC on the trout stream matter: Mark Lindquist from the DNR, and Kari Howe who are staff team member on Minnesota Business First Stop, have weekly "touch base" phone call meetings with Paul Hoeschen and Brent Neisinger to ensure things are moving along. Paul and Brent indicate they feel the communication has improved a lot with the DNR and are very appreciative of the weekly phone calls. The City continues to work on the permit extension and have a couple of potential well location options that will be included in the Progress Plan and subsequent Extension Request. Brad Brzezinski, DEED, is working with the USDA on possible funding assistance. Kari tours Cold Spring to learn more about the options for the City and the Brewery. On September 2<sup>nd</sup>, DEED Commissioner Katie Clark Sieben and Kevin McKinnon are provided an update by Kari via conference call.

October 14, 2014

A draft "progress plan" dated 10-13-14 is completed by the City and brewing company to present to the DNR for a meeting of various State agencies, the City and the brewing company schedule for the afternoon of October 20<sup>th</sup>. While the "progress plan" doesn't identify a viable solution to comply with the action required by the DNR to achieve compliance with the 2010 legislative, it identifies the intending continuing process and timeline anticipated to attain compliance as currently being required. The DNR has indicated presentation of an acceptable "progress plan" is necessary for an extension of the enforcement timeline.

#### October 20, 2014

Executive level representatives of the City (Paul Hetland), Cold Spring Brewing Company (Doug DeGeest), GNP Company (Lexann Reischl), Greater St. Cloud Development Corporation (Patti Gartland), and MN Agri-Growth Council (Perry Aasness & Cory Bennett) are scheduled to meet with DNR Commissioner Landwehr at 11 a.m. At 2 pm, authors of the 10-13-14 Draft Progress Plan for the City and brewery are scheduled to meet with various State agency representatives.

#### October 29<sup>th</sup>, 2014

Meeting with DEED, Ag interests, City of Cold Spring and Cold Spring Brewery, GSDC, GNP and others to update group on the meeting with the DNR. The news was the DNR is now able to consider something other than zero impact. They could tolerate as much as 15% impact using their modeling.

#### November 14, 2014

City of Cold Spring and Cold Spring Brewery submitted Progress Plan and Request to extend the Permit 1984-3211 to December 31 2017. The progress plan noted that 18 sites have been evaluated and 13 of the sites are still under consideration.

#### December 17, 2014

Extension Request Granted - Findings of Fact regarding Water Appropriation Permit 1984-3211 and approval of request to extend permit to December 31, 2017.

#### November 2014 – June 2015

The City of Cold Spring, with DNR input, located an encouraging water source location on a 10 acre site on the Froehle farm which is about a mile from the City water lines. Drilling was delayed due to negotiations between the City and the property owner and the DNR had to review and approve the City Pumping Plan. The City drilled two exploratory wells and had them sealed and since the wells looked favorable, they drilled three monitoring wells and one test well. City must now perform several tests to determine if this is, in fact, a good location. The tests include: a Yield Test, a Permit Test, an Aquifer Test, and a Resource Test. These tests check for water volume, and water quality along with other things.

The first test was done during the week of June 22 and showed good volume but the test did show high nitrate levels at 8 parts/million, but as more water was pumped the nitrate level went down to acceptable levels which is a hopeful sign. More tests will be run during the summer to test for iron, manganese and nitrates. If the tests show high levels of any of these elements, the city will have to build a treatment plant.

Legislation was passed during the 2015 Legislative sessions that calls for the DNR to meet with stakeholders to determine the criteria to be used to measure impact [Section 143, of the Agriculture and Environment Omnibus Bill]. The stakeholders must include agriculture groups, environmental interests, businesses, community water suppliers, various agencies, universities and others. The DNR must issue a report by December 15<sup>th</sup> to the Legislative Water Commission and the MN Legislative leadership who will then determine the reasonableness of the standards



and to determine if additional actions need to be taken which might include more legislative action in the 2016 Legislative session.

### July 3, 2015

Paul Hoeschen, City of Cold Spring Public Works Director, resigned in June for a new career opportunity in Sauk Centre.

