

AGRICULTURAL IMPACT STATEMENT



**DATCP
#4283**

**STH 19: Mazomanie to USH 12
Dane County
WisDOT # 5145-00-01**



**WISCONSIN DEPARTMENT OF AGRICULTURE,
TRADE AND CONSUMER PROTECTION
*PUBLISHED APRIL 16, 2019***

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STH 19: Mazomanie to USH 12
Dane County

WISCONSIN DEPARTMENT OF AGRICULTURE, TRADE AND CONSUMER PROTECTION

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DATCP SUMMARY OF ANALYSIS AND RECOMMENDATIONS

The Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP) has prepared this Agricultural Impact Statement (AIS) for the proposed resurfacing and reconstruction of State Trunk Highway (STH) 19 from STH 78 to U.S. Highway (USH) 12 in Dane County (DATCP #4283). The project is proposed by the Wisconsin Department of Transportation (WisDOT).

The project will require the acquisition of 36 acres of land in fee-simple and 12 acres of easements from 86 farmland owners. The fee-simple acquisitions are generally located at curves and at intersections, and the easements are located where grading is needed.

As part of its review of the project, DATCP contacted the owners of one farm parcel by phone. This parcel would lose more than 5 acres of land as a result of the proposed project. The owners' comments are summarized in the section on landowner impacts.

Having reviewed all of the materials provided by WisDOT and the comments from the property owner, DATCP makes the following recommendations.

Recommendations to WisDOT

- During project design, WisDOT should consult with the Dane County Conservationist to ensure that construction proceeds in a manner that minimizes drainage problems, crop damage, soil erosion and soil compaction on adjacent farmland.
- WisDOT should consult with farmland owners who have historical knowledge of flooding and runoff problems, to ensure that new or replacement culverts, ditches, and other runoff management structures for STH 19 are adequate for anticipated storm events.
- DATCP supports WisDOT's ongoing coordination of this project with the Dane County Drainage Board.
- If the project requires the relocation or alteration of access to farmland, WisDOT should consult with the affected landowners and renters to ensure that access points are placed in reasonably safe and practical locations for farm operations.
- Farmland owners and operators should be given advance notice of acquisition and construction schedules so that farm activities can be adjusted accordingly.
- When WisDOT acquires land well in advance of construction, WisDOT should consider allowing the adjacent farmer to continue cropping the land if there is adequate growing season for the crop to mature and be harvested before construction begins.

Recommendations to the Farmland Owners

- The affected farmland owners should fully describe and discuss property improvements and farm operations with the appraisers so that the appraisers can appropriately value the extent of the project's impacts on the property.

I. INTRODUCTION

The Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP) has prepared this agricultural impact statement (AIS) in accordance with [Wis. Stat. §32.035](#).

The AIS is an informational and advisory document that describes and analyzes the potential effects of the project on farm operations and agricultural resources, but it cannot stop a project. The DATCP is required to prepare an AIS when the actual or potential exercise of eminent domain powers involves an acquisition of interest in more than 5 acres of land from any farm operation. The term farm operation includes all owned and rented parcels of land, buildings, equipment, livestock, and personnel used by an individual, partnership, or corporation under single management to produce agricultural commodities.

The AIS reflects the general objectives of the DATCP in its recognition of the importance of conserving important agricultural resources and maintaining a healthy rural economy. DATCP is not involved in determining whether or not eminent domain powers will be used or the amount of compensation to be paid for the acquisition of any property.

As stated in Wis. Stat. §32.035(4)(d):

Waiting period. The condemnor may not negotiate with an owner or make a jurisdictional offer under this subchapter until 30 days after the impact statement is published.

The full text of [Wis. Stat. §32.035](#) is included in Appendix A. Additional references to statutes that govern eminent domain and condemnation processes and other sources of information are also included in Appendices A and B.

