

October 18, 2006

**TO THE MEMBERS OF THE BROWN
COUNTY BOARD OF SUPERVISORS**

Ladies and Gentlemen:

The LAND CONSERVATION SUB COMMITTEE met in regular session on September 25, 2006, and recommends the following motions.

1. Review of draft proposed changes to Brown County Animal Waste Management Ordinance, Brown County Code of Ordinances, Chapter 26.
 - a) Set the fee for violation of animal waste management to no more than \$250.
 - b) Request ordinance be re-written with the proposed changes.
2. Request for Budget Transfer: Increase in Expenditures with Offsetting Increase in Revenue: Land Conservation Dept is requesting to add \$20,000 for buffer installation for landowners (CREP program) from DNR. All expense fully reimbursed by State of Wisconsin DNR. Approve.
3. Update of Resolution re: Creating a Special Revenue Fund in the amount of \$40,000 to be administered by the Brown County Land Conservation Dept. for expenses related to Ground Water Contamination of Wells through Calendar Year 2009. Committee approved. See Resolutions, Ordinances October County Board.
 - a) Morrison Township request for payment with regard to Resolution. (Will be held until after Administration Committee of September 26, 2006 and County Board meeting of October 18, 2006.) Hold for one month.
4. Variance Request from Chapter 26 Brown County Animal Waste Management Ordinance by Lardinois Farm, Pittsfield. (Carried forward from August Land Conservation Committee for design engineer to present options, along with Bill Bosiacki of Zoning Department.) Receive & place on file.
5. DATCP staff funding – correspondence. Receive & place on file.
6. Department Budget update. Receive & place on file.
7. Director's Report. Receive & place on file.

Approved by:

COUNTY EXECUTIVE

Date

**PROCEEDINGS OF THE BROWN COUNTY
LAND CONSERVATION SUBCOMMITTEE**



Pursuant to Section 18.94 Wis. Stats., a regular meeting of the **Brown County Land Conservation Subcommittee** was held on Monday, September 25, 2006 in Room 161 – UW-Extension, 1150 Bellevue Street, Green Bay, Wisconsin

Present: Bernie Erickson, Norb Dantine, Mike Fleck, Dave Kaster,
Merlin VandenPlas, John VanderLeest

Also Present: Bill Hafs, Jon Bechle, Bill Bosiacki
County Board Chairman Tom Lund
Jen Baumgart/Sue Mielcarek /Media

Land Conservation Fall Tour @ 5:00 p.m.

**5:30 – 5:45 – Karst Features in Ag Field - Ervin Kerkoff Property, Glenmore
6:00 – 6:40 p.m. – Wiese Farm Manure Incineration/Energy Generation Facility
7:00 p.m. – Return to Land Conservation**

1. **Call Meeting to Order:**
The meeting was called to order by Chairman Dantine at 7:30 p.m.

2. **Approve/Modify Agenda:**

Motion made by Supervisor Erickson and seconded by Supervisor Kaster to approve the agenda. MOTION APPROVED UNANIMOUSLY

3. **Approve/Modify Minutes of Land Conservation Subcommittee of August 28, 2006:**

Motion made by Supervisor VanderLeest and seconded by Supervisor Kaster to approve the minutes. MOTION APPROVED UNANIMOUSLY

4. **Review of Draft Proposed Changes to Brown County Animal Waste Management Ordinance – Brown County Code of Ordinances, Chapter 26:**

Jon Bechle referred to the Brown County Code of Ordinances, Chapter 26, related to Animal Waste Management in packets. In addition, he distributed a communication from Christopher Paquet of the Corporation Counsel's office (attached) in regard to violation of fees. When reviewing fee schedules in other counties, Mr. Paquet found that fees were set at not less than \$100, nor more than \$500, for the cost of prosecution of each violation. Currently Brown County charges not more than \$50.

Also highlighted were revisions and changes proposed to the ordinance as a result of changes in State Statute. The main additions to the ordinance are to include provisions for requirements for a winter spreading plan, and provisions for temporary unconfined manure stacks.

Discussion by the committee resulted in the consensus to raise the \$50 violation fee to no less than \$250 in order to maintain compliance. Chapter 26.21(2), would read "Any person who violates, neglects, or refuses to comply with . . . will be subject to forfeiture no less than \$250, plus cost of prosecution".

Motion made by Supervisor VanderLeest and seconded by Supervisor Kaster to set the fee for violation of animal waste management to no more than \$250.

Motion was amended by VanderLeest and Kaster to request the ordinance be re-written with the proposed changes.

MOTION APPROVED UNANIMOUSLY

A Public Hearing will be scheduled for the next Land Conservation Subcommittee meeting on 10/23/06 at 6 p.m.

5. **Request for Budget Transfer: Increase in Expenditures with Offsetting Increase in Revenue: Land Conservation Dept is requesting to add \$20,000 for buffer installation for landowners (CREP Program) from DNR. All expenses full reimbursed by State of Wisconsin DNR:**

Motion made by Supervisor VanderLeest and seconded by Supervisor VandenPlas to approve. MOTION APPROVED UNANIMOUSLY

6. **Update of Resolution re: Creating a Special Revenue Fund in the amount of \$40,000 to be administered by the Brown County Land Conservation Dept for expenses related to Ground Water Contamination of wells through Calendar Year 2009. (See Administration Committee agenda for September 26, 2006, #7):**

Bill Hafs reported that this resolution will be going to the Administration Committee at their meeting tomorrow, 9/26/06, for approval. Board Chairman Lund stated he would be attending the meeting and would answer any questions.

Motion made by Supervisor VanderLeest and seconded by Supervisor Kaster to approve. MOTION APPROVED UNANIMOUSLY

- a) **Morrison Township request for payment with regard to Resolution. (Will be held until after Administration Committee of 9/26/06 and County Board meeting of 10/18/06):**

Motion made by Supervisor VanderLeest and seconded by Supervisor Erickson to hold for one month. MOTION APPROVED UNANIMOUSLY

7. **Variance Request from Chapter 26 of Brown County Animal Waste Management Ordinance for Lardinois Farm, Pittsfield. (Carried forward from August Land Conservation Committee for design engineer to present options, along with Bill Bosiacki of Zoning Department):**

Mr. Hafs announced that the Lardinois' have contacted his office informing him that their plans have changed. Instead of the original plan which would have infringed on the 100 foot setback of property lines, they have decided to add a 140' addition on the east side of the barn in a freestall situation. This will be more than 100' from the property line. They will not be adding any additional manure storage, but will use what they have existing. Therefore, the request for a variance has been pulled.

