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# Wisconsin Legislative Council



Anne Sappenfield  
Director

TO: MEMBERS, JOINT COMMITTEE ON FINANCE

FROM: Anne Sappenfield, Director

RE: Department of Justice Settlements and Proposed Plans of Settlement

DATE: February 15, 2023

This memorandum summarizes six proposed plans of settlement that the Department of Justice (DOJ) submitted to the Joint Committee on Finance (JCF) pursuant to s. 165.08 (1), Stats., in a letter dated January 17, 2023. DOJ seeks approval of two proposed settlements and four proposed plans of settlement.

## **BUDENZ PROPOSED PLAN OF SETTLEMENT—AGENDA ITEM III**

DOJ and Daniel T. Budenz have reached a pre-suit settlement relating to a violation of hazardous substance spill laws. Mr. Budenz purchased the site of a former dry-cleaning business, and the state alleges that he failed to take the necessary actions to restore the environment to the extent practicable and to minimize the harmful effects of a contamination.

The total monetary penalty proposed is \$7,500, which includes \$4,675.17 in forfeitures and \$500 in attorney fees.

## **WISCONSIN DAIRY CHEESE CO. PROPOSED PLAN OF SETTLEMENT—AGENDA ITEM IV**

DOJ and Wisconsin Dairy Cheese Co., Inc., have reached a pre-suit settlement relating to violations of water pollution prevention laws. The state alleges that the company violated multiple conditions of its Wisconsin Pollution Discharge Elimination System (WPDES) permit at its milk processing facility in Portage.

The total monetary penalty proposed is \$60,000, which includes \$39,369.05 in forfeitures and \$2,000 in attorney fees.

## **SHAFER PROPOSED PLAN OF SETTLEMENT—AGENDA ITEM V**

DOJ and Marlin Shafer, doing business as Shady Oaks Mobile Home Park, have reached a pre-suit settlement relating to violations of safe drinking water laws. The state alleges that Mr. Shafer violated multiple safe drinking water laws at the mobile home park, which he owned and operated until October, 2021.

The total monetary penalty proposed is \$15,000, which includes \$13,872.50 in forfeitures and \$1,000 in attorney fees.

## **GERKE EXCAVATING PROPOSED PLAN OF SETTLEMENT—AGENDA ITEM VI**

DOJ and Gerke Excavating, Inc., have reached a pre-suit settlement relating to violations of storm water, solid waste, and wetland laws. Gerke Excavating owns and operates nonmetallic mining sites in multiple counties in Wisconsin. The state alleges that Gerke Excavating:

- Violated multiple storm water permit and storm water laws.
- Operated two solid waste facilities at two separate locations without a license.
- Filled a wetland without a permit.

The total monetary penalty proposed is \$40,000, including \$27,124.15 in forfeitures.

## **STATE V. LANDL FARMS—AGENDA ITEM VII**

*State of Wisconsin v. LandL Farms, LLC, and Robert L. Schuessler* (Outagamie County Circuit Court, Case No. 20-CX-02) is a prosecution of a concentrated animal feeding operation (CAFO) and its owner and operator relating to animal feeding operations and water pollution violations. The state alleges the following violations:

- Unauthorized discharges to waters of the state on October 26 through 28, 2018.
- Unauthorized discharges to waters of the state on February 3 through 5, 2020.
- Prohibited application of liquid manure on frozen or snow-covered ground.
- Exceedance of margin of safety level in waste storage facilities.
- Failure to empty the waste storage facilities to the 180-day marker at least once between October 1 and November 30, 2019.
- Failure to timely submit an annual nutrient management plan update on April 1 of 2018, 2019, and 2020.
- Failure to timely submit an annual report on February 1 of 2018, 2019, and 2020.
- Failure to timely install and properly maintain permanent markers in the liquid waste storage facilities from June 5 to August 10, 2020.
- Failure to construct feed storage area runoff controls since May 1, 2018.
- Failure to install fencing around the waste storage facilities since October 30, 2013.

The total monetary penalty proposed is \$20,000, including \$10,117.35 in forfeitures and \$5,000 in attorney fees.

## **STATE V. LEDGEVIEW FARMS—AGENDA ITEM VIII**

*State of Wisconsin v. Ledgeview Farms LLC, Ledgeview Facility LLC, Roy Pansier, Glen Pansier, and Jason Pansier* (Brown County Circuit Court, Case No. 21 CX 000002) is a prosecution of a CAFO and its owners and operators relating to pollution discharge, animal feeding operations, and WPDES permit violations. The state alleges that Ledgeview Farms:

- Failed to timely apply for a WPDES permit.
- Operated a large CAFO without the required WPDES permit.

- Discharged pollutants to the waters of the state from the main farm and heifer farm without the required WPDES permit.
- Failed to maintain functional interim runoff controls at the main farm and the heifer farm.
- Discharged pollutants to waters of the state without complying with discharge standards set forth in administrative law.
- Failed to mitigate the impacts of one of its discharges to waters of the state.
- Discharged pollutants to waters of the state from land application activities without a permit.
- Failed to apply manure in compliance with land application restrictions.
- Failed to timely report its noncompliance to the Department of Natural Resources (DNR).
- Failed to comply with various construction and abandonment schedules.
- Stored manure in locates that were not approved in the WPDES permit or by DNR.
- Failed to have 180 days of liquid manure storage.

The total monetary penalty proposed is \$320,000, including \$178,628.67 in forfeitures, \$55,000 in attorney fees, and \$2,288.36 in prosecution expenses.

Please let me know if I can provide any further assistance.

AS:ksm