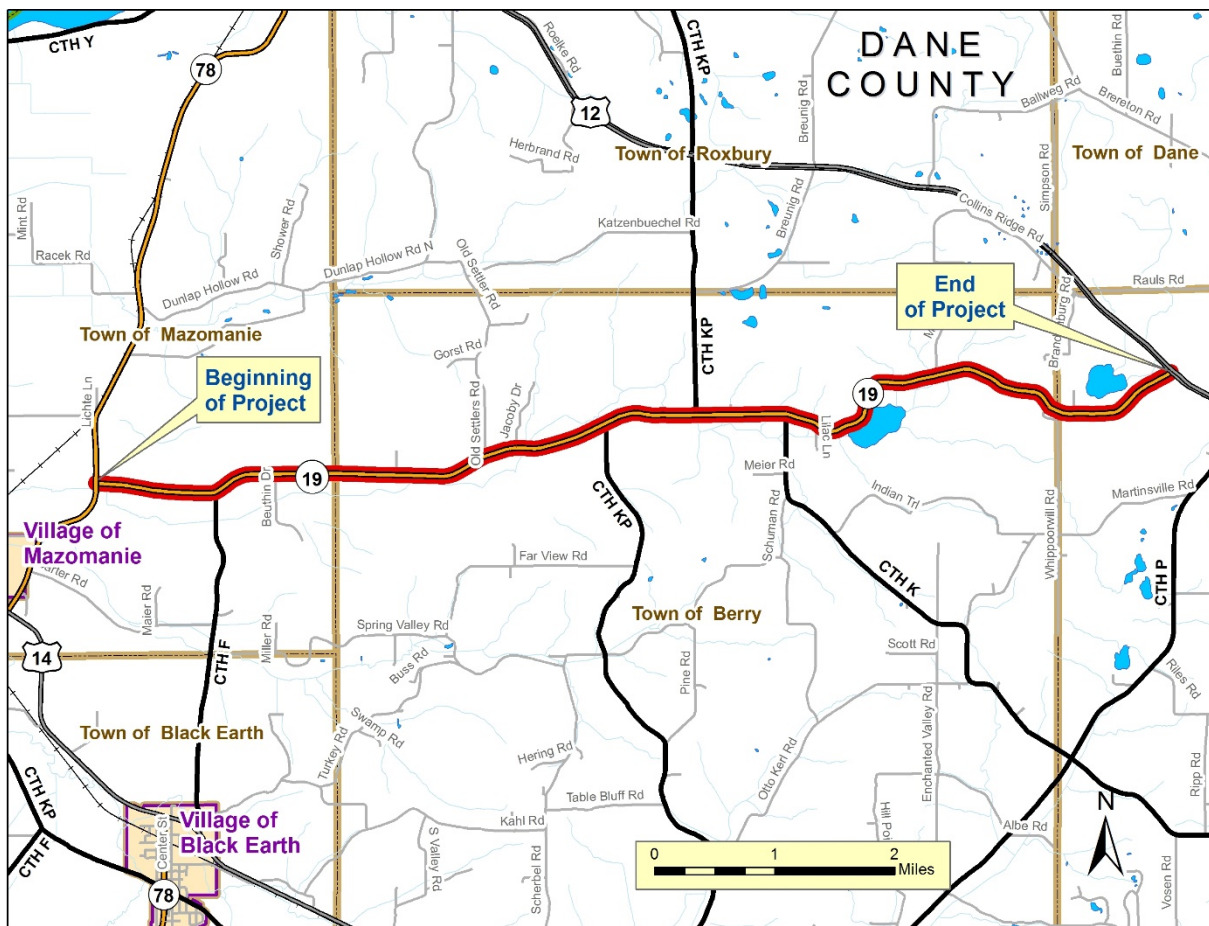
II. PROJECT DESCRIPTION

The Project

The Wisconsin Department of Transportation (WisDOT) proposes to recondition 9.6 miles of State Trunk Highway (STH) 19 from STH 78 to U.S. Highway (USH) 12. This project is located in the towns of Mazomanie T8N-R6E, Berry T8N-R7E, and Springfield T8N-R8E in Dane County. Refer to the project location map, Figure 1. WisDOT proposes to acquire 35.78 acres of land in fee-simple and 11.62 acres of temporary easements from 86 farmland owners for the proposed project. Acquisitions are anticipated to begin as early as the fall of 2019 and construction is expected to start in April of 2023.

For the reconditioning, WisDOT will reconstruct 39 percent of STH 19 and resurface the remaining 61 percent of the roadway within the project limits. Reconstruction will occur in locations where concerns about crashes have been raised or areas where there are significant drainage problems. In these areas, substandard curves and grades will be corrected to meet current WisDOT standards. Reconstructed driving lanes will be 11 feet wide with 6-foot wide shoulders. The paved portion of each shoulder will be 3 feet wide from STH 78 to County Trunk Highway (CTH) K and 5 feet wide from CTH K to USH 12. Beam guard, culverts, and pavement markings will be replaced along the entire project length. For most of the project, the right-of-way width will be 48 feet from the centerline. However, in some locations, the roadway right-of-way could be expanded more.

Figure 1: Project Location Map



New ditches will be dug for the length of the project due to the widening of the shoulders. This will result in the removal of trees at various locations with the majority of tree removal occurring at the eastern end of the project.

In areas where the roadway is realigned, the pavement structure will be removed. Areas that will no longer serve as roadway or shoulder will be graded and seeded. After construction is

complete, WisDOT's regional real estate unit will determine if the excess land should be sold or held as WisDOT right-of-way.

Existing Roadway

Within the project limits, the existing right-of-way for STH 19 is typically 33 feet from the centerline. The driving lanes range from 10 to 11 feet wide with shoulders that range from 0 to 2 feet wide.

Need

The purpose of the project is to improve the existing pavement, which has deteriorated as well as to address the roadway deficiencies and safety issues. Outdated bridges will also be reconstructed to current WisDOT standards. The original pavement structure is still in place and ranges in depth from 4¼-inches to 7¾-inches. Its exact age is unknown. An overlay was completed in 1989. Many locations within the project limits have narrow driving lanes and/or shoulders or substandard curves and grading.

Due in large part to roadway deficiencies, there were 60 crashes on STH 19 within the project limits from 2010 to 2014. This resulted in an average crash rate of 172 crashes per million vehicle miles traveled, which is much higher than the 5-year statewide average crash rate of 101 for the same five years.

Alternatives

No Build Alternative: Under this alternative there would be no improvements to the roadway other than routine maintenance and no real estate would need to be purchased. WisDOT rejected this alternative because it does not address the deteriorating pavement, safety, geometric deficiencies, and modal interrelationships.

Alternative A – Resurfacing: In this alternative, the top 4-inches of pavement would be removed with a new layer placed on top. This alternative would extend the life of the pavement by removing the deteriorated surface and replacing it with a new surface. There would be minimal disturbance to the adjacent environment and no real estate would need to be purchased. However, this alternative does not address the safety, geometric deficiencies, and modal interrelationships of the roadway. This alternative does not meet the purpose and need of the project and is not the preferred alternative.

Alternative B – Reconstruction: In this alternative, all of STH 19 would be reconstructed within the project limits. This includes complete removal and replacement of the pavement structure. Beam guards, culverts, signing, and pavement markings would also be replaced along the entire project length. This alternative would address the deteriorating pavement by completely replacing it and enhancing the underlying subgrade soils. These updates would improve safety by eliminating the dangerous and poor curve geometrics that contribute to many of the crashes.

Grading of the slopes and ditches along with an appropriate clear zone distance would also increase the safety of the roadway by providing a safe area for drivers to recover when they leave the roadway. This alternative meets the purpose and need of the project, but WisDOT rejected it because it is not the most cost effective.

III. AGRICULTURAL SETTING

The following information is intended to describe the existing agricultural sector for Dane County in general terms. Section V, Agricultural Landowner Impacts discusses the specific potential impacts from this project on agriculture. The majority of the data provided in this section was obtained from the USDA, National Agricultural Statistic Service.

Agricultural Productivity

Although Dane County is an urban county, it has one of the strongest agricultural sectors in Wisconsin. In 2017, Dane County ranked first out of Wisconsin’s 72 counties in the production of corn for grain; second in soybeans, winter wheat, and in corn for silage; fourth in milk; and sixth in alfalfa hay.

Table 1 shows the number of acres harvested for selected crops in Dane County from 2013 through 2017. During this five-year period, the trends in commodity production are mixed. Soybean production trended upwards while winter wheat and alfalfa hay production trended downward.

Table 1: Acres of Selected Crops from 2013 to 2017

Crop	Harvested Acres				
	2013	2014	2015	2016	2017
Corn for Grain	167,900	177,700	144,500	176,500	157,300
Corn for Silage	NA	NA	45,600	NA	33,700
Soybeans	74,400	78,800	85,000	80,400	86,800
Winter Wheat	16,200	14,000	14,500	13,600	9,230
Alfalfa Hay	34,600	34,900	26,600	25,200	24,300

* NA = data not published

Despite low prices for milk, milk production, during this same time period, steadily increased.

Table 2: Milk Produced in Dane County 2013 - 2017

Milk Produced in Dane County (1,000 lb.)				
2013	2014	2015	2016	2017
1,274,000	1,351,500	1,446,500	1,507,000	1,512,500

Land in Agriculture

Dane County is classified as an urban county, which is defined as having 100 or more residents per square mile. In 2018, Dane County had a population of 530,519 residents (Wisconsin DOA)

with a population density of 443 residents per square mile. This is higher than the average for the state, which was 107 residents per square mile. According to the USDA NASS 2017 Census of Agriculture, Dane County had 506,688 acres of land in farms or 65.9 percent of the county. This is much higher than the statewide average of 41.5 percent of land in farms.

