

Noncompliance history from the Town of Ledgeview's recent livestock siting decision:

1. On September 12, 2007, the Wisconsin Department of Natural Resources ("DNR") sent correspondence to Ledgeview Farms indicating that the farm was illegally operating with more than 1,000 animal units. A Wisconsin pollution discharge elimination system (WPDES) permit is required for a livestock facility with an animal population above that threshold, which is considered a "concentrated animal feeding operation" or "CAFO" under state and federal law. Ledgeview Farms, however, had never applied for a WPDES permit. DNR indicated that Ledgeview Farms was operating illegally and that they were required to submit an application for a WPDES permit at least 12 months prior to operating with 1,000 or more animal units. DNR sent multiple letters to Ledgeview Farms in 2007 which apparently went unanswered.
2. DNR continued to attempt to engage Ledgeview Farms through 2008, seeking compliance with the WPDES permitting requirements for a CAFO. On July 15, 2008, DNR demanded that Ledgeview Farms submit an application for a WPDES permit. DNR met with Ledgeview Farms on October 14, 2008 to discuss the permit process and sent a follow-up letter the next day requesting the farm's nutrient management plan and reiterating that Ledgeview Farms was required by law to obtain a WPDES permit. In its October 15, 2008 correspondence, DNR pointed out the following: "[m]anure from the outdoor lot area at the heifer (site) is actively discharging into a waterway"; the outdoor lots at the main farm required increased management to prevent runoff that may be discharging to the waterway; and the farm lacked the required six-month manure storage capacity. On October 21, 2008, DNR received an incomplete WPDES permit application from Ledgeview Farms in which Ledgeview Farms reported that it was illegally operating with 1,380 animal units (380 animal units over what is allowed without a WPDES permit). DNR required that Ledgeview Farms complete and submit an Environmental Analysis Questionnaire. DNR stated that because Ledgeview Farms was already over 1,000 animal units and did not have a WPDES permit, it was operating in violation of state and federal law. There is no record that Ledgeview Farms took any action that was required by the DNR at that time to move toward compliance.
3. On February 19, 2009, DNR issued Ledgeview Farms a Notice of Violation for operating as a CAFO without a required WPDES permit. On March 19, 2009, Ledgeview Farms attended a mandated DNR enforcement conference regarding the ongoing violations at the farm. At this enforcement conference, Ledgeview Farms agreed to depopulate its herd to reduce its operation below 1,000 animal units to become compliant with state and federal law. On May 13, 2009, DNR followed up with correspondence to Ledgeview Farms explaining that the farm had failed to address the runoff concerns at its facility. DNR required Ledgeview Farms to immediately install best management practices ("BMPs") to control runoff. DNR continued to follow up with the farm through 2009 regarding the number of animal units on the farm and its noncompliant runoff control measures. It is unknown if Ledgeview Farms depopulated to below 1,000 animal units anytime thereafter.
4. Sometime after 2009, after all of the interaction with the DNR described above that underscored the illegality of doing so, and in direct defiance of the promise that Ledgeview Farms made to the DNR to keep its herd below 1,000 animal units, Ledgeview Farms again added significant numbers of animals, illegally exceeding the 1,000 animal unit threshold for at least the second time without applying to DNR for a WPDES permit. This second illegal expansion was only documented because of enforcement action taken by the United States Environmental Protection Agency (EPA). The EPA became involved because of a complaint filed in the spring of 2013. The person who contacted the EPA had walked through knee-deep manure while hiking along a stream tributary that lies adjacent to the

Headquarters Site. On April 18, 2013, EPA conducted its first site inspection. EPA identified numerous deficiencies at the farm, which would have been violations of the Clean Water Act even if the farm had been operating under a WPDES permit, including the following:

- At the Home Site (Headquarters Site in the applications submitted to the Town), septic looking waste and process wastewater was leaking out of a hole in the east concrete pit and flowing to the tributary.
- At the Home (Headquarters) Site, manure and process waste water from the feed bunker and the open lot west of the Milk Cow Barn did not have containment and was flowing north through pathways that led to the tributary on the west end of the site.
- At the Home (Headquarters) Site, animals had impermissible direct access to the stream tributary on the east end of the site.
- At the Satellite (Heifer Site on the applications submitted to the Town), manure and process wastewater runoff generated at the open lot and feed bunkers were flowing east to the ditch. The ditch and culverts facilitated the flow of process wastewater to a stream tributary.

On September 13, 2013, EPA issued Administrative Order V-W-13-A0-22 to Ledgeview Farms for its facilities at 3875 Dickinson Road and 3688 County Road V (Lime Kiln Road). On September 26, 2013, EPA sent Ledgeview a letter providing a Compliance Schedule as an aid to understand the compliance deadlines of the Order. As part of this Order, Ledgeview Farms was required to submit to EPA a Permit Compliance Plan by December 27, 2013. On March 13, 2014, EPA notified Ledgeview Farms by letter that EPA had not received the Permit Compliance Plan required under the Order. On March 18, 2014, Brown County Land and Water Conservation (BCLWC) staff emailed documents pertaining to a Permit Compliance Plan to EPA at the request of Ledgeview Farms. In correspondence dated July 18, 2014, EPA disapproved of the draft Permit Compliance Plan submitted and required revisions to the draft Permit Compliance Plan.

