

APPENDICES

DATCP #4567

Plymouth Reliability Project

Sheboygan County

**WISCONSIN DEPARTMENT OF AGRICULTURE,
TRADE AND CONSUMER PROTECTION**

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APPENDIX A: ADDITIONAL FIGURES & TABLES

Figure 1: Location of preferred and alternative routes for the proposed Plymouth Reliability project and proposed Off-ROW areas for access, laydown yards, stringing setup, and tie-in areas in Sheboygan County, WI (DATCP, 2024a).

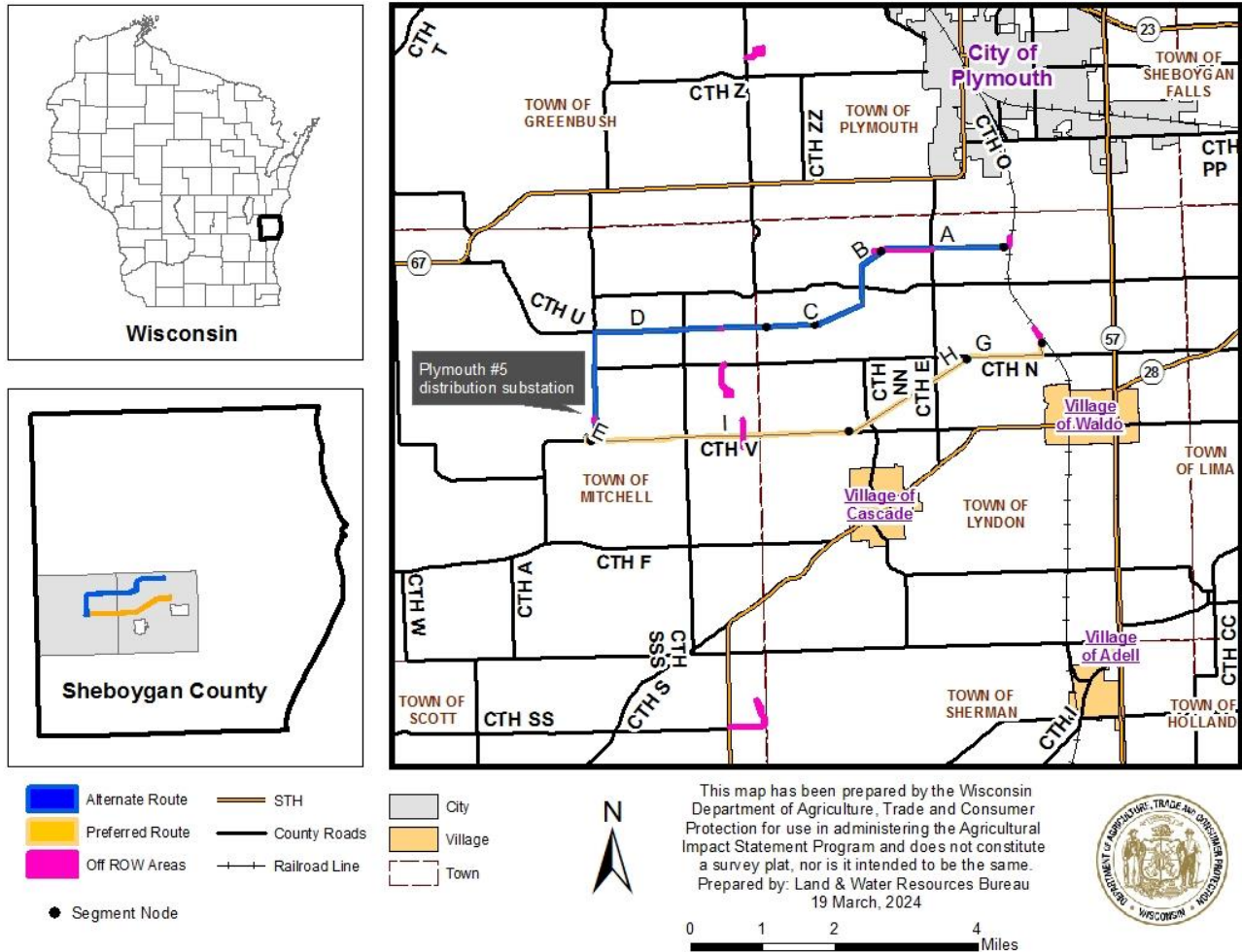


Figure 2: Acronyms

AEA	Agricultural Enterprise Area
AIN	Agricultural Impact Notification
AIS	Agricultural Impact Statement
ATC	American Transmission Company
CPCN	Certificate of Public Convenience and Necessity
CREP	Conservation Reserve and Enhancement Program
CRP	Conservation Reserve Program
CTH	County Trunk Highway
DATCP	Department of Agriculture, Trade, and Consumer Protection
EA	Environmental Assessment
EIS	Environmental Impact Statement
FP	Farmland Preservation Program
FSA	Farm Service Agency
IAM	Independent Agricultural Monitor
IEM	Independent Environmental Monitor
kV	Kilovolt
MFL	Managed Forest Law
NEV	Neutral to Earth Voltage
PSC	Public Service Commission of Wisconsin
ROW	Right-of-Way
STH	State Trunk Highway
USDA	U.S. Department of Agriculture
WisDNR	Wisconsin Department of Natural Resources