In Dane County, the acres of land in farms decreased by 1.2 percent from 1997 to 2017. This is less of a decrease than the 3.9 percent decrease reported for the state as a whole during the same period (USDA NASS 2017 and 1997 Census of Agriculture). This shows a slightly stronger push to keep farmland in agriculture rather than developing it in Dane County compared to the stat as a whole

Table 3: Acres of Land in Farms

Location	1997	2017
Dane County	512,971	506,688
Wisconsin	14,900,205	14,318,630

Number and Size of Farms

From 1997 through 2017, the number of farms in Dane County decreased a similar amount compared to the decrease experienced in Wisconsin, as a whole (Table 4).

Table 4: Change in the Number of Farms between 1997 and 2017

Location	Number of Farms 1997	Number of Farms 2017	Change in the Number of Farms	Percent Change
Dane County	2,595	2,566	-29	-1.1%
Wisconsin	65,602	64,793	-809	-1.2%

Table 5 details the farm-size distribution in Dane County and Wisconsin for the years of 1997 and 2017. Between these years, the number and percentage of very small farms (0 to 49 acres) increased significantly in both Dane County and the state. The number of farms in the two middle categories fell in both Dane County and in Wisconsin, while the number of the very largest farms increased slightly in both places.

Table 5: Farm Size Distribution in Jefferson County and Wisconsin

Location	0 to 49 Acres		50 to 179 Acres		180 to 499 Acres		More than 500 Acres	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent
Dane Co., 1997	782	30.1%	948	36.5%	655	25.3%	210	8.1%
Dane Co., 2017	1,139	44.4%	763	29.7%	438	17.1%	226	8.8%
Wisconsin, 1997	12,815	19.5%	24,546	37.4%	22,228	33.9%	6,013	9.2%
Wisconsin, 2017	22,842	35.2%	21,254	32.8%	14,177	21.9%	6,520	10.1%

Property Taxes and Values

Table 6 details the 2017 average property tax, assessed value, and sale price per acre of farmland in Dane County, urban counties, and Wisconsin. The assessed values and property taxes are based on the use value of “agricultural land.” Agricultural land is defined by statute as, “...land, exclusive of buildings and improvements, and the land necessary for their location and convenience, that is devoted primarily to agricultural use.” (Wis. Stat. §70.32(2)(c)1g) This data can indicate the level of demand for land. Where land is used as collateral for farm operation loans, higher land values can make larger loans possible. However, higher land values make buying land for farm expansion more costly.

Table 6: Farmland Taxes and Values

Location	2017 Dollars per Acre of Farmland		
	Average Tax	Assessed Value*	Sale Value
Dane County	\$4.05	\$242	\$8,458
Urban Counties	\$3.49	\$207	\$7,046
Wisconsin	\$3.43	\$175	\$4,960

Source: USDA, National Agricultural Statistic Service and Wisconsin Department of Revenue.

* The assessed value is an “equalized value” calculated by DOR to correct for variability in estimating the taxable value of real property across municipalities.

The 2017 average property taxes on Dane County farmland were 16.0 percent higher than the urban county average and 18.1 percent higher than the Wisconsin average. The assessed value of Dane County farmland was 16.9 percent higher than the urban county average and 38.3 percent higher than the statewide average. The average sale price of farmland in Dane County was 20.0 percent higher than the average for urban counties and 70.5 percent higher than the average for the state. This data does not include farmland sold and converted to nonfarm use nor farmland with buildings or improvements. All of these indicators, but particularly the sale price of farmland, may imply the level of development pressure that is occurring in the area. Since Dane County’s averages are higher than for urban counties and for Wisconsin in all three instances, it can be assumed that the development pressure on farmland in Dane County is higher than in Wisconsin’s urban counties and in Wisconsin as a whole.

Farmland Preservation

Wisconsin’s Farmland Preservation Program (FPP) provides counties, towns, and landowners with tools to aid in protecting agricultural land for continued agricultural use and to promote activities that support the larger agricultural economy. Through this program, counties adopt state-certified farmland preservation plans that map areas identified as important for farmland preservation and agricultural development based upon reasonable criteria. Dane County has a DATCP-certified Farmland Preservation Plan. The plan identifies farmland preservation areas in the county and local governments may choose to adopt an exclusive agricultural zoning ordinance to ensure that farmland covered by the ordinance is eligible for farmland preservation

tax credits. Such an ordinance must also be certified by DATCP. As of the 2018 tax year, the towns of Berry, Mazomanie, and Springfield all have county-administered zoning. Most of the land along STH 19 within the project limits is zoned A-1 for exclusive agricultural use.

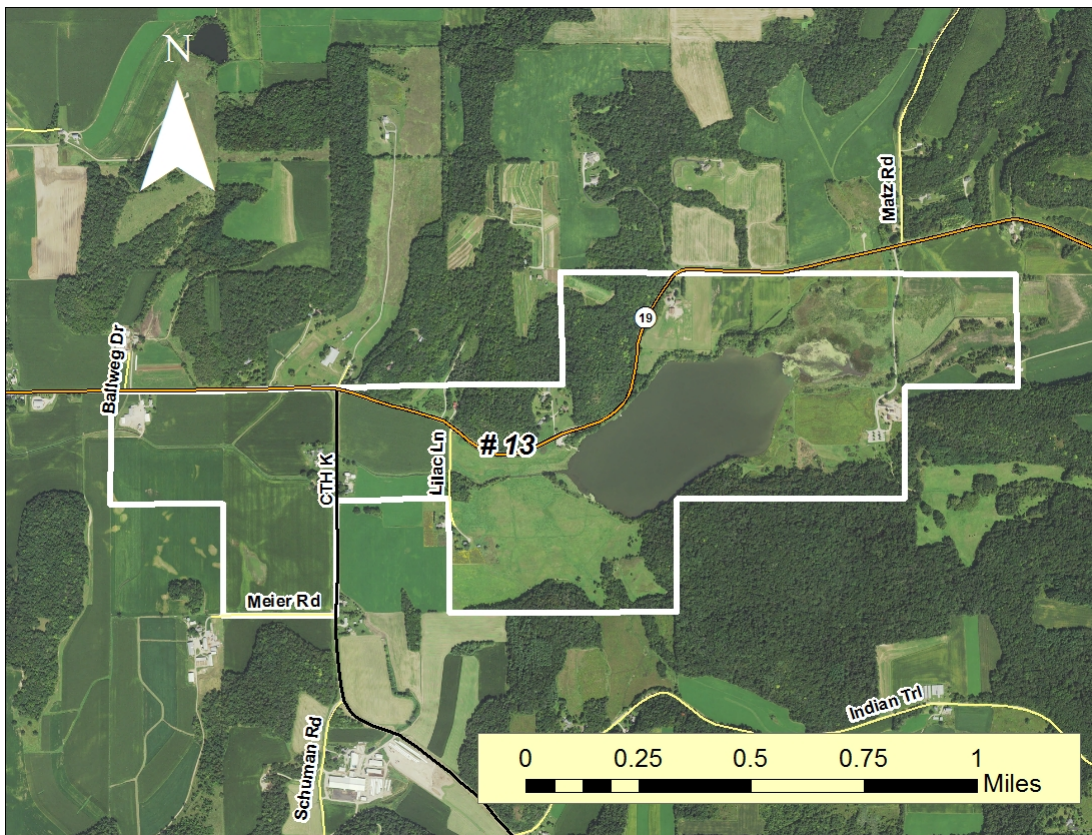
Within these farmland preservation areas, local governments and owners of farmland can petition for designation by the state as an Agricultural Enterprise Area (AEA). This designation highlights the importance of the area for agriculture and further supports local farmland preservation and agricultural development goals. Designation as an AEA also enables eligible landowners to enter into farmland preservation agreements. Through an agreement, a landowner agrees to voluntarily restrict the use of his/her land to agriculture for fifteen years. None of the land that would be acquired for this project is part of an AEA.

