



Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873
Email: fiscal.bureau@legis.wisconsin.gov • Website: <http://legis.wisconsin.gov/lfb>

March 24, 2023

TO: Members
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Paper for the Committee's March 28, 2023, Meeting Under S. 13.10

Attached is a memorandum prepared by Anne Sappenfield, Director of the Legislative Council, on proposed settlements for cases submitted to the Committee by the Department of Justice.

The meeting will be held on Tuesday, March 28, in Room 412 East, State Capitol, beginning at 9:59 a.m.

BL/lb
Attachment

Wisconsin Legislative Council



Anne Sappenfield
Director

TO: MEMBERS, JOINT COMMITTEE ON FINANCE

FROM: Anne Sappenfield, Director

RE: Department of Justice Proposed Plan of Settlement

DATE: March 28, 2023

This memorandum summarizes three 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 March 17, 2023. DOJ seeks approval of the following proposed plans of settlement.

SCHIFERL FARMS PROPOSED PLAN OF SETTLEMENT—AGENDA ITEM I

DOJ and Randy and Alan Schiferl, doing business as Schiferl Farms, have reached a pre-suit settlement relating to violations of water pollution prevention laws. Schiferl Farms is a large concentrated animal feeding operation (CAFO) in Wood County.

The state alleges that Randy and Alan Schiferl own and are operating a large CAFO without a Wisconsin Pollutant Discharge Elimination System (WPDES) permit.

The total monetary penalty proposed is \$35,000, including \$23,772.79 in forfeitures. Randy and Alan Schiferl have also agreed to apply for a CAFO WPDES permit for Schiferl Farms.

AMERICAN EXPRESS EXCAVATION PROPOSED PLAN OF SETTLEMENT— AGENDA ITEM II

DOJ and American Express Excavation, LLC, have reached a pre-suit settlement relating to violations of wetland protection laws. The matter also involves Weiss Family Farms Real Estate, LLC, which owns numerous parcels of land in and near Dunn County. American Express Excavation is a local contractor. The proposed settlement is for American Express Excavation only.

The state alleges that Weiss Family Farms and American Express Excavation discharged fill into wetlands without a permit in three separate instances.

The total monetary penalty proposed is \$10,000, including \$6,715.99 in forfeitures.

KINNARD FARMS PROPOSED PLAN OF SETTLEMENT—AGENDA ITEM III

DOJ and Kinnard Farms, Inc., a CAFO, have reached a pre-suit settlement regarding violations relating to CAFOs and its WPDES permit. The state alleges that Kinnard Farms committed the following violations in Kewaunee County:

- Manure ponded after application and was not retained where it was applied in November 9, 2018.

- It did not identify a vent for a drain tile on a restriction map in its nutrient management plan in November 2018.
- Manure ran off the field on which it was applied on November 27, 2019.
- It applied manure on areas of a field with less than 24 inches of depth to bedrock on September 22, 2021.
- It applied manure on four occasions within 250 feet of a private well between July 19 and 22, 2022.
- It applied manure on a concentrated flow channel on July 19 and 22, 2022.
- It did not identify a conduit to a navigable water on a restriction map in its nutrient management plan in July 2022.
- It failed to timely submit a complete engineering evaluation for two waste storage facilities.
- It failed to timely submit an engineering evaluation for a feed storage area.
- It failed to timely submit annual nutrient management plan updates.

The state alleges that Kinnard Farms committed the following violations in Door County:

- Applied manure on areas with less than 24 inches depth to bedrock on May 15, 2019.
- Applied manure within 250 feet of a private well on November 2, 2019.
- Applied manure within 300 feet upslope of a direct conduit to groundwater on November 2, 2019.
- Applied manure within 100 feet of a private well on October 19, 2020.
- Applied manure within 100 feet of a direct conduit to groundwater on June 2, 2021.
- Failed to identify restrictive features on the restriction maps for four fields in its nutrient management plan.

The total monetary penalty proposed is \$215,000, including \$135,880.96 in forfeitures, and \$15,000 in attorney fees. Kinnard Farms will also be required to submit plans and specifications and complete upgrades on two waste storage facilities and a feed storage area, if the Department of Natural Resources' review of the engineering evaluations for these facilities show that upgrades are necessary.

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

AS:kms