Figure 3: Terms

CIRCUIT	A continuous electrical path along which electricity can flow from a source, like a power plant, to where it is used, like a home. A typical transmission circuit consists of three phases, with each phase on a separate set of conductors.
CONDUCTOR	A wire composed of multiple aluminum strands wrapped around a steel core that together carry electricity. A transmission line is constructed with three conductors, one for each phase of the circuit generated by a power plant.
DOUBLE-CIRCUIT	Electric lines with two sets of three conductors, totaling six conductors on one structure. These two circuits are independent of one another.
DISTRIBUTION LINE	An interconnected group of lines and equipment for the delivery of low voltage electricity between the transmission network and end users (i.e. home/business)
KILOVOLT (kV)	A unit of electricity equal to 1,000 volts.
LAYDOWN YARD	Temporary equipment staging and storage areas.
SHIELD WIRE	A wire connected to the top of the structure to protect the conductors from lightning strikes, minimizing the risk of power outages.
SUBSTATION	A facility that monitors and controls electrical power flows, uses high voltage circuit breakers to protect power lines, and transforms voltage levels for safe and reliable delivery of electricity.
TRANSMISSION LINE	An interconnected group of lines and equipment for transporting electric energy on a high voltage power line between power plants and substations.

APPENDIX B: APPRAISAL AND COMPENSATION PROCESS

The acquisition of land by entities including but not limited to departments, municipalities, boards, commissions, public officers, and business with eminent domain authority in Wisconsin, is stipulated under [Wis. Stat. §32.06](#). If the entity (the condemnor) actualizes their powers of eminent domain by exercising condemnation, the condemnor shall first provide an appraisal of the affected property to each landowner prior to the start of land acquisition negotiations. An appraisal is an estimate of fair market value, additional information about the appraisal process and landowners rights can be found in the Wisconsin Department of Administration publication, "[The Rights of Landowners under Wisconsin Eminent Domain Law](#)," also listed in Appendix D.

The condemnor may conduct a market study to determine current area property values of affected property. If the landowner signs an appraisal waiver form, the market study will be the basis for the condemnor's offer of compensation and no individual property appraisal will be conducted. The condemnor may also offer additional compensation to landowners who choose to sign the appraisal waiver form.

Landowners have the right to obtain their own appraisal of their property under Wisconsin's eminent domain law ([Wis. Stat. §32.06](#)) and will be compensated for the cost of this appraisal if the following conditions are met:

- 1) The appraisal must be submitted to the condemnor or its designated real estate contractor within 60 days after the landowner receives the initial appraisal
- 2) The appraisal fee must be reasonable
- 3) The appraisal must be a full, narrative appraisal
- 4) The appraisal must be completed by a qualified appraiser

Through the process of condemnation, a jurisdictional offer made to the landowner in accordance with [Wis. Stat. §32.06\(3\)](#) will include an appraisal of the fair market value for the land acquisition or easement and any anticipated damages to the property. The fair market value means the price that a willing buyer would pay to a willing seller in the market. This will be based on at least one full narrative appraisal for each property the condemnor intends to acquire. The appraisal must be presented to the landowner. The amount of compensation is based on the appraisal(s) and is established during the negotiation process between condemnor and the individual landowners.

The condemnor 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 if the condemnor actualizes their condemnation authority, the condemnor cannot negotiate with a landowner or make a jurisdictional offer until 30 days after the AIS is published.

APPENDIX C: AGRICULTURAL LANDOWNER COMMENTS

In order to gather additional information about the project's impact to agricultural lands and farm operations, the Department mailed surveys to agricultural landowners in the Project ROW routes who had agricultural impacts of 1.5 or more acres. The Department recommends agricultural landowners review Section 4: Landowner Rights and Section 5: Agricultural Impact Mitigation preceding easement negotiations.

Preferred Route

Mike & Kristi Pietsch-Sorenson, Segment G

The Sorenson farm operation consists of 40 acres of which 27 acres are cropland, 9.5 acres are woodlands, 2 acres are stone fences and 2 acres are homes and farm buildings. They identified the following concerns to the Department on how the proposed Project could impact their farm operation: proximity of the existing farm residence/farm buildings to the ROW, impact of transmission towers on productive farmland, soil compaction, erosion and drainage. The Sorenson farm is protected in a perpetual conservation easement held by the Glacial Lakes Conservancy. The easement purposes includes permanent preservation of open space, water quality protection, and conservation. The stone fences are significant to the geography, geomorphology, and agricultural heritage of Western Sheboygan County (Dippel, 2022).

Jason Dahm, Segment G

The Dahm farm operation consists of 60 acres of which 55 acres are cropland and 5 acres are homes and buildings. Dahm identified the following concerns to the Department on how the proposed Project could impact their farm operation: proximity of the existing farm residence/farm buildings to the ROW, impact of transmission towers on productive farmland and cropping around towers.