Motion made by Supervisor Erickson and seconded by Supervisor Kaster to suspend the rules to allow interested parties to speak.

MOTION APPROVED UNANIMOUSLY

Jen Baumgart – Pulaski

Sue Mielnarek – Green Bay

Both Ms. Baumgart and Ms. Mielnarek confirmed their understanding that the variance will now be dropped.

Motion made by Supervisor VanderLeest and seconded by Supervisor Erickson to return to regular order of business.

MOTION APPROVED UNANIMOUSLY

Motion made by Supervisor VanderLeest and seconded by Supervisor Kaster to receive and place on file. MOTION APPROVED UNANIMOUSLY

8. **DATCP Staff Funding – Correspondence:**

Mr. Hafs gave an update to the proposal by the Wisconsin Department of Agriculture, Trade & Consumer Protection who has proposed reducing staff funding needed to work with landowners in Morrison by \$122,544 in the 2007 Joint Preliminary Allocation Plan for the Soil Water Resource Management Program. They are instead proposing that this funding be distributed to all other counties in the state.

A response by Mr. Hafs to that agency was distributed (attached). He gave suggestions on how the State law could be changed. He will be attending a meeting of the Land & Water Board on 10/3/06 to further address the issue.

Motion made by Supervisor VanderLeest and seconded by Supervisor Erickson to receive and place on file. MOTION APPROVED UNANIMOUSLY

9. **Department Budget Update:**

Proposed budget was distributed for review. Mr. Hafs indicated that expenditures are less than budgeted as of this time. Fees for animal waste storage are not yet recorded.

Motion made by Supervisor VanderLeest and seconded by Supervisor Kaster to receive and place on file. MOTION APPROVED UNANIMOUSLY

10. **Director's Report:**

Mr. Hafs announced the following upcoming meetings:
10/3/06 – Land & Water Board Meeting in Madison
10/13/06 – Lake Michigan Association Meeting in Sheboygan.

Motion made by Supervisor VanderLeest and seconded by Supervisor Erickson to receive and place on file. MOTION APPROVED UNANIMOUSLY

11. **Such Other Matters as Authorized by Law:**

Mr. VandenPlas requested a budget book.

Next Agenda:

Public Hearing

6:00 p.m. prior to Land Conservation Meeting on 10/30/06

Motion made by Supervisor VanderLeest and seconded by Supervisor VandenPlas 7:55 p.m. MOTION APPROVED UNANIMOUSLY

Respectfully submitted,

Rae G. Knippel
Recording Secretary

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Bechle_JE

From: Paquet_CC
Sent: Friday, September 22, 2006 10:13 AM
To: Bechle_JE
Cc: Hafs_BC; Jacques_JC
Subject: RE: RE: Chapter 26 Revisions

I believe that is a policy determination, keeping in mind the higher the forfeiture the higher the likelihood that the matters will be contested. However, from a legal prospective, an examination of similar counties (that being within the same agricultural / urban dynamic of Brown County) should be examined. From what I reviewed, it would appear that we are on par with other similar counties (throwing out Dane).

That is really up to the Board, but if they want increased fines, that is an easy amendment to make.

FYI:

Fond du Lac County

Sec. 14-46. Violations.

(a) *Penalties.* Any person who violates, neglects, or refuses to comply with or resists the enforcement of any of the provisions of this article shall be subject to a forfeiture of not less than \$100.00 nor more than \$500.00 plus the costs of prosecution for each violation. An unlawful violation includes failure to comply with any standard of this article or with any condition or qualification attached to the permit. Each day a violation exists shall be a separate offense.

(b) *Enforcement by injunction.* As a substitute for or in addition to forfeiture actions, the county may seek enforcement of any part of this article by court actions seeking injunctions or restraining orders.

Waukesha:

DIVISION 1. In General

Sec. 14-753. Violations and penalty.

(a) The provisions of this chapter may be enforced by injunction in any court of competent jurisdiction.

(b) The holding of an assembly in violation of any provision or condition contained in this chapter shall be deemed a public nuisance and may be abated as such.

(c) Any person who violates this chapter or any condition upon which he is granted a license may be fined not less than one thousand dollars (\$1,000.00) or more than ten thousand dollars (\$10,000.00). Each day a violation continues or exists shall be considered a separate offense.

Let me know if you have any other concerns.....

Christopher C. Paquet
Assistant Corporation Counsel
ext. #4009

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-----Original Message-----

From: Bechle_JE
Sent: Friday, September 22, 2006 9:21 AM
To: Paquet_CC
Cc: Hafs_BC; Jacques_JC
Subject: RE: RE: Chapter 26 Revisions

Christopher:

Thank you for reviewing the draft for us and providing your comments. One of the areas in the ordinance that wasn't revised in the draft was section 26.12, Violations. We have heard comments that our penalties are not high enough and that it is less costly to violate the ordinance than to comply. Do you or John have any thoughts on this or have suggestions on what an increased forfeiture amount should be? Thank you.

Jon

*Jon Bechle
 Program Manager
 Brown County LCD
 391-4638*

-----Original Message-----

From: Paquet_CC
Sent: Thursday, September 21, 2006 9:41 AM
To: Bechle_JE
Cc: Hafs_BC; Jacques_JC
Subject: RE: Chapter 26 Revisions

Jon,

I have reviewed the draft revision of §26 of the Brown County Code. I believe that you have drafted it in such a manner that it is unambiguous and clearly written. It also provides for the necessary appeals and permits to create an ordinance which satisfies equal protection and due process. I cannot see anything that needs to be changed.

If there was anything you were specifically concerned about, please advise, otherwise, I believe this is a strong revision to §26.

Thank you.

