

Appendix G

STATE OF WISCONSIN
DEPARTMENT OF AGRICULTURE, TRADE AND CONSUMER PROTECTION
2811 Agriculture Drive, P.O. Box 8911
Madison, WI 53708-8911

IN THE MATTER OF THE COUNTY
LAND AND WATER RESOURCE
MANAGEMENT PLAN FOR
WAUKESHA COUNTY

DATCP DOCKET NO. 12-M-12
LWCB DOCKET NO. 12-34-67-000-L-1
ORDER AMENDING DATCP DOCKET
NO. 10-M-09, CONDITIONS ON FUTURE
PLAN APPROVAL, AND APPROVING
THE REVISED PLAN THROUGH
DECEMBER 31, 2021, CONTINGENT ON
A REVIEW IN 2016 THAT MEETS LWCB
GUIDANCE PROVISIONS

INTRODUCTION

The State of Wisconsin Department of Agriculture, Trade and Consumer Protection ("department"), having consulted the State of Wisconsin Land and Water Conservation Board ("LWCB"), makes the following findings of fact and conclusions of law and enters the following order under s. 92.10(4), Wis. Stats.

FINDINGS OF FACT

- (1) Paragraphs (1) through (14) from the "Findings of Fact" in the December 20, 2010 Order extending the revised plan through December 31, 2011, *In the Matter of a Waiver of Soil and Water Rules (Sec. 50-12(5), Wis. Admin. Code) and the Waukesha County Land and Water Resource Management Plan*, DATCP Docket No. 10-M-09 and LWCB Docket No., 10-30-67-000-L-1, are incorporated by reference as if fully set forth herein. A copy of the Order is on file at the Land and Water Resource Bureau of the Wisconsin Department of Agriculture, Trade and Consumer Protection at 2811 Agriculture Drive, Madison, WI 53708-8911.
- (2) On December 20, 2010, the department granted a waiver of the five-year restriction on LWRM plan approval (in then-current ATCP 50.12(5)), and approved a one-year extension of the 2006 Waukesha County land and water resource management plan until

December 31, 2011, as more fully described in DATCP Docket No. 10-M-09/LWCB Docket No. 10-30-67-000-L-1.

- (3) The 2010 Order included the conditions, first, that Waukesha County submit an annual workplan for 2011, and second, that the new plan would be limited to a four year term.
- (4) On August 1, 2011, ATCP 50.12(5) was changed and plan approvals can now be a maximum of 10 years.
- (5) On May 15, 2012, Waukesha County submitted its revised (2012) land and water resource management plan to the LWCB and department for review.
- (6) The Waukesha County land and water resource management plan, as submitted to the LWCB, meets the requirements in s. 92.10(6), Wis. Stats., and ss. ATCP 50.12 and ATCP 50.30(3), Wis. Admin. Code, as set forth in the approved guidelines.
- (7) On June 5, 2012, the LWCB found that the revised (2012) Waukesha County land and water resource management plan met Sections I and II of its guidance criteria for a ten year plan approval. (The LWCB guidance, which became effective as of February 27, 2012, is available at http://datcp.wi.gov/Environment/Land_and_Water_Conservation/Land_and_Water_Conservation_Board/index.aspx).
- (8) The LWCB recommended approval of the plan for ten years, contingent on a five year review, notwithstanding Condition No. 4 in the 2010 Order limiting approval of this Waukesha County land and water resource management plan to four years, since the August 2011 rule change that allows ten year plan approvals went into effect after the 2010 Order limited this plan approval to four years.
- (9) On June 5, 2012, the LWCB recommended approval of the revised (2012) Waukesha County land and water resource management plan until December 31, 2021, contingent on Waukesha County submitting to a five-year review by the LWCB in 2016 and meeting the requirements in Section III of the LWCB guidance.

- (10) On July 24, 2012, the Waukesha County Board approved the revised (2012) Waukesha County land and water resource management plan with changes not in the version reviewed by the LWCB.
- (11) The changes to the plan approved by the Waukesha County Board meet the standards in s. 92.10, Wis. Stats., ss. ATCP 50.12 and 50.30(3), Wis. Admin. Code.
- (12) The department may approve this plan without further recommendations from the LWCB because the changes to the plan do not affect compliance with the standards in s. 92.10, Wis. Stats., the applicable rules and guidelines, and the plan still meets these requirements.
- (13) Notwithstanding the 2010 department Order, DATCP Docket No. 10-M-09, and LWCB Docket 10-30-67-000-L-1, the department may approve this plan for up to 10 years and may place conditions and contingencies on said approval, thus amending its previous 2010 Order.

CONCLUSIONS OF LAW

- (1) The department is responsible for approving county land and water resource management plans under s. 92.10, Wis. Stats. The LWCB is responsible for making recommendations to the department regarding approval or disapproval of the land and water resource management plans.
- (2) In order to be approved by the department, a county land and water resource management plan must comply with standards specified under s. 92.10, Wis. Stats.
- (3) The Waukesha County land and water resource management plan, including changes made by the Waukesha County Board, complies with s. 92.10(6), Wis. Stats., and ss. ATCP 50.12 and ATCP 50.30(3), Wis. Admin. Code and may be approved by the department.
- (4) Based on Findings of Fact (1) through (13) above, the department should issue an order approving the revised (2012) Waukesha County land and water resource management

plan for a term ending December 31, 2021, subject to the LWCB review specified in Finding of Fact (9) above.

ORDER

NOW, THEREFORE, IT IS ORDERED that:

- 1) Pursuant to s. 92.10, Wis. Stats., the revised (2012) Waukesha County land and water resource management plan is approved through December 31, 2021.
- 2) This order is contingent on a LWCB review in 2016, in which the county must meet the requirements referenced in Finding of Fact (9) above relating to the five-year review of a plan approved for ten years.
- 3) If the department receives a finding from the LWCB that Waukesha County has failed to meet the LWCB guidance, this order is automatically modified to approve the plan only through December 31, 2016. The county will be notified of this modification and is then responsible for submitting a revised land and water resource management plan for department approval to continue its eligibility for department grant funding.

Dated this 28th day of August, 2012.

STATE OF WISCONSIN
DEPARTMENT OF AGRICULTURE,
TRADE AND CONSUMER PROTECTION

By Ben Brancel
Ben Brancel, Secretary