

## **AGENDA**

Eau Claire County

- Land Conservation Commission •

**Date:** Monday, August 26, 2019

**Time:** 5:00 P.M.

**Location:** *Ag Resource Center, Room 203  
227 1<sup>st</sup> Street West, Altoona, WI 54720*

1. Call to Order
2. Confirmation of Compliance with Open Meetings Law
3. Public Input Session (15-minute maximum) – Discussion  
Please Note: Limit of 3 minutes per speaker
4. Approve Minutes from July 29, 2019 meeting **Page 2-3**
5. Review Vouchers and Ledger Update – Discussion **Page 4**
6. Cost-Share Applications – Discussion/Action
7. Budget discussion and update – Discussion/Action
8. Authorized individuals to sign Nutrient Management Memorandum of Understanding with Adjoining Counties – Discussion/Action
9. Staff and Agency Updates
  - a. Land Stewardship Subcommittee Update
  - b. Recent Water Quality initiatives and/or legislation
  - c. Livestock Siting information
  - d. Multi-Discharger Variance (MDV) program
  - e. Water Quality Trading with the City of Augusta **Page 5-7**
10. Future agenda items
11. Set dates for next meetings – Discussion/Action
12. Adjourn

Prepared by: Jenna Hazelton

Please note: Upon reasonable notice, efforts will be made to accommodate the needs of disabled individuals through sign language, interpreters or other auxiliary aids. For additional information or to request the service, contact the County ADA Coordinator at 839-4710 (FAX) 839-1669 or (TDD) 839-4735 or by writing to the ADA Coordinator, Human Resources Department, Eau Claire County Courthouse, 721 Oxford Ave., Eau Claire, Wisconsin 54703

Eau Claire County  
**LAND CONSERVATION COMMISSION MINUTES**

Monday, July 29, 2019 • 5:00 p.m.  
Agriculture & Resource Center • 227 – 1<sup>st</sup> Street West • Room AG120  
Altoona, Wisconsin

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**Members Present:** Robin Leary, Gary Gibson, Ray Henning, Glory Adams, Ricky Strauch, Dean Solie

**Members Absent:** Tami Schraufnagel, Heather DeLuka

**Staff Present:** Greg Leonard, Amanda Peters, and Liz Fagen

**Others Present:** Rhia Holden, USDA-NRCS

1. Call to Order

Chair Leary called the meeting to order at 5:01 pm.

Rhia Holden introduced herself as the Acting District Conservationist in the Altoona Field Office with a 120-day appointment. Everyone introduced themselves and welcomed her.

2. Confirmation of Compliance with Open Meetings Law

Leary confirmed compliance with the open meetings law.

3. Public Input Session (15 minutes maximum) – Discussion  
(none)

4. Approve Minutes from May 14, 2019 meeting – Discussion/Action

**ACTION:** Motion by Henning to approve the minutes as presented. Motion carried, 6-0-0.

5. Approve Minutes from May 14, 2019 Joint Meeting with Planning and Development – Discussion/Action

**ACTION:** Motion by Henning to approve the minutes as presented. Motion carried, 6-0-0.

6. Review Vouchers and Ledger Update – Discussion

The May and June expenditures and revenues were reviewed, as well as the tree and native plant sale report.

7. Cost-Share Applications – Discussion/Action

The following Nutrient Management Best Management Practice Cost-Share applications were presented for approval:

Mark Karow – Nutrient Management - \$14,920.00 (DATCP SEG funds)

Wyatt Wathke – Nutrient Management - \$1,400.00 (DATCP SEG funds)

**ACTION:** Motion by Gibson/Solie to approve the Nutrient Management Best Management Cost-Share applications. Motion carried, 6-0-0.

The following Well Abandonment Best Management Practice Cost-Share applications were presented for approval.

Dan & Mary Fisher – Well Abandonment - \$384.00 (County funds), \$384.00 (landowner funds).

Matthew Werlein – Well Abandonment - \$296.00 (County funds), \$296.00 (landowner funds).