Christopher C. Paquet
 Assistant Corporation Counsel
 ext. #4009

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9/22/2006

October 18, 2006

TO THE HONORABLE CHAIRMAN AND MEMBERS
OF THE BROWN COUNTY BOARD OF SUPERVISORS

Ladies & Gentlemen:

**RESOLUTION CREATING A SPECIAL REVENUE FUND IN THE AMOUNT
OF \$40,000 TO BE ADMINISTERED BY THE BROWN COUNTY LAND
CONSERVATION DEPARTMENT FOR EXPENSES RELATED TO GROUND
WATER CONTAMINATION OF WELLS THROUGH CALENDAR YEAR 2009**

WHEREAS, in 2006, over 100 wells were contaminated in the Town of Morrison by bacteria and nitrates which posed a significant public health risk; and

WHEREAS, the well contamination problem in the Town of Morrison was the worst documented well contamination problem in the history of Wisconsin; and

WHEREAS, groundwater expenses are estimated to exceed the normal operations of towns in Brown County in 2007, 2008 and 2009, including those expenses for well contamination problems in the community of Lark in the Town of Morrison; and

WHEREAS, in the State of Wisconsin, there have been 52 manure related spills in 2005 which resulted in surface and groundwater contamination, which poses a serious threat to the environment and creates a public health risk; and

WHEREAS, over 70 old, unused wells have been identified in the Town of Morrison which need closure for safety and to prevent further groundwater contamination and such old, unused wells are located throughout all of Brown County, which provide a direct conduit to groundwater that can cause groundwater contamination; and

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WHEREAS, groundwater issues require the following actions to protect wells from future contamination such as; yearly well testing, proper abandonment of old unused wells, well inspections, development of winter spreading plans for land applicators, development of nutrient management plans (Standard 590), identification and staking of karst features which are a direct conduit to groundwater, protection of karst features with buffer strips and sinkhole closure, updating and inspection of Animal Waste Storage facilities; and

WHEREAS, \$40,000 has been appropriated by Brown County for the purpose of assisting Town of Morrison residents in meeting the expenses incurred for ground water contamination of wells; and

WHEREAS, the \$40,000 previously appropriated would best meet these enumerated expenses in the future by being designated as a separate Special Revenue Fund to be administered by the Brown County Land Conservation Department; and

NOW THEREFORE, BE IT RESOLVED by the Brown County Board of Supervisors that the amount of \$40,000 previously appropriated and allotted for well contamination issues, shall be created and designated as a separate Special Revenue Fund for the sole purpose to be available for expenses incurred for groundwater issues as to protect against further well contamination in Brown County for a period of three years, or through December 31, 2009.

NOW THEREFORE, BE IT FURTHER RESOLVED by the Brown County Board of Supervisors that the \$40,000 come from the General Fund and that the Special Revenue Fund be administered by the Land Conservation Department and is to be used for the sole purpose of meeting expenses related to groundwater contamination of wells

in all towns in Brown County Program for the time period through December 31, 2009
and that any unexpended funds remaining lapse to the General Fund on that date.

Fiscal Impact: See attached.

Respectfully submitted,

LAND CONSERVATION
COMMITTEE

PLANNING, TRANSPORTATION
& DEVELOPMENT COMMITTEE

ADMINISTRATION COMMITTEE

Approved By:

COUNTY EXECUTIVE

Date Signed: _____

Final Draft Approved by Corporation Counsel

BOARD OF SUPERVISORS ROLL CALL # _____

Motion made by Supervisor _____

Seconded by Supervisor _____

SUPERVISOR NAMES	DIST. #	AYES	NAYS	ABSTAIN
WARPINSKI	1			
DE WANE	2			
NICHOLSON	3			
THEISEN	4			
KRUEGER	5			
HAEFS	6			
ERICKSON	7			
KAYE	8			
ZIMA	9			
EVANS	10			
VANDER LEEST	11			
JOHNSON	12			
DANTINNE, JR	13			

SUPERVISOR NAMES	DIST. #	AYES	NAYS	ABSTAIN
LA VIOLETTE	14			
ZELLER	15			
KASTER	16			
BACKMANN	17			
VAN DEURZEN	18			
FLECK	19			
CLANCY	20			
DE CLEENE	21			
ZABEL	22			
SCRAY	23			
HOEFT	24			
LUND	25			
FEWELL	26			

Total Votes Cast _____

Motion: Adopted _____ Defeated _____ Tabled _____

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LAND CONSERVATION DEPARTMENT

Brown County

Agriculture and Extension Service Center
1150 Bellevue Street
Green Bay, WI 54302
Phone: (920) 391-4620 Fax: (920) 391-4617

BILL HAFS
COUNTY CONSERVATIONIST

September 25, 2006

Secretary Rodney J. Nilsestuen
Wisconsin Department of Agriculture, Trade and Consumer Protection
P.O. Box 8911
Madison, Wisconsin 53708-8911

Dear Secretary Nilsestuen,

I have received a suggested response from DATCP (attached) that was sent to Brown County Legislators regarding Brown County Land Conservation Departments comments on the 2007 Soil and Water Allocation Plan.

I wish to clarify and explain Brown County comments and provide the most up to date information regarding the Morrison Township well contamination to help clear up some misunderstandings and incorrect information in the DATCP suggested response.

1. Brown County is not asking for an extension of the Branch River Priority Watershed to help address the new increased workload associated with the well contamination problem in Morrison Township. Brown County is respectfully asking for DATCP help us with a very serious problem and to use their "legal discretion" under ATCP 50.32 (5) (a) "to adjust grant awards from year to year" based on "other factors" identified in s. ATCP 50.30 such as: ATCP 50.30(2) (d) "The relative severity and priority of the soil erosion and water quality problems addressed."

- DATCP states *"It is not fair to allow one county, **no matter how unfortunate their circumstances**, to undo established allocation policies that were based on legislative directives and extensive input from key stakeholders such as county organizations."*

Some thing is wrong with an allocation policy that is not able (or willing) to help people with serious problems, "no matter how unfortunate their circumstances". I doubt that this statement was the legislature intent. Hurricane Katrina victims in New Orleans would have no hope with this sort of logic.

- Brown County acknowledges that it is simple and easier for DATCP to administer a program formula that provides staff funding equally to all counties regardless of the amount of agriculture or severity of current problems. We think prioritization and adjustment of grants allowed in ATCP 50.32 (2) (d) is a reasonable request and a preferred approach when there are insufficient funds.
- Reallocation of phased out staffing grants from watersheds that are closing could and should be redistributed to critical areas like Morrison based on ATCP 50.30(2) (d) "The relative severity and priority of the soil erosion and water quality problems addressed."