### July – December 2015

Five Stakeholder meetings were held to seek input on the Groundwater Thresholds Project pursuant to Legislation. The Report as a result of these meeting will be prepared to send to the Legislature by Christmas of 2015.

## **ECONOMIC IMPACT**

### **Cold Spring Brewing Company Economic Impacts/ Implications**

- Cold Spring Brewing Company (CSBC) currently employs 250 people
- CSBC will pay \$473,600 in property taxes in 2013 & are ranked as the 20th largest taxpayer in Stearns County
- CSBC has an annual payroll of \$15,523,000 with an estimated \$32,132,610 of economic impact in the region based on a payroll multiplier of 2.07 (source: MN Department of Employment & Economic Development – DEED)
- CSBC is the City of Cold Spring's largest taxpayer. CSBC represents 10.61% of its total tax base carrying a more significant impact to its economic viability than Hormel is to the City of Austin and the Mayo Clinic is to the City of Rochester (graphic depicted below).
- If required to obtain all of its water supply needs from City wells, CSBC will face annual water fees of \$200,000- \$600,000. This added cost is the equivalent of 4 to 10 jobs. CSBC would also incur additional costs to plumb City water into its facility as well as costs associated with removing chemicals introduced during the City water treatment process, in order to meet production quality requirements for their products.
- The City of Cold Spring estimates they have spent \$200,000 to date searching for a water source.

### **Cost Implications of the Well Permitting Situation as Currently Understood**

- If CSBC is required to use City water for its production needs, additional water supply sources must be found to meet City water demands. The estimated cost to the City for well drilling, piping and treatment plant construction is estimated at \$8 million. This assumes an adequate supply can be found relatively close and within DNR and MHD guidelines.
- In order to meet trout stream protection measures suggested by the DNR, additional water sources are likely to be located further away from the City (>1.5 miles), resulting in significant additional costs to pipe the water to the City.

- If CSBC wells are no longer used, City Wells #4, #5 and #6 are expected to draw more nitrates, resulting in the need for a water treatment plant with the capability to remove nitrates. The City will incur the cost of building and operating a new treatment plant (estimated construction cost at \$2.75 – 3.25 million) at that site. A new water source will probably require an iron and manganese removal treatment plant (estimated construction cost at approximately \$2 – 2.5 million). New pipe is estimated at \$370,000 per mile. Additional costs for exploration, design, High Voltage power, distributions system valves, Land, well abandonment and financing will add to these numbers making the total cost estimate to be close to 8 million. The City has already spent \$115,787 on 2 Engineering companies and 3 well drillers for 10 wells that have failed to locate a new water source.
- The City would also expect to spend \$100,000 in annual operating expenses
- The DNR must approve any City and/or CSBC solution to the well situation as currently understood, based on written and verbal direction from the DNR to date. DNR has given the City no definitive direction as to what they will approve but has imposed an extended compliance deadline that is now believed unachievable based on difficulties of the past.
- Definitive requirements and a DNR and MDH approved plan that will meet the City and CSBC's current and projected water needs is necessary and warranted prior to the City and CSBC incurring the additional costs of locating potential replacement well (s), treatment facility and piping.