**ACTION:** Motion by Adams to approve the Best Management Cost-Share applications. Motion carried, 6-0-0.

8. Adoption of Standards – Ag Performance Standards and Manure Storage ordinance – Discussion/Action

The USDA-NRCS Technical Standards referenced within Chapter 17.04 – Agricultural Performance Standards and Manure Storage of the County Code were adopted as part of the recreation of Chapter 17.04 on June 18, 2019 by the County Board. Any future revision of these standards must be adopted by the LCC prior to the revisions being made part of Chapter 17.04. This action will confirm and document the specific dates of each Technical Standard.

**ACTION:** Motion by Adams to adopt the USDA-NRCS Technical Standards referenced within Chapter 17.04. Motion carried, 6-0-0.

9. Update LCC Cost Share Policies – Discussion/Action

With the recreation of Chapter 17.04, updating the Eau Claire County Cost Share Program policies will clarify that eligible practices will include practices to bring a site into compliance with the Agricultural Performance Standards and Prohibitions contained within Chapter 17.04.

**ACTION:** Motion by Henning to approve the revisions of the Eau Claire County Cost Share Program policies. Motion carried, 6-0-0.

10. Nutrient Management Memorandum of Understanding with Adjoining Counties – Discussion/Action

This is a first draft of the MOU for nutrient management plans developed for requirements in one county and include cropland in another county. The MOU would allow both counties to be assured that the rules adopted within a county apply to all land within the county, regardless of where the nutrient management plan is developed. Recommendation is to get a formal opinion from Corporation Counsel of who should be authorized to sign.

11. Staff and Agency Updates

Holden reported on the upcoming Area Local workgroup scheduled for September 9 in Thorp. Fagen Reported on the manure pit closure which was utilized as an area training event. Peters reported that Tim Dutter will be applying for a variance in relation to his manure pit. When it was installed, the standard required a 2 ft. separation from high water mottling; today's standard requires a 2.5 ft. separation.

- a. Land Stewardship Subcommittee Update: Land Stewardship is working on acquiring an easement to lands the Parks Department recently acquired and is working on an event for Eau Claire River riparian owners.
- b. Demo Farm: Lease is being developed with Bush Bros.
- c. Multi-Discharger Variance (MDV) program: DNR as tentatively approved of the use of the 35% support for purchase of a No-till drill. Peters reported that yesterday she received notice from Xcel Energy that the No-till drill grant proposal will be funded as requested. Combining MDV funds, Xcel Energy grant funds, and donations from Pheasants Forever and an anonymous donator, the entire funding of the No-till drill is secure without any tax levy.
- d. Water Quality Trading with the City of Augusta: Per the recommendation of Administration, a resolution was presented to the County Board from the Planning & Development Committee to authorize the Land Conservation Manager to act on behalf of the county for the Water Quality Trading agreement with the City of Augusta.

12. Future agenda items

Follow up on Nutrient Management Memorandum of Understanding will be on the next agenda.


13. Set dates for next meetings

The next meeting was set for Monday, August 26, 2016 at 5:00 pm in the Ag Center.

14. Adjourn

Leary adjourned the meeting at 6:00 pm.

Respectfully submitted,



Greg Leonard  
Clerk, Land Conservation Commission

## Land Conservation Division July Bills

The following bills were sent to the Finance Department for payment.

### Invoices

Vendor	Account #	Amount	Description
Voyager	56922-330-000	\$ 281.90	June Voyager Fuel Expense
WLWCA	56922-340-000	\$ 110.00	Summer Full County Tour
PC-Tuggers Sweet Shop	56922-390-000	\$ 400.00	ECC Summer Tour Lunch
PC-Menards	56924-390-716	\$ 11.99	PVC for river gauges
PC-Holiday Inn Hotel	56922-340-000	\$ 82.00	All County tour and Meeting -Stevens Point
<b>Total</b>		<b>\$ 885.89</b>	