- Under spent dollars by counties (counties not able to utilize the staffing dollars offered in the current formula used by DATCP) could be redistributed to critical areas like Morrison rather than redistribute those dollars to all counties.
 - Current allocation formulas do not allow for priority funding for critical issues. The Morrison issue is a human health issue that needs prioritization above the standard soil erosion and surface water quality funding of the past.
2. The DATCP suggested response states: *"Brown County is providing inaccurate information about the soil and water allocation plan"*
 - The source of the information provided by Brown County can be found in ATCP 50.32. (5): DATCP has "legal discretion" under ATCP 50.32 (5)(a) "to adjust grant awards from year to year" based on "other factors" identified in s. ATCP 50.30 such as : ATCP 50.30(2) (d) "The relative severity and priority of the soil erosion and water quality problems addressed."
 - Equal funding for counties does not adequately address critical problems or pollution risks that are greater in some locations of Wisconsin. The recommendations from WLWCA regarding distribution of remaining money were made before the current problems existed.
 - If state cannot afford state wide programs to pay for all non point pollution abatement, then they should prioritize funding to where people are impacted the most.
 3. The DATCP suggested response states: *The Center for Disease Control and Prevention (CDC) estimates that 23% of Wisconsin's private wells are contaminated by total coli form bacteria on a state-wide basis.* This implies the well contamination problems in Morrison in 2006 are to be expected and routine.

Water testing was conducted in Morrison from January to May by Brown County Health Department. Over 500 water samples were taken.

In May 2006 water testing was conducted by the *UW Stevens Point Groundwater Center for Watershed Science and Education*. 126 wells were tested.

Results:

- Over 100 wells total in Morrison were contaminated with ecoli, coli form bacteria or nitrates in 2006.
 - 34 % of the 126 wells tested by UW Stevens Point are higher than the drinking water standard (10 ppm) for nitrates.
 - 34% is over 3 times the state average for wells over Nitrate Drinking water standards.
 - These test results are significantly higher than state averages and should not to be ignored.
4. The DATCP suggested response states: *The Legislature would have to annually appropriate more than \$150,000,000 to DATCP, if each town in Wisconsin were given \$122,500 in county staffing grants to correct this problem.*
 - We did not mean to suggest that every township in Wisconsin be funded by \$122,500. We are asking for help for a serious problem in Morrison Township and asking DATCP to use its legal discretion under ATCP 50. 32 to reallocate phased out staffing grants from watersheds that are closing to priority areas to help people with drinking water problems.

I have attached a copy of the current workload for Morrison for 2007. Brown County and the Town of Morrison have already expended significant additional resources in Morrison in 2006. It is our hope and sincere request that DATCP will support the largest well contamination problem in the history of Wisconsin that has occurred in one year with additional financial resources.

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The Joint Allocation process needs to be flexible and change with the times. The 2007 Preliminary Joint Allocation formulas attempt to create a level playing field and equal access to funding by counties however these funding policies do not adequately address agriculture groundwater concerns or agriculture non point performance standards and prohibitions.

A possible solution could be:

1. Maintain a basic allocation funding program for all counties to provide staffing (3/county) and cost share.
2. Create a priority program for staff and cost share funding related to health risks and implementation of State Agriculture Non Point Performance Standards and Prohibitions.

This solution would require a commitment by DATCP to obtain adequate funds and statutory change.

It is our recommendation that without adequate funding, prioritization should follow the following order:

1. Counties that have Agriculture ground water pollution problems with potential health risks need to be the highest priority in all future funding allocations for staff and cost share.
2. Counties that have the highest number of needed State Agriculture Non Point Performance Standards and Prohibitions should be the second highest priority for future funding allocations.
3. 3 staff per county should be the 3rd highest priority.

Thank you for your consideration.

Respectfully,

Bill Hafs

Bill Hafs

Brown County Land Conservation Department
1150 Bellevue Street
Green Bay, Wisconsin 54302
Phone 920-391-4633
hafsb_bc@co.brown.wi.us
www.co.brown.wi.us/Land_Conservation/index.html

(DATCP Comments provided to Brown County Legislators)

Suggested Response **Brown County's Comments on the Soil and Water Allocation Plan** **September 15, 2006**

It is not fair to allow one county, no matter how unfortunate their circumstances, to undo established allocation policies that were based on legislative directives and extensive input from key stakeholders such as county organizations.

DATCP was directed by the Legislature to end the watershed program, phase-out staffing grants to county for watersheds, and redistribute these funds to other counties (1997 Wisconsin Act 27 and 1999 Wisconsin Act 9).

DATCP worked with stakeholder groups for five years to develop an allocation formula responsive to legislative directions and to ensure every county would have access to staffing grants (ATCP 50 October 2002)

Brown County is providing inaccurate information about the soil and water allocation plan

Watershed allocations to counties are not discretionary. The mandatory portion of the allocation formula requires that DATCP provide counties the greater of either \$85,000 or an amount equal to that established by DNR for the watershed until the watershed ends. The mandatory portion of the formula cannot be changed without changing the provisions of ATCP 50.

After DATCP has allocated funds for the mandatory portion of the allocation formula, WLWCA recommended that any remaining money be distributed to all counties to ensure each county has funding access to at least three conservation staff (s.92.14 (6), Stats.)

Wisconsin cannot afford Brown County's proposal for a statewide program to respond to well contamination based on the recent, and unfortunate events, in the Town of Morrison

The Center for Disease Control and Prevention (CDC) estimates that 23% of Wisconsin's private wells are contaminated by total coliform bacteria on a state-wide basis.

The Legislature would have to annually appropriate more than \$150,000,000 to DATCP, if each town in Wisconsin were given \$122,500 in county staffing grants to correct this problem.