Both AEAs and FPP zoning areas are required to follow the state soil and water conservation standards to protect water quality and soil health.

Drainage Districts

From about 1,500 feet east of CTH KP to about 1,100 feet west of Matz Roast, STH 19 passes along the edge and through Dane County Drainage District #13. This district is active and covers 567 acres of land. Refer to Figure 2, which shows the location of Drainage District #13.

Figure 2: Dane County Drainage District #13



Drainage districts are local governmental units organized to drain lands for agricultural use. Landowners who are part of a drainage district must contribute to the cost of constructing, maintaining, and repairing the district’s drains. Drainage districts are organized under Chapter 88 of the Wisconsin Statutes and are governed by county drainage boards. WisDOT is required to work with the county drainage board where an active drainage district would be affected by a WisDOT project. WisDOT stated that coordination with the Dane County Drainage Board began in February of 2019.

IV. SOILS

The soils along STH 19 within the project limits are diverse with few dominant soils. Slopes along the highway range from level to 30 to 60 percent. Based on a desktop review of USDA NRCS Soil Survey data, Table 7 lists the soils within the project limits that will be affected most by the proposed project. They are listed in descending order of area affected and they represent about 52 percent of the project area. Additional soils in smaller amounts will also be affected. About 75 percent of STH 19 within the project limits passes through soils that are classified as prime farmland or prime farmland if drained.

Table 7: Soils Affected by the Project

Map Unit	Soil Name	Classification	Natural Drainage	Depth to Water Table (in.)	Available Water Storage	Capability Class
FeaB2	Festina silt loam with 1 to 6% slopes, moderately eroded	Prime	Well drained	More than 80	Very high	2e
SpB	Spinks and Plainfield loamy sands, 2 to 6% slopes	Statewide importance	Will drained	More than 80	Low	3s
KdD2	Kidder loam, 12 to 20% slopes, eroded	Nonprime	Well drained	More than 80	Moderate	4e
PrB	Port Byron silt loam, 2 to 6% slopes	Prime	Well drained	48 to 72	Very high	2e
SvC2	Seaton silt loam, driftless valley, 6 to 12% slopes, moderately eroded	Statewide importance	Well drained	More than 80	Very high	3e

Farmland Soil Definitions

Farmland soil is classified by the USDA based on its ability to produce crops. Protecting prime farmland, prime farmland, if drained, and farmland of statewide importance should be a priority for construction projects.

Prime Farmland

Land that has the best combination of physical and chemical characteristics for producing food, feed, forage, fiber, and oilseed crops and is also available for these uses. It has the soil quality, growing season, and moisture supply needed to produce economically sustained high yields of crops when treated and managed according to acceptable farming methods, including water management. In general, prime farmlands have an adequate and dependable water supply from precipitation or irrigation, a favorable temperature and growing season, acceptable acidity or alkalinity, acceptable salt and sodium content, and few or no rocks. They are permeable to water and air. Prime farmlands are not excessively erodible or saturated with water for a long period of time, and they either do not flood frequently or are protected from flooding.

Prime Farmland if Drained

This farmland is prime farmland but requires draining in order to have the best combination of physical and chemical characteristic for producing food, feed, forage, fiber, and oilseed crops.

Farmland of Statewide Importance

The criteria for defining and delineating this soil are to be determined by the appropriate state agency or agencies. Generally, additional farmlands of statewide importance include those that are nearly prime farmland and that economically produce high yields of crops when treated and managed according to acceptable farming methods. Some may produce as high a yield as prime farmlands if conditions are favorable. In some states, additional farmlands of statewide importance may include tracts of land that have been designated for agriculture by state law.

Non-prime soils

Non-prime soils have limitations in terms of agricultural production and may be more susceptible to damage from electric line construction.

V. AGRICULTURAL LANDOWNER IMPACTS

Landowner Impacts

Table 8 lists the farmland owners who will be affected by the proposed project and the number of acres to be acquired by WisDOT.

Table 8: Acres to be acquired from Each Farmland Owner

Farmland Owners	Acres of Fee-simple Acquisitions	Acres of Temporary Easements	Total Acres to be Acquired
Cleo Brockmann	0.88	0.96	1.84
Dawn and Scott Evert	0.00	1.05	1.05
Paul and Dawn Fassbender	1.90	0.14	2.04
Harland and Sharon Evert Trust	0.34	0.72	1.06
Steven and Betty Ballweg	1.34	0.01	1.35

Farmland Owners	Acres of Fee-simple Acquisitions	Acres of Temporary Easements	Total Acres to be Acquired
Sandra Stewart Trust	1.15	0.00	1.15
Keuler Berry Property LLC	1.54	0.00	1.54
Barbara Tarpley and Alan Williams	4.76	0.00	4.76
Ice Age Trail Alliance	1.30	0.00	1.30
Almae LLC (Larry Kruchten & Donna Kruchten)	5.81	0.21	6.02
Dresen Brothers Farm LLC	4.05	0.11	4.16
Scott and Jody Wimmer	2.75	0.00	2.75
Terry Kalscheur	1.50	0.00	1.50
46 property owners with acquisitions of one acre or less	8.46	8.42	16.88
TOTALS	35.78	11.62	47.40

DATCP contacted by phone the one farmland owner who would lose more than 5 acres of land.