PC=Pro Card ie: credit card purchases

## Monthly Deposits July

Description	Account Number	Date	Amount Deposited
EC-19-19 Cindy Weir	46820-000-000	7/3/2019	\$280.00
CREP Reimbursement 2019	56922-390-000	7/3/2019	\$35.88
EC-21-19 Jared Rouleau	46820-000-000	7/8/2019	\$280.00
EC-22-19 Mattoon RV	46820-000-000	7/10/2019	\$280.00
AWO-2019-02	44902-000-000	7/16/2019	\$220.00
EC-23-19 Babes in Toyland	46820-000-000	7/31/2019	\$280.00
<b>Total</b>			<b>\$1,375.88</b>

8/21/2019

# STATEMENT OF SCOPE

## Department of Natural Resources

**Rule No.:** WT-19-19

**Relating to:** Targeted Performance Standards and Prohibitions to abate pollution of groundwater by nitrate in sensitive areas

**Rule Type:** Permanent

**1. Finding/nature of emergency (Emergency Rule only):**

The rules will be proposed as permanent rules.

**2. Detailed description of the objective of the proposed rule:**

The purpose of the proposed revisions to ch. NR 151, Wis. Adm. Code, and limited incorporation by reference of those proposed revisions to ch. NR 243, is to establish agricultural nonpoint source performance standards targeted to abate pollution of nitrate in areas of the state with highly permeable soils which are susceptible to groundwater contamination (sensitive areas) for the purpose of achieving compliance with the nitrate groundwater standards. Pursuant to s. 281.16(3)(a), Stats., the Department of Natural Resources is directed to promulgate by rule nonpoint source performance standards and prohibitions that are designed to comply with state surface water quality standards and groundwater quality standards. Where statewide nonpoint source performance standards have been substantially implemented, they have not proven sufficient to achieve surface water quality standards or groundwater standards in sensitive areas. The department has found that surface water quality standards or groundwater standards in sensitive areas will not be attained by simply implementing the statewide performance standards and prohibitions and, pursuant to NR 151.004 Wis. Admin Code, targeted performance standards are necessary to attain surface water quality standards or groundwater standards.

The rule revisions will define sensitive areas in the state and the performance standards needed to protect surface and groundwater quality in these areas. Soil maps based, in part, on soil permeability in conjunction with groundwater quality information may be used to define sensitive areas. Information related to soil permeability, groundwater quality, and modeling may be used to refine sensitive area designations. Performance standards may include modifications to: nutrient management plans; application rates of manure or commercial fertilizer; timing of nutrient application; crop rotations; setbacks from drinking water supplies for manure and fertilizer applications; and additional changes or management practices expected to achieve surface water quality standards and groundwater standards in the sensitive areas.

**3. Description of the existing policies relevant to the rule, new policies proposed to be included in the rule, and an analysis of policy alternatives:**

The current Subch. II of ch. NR 151 (Agricultural Performance Standards and Prohibitions) was originally promulgated in 2002 and revised in 2010 and 2018. It contains statewide performance standards and prohibitions for agricultural and nonagricultural facilities designed to achieve surface water quality standards and groundwater standards. Section NR 151.004 provides for targeted performance standards to be created if the statewide standards are insufficient to achieve surface water quality standards or groundwater standards in sensitive areas. In 2018, the targeted performance standard at NR 151.075 was created to reduce the risk of groundwater contamination posed by pathogens from manure applied to land in areas of the state with shallow soils over Silurian dolomite bedrock.

Existing facilities are not required to comply with the agricultural performance standards or prohibitions unless cost sharing is made available. The department has already promulgated rules under which cost sharing is made available and those rules will apply to this proposed targeted performance standard.

Nitrate is the most widespread groundwater contaminant in Wisconsin and it is especially prevalent in areas with highly permeable soils. Evidence suggests that the statewide standards are insufficient to achieve surface water quality and groundwater standards in areas with highly permeable soils. Highly permeable soils may be found throughout the state, and the proposed target standards that are developed as part of this rulemaking effort will only apply to these sensitive areas.