Morrison Workload 2007

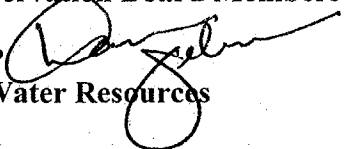
Brown County Land Conservation

- 10 landowners have requested Manure storage to be constructed or retrofitted. This manure storage will allow for safe storage over winter months to help prevent high groundwater risk winter spreading. **(est.3100 hours)**
- Implement and monitor BMP's for \$200,000 carryover dollars from Branch Watershed. (a portion of this time estimate is accounted for in Manure storage and 590 plans) **(est. 250 hours)**
- Review existing nutrient management plans (590) (11,600 acres) with landowners in Morrison. **(est.80 hrs)**
- Contract additional 2000 acres of new nutrient management plans (590) with landowners in Morrison. **(est. 80 hours)**
- Winter spreading plans need to be developed with all livestock operators (40 est.) in Morrison to protect known sink holes and karsts feature fields from land spreading that could contaminate more wells. **(est. 240 hours)**
- Non Agriculture land spreading (industrial, human, municipal wastes) needs to be coordinated with Nutrient management plans and reviewed prior to land spreading. Meet with waste haulers (10 -15 est.) in Morrison to review land spreading limits on ag fields that contain karst features and/or old wells that are direct conduit to groundwater. Winter spreading plans need to be obtained by land applicators that are reviewed and approved by Land Conservation Department. **(est.200 hours)**
- Field verify karst features on Ag fields (100 est.) in Morrison prior to winter land application of wastes permitted. **(est.120 hours)**
- New maps need to be created that are simple and easily understood by land applicators that highlight high risk groundwater protection areas that will need careful land application of waste. **(est. 30 hrs)**
- Exposed bedrock/karst features that are a direct conduit to groundwater need to be staked with signs warning land users and land applicators of the danger to groundwater and drinking water supplies. Buffered and spreading setbacks need to be established. (20 est. in 2007) **(est.160 hours)**
- All manure storage facilities (40) need to be inspected to insure compliance with USDA NRCS standards and county animal waste management ordinance. **(est.120 hours)**
- Old unused wells (approximately 70 have been identified in Morrison) need to be properly abandoned. 30 entered into contracts to abandon in 2006, 40 need to be contracted and abandoned in 2007. Cost share 70 % of well abandonment costs for old unused wells is available from Land and Water Funds. 20 are estimated to be funded from \$10,000 Land and Water funds in 2007 and 20 will come from USDA funds. **(est. 228 hours)**
- All wells need to be inspected by a professional well driller and upgraded if problems found.
- Education, education, education. Landowners needed to be contacted regularly to review maps, karst features that are direct conduits to groundwater, winter spreading plans, nutrient management plans, buffers, well protection, well abandonment and well maintenance issues. Encourage through educational meetings and mailings continued well testing in Morrison for bacteria and nitrates from Brown County Health, UWSP and Private well testing labs. Staff Morrison Town hall 4 hours per day x 2 times a week for 5 weeks. **(80 hours)**
- Coordinate UW Stevens Point well testing in 2007 for Morrison. Handout and collection. **(48 hours)**

CORRESPONDENCE/MEMORANDUM _____ State of Wisconsin

DATE: September 19, 2006

TO: Land and Water Conservation Board Members and Advisors

FROM: Dave Jelinski, DATCP 
Bureau of Land and Water Resources

SUBJECT: Report on comments concerning 2007 Preliminary Joint Allocation Plan

Recommended Action: This is not an action item. However, if the LWCB wishes to do so, it may vote to "receive" this report summarizing comments on this allocation plan. A vote to "receive" this report does not bind the LWCB to any position.

Summary: The Land and Water Resources Bureau distributed the *2007 Joint Preliminary Allocation Plan*, and *Environmental Assessment* for comment to the LWCB members and advisors, county land conservation departments, and other interested parties in July 2006. As of the September 1, 2006 deadline, DATCP only received comments from Brown, Door and Florence Counties with respect to the items included in the 2007 preliminary allocation.

In an August 3, 2006 letter mailed to LWCB, legislators and others, Brown County proposed a new system of priorities for allocation of DATCP funds. The department is treating the letter the same as other comments received from counties and providing its response as part of the allocation process. As its highest priority for funding, Brown County would award grants to counties with farm-related groundwater pollution posing potential health concerns (e.g. the problems associated with the Town of Morrison). As its second highest priorities, Brown County would fund counties that needed to address the greatest number of agricultural performance standards and prohibitions (state runoff standards). Its third and lowest priority is currently the department's highest priority; namely, providing funding to all counties to support three staff positions. While Brown County supports its proposal with persuasive facts, DATCP has made commitment to the current funding priorities, which were developed based on statutory and rule directives and extensive input from key stakeholders including county organizations and individual counties.

With the shift in statewide focus away from the priority watershed program and toward the land and water resource management (LWRM) planning program, the legislature in the late 1990s also signaled a change in statewide conservation funding. Instead of providing a select number of counties significant grants to address state priorities, the legislature created a level playing field allowing all counties equal access to funding to address local priorities identified in their LWRM plans. The legislative intent is reflected in the goals in Sec. 92.14(6)(b), Stats., which set a target for DATCP and DNR to attempt to provide staff funding for an average of 3 staff persons per county and provide an average of \$100,000 per county for cost-sharing grants. To implement this legislative directive, DATCP sought guidance from a working group established by the counties. This county-led process generated the basic recommendations that formed the foundation for the current funding strategy for the staffing grants. Before this funding strategy became part of the allocation plan, DATCP developed implementation criteria and procedures and secured the recommendation of the Land and Water Conservation Board. Through separate contacts, county organizations also have provided feedback to design the funding approach for landowner cost-sharing. Changing funding approaches in the allocation plan did not happen overnight; they were the product of a lengthy deliberative process that started with a clear signal from the legislature.

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DATCP cannot fundamentally realign its current priorities for funding without legislative re-direction and guidance from the counties to design an appropriate approach. DATCP encourages the county organizations and their members to reevaluate our options for funding, and work within this framework to advance any new recommendations. DATCP is prepared to reconsider the funding changes if the appropriate groundwork is laid.

In its comments presented at the August LWCB meeting, Door County pointed out that the allocation plan does not adequately emphasize the implementation of the agricultural performance standards and prohibitions and requested that the allocation plan direct "the greatest funding support" to those county programs actively implementing these state standards. This comment is largely answered by the response provided to Brown County. However, it is worth pointing out that DATCP funding for LWRM plan implementation expects and supports implementation of the state nonpoint standards. All LWRM plans must include a description of planned county activities to ensure compliance with these state standards. In cases where state standards are a priority in county plans, counties have focused DATCP staffing and cost-share funds on implementation of state nonpoint standards. Furthermore, DATCP has structured its allocation of \$520,000 in SEG funds for nutrient management to promote compliance with state performance standards. By the terms of this program, counties are expected, where possible, to provide cost-share practices for four years to achieve compliance with state performance standards.

Given the importance of the nonpoint standards as a state goal, there is, no doubt, room for state agencies to do more to build capacity for implementation. First, DATCP can better acknowledge the importance of the state standards in the discussion of its grant priorities in the allocation. To this end, DATCP will add language in the final allocation based on comments from Door County to better reflect priority of state standards. Second, DATCP can use the environmental assessment (EA) to better document the concerns about funding for implementation. To this end, DATCP will enhance the discussion to reflect county concerns about funding for implementation of the standards. Third, DATCP can be more open to adjustments in the funding formulas to support implementation. To this end, DATCP will add language in the allocation plan to reflection future consideration of (1) the impact of its "underspending" calculation on counties that use DATCP cost-share funds to enforce the state performance standards, and (2) refinements to enhance the compliance aspect of the SEG grant program, including changes in the scoring system to reward county commitment to ensure compliance.