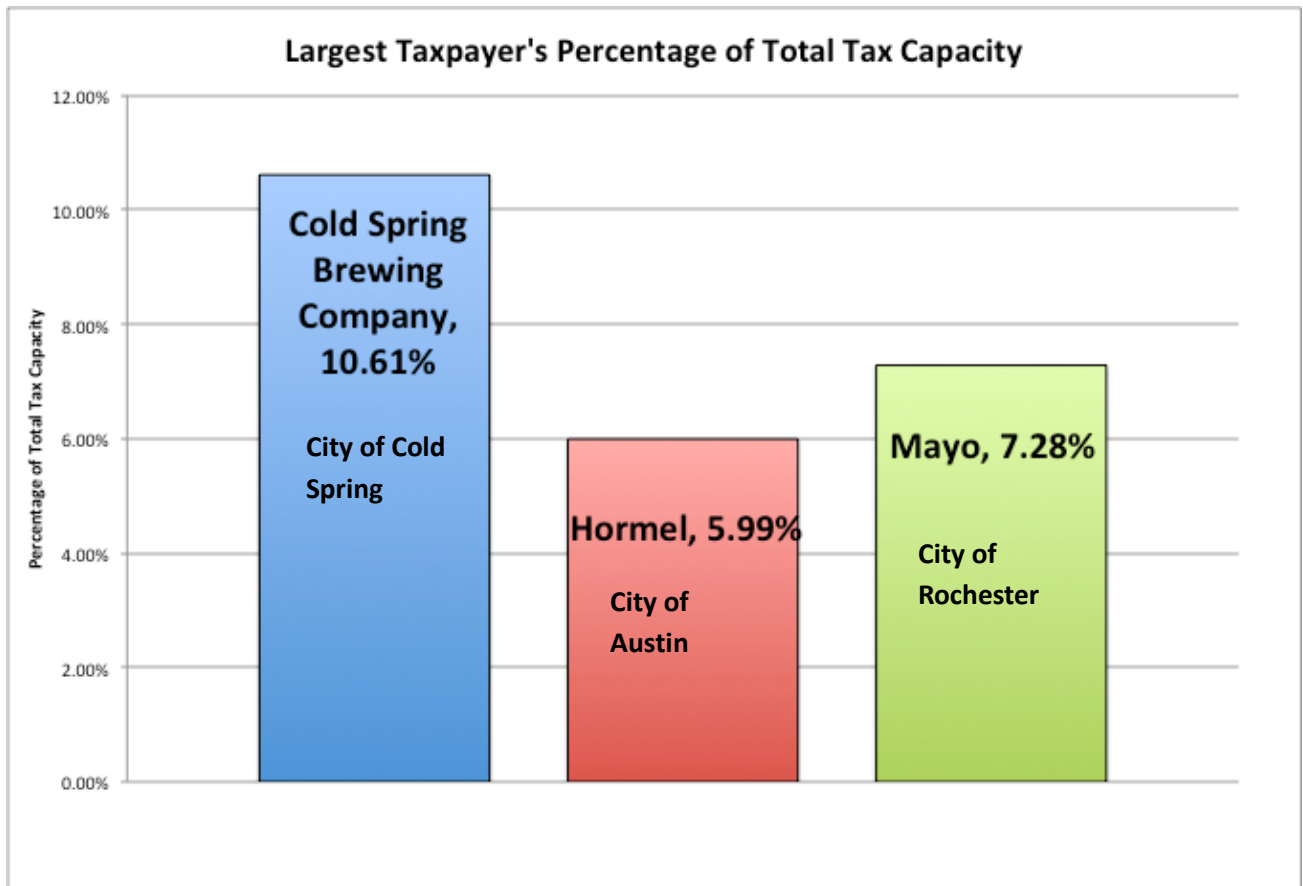
### **Community and Economic Impact Costs**

- If CSBC uses City water, additional sources must be found to meet City water demands. The cost of this to the City is expected to be as high as \$8 million, assuming adequate supply can be found within DNR and MHD guidelines.
- Additional water sources are likely to be located farther away from the City, resulting in additional costs to pipe the water to the City.
- If CSBC wells are no longer used, the City Wells #4, #5 and #6 are expected to draw more nitrates, resulting in the need for a water treatment plant with the capability to remove nitrates. The City will incur the cost of building and operating a new treatment plant.
- The DNR must approve any City solution to their water problems. DNR has given the City no directions as to what they will approve.

### Comparable Impacts

Community	Taxable Tax Capacity of Largest Taxpayer	Taxable Tax Capacity	Percentage of Total Tax Capacity	Largest Tax Payer
Cold Spring	272,372	2,568,268	10.61%	Cold Spring Brewing Company
Austin	602,269	10,049,857	5.99%	Hormel
Rochester	7,166,408	98,473,907	7.28%	Mayo

Source: 2012 CAFR





**City of Cold Spring, MN**  
**Well Locations**

December 2013