The Almae LLC owns 99.6 acres of land consisting of 36 acres of cropland that is rented to a neighbor, 59.1 acres of woodland, and 4.5 acres for the buildings. The cropland is not currently tilled. DATCP staff spoke to Larry Kruchten and Dona Kruchten, who are two of the owners of this property.

Mr. Kruchten said that the driveway at 8150 STH 19, which is owned by his sister and brother-in-law, currently has an inadequately sized culvert. This undersized culvert leads to backups of runoff water that periodically overflows the driveway and STH 19, and also causes erosion on the Almae LLC cropland. This erosion has left a ravine in the Almae cropland south of STH 19. The increased water in this field has also led to rutting from farm equipment on that cropland. Mr. Kruchten was told by WisDOT that this culvert wouldn't be replaced until the reconstruction of STH 19 happens, which is not expected until 2023. A WisDOT official told Mr. Kruchten that the new culvert would be 36 inches in diameter. He was also told by a town of Berry official that if STH 19 were a town road, the new culvert would be 36 inches or larger. Mr. Kruchten is concerned that the 36-inch replacement culvert might need to be larger and that the adjacent ditches definitely need to be deeper to accommodate the excess runoff. With deeper ditches, guardrails would also be needed.

Another concern is at a bridge on the west end of the Almae property. When this bridge was replaced, WisDOT used two oval culverts with gravel between them. Unfortunately, heavy rain removed the gravel and it now plugs the ditch.

Donna Kruchten said that safety does need to be improved on STH 19 and that she is not opposed to the project. However, she is also concerned about runoff water from STH 19 and the adequacy of the size of the WisDOT-proposed structures. She wants the structures to accommodate runoff so it doesn't flow onto adjacent properties.

Drainage

Proper field drainage is vital to a successful farm operation. Highway construction can disrupt improvements such as drainage tiling, grassed waterways, ditches, and culverts, which regulate the drainage of farm fields. In addition, construction of impervious surfaces can impede drainage and increase runoff. If drainage is impaired, water can settle in fields and cause substantial damage, such as harming or killing crops and other vegetation, concentrating mineral salts, flooding farm buildings, or causing hoof rot and other diseases that affect livestock. Where salt is used on road surfaces, runoff water can increase the content of salt in nearby soils.

Section 88.87 of the Wisconsin Statutes requires highways to be built with adequate ditches, culverts, and other facilities to prevent obstruction of drainage, protect property owners from damage to lands caused by unreasonable diversion or retention of surface water, and maintain, as nearly as possible, the original drainage flow patterns. Refer to Appendix A for the statutes pertaining to drainage rights. Landowners whose property is damaged by improper construction or maintenance of highway facilities and highway drainage structures may file a claim with WisDOT within three years after the damage occurs.

Appraisal and Compensation

Before negotiations begin, WisDOT will provide an appraisal of the affected property to each landowner. An appraisal is an estimate of fair market value.

Landowners have the right to obtain their own appraisal of their property and will be compensated for the cost of this appraisal if the following conditions are met:

- The appraisal must be submitted to WisDOT within 60 days after the landowner receives the WisDOT appraisal.
- The appraisal fee must be reasonable.
- The appraisal must be a full, narrative appraisal
- The appraisal must be completed by a qualified appraiser.

The amount of compensation is based on the appraisal(s) and is established during the negotiation process between WisDOT and the individual landowners. WisDOT is required by law to provide landowners with information about their rights in this process before negotiations begin.

WisDOT is required to provide landowners with information about their rights in this process before negotiations begin. [Wis. Stat. § 32.035\(4\)\(d\)](#) additionally stipulates that WisDOT cannot negotiate with a landowner or make a jurisdictional offer until 30 days after the AIS is published.

VI. MAILING LIST

GOVERNOR TONY EVERS 115 EAST CAPITOL	SEN HOWARD MARKLEIN AGRICULTURE COMMITTEE 8 SOUTH CAPITOL
SEN JERRY PETROWSKI TRANSPORTATION COMMITTEE 123 SOUTH CAPITOL	REP GARY TAUCHEN AGRICULTURE COMMITTEE 13 WEST CAPITOL
REP BOB KULP TRANSPORTATION COMMITTEE 15 NORTH CAPITOL	RESOURCES FOR LIBRARIES (15) DOCUMENT DEPOSITORY PROGRAM 2109 SOUTH STOUGHTON ROAD
STATE DOCUMENTS SECTION THE LIBRARY OF CONGRESS 10 FIRST ST S E WASHINGTON DC 20540-0001	WISDOT LIBRARY 4822 MADISON YARDS WAY
WISDOT CENTRAL OFFICE FILES 4822 MADISON YARDS WAY	LALITHA BALACHANDRAN WISDOT 2101 WRIGHT ST MADISON WI 53704-2559
BARBARA TARPLEY & ALAN WILLIAMS 8304 STATE HIGHWAY 19 CROSS PLAINS WI 53528	HARLAND & SHARON EVERT TRUST 8916 STATE HIGHWAY 19 MAZOMANIE WI 53560
CLEO BROCKMANN 9755 STATE HIGHWAY 19 MAZOMANIE WI 53560	TERRY KALSCHEUR 6360 WOODLAND DR WAUNAKEE WI 53597
DAWN & SCOTT EVERT 9515 STATE HIGHWAY 19 MAZOMANIE WI 53560	ALMAE LLC LARRY KRUCHTEN 8125 STATE HIGHWAY 19 CROSS PLAINS WI 53528
DRESEN BROTHERS FARM LLC 8044 STATE HIGHWAY 19 DANE WI 53529	PAUL & DAWN FASSBENDER 8992 STATE HIGHWAY 19 MAZOMANIE WI 53560
SCOTT & JODY WIMMER 7542 TUNBLEDOWN TRL VERONA WI 53593	SANDRA STEWART TRUST 8380 STATE HIGHWAY 19 CROSS PLAINS WI 53528
STEVEN & BETTY BALLWEG 8622 STATE HIGHWAY 19 MAZOMANIE WI 53560	KEULER BERRY PROPERTY LLC 8308 STATE HIGHWAY 19 CROSS PLAINS WI 53528
ICE AGE TRAIL ALLIANCE 8200 STATE HIGHWAY 19 CROSS PLAINS WI 53528	SCOTT McDONELL DANE COUNTY CLERK 210 MARTIN LUTHER KING JR BLVD MADISON WI 53703-3342
FRED WOLF MAZOMANIE TOWN CHAIR 5630 WOLF RD MAZOMANIE WI 53560	MELISSA LOHRE MAZOMANIE TOWN CLERK 711 W HUDSON RD MAZOMANIE WI 53560
ANTHONY VARDA BERRY TOWN CHAIR 9332 SPRING VALLEY RD MAZOMANIE WI 53560	BRENDA KAHL BERRY TOWN CLERK 9046 STATE HIGHWAY 19 MAZOMANIE WI 53560

DONALD HOFFMAN SPRINGFIELD TOWN CHAIR 6718 STATE HIGHWAY 19 WAUNAKEE WI 53597	DIANAH FAYAS SPRINGFIELD TOWN CLERK 6157 COUTNTY HIGHWY P DANE WI 53529
LAURA HICKLIN DANE CO LAND & WATER – RM 208 5201 FEN OAK DR MADISON WI 53718-8827	HEIDI JOHNSON DANE COUNTY UWES – RM 138 5201 FEN OAK DR MADISON WI 53718
MAZOMANIE FREE LIBRARY 102 BRODHEAD ST PO BOX 458 MAZOMANIE WI 53560-0458	ROSEMARY GARFOOT PUBLIC LIBRARY 2107 JULIUS ST CROSS PLAINS WI 53528-9499
MADISON PUBLIC LIBRARY 201 W MIFFLIN ST MADISON WI 53703-2597	WISCONSIN STATE JOURNAL PO BOX 8058 MADISON WI 53708-8058

Copies of the final AIS will be emailed to the following:

- Newspapers - Agri-View and Country Today.

APPENDIX A: DATCP STATUTES FOR AGRICULTURAL IMPACT STATEMENTS

DATCP is required to prepare an AIS whenever more than five acres of land from at least one farm operation will be acquired for a public project if the agency/company acquiring the land has the authority to use eminent domain for property acquisitions. DATCP has the option to prepare an AIS for projects affecting five or fewer acres from each farm if the proposed project would have significant effects on a farm operation. The entity proposing a construction project is required to provide DATCP with the necessary details of the project so that the potential impacts and effects of the project on farm operations can be analyzed. DATCP has 60 days to make recommendations, and publish the AIS. DATCP provides the AIS to affected farmland owners, various state and local officials, local media and libraries, and any other individual or group who requests a copy. Thirty days after the date of publication, the project initiator may begin negotiating with the landowner(s) for the property.

[Wisconsin Statute § 32.035](#) is provided below and describes the Wisconsin Agricultural Impact Statement procedure and content.

(1) DEFINITIONS. In this section:

- (a) "Department" means department of agriculture, trade, and consumer protection.
- (b) "Farm operation" means any activity conducted solely or primarily for the production of one or more agricultural commodities resulting from an agricultural use, as defined in s. 91.01 (2), for sale and home use, and customarily producing the commodities in sufficient quantity to be capable of contributing materially to the operator's support.

(2) EXCEPTION. This section shall not apply if an environmental impact statement under s. 1.11 is prepared for the proposed project and if the department submits the information required under this section as part of such statement or if the condemnation is for an easement for the purpose of constructing or operating an electric transmission line, except a high voltage transmission line as defined in s. 196.491(1) (f).

(3) PROCEDURE. The condemnor shall notify the department of any project involving the actual or potential exercise of the powers of eminent domain affecting a farm operation. If the condemnor is the department of natural resources, the notice required by this subsection shall be given at the time that permission of the senate and assembly committees on natural resources is

sought under s. 23.09(2)(d) or 27.01(2)(a). To prepare an agricultural impact statement under this section, the department may require the condemnor to compile and submit information about an affected farm operation. The department shall charge the condemnor a fee approximating the actual costs of preparing the statement. The department may not publish the statement if the fee is not paid.

(4) IMPACT STATEMENT.

(a) *When an impact statement is required; permitted.* The department shall prepare an agricultural impact statement for each project, except a project under Ch. 82 or a project located entirely within the boundaries of a city or village, if the project involves the actual or potential exercise of the powers of eminent domain and if any interest in more than 5 acres from any farm operation may be taken. The department may prepare an agricultural impact statement on a project located entirely within the boundaries of a city or village or involving any interest in 5 or fewer acres of any farm operation if the condemnation would have a significant effect on any farm operation as a whole.

(b) *Contents.* The agricultural impact statement shall include:

1. A list of the acreage and description of all land lost to agricultural production and all other land with reduced productive capacity, whether or not the land is taken.
2. The department's analyses, conclusions, and recommendations concerning the agricultural impact of the project.

(c) *Preparation time; publication.* The department shall prepare the impact statement within 60 days of receiving the information requested from the condemnor under sub. (3). The department shall publish the statement upon receipt of the fee required under sub. (3).

(d) *Waiting period.* The condemnor may not negotiate with an owner or make a jurisdictional offer under this subchapter until 30 days after the impact statement is published.

(5) PUBLICATION. Upon completing the impact statement, the department shall distribute the impact statement to the following:

- (a) The governor's office.
- (b) The senate and assembly committees on agriculture and transportation.

- (c) All local and regional units of government that have jurisdiction over the area affected by the project. The department shall request that each unit post the statement at the place normally used for public notice.
- (d) Local and regional news media in the area affected.
- (e) Public libraries in the area affected.
- (f) Any individual, group, club, or committee that has demonstrated an interest and has requested receipt of such information.
- (g) The condemnor.

STATUTES GOVERNING EMINENT DOMAIN

The details governing eminent domain as it relates to WisDOT projects are included in Wis. Stat. Ch. 32 (<http://docs.legis.wisconsin.gov/statutes/statutes/32.pdf>).

DATCP recommends that farmland owners concerned about eminent domain powers and the acquisition of land should review this statute in its entirety. Landowners may also wish to consult with an attorney who should have expertise in eminent domain proceedings. In addition, any Wisconsin licensed appraiser that landowners employ regarding a project where eminent domain could be used should be knowledgeable in partial takings.

[Section 32.09 of the Wisconsin Statutes](#) describes the compensation provided for property acquisition and certain damages:

(6) In the case of a partial taking of property other than an easement, the compensation to be paid by the condemnor shall be the greater of either the fair market value of the property taken as of the date of evaluation or the sum determined by deducting from the fair market value of the whole property immediately before the date of evaluation, the fair market value of the remainder immediately after the date of evaluation, assuming the completion of the public improvement and giving effect, without allowance of offset for general benefits, and without restriction because of enumeration but without duplication, to the following items of loss or damage to the property where shown to exist:

- (a)** Loss of land including improvements and fixtures actually taken.
- (b)** Deprivation or restriction of existing right of access to highway from abutting land, provided that nothing herein shall operate to restrict the power of the state or any of its subdivisions or any municipality to deprive or restrict such access without compensation under any duly authorized exercise of the police power.

- (c) Loss of air rights.
- (d) Loss of a legal nonconforming use.
- (e) Damages resulting from actual severance of land including damages resulting from severance of improvements or fixtures and proximity damage to improvements remaining on condemnee's land. In determining severance damages under this paragraph, the condemnor may consider damages which may arise during construction of the public improvement, including damages from noise, dirt, temporary interference with vehicular or pedestrian access to the property and limitations on use of the property. The condemnor may also consider costs of extra travel made necessary by the public improvement based on the increased distance after construction of the public improvement necessary to reach any point on the property from any other point on the property.
- (f) Damages to property abutting on a highway right of way due to change of grade where accompanied by a taking of land.
- (g) Cost of fencing reasonably necessary to separate land taken from remainder of condemnee's land, less the amount allowed for fencing taken under par. (a), but no such damage shall be allowed where the public improvement includes fencing of right of way without cost to abutting lands.

Section 32.19 of the Wisconsin Statutes outlines payments to be made to displaced tenant occupied businesses and farm operations.

(4m) BUSINESS OR FARM REPLACEMENT PAYMENT. (a) Owner-occupied business or farm operation. In addition to amounts otherwise authorized by this subchapter, the condemnor shall make a payment, not to exceed \$50,000, to any owner displaced person who has owned and occupied the business operation, or owned the farm operation, for not less than one year prior to the initiation of negotiations for the acquisition of the real property on which the business or farm operation lies, and who actually purchases a comparable replacement business or farm operation for the acquired property within two years after the date the person vacates the acquired property or receives payment from the condemnor, whichever is later. An owner displaced person who has owned and occupied the business operation, or owned the farm operation, for not less than one year prior to the initiation of negotiations for the acquisition of the real property on which the business or farm operation lies may elect to receive the payment under par. (b) 1. in lieu of the payment under this paragraph, but the amount of payment under par. (b) 1. to such an owner displaced person may not exceed the amount the owner displaced person is eligible to receive under this paragraph. The additional payment under this paragraph shall include the following amounts:

1. The amount, if any, which when added to the acquisition cost of the property, other than any dwelling on the property, equals the reasonable cost of a comparable replacement business or farm operation for the acquired property, as determined by the condemnor.
2. The amount, if any, which will compensate such owner displaced person for any increased interest and other debt service costs which such person is required to pay for financing the acquisitions of any replacement property, if the property acquired was encumbered by a bona fide mortgage or land contract which was a valid lien on the property for at least one year prior to the initiation of negotiations for its acquisition. The amount under this subdivision shall be determined according to rules promulgated by the department of administration.
3. Reasonable expenses incurred by the displaced person for evidence of title, recording fees and other closing costs incident to the purchase of the replacement property, but not including prepaid expenses.

(b) Tenant-occupied business or farm operation. In addition to amounts otherwise authorized by this subchapter, the condemnor shall make a payment to any tenant displaced person who has owned and occupied the business operation, or owned the farm operation, for not less than one year prior to initiation of negotiations for the acquisition of the real property on which the business or operation lies or, if displacement is not a direct result of acquisition, such other event as determined by the department of commerce, and who actually rents or purchases a comparable replacement business or farm operation within 2 years after the date the person vacates the property. At the option of the tenant displaced person, such payment shall be either:

1. The amount, not to exceed \$30,000, which is necessary to lease or rent a comparable replacement business or farm operation for a period of 4 years. The payment shall be computed by determining the average monthly rent paid for the property from which the person was displaced for the 12 months prior to the initiation of negotiations or, if displacement is not a direct result of acquisition, such other event as determined by the department of administration and the monthly rent of a comparable replacement business or farm operation and multiply the difference by 48; or
2. If the tenant displaced person elects to purchase a comparable replacement business or farm operation, the amount determined under subd. 1 plus expenses under par. (a) 3.

(5) EMINENT DOMAIN. Nothing in this section or ss. 32.25 to 32.27 shall be construed as creating in any condemnation proceedings brought under the power of eminent domain, any element of damages.

Section 32.25 of the Wisconsin Statutes delineates steps to be followed when displacing persons, businesses, and farm operations.

- (1) Except as provided under sub.(3) and s. 85.09 (4m), no condemnor may proceed with any activity that may involve the displacement of persons, business concerns or farm operations until the condemnor has filed in writing a relocation payment plan and relocation assistance service plan and has had both plans approved in writing by the department of administration.
- (2) The relocation assistance service plan shall contain evidence that the condemnor has taken reasonable and appropriate steps to:
 - (a) Determine the cost of any relocation payments and services or the methods that are going to be used to determine such costs.
 - (b) Assist owners of displaced business concerns and farm operations in obtaining and becoming established in suitable business locations or replacement farms.
 - (c) Assist displaced owners or renters in the location of comparable dwellings.
 - (d) Supply information concerning programs of federal, state and local governments which offer assistance to displaced persons and business concerns.
 - (e) Assist in minimizing hardships to displaced persons in adjusting to relocation.
 - (f) Secure, to the greatest extent practicable, the coordination of relocation activities with other project activities and other planned or proposed governmental actions in the community or nearby areas which may affect the implementation of the relocation program.
 - (g) Determine the approximate number of persons, farms or businesses that will be displaced and the availability of decent, safe and sanitary replacement housing.
 - (h) Assure that, within a reasonable time prior to displacement, there will be available, to the extent that may reasonably be accomplished, housing meeting the standards established by the department of administration for decent, safe and sanitary dwellings. The housing, so far as practicable, shall be in areas not generally less desirable in regard to public utilities, public and commercial facilities and at rents or prices within the financial means of the families and individuals displaced and equal in number to the number of such displaced families or individuals and reasonably accessible to their places of employment.
 - (i) Assure that a person shall not be required to move from a dwelling unless the person has had a reasonable opportunity to relocate to a comparable dwelling.

(3) (a) Subsection (1) does not apply to any of the following activities engaged in by a condemnor:

1. Obtaining an appraisal of property.
2. Obtaining an option to purchase property, regardless of whether the option specifies the purchase price, if the property is not part of a program or project receiving federal financial assistance.

STATUTES GOVERNING ACCESS

[Section 86.05 of the Wisconsin Statutes](#) states that access shall be provided to land which abuts a highway:

Entrances to highway restored. Whenever it is necessary, in making any highway improvement to cut or fill or otherwise grade the highway in front of any entrance to abutting premises, a suitable entrance to the premises shall be constructed as a part of the improvements, and if the premises are divided by the highway, then one such entrance shall be constructed on each side of the highway. Thereafter, each entrance shall be maintained by the owner of the premises. During the time the highway is under construction, the state, county, city, village or town shall not be responsible for any damage that may be sustained through the absence of an entrance to any such premises.