**4. Detailed explanation of statutory authority for the rule (including the statutory citation and language):**

State water and sewage statute at ch. 281 Stats. authorizes the department to promulgate agricultural performance standards to achieve surface water and groundwater quality standards.

Section 281.16 (3)(a), Stats., authorizes the department to promulgate rules prescribing performance standards and prohibitions for agricultural facilities and agricultural practices that are nonpoint sources. The performance standards and prohibitions shall be designed to achieve water quality standards by limiting nonpoint source pollution. "Nonpoint source water pollution" is defined as pollution of waters of the state that does not result from a point source. Section 281.16(1)(f), Stats.

Waters of the state include surface water and groundwater. Sections 281.01(18) and 283.01(20) Stats define "Waters of the state" as those portions of Lake Michigan and Lake Superior within the boundaries of this state, and all lakes, bays, rivers, streams, springs, ponds, wells, impounding reservoirs, marshes, watercourses, drainage systems and other surface water or groundwater, natural or artificial, public or private, within this state or its jurisdiction.

Section NR 151.004 Wis. Admin. Code clarifies that if the department finds that water quality standards or groundwater standards will not be attained using statewide performance standards and prohibitions, but the implementation of targeted performance standards would attain water quality standards or groundwater standards, the department shall promulgate the targeted performance standards by rule.

State pollution discharge elimination statute at ch. 283 Stats. provides authority for the department to require agricultural point sources to comply with agricultural performance standards which are protective of water quality standards. Section 283.31(3), Stats., provides authority for the department to issue a permit for the discharge of any pollutant from a point source to waters of the state on condition that the discharges will meet groundwater protection standards and any more stringent limitations necessary to meet state water quality standards. Section 283.31(4), Stats provides authority to proscribe conditions for permits that assure compliance with the requirements of s. 283.31(3) Stats. Section 283.13(5), Stats. provides authority to include more stringent limitations in permits when necessary to meet water quality standards or other state requirements.

Section 227.11 (2)(a)(intro.), Stats., provides that a state agency, "may promulgate rules interpreting the provisions of any statute enforced or administered by the agency, if the agency considers it necessary to effectuate the purpose of the statute", subject to certain restrictions.

**5. Estimate of amount of time that state employees will spend developing the rule and of other resources necessary to develop the rule:**

It is estimated that department employees will spend approximately 3,000 hours developing this rule. This estimate includes staff time related to obtaining advice and comments from stakeholders through a technical advisory committee.

**6. List with description of all entities that may be affected by the proposed rule:**

Entities affected by this rule include: rural residents with private wells; users of community and non-community wells; agricultural producers and their consultants; agricultural cooperatives and fertilizer

retailers; county land conservation departments; and the Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP).

**7. Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule:**

The United States Department of Agriculture – Natural Resources Conservation Service (NRCS) develops technical standards that apply to agricultural facilities and practices. Technical standards may be required for agricultural producers to qualify for federal grant or cost-share assistance, and to qualify for state tax credits through the Farmland Preservation Program administered by DATCP. Applicable NRCS technical standards will be incorporated in this ch. NR 151 targeted performance standard by reference.

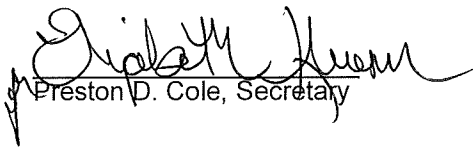
**8. Anticipated economic impact of implementing the rule (note if the rule is likely to have a significant economic impact on small businesses):**

It is estimated that the economic impact of this rulemaking would be "moderate" (between \$50,000 and \$5 million per year, combined for all impacted stakeholders). It will likely have an impact on small business, namely agricultural producers and supporting businesses – the level of impact is currently indeterminate and will be assessed during the rulemaking process.

**9. Anticipated number, month and locations of public hearings:**

The department anticipates holding three to four public hearings in the spring of 2021. Hearing locations will likely be: Wisconsin Rapids, La Crosse, and Madison.

**Contact Person:** Brian Weigel, (608) 225-4964

  
Preston D. Cole, Secretary

7/15/19  
Date Submitted