By letter dated August 31, 2006, Florence County argues that the northern counties are not receiving their fair share of funding for landowner-cost-sharing. It suggests that if cost-share dollars were divided equally by the number of counties (72), the northern counties would be treated more equitably. DATCP's approach to allocation is not based on an equal distribution of cost-share grant funds. DATCP's allocation formula is designed to reward performance in spending cost-share dollars, and is fair in the sense that it provides every county with an equal opportunity to compete for funding. DATCP worked with the counties to select what it believes is the fairest measure of performance: a 3-year rolling cumulative average of county underspending. Florence County counters that it is not fair to include the spending history of northern counties that predates 2003, the years when northern conservation programs were in their infancy. In fact, the rolling cumulative average used in the 2007 allocation includes only the years of 2003, 2004 and 2005. In each of these years, the northern counties received a minimum of \$85,000 to support conservation staff, and thus were in same position as other counties to hire staff to spend cost-share funding.

Particularly with respect to cost-share funding, the claims pressed by these three counties cannot be easily squared. If DATCP provides more funding for counties that successfully implement the agricultural performance standards, it will shortchange the northern counties that invariably have fewer farms. On the other hand, if DATCP equally divides cost-share funding, it will deprive counties with high levels of performance the opportunity to effectively implement their LWRM plans, which in a number of cases are heavily oriented to implementation of the agricultural performance standards. DATCP believes that its present approach strikes a good balance with respect to the different options for funding.

With the 07-09 biennial budget, DATCP and DNR will evaluate options to advance budget initiatives that will provide more funding to fill the competing needs for funds. At their root, the concerns of Brown, Door and Florence Counties can be summarized as "too many needs and too little funding." Adding more funding to cost-share practices will advance the efforts to implement the performance standards, while helping the northern counties more effectively implement their conservation objectives.

Materials Provided: Door, Brown, and Florence County's Comments

Presenter: Richard Castelnuovo, DATCP.

RE: 2007 Preliminary Joint Allocation Plan

My comments today are largely concerning the State Agricultural Non-Point Performance Standards and Prohibitions and the 2007 Preliminary Joint Allocation Plan.

Unfortunately the proposed Joint Allocation Plan includes an inadequate emphasis on promoting Counties activities to implement State Agricultural Non-Point Performance Standards and Prohibitions. To make matters worst it even includes a disincentive for utilizing DATCP provided cost-share funds locally for the purposes of implementing Standards and Prohibitions.

In 2002 Administrative Rules (NR 151 & ATCP 50) were adopted by the State of Wisconsin to set the course for the implementation of State Agricultural Non-Point Performance Standards and Prohibitions. The Standards & Prohibitions implementation effort was intended to become the centerpiece of the agricultural nonpoint program in the State. Accordingly DATCP/DNR funding programs with the Counties should place the highest priority and emphasis on the implementation of those Rules.

The annual Joint Allocation Plan is the funding vehicle by which Counties will receive financial support to fund the Standards & Prohibition effort locally; both in staffing and cost-share funding support. Accordingly, the greatest funding support must be directed to those programs that are intending to actively implement the Standards & Prohibitions. Again, and again unfortunately, the proposed 2007 Joint Allocation Plan does not adequately place the emphasis on Standards & Prohibitions.

To the end previously note my specific comments regarding the proposed 2007 Joint Allocation Plan are as follows:

1. Staff and Support-Future Directions-Page 13
This section lists four areas that DATCP will track to determine future directions in awarding staff and support funding grants. The 4th area is "the effectiveness of funding in achieving conservation goals of statewide significant." Considering the adoption of the Statewide Administrative Rules in 2002 I propose that this item be revised to read "the effectiveness in implementing the Statewide Agricultural Non-Point Standards & Prohibitions."

2. County Cost-Sharing Allocation-Bond Fund Allocation-Page 13
This section lists two grant priorities which include “county’s demonstrated ability...” and “county’s demonstrated cooperation...”. I propose that a third priority be added that includes the “the county’s demonstrated effort and commitment to implementing State Agricultural Non-Point Standards & Prohibitions’. Accordingly future bond fund allocations should reflect this emphasis on Standards & Prohibitions implementation.

3. County Cost-Sharing Allocation-Performance Based Awards-Page 14
This section includes the policy for calculating and penalizing for “underspending”. This is the disincentive I referred to in my opening remarks. The concept of the “underspending” penalty is to reward lower levels of underspending and encourage active County implementation. However by not recognizing the dynamics of offering cost-share funds for the implementation of Standards & Prohibitions the policy as written will discourage Counties from using these funds to implement Standards & Prohibitions.

If a landowner/operator is S & P noncompliant and the County offers cost-sharing to require compliance the water pollution problem must be resolved. The landowner/operator may accept the offered cost-share funds, or not, but either way because the funds were offered the water pollution problem must be resolved. The landowner/operator either installs the necessary practices or ceases and desists from the noncompliant activity; but is not required to accept the offered funding.

However if the offered cost-share funds are provided to the County by a DATCP Performance-Based Award are not utilized by the landowner/operator (But the water pollution problem is still resolved!) the County is penalized for three years for the “underspending.” Given this real possibility of reduced funding for three years a County will be very reluctant to attempt to implement Standards & Prohibitions utilizing DATCP provided funding.

I propose that the “underspending” policy be revised to state that if a County utilizes the cost-share funds to make a “bona fide offer of cost-sharing” to require compliance with agricultural standards & prohibitions the County is not penalized if the landowner/operator declines or fails to use the offered cost-sharing. To not be penalized for

underspending either the landowner/operator has resolved the noncompliant activity or the County has initiated enforcement action to compel compliance.

4. SEG Fund Allocation-Page 14 & 15

I support the effort to direct this funding to high risk areas targeted for water quality concerns; however I have two concerns and recommendations regarding the scoring system.

The first one is again concerning the lack of emphasis on Standards & Prohibitions. If we are to be successful in our efforts in these areas of highest risk Counties must utilize the tool of required implementation via Standards & Prohibition. Full water quality success will not be achieved if we continue to work just with the voluntary landowner/operators; we must convince the others to participate. To that end we again have Standards & Prohibitions implementation as a tool; however the DATCP Evaluation Points scoring system does not even include any points for a County with an active Standards & Prohibition implementation program. I propose that the scoring system be revised to include a minimum of 10 points for a County program that demonstrates that it will utilize the implementation of Standards & Prohibitions to achieve success with the funds provided.

My second concern is regarding the 5 points for "New Applicant." The distribution of funding should be based solely on the merits of the application (i.e. water quality need & program capabilities) not some attempt to evenly distribute funding to all Counties by giving preferential treatment to Counties who in the past were non-participants. I propose that the points for "New Applicant" be removed.

LAND CONSERVATION DEPARTMENT

Brown County

Agriculture and Extension Service Center
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Green Bay, WI 54302
Phone: (920) 391-4620 Fax: (920) 391-4617

BILL HAFS
COUNTY CONSERVATIONIST

August 3, 2006

To: Pat Laughrin, Chair and members of Land and Water Conservation Board

Regarding:

Brown County Land Conservation Comments on 2007 Joint Preliminary Allocation Plan for the Soil and Water Resource Management Program and the Non Point Source Program.

Dear Chairman Laughrin and members of the Land and Water Conservation Board:

Please consider the following comments and recommendations from Brown County Land Conservation Department:

1. **Comment:** The 2007 Preliminary Allocation Plan for Staff and support does not adequately "address and resolve high priority problems" as recommended on page 9 paragraph 3 of the 2007 Joint Preliminary Allocation Plan. The allocation plan does not adequately fund Town of Morrison Groundwater problems and **REDUCES** staff funding to Brown County by -\$122,544 and cost share by -\$214,817 from 2006 levels.

The Town of Morrison in Brown County in 2006 experienced one of the worst documented well contamination problems in Wisconsin history.

- From January to May over 100 wells were contaminated with Bacteria and Nitrates in Morrison.
- DNR issued a boiled water order for the Town. Town of Morrison were on bottled water from March until June. A significant number of Town Residents experienced flu like symptoms, one person was hospitalized for several weeks and a number of livestock perished or became ill from water contamination.
- DNR Paid for well replacements for residences near Wayside with contaminated wells.
- UW Stevens Point Center for Watershed Science and Education tested 132 wells in Morrison in May of 2006, finding 34% of the wells were above drinking water standard level 10 ppm Nitrates. (3.5 times the state average). An additional 24% of the wells tested detected Nitrates 5 – 10 ppm.
- Over 200 karst features in Morrison with potential to be direct conduits to groundwater have been identified by UWGB scientists and Brown County Interns. Sinkholes that are direct conduits to groundwater will need to be treated and buffered.
- Approximately 70 old unused wells have been located in Morrison to date and need abandonment.
- 10 landowners in Morrison have come forward to request manure storage or expansion.
- Winter spreading plans will need to be developed and approved by Brown County Land Conservation Department.

Recommendation: Provide additional staffing and cost share dollars for this high priority groundwater problem in Morrison Township. Despite requests from Brown County Land Conservation Department to extend the current Branch River Watershed to help this critical issue, this Preliminary Allocation Plan **REDUCES** Staff funding for Brown County (- \$122,544) and Cost Share (-\$214,187) from 2006 final allocation. Brown County needs the continuation of dollars allocated in 2006. Underspent dollars identified by county on page 9 should be earmarked for the Town of Morrison for staffing. Senator Alan Lasee and Representative Al Ott working with the Governor passed legislation as a result of Morrison to pay landowners for new wells. Funding for Morrison would help protect the states investment in new wells and work to prevent future well contaminations.

2. Comment: Groundwater contamination needs to be the highest priority for staff and cost- share funding from the Joint Allocation Plan because of Human Health concerns.

DATCP staffing goals identified in the Administrative code and statues were old attempts to provide a minimum staffing level (3/ county) to all counties to assist with conservation efforts. Agriculture Groundwater contamination that can cause health risks must to take precedent and priority over old funding strategies based upon a dated consensus of county conservation staff, especially since not all counties are utilizing the staff funding given to them (table 1 pg. 9).

Recommendations: Prioritize staff and cost share funding from SWRM to areas of Wisconsin with Agriculture ground water pollution problems with potential health concerns

3. Comment: The 2007 Joint Preliminary Allocation Plan does not prioritize staff or cost share funding for State Agriculture Non Point Performance Standards and Prohibitions.

The State has adopted Agriculture non point performance standards and prohibitions (NR 151) which landowners must comply with yet the Joint Allocation Plan does not base funding for staff and cost share upon State Agriculture Non Point Performance Standards and Prohibitions. The allocation instead "sets a target for an average of 3 staff persons per county" and "performance awards" for cost share that are based upon prior years spending. Funding less staff in counties will result in less cost share spent. Total cost share dropped by nearly a million dollars (\$999,373) from 2006 allocation to 2007's allocation. The current formulas for funding allocations are outdated, do not adequately address agriculture groundwater concerns or agriculture non point performance standards and prohibitions and therefore need to be changed.

Recommendations: Direct staff to prioritize staff and cost share funding and work to change statutes to prioritize funding according to the following order:

1. Counties that have Agriculture ground water pollution problems with potential health concerns need to be the highest priority in all future funding allocations for staff and cost share.
2. Counties that have the highest number of needed State Agriculture Non Point Performance Standards and Prohibitions should be the second highest priority for future funding allocations.
3. 3 staff per county should be the 3rd highest priority and additional state funding needs to be sought for all three recommendations.

Please call me if you have questions.

Thank you for your consideration.

Respectfully,

Bill Hafs
Brown County Land Conservation Department

Cc: Carol Kelso, Brown County Executive
Brown County Land Conservation Committee
Brown County Legislators
Senate Ag committee and Senate Natural Resources Committee
Assembly Ag Committee and Assembly Natural Resources Committee
Rod Nilsestuen, DATCP secretary
Scott Hassett, DNR secretary
Todd Christensen, Town Chairman Morrison
Jim Doyle, Governor