5. On April 9, 2014, almost seven years after first being informed of the requirement by DNR, Ledgeview Farms finally submitted an application for a WPDES permit to DNR. Throughout 2014, DNR corresponded with the farm regarding deficiencies in that application. DNR never received the information necessary to complete the application. In March 2015, Ledgeview Farms submitted plans to DNR for a new 5 million gallon manure storage lagoon at the Headquarters Site. DNR determined that the plans were incomplete because they did not provide sufficient overflow protection for the proposed facility. Ledgeview Farms withdrew the plans in May 2015 and never filed a resubmission. In the summer of 2015, despite not obtaining DNR approval, which they clearly knew was required, Ledgeview Farms began construction of the 5 million gallon animal waste storage facility. Town permits that were required for the construction of this facility were never applied for or issued. This manure storage facility was completed in late 2015 or early 2016 and it remains not only unpermitted, but also noncompliant because it still lacks required emergency overflow protections.

6. On November 29, 2016, EPA informed Ledgeview Farms of its intent to file a civil administrative complaint for violations of the Clean Water Act (CWA). In this correspondence, EPA asserted that Ledgeview Farms had violated the CWA by "having seven unauthorized discharges of manure and process wastewater and having one unauthorized discharge of construction sediment to Waters of the

United States." EPA indicated that it planned to propose a penalty against Ledgeview Farms of up to \$128,000 for these violations.

7. In February 2017, Ledgeview Farms once again submitted to DNR an application for a WPDES permit. To date, this permit has not been granted. Ledgeview Farms continues to illegally operate as a CAFO without an approved WPDES permit.

8. DNR has also confirmed to the Town that Ledgeview Farms has violated state storm water laws during the more than 10 years that the DNR has been trying to bring this operation into compliance.

9. In September of 2017, DNR notified Ledgeview Farms that it was required to immediately install interim runoff control measures to prevent pollutant discharges from the production areas until permanent runoff control measures are installed. Ledgeview Farms did little to meet this requirement for a year. Only after the Siting Board indicated that Ledgeview Farms' environmental compliance failures provided the Town with sufficient reason to deny the previous application did Ledgeview Farms attempt to put in place the required interim control measures. The DNR inspected these interim measures in September and October of 2018. While Ledgeview Farms and the Town waited for the DNR's report on those inspections, and while the Siting Board was reviewing the first Town decision on Ledgeview Farms' siting permit application, Ledgeview Farms submitted a new siting permit application (the application that is at issue in this decision).

10. Despite the fact that the DNR's report on Ledgeview Farms' purported installation of interim measures was still pending, Ledgeview Farms' new application begins with a narrative that expresses how much effort Ledgeview Farms has expended to construct facilities that have "reduced the environmental impacts of its two production sites." Included in its list of activities that Ledgeview Farms points to in support of that claim, and as a basis for the Town to consider its application favorably, Ledgeview Farms cites from the interim measures required by DNR.

11. The DNR issued its report on its inspection of the required interim control measures on November 14, 2018, nine days after Ledgeview Farms submitted its second siting permit application making the claims above. The DNR disagreed with those claims, stating that "several items related to runoff controls remain unaddressed" including:

- Process wastewater discharges to the environment were observed during both site visits at the calf barn at the main farm site.
- Leachate was visible discharging from the northeast corner of the bunker wall to the vegetated area north of the feed storage area at the main farm site. Leachate was observed ponded in areas of burnt out/dead vegetation in the vegetated area north of the feed storage area. Materials placed along the exterior of the east bunker wall appeared to require maintenance to continue to function as a method to contain leachate generated by feed. Waste/blown feed appeared to be mixed in with the material placed along the exterior of the bunker walls.
- The leachate basin was at capacity and overflowing, indicating a lack of required monitoring and response for this system.
- Final grading and seeding of disturbed areas around the basin was not completed.

- Interim measures to control runoff at the heifer feedlot at the main farm site were modified without DNR approval.
- A disturbed area was observed east of the waste storage facility at the main farm site; required storm water controls and stabilization were not present, and sediment-laden water was observed ponded in the wooded area north and downslope of the disturbed area.
- A ponded area of liquid manure was observed that was discharging through rill erosion channels in the disturbed area to the wooded area northeast of the waste storage facility, where sediment-laden water was ponded.

The DNR required that immediate action be taken rectifying many of these violations by no later than December 31, 2018. The Town has no information that indicates that any of these violations have been sufficiently addressed to date.