[Section 84.25 of the Wisconsin Statutes](#) describes access restrictions concerning a controlled-access highway.

(3) CONSTRUCTION; OTHER POWERS OF DEPARTMENT. In order to provide for the public safety, convenience and the general welfare, the department may use an existing highway or provide new and additional facilities for a controlled-access highway and so design the same and its appurtenances, and so regulate, restrict or prohibit access to or departure from it as the department deems necessary or desirable. The department may eliminate intersections at grade of controlled-access highways with existing highways or streets, by grade separation or service road, or by closing off such roads and streets at the right-of-way boundary line of such controlled-access highway and may divide and separate any controlled-access highway into separate roadways or lanes by raised curbing, dividing sections or other physical separations or by signs, markers, stripes or other suitable devices, and may execute any construction necessary in the development of a controlled-access highway including service roads or separation of grade structures.

- (4) CONNECTIONS BY OTHER HIGHWAYS. After the establishment of any controlled-access highway, no street or highway or private driveway, shall be opened into or connected with any controlled-access highway without the previous consent and approval of the department in writing, which shall be given only if the public interest shall be served thereby and shall specify the terms and conditions on which such consent and approval is given.
- (5) USE OF HIGHWAY. No person shall have any right of entrance upon or departure from or travel across any controlled-access highway, or to or from abutting lands except at places designated and provided for such purposes, and on such terms and conditions as may be specified from time to time by the department.
- (6) ABUTTING OWNERS. After the designation of a controlled-access highway, the owners or occupants of abutting lands shall have no right or easement of access, by reason of the fact that their property abuts on the controlled-access highway or for other reason, except only the controlled right of access and of light, air or view.
- (7) SPECIAL CROSSING PERMITS. Whenever property held under one ownership is severed by a controlled-access highway, the department may permit a crossing at a designated location, to be used solely for travel between the severed parcels, and such use shall cease if such parcels pass into separate ownership.

STATUTES GOVERNING DRAINAGE

[Section 88.87\(2\) of the Wisconsin Statutes](#) describes regulations concerning rights of drainage:

- (a) Whenever any county, town, city, village, railroad company or the department of transportation has heretofore constructed and now maintains or hereafter constructs and maintains any highway or railroad grade in or across any marsh, lowland, natural depression, natural watercourse, natural or man-made channel or drainage course, it shall not impede the general flow of surface water or stream water in any unreasonable manner so as to cause either an unnecessary accumulation of waters flooding or water-soaking uplands or an unreasonable accumulation and discharge of surface water flooding or water-soaking lowlands. All such highways and railroad grades shall be constructed with adequate ditches, culverts, and other facilities as may be feasible, consonant with sound engineering practices, to the end of maintaining as far as practicable the original flow lines of drainage. This paragraph does not apply to highways or railroad grades used to hold and retain water for cranberry or conservation management purposes.
- (b) Drainage rights and easements may be purchased or condemned by the public authority or railroad company having control of the highway or railroad grade to aid in the

prevention of damage to property owners which might otherwise occur as a result of failure to comply with par. (a).

(c) If a city, village, town, county, or railroad company or the department of transportation constructs and maintains a highway or railroad grade not in accordance with par. (a), any property owner damaged by the highway or railroad grade may, within 3 years after the alleged damage occurred, file a claim with the appropriate governmental agency or railroad company. The claim shall consist of a sworn statement of the alleged faulty construction and a description, sufficient to determine the location of the lands, of the lands alleged to have been damaged by flooding or water-soaking. Within 90 days after the filing of that claim, the governmental agency or railroad company shall either correct the cause of the water damage, acquire rights to use the land for drainage or overflow purposes, or deny the claim. If the agency or company denies the claim or fails to take any action within 90 days after the filing of the claim, the property owner may bring an action in inverse condemnation under ch. 32 or sue for such other relief, other than damages, as may be just and equitable.

WisDOT [specification 205.3.3](#) further describes its policies concerning drainage:

- (1) During construction, maintain roadway, ditches, and channels in a well-drained condition at all times by keeping the excavation areas and embankments sloped to the approximate section of the ultimate earth grade. Perform blading or leveling operations when placing embankments and during the process of excavation except if the excavation is in ledge rock or areas where leveling is not practical or necessary. If it is necessary in the prosecution of the work to interrupt existing surface drainage, sewers, or under drainage, provide temporary drainage until completing permanent drainage work.
- (2) If storing salvaged topsoil on the right-of-way during construction operations, stockpile it to preclude interference with or obstruction of surface drainage.
- (3) Seal subgrade surfaces as specified for subgrade intermediate consolidation and trimming in 207.3.9.
- (4) Preserve, protect, and maintain all existing tile drains, sewers, and other subsurface drains, or parts thereof that the engineer judges should continue in service without change. Repair, at no expense to the department, all damage to these facilities resulting from negligence or carelessness of the contractor's operations.

APPENDIX B: ADDITIONAL INFORMATION SOURCES

[DATCP \(datcp.wi.gov\)](http://datcp.wi.gov)

- [Farmland Preservation](#)
- [Agricultural Impact Statements](#)
- [Wisconsin Farm Center](#): provides services to Wisconsin farmers including financial mediation, stray voltage, legal, vocational, and farm transfers
- [Drainage Districts](#)

[Department of Administration \(doa.wi.gov\)](http://doa.wi.gov)

[Relocation Assistance](#) includes several publication on landowner rights under Wisconsin eminent domain law

- [Wisconsin Relocation Rights Residential](#)
- [Wisconsin Relocation Rights for Businesses, Farm and Nonprofit Organizations](#)
- [The Rights of Landowners under Wisconsin Eminent Domain Law](#), Procedures under sec. 32.06 Wis. Stats. (Condemnation procedures in matters other than highways, streets, storm & sanitary sewers, watercourses, alleys, airports and mass transit facilities)

[Department of Natural Resources \(dnr.wi.gov\)](http://dnr.wi.gov)

- [Managed Forest Law](#)

[U.S. Department of Agriculture \(www.usda.gov\)](http://www.usda.gov)

- [National Agricultural Statistics Service](#)
- [Web Soil Survey](#)
- [Soil Quality – Urban Technical Note No. 1, Erosion and Sedimentation on Construction Sites](#)

[Wisconsin Department of Safety and Professional Services \(dsps.wi.gov\)](http://dsps.wi.gov)

- Look-up for state certification status of different types of [real estate appraisers](#)

[State Bar of Wisconsin \(www.wisbar.org\)](http://www.wisbar.org)

- For general legal information and assistance in finding a lawyer



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