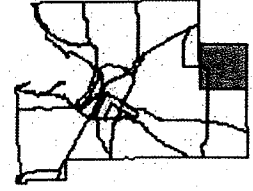
Morrison Township

Brown County
May 2006

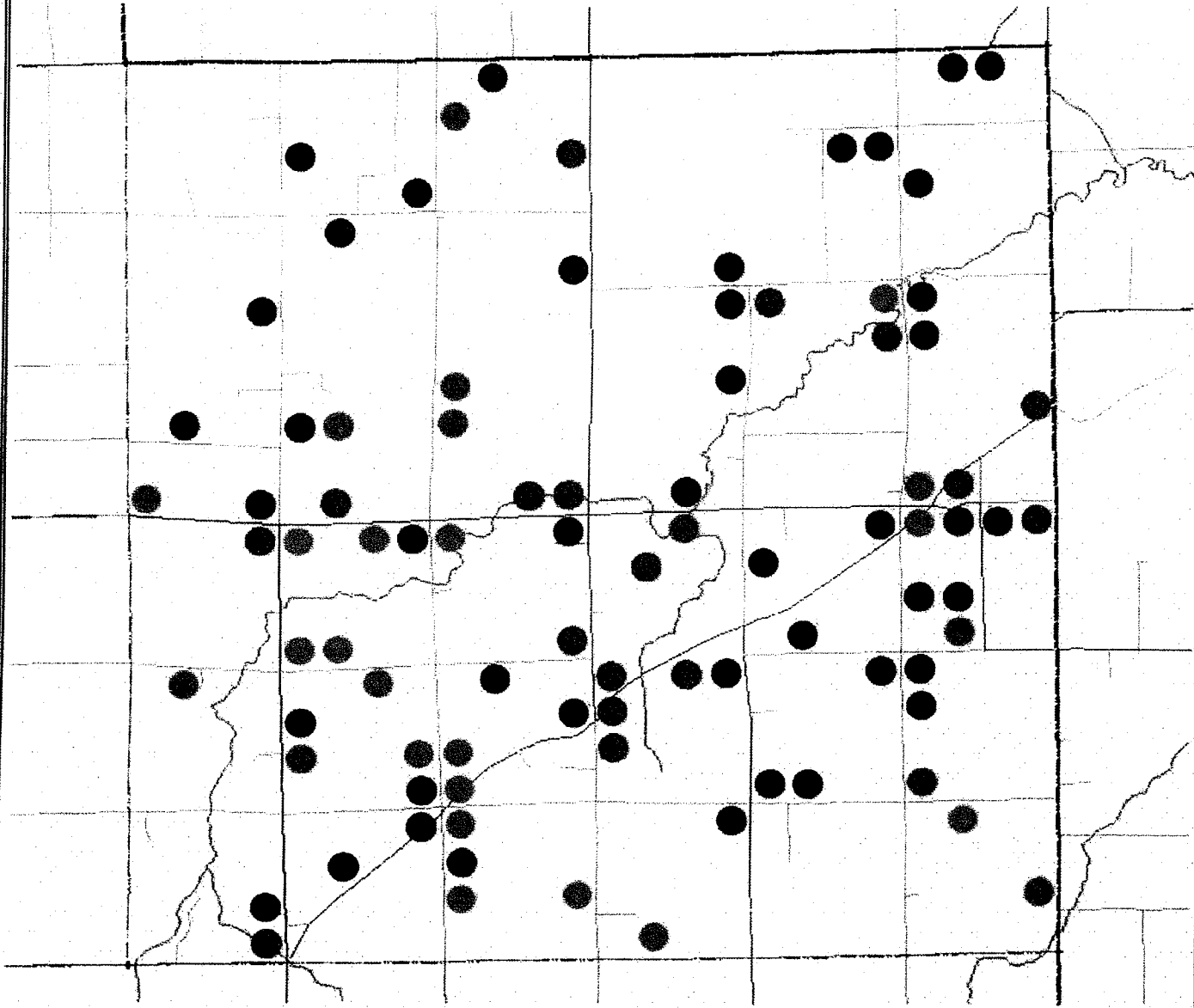
NITRATE-NITRITE (ppm N)

● NONE DETECTED	16	13 %
● (0.1 - 2.0)	21	17 %
● (2 - 5)	22	17 %
● (5 - 10)	24	19 %
● (10 - 20)	40	32 %
● (20 ...)	3	2 %

Mapped water & average for 1/4 1/4 section.



Groundwater Center
Center for
Watershed Science
and Education





Florence County
Land Conservation Department
 P.O. Box 107 Florence, Wisconsin 54121
 PH: 715-528-5940 FAX: 715-528-5720

Committee Members:
 Yvonne VanPembrook, Chair
 Gary Steber, Vice Chair
 Joannette Bomberg, Supervisor
 Edwin Kelley, Supervisor
 Larry Dzekute, Supervisor
 Edward Wenger, Supervisor
 Roger Osterberg, FSA

August 31, 2006

Dear Wisconsin Land and Water Conservation Board Members and Advisors:

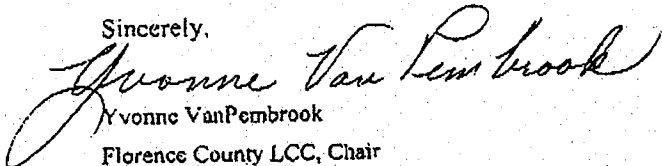
As Wisconsin counties have sought state funding to address soil and water conservation goals, they are required to adopt a state approved land and water resource management plan. After many individual counties contract with Regional Planning Commissions, seek public and professional input, assess natural resource conditions, adopt local ordinances, then prioritize soil and water conservation concerns, work plans are designed for a seamless integration of programming which includes providing technical assistance to local landowners and cost-share funds for the installation of state approved practices.

Upon receiving the recently distributed 2007 Joint Preliminary Allocation Plan, a significant amount of northern counties are now being considered for **less than half** of the amount of cost-share funding if the state bond revenue were divided equally, (72 counties, along with 1 tribe, divided into \$3,207,272 equals a base funding of \$43,935.00 each). Though the report recognizes the staffing grant under spending that has occurred as, "...the maturation of conservation programs in counties that did not have well developed programs before they started receiving the \$85,000 minimum in 2003..." you have been presented with an allocation formula this year that factors in cost-share under spending percentages dating back to 2001. If 2003 is a year noted as counties receiving a minimum standard level for local program funding, I would recommend that you would also consider the "performance based" cost-share allocation during that same time frame (2003 to present) and adjust the 2007 county allocations to match.

Though this present formula may seem "performance based" at first glance, this 33% reduction in cost-share resources for so many counties, I believe, will jeopardize the overall ability to get conservation practices applied to the land covering approximately 1/3 of the state. As required of all 72 counties, a broad spectrum of local citizen's have expressed and prioritized natural resource concerns for their individual counties and then went through the lengthy LWRM planning process which included cost-share programming. A motion approved at a recent 4-county Land Conservation meeting also asked for a more equitable distribution of funds which will enable all counties to fully utilize staffing services and provide cost-share resources that were earmarked in individual land and water plans for the installation of conservation practices. I believe that state land and water resources need to be protected as a whole, not just in counties that receive greater cost-share funding.

Thank you for consideration of this important issue.

Sincerely,


 Yvonne VanPembrook
 Florence County LCC, Chair