Thomas J. Kestell, Segment G

The Kestell farm operation consists of 800 acres of cropland, 20 acres of pasture, 9 acres of managed woodlands, 10 acres of homes and buildings and 2 acres of wetlands. The operation has an estimated 130 dairy cattle, 150 replacement dairy cattle and Holstein embryo transfer cows. Kestell identified the following concerns to the Department on how the proposed Project could impact their farm operation: route location. Kestell reported that the existing natural gas ROW easement that the Project seeks to co-locate with in Segment H, travels northeasterly from the point of commencement of said Segment H to a point of intersection with the existing Elkhart Lake – Saukville 138 kV line (8241), one of the end points of the Project. Kestell posited that if the Project could be co-located with the existing natural gas ROW easement that siting of

Segment G in its current configuration could be averted, however this would require the proposed Project to cross DNR owned land.

Katherine Zens, Segment H

The Zens farm operation consists of about 35 acres of cropland, managed woodlands as well as homes and buildings. They identified the following concerns to the Department on how the proposed Project could impact their farm operation: access, parcel severance, loss of productive forest within the ROW, soil compaction during construction, soil health and the introduction of invasive species during construction.

Hughes Farms, LLC, Segment H

The Hughes Farms, LLC farm operation consists of nearly 514 acres of cropland. They identified the following concerns to the Department on how the proposed Project could impact their farm operation: impacts to drainage or drain tile, impacts to grassed waterways, access and loss of productive agricultural land.

Roger and Diane Pietsch, Segment H

The Pietsch farm operation consists of 160 acres including cropland and pasture. The operation has an estimated 10 beef cattle. They identified the following concerns to the Department on how the proposed Project could impact their farm operation: impacts to grassed waterways, impacts to aerial spraying and seeding, manure or fertilizer application and or storage, and loss of productive agricultural land.

Kimberly Keuhl, Segment H, I

The Keuhl farm operation consists of 338 acres of cropland, homes and farm buildings. They identified the following concerns to the Department on how the proposed Project could impact their farm operation: impacts to fencing, access and loss of productive agricultural land.

Dwayne and Elizabeth Pocian, Segment I

The Pocian farm operation consists of 38 acres of cropland. They identified the following concerns to the Department on how the proposed Project could impact their farm operation: parcel severance.

Dr. Jerry and JoAnne Friedman, Segment I

The Friedman farm operation consists of 32 acres of pasture, managed woodlands, homes and farm buildings, wetlands and native prairie. The operation seasonally has dairy cattle, beef cattle, sheep/goats, poultry, farm-raised fish and 1 hive of bees. The operation is registered with the National Wildlife Federation and the Xerces Society for pollinator protection. They identified the following concerns to the Department on how the proposed Project could impact their farm

operation: impacts of pesticide drift to honeybees, impacts to drainage or drain tile, soil erosion controls, impacts to grassed waterways, existing fencing and irrigation system, impacts to existing residence and farm buildings, access, and wood produced within the proposed ROW. Organic certification of the farm operation is pending.

Norbert and Janice Kraemer, Segment I

The Kraemer farm operation consists of 500 acres of cropland, woodlands, homes and farm buildings, wetlands and other mixed uses. The operation has an estimated 70 dairy cows and 70 replacement dairy cattle. They identified the following concerns to the Department on how the proposed Project could impact their farm operation: impacts to existing residence and farm buildings, impacts to aerial spraying and seeding, soil compaction, impact of transmission towers on productive farmland and cropping around towers.

Pearce Woodland Trust (Jack Woodland and Kathleen Pearce), Segment I

The farm operation consists of 37 acres of cropland, pasture, managed woodlands, homes and farm buildings, wetland and restored prairie. The operation has an estimated 50 poultry birds. They identified the following concerns to the Department on how the proposed Project could impact their farm operation: impacts to fencing, proximity of the residence to the proposed Project ROW, loss of pines grown for lumber, loss of producing trees for maple syrup, impacts of pesticide applications to an existing vineyard. While not certified organic, the farm operation reported following sustainable integrated pest management principles.

Heidi Casady, Segment I

The Casady farm operation consists of nearly 13 acres of pasture, homes and farm buildings. The operation has swine, sheep, goats, horses and alpaca. They identified the following concerns to the Department on how the proposed Project could impact their farm operation: soil erosion control, impacts to fencing, impacts to existing farm buildings, and access during construction.

Alternate Route

Gene and Kathleen Bohnhoff, Segment B

The Bohnhoff farm is a 4th generation farm operation that consists of 407 acres of cropland, pasture, managed woodlands, homes and farm buildings and wetland. The operation has an estimated 235 dairy cows and 170 replacement dairy cattle. They identified the following concerns to the Department on how the proposed Project could impact their farm operation: impacts to drainage, drain tile or grassed waterways, impacts to fencing, access, parcel severance, manure or fertilizer application or storage, loss of productive agricultural land and cropping around towers. The Bohnhoffs emphasized that any loss of productive agricultural land negatively affects the operation's ability to produce sufficient feed for their cows.

The Bohnhoffs noted there is drainage infrastructure on the farm that has previously required repair resulting from construction for unrelated utilities.

Karie and Adam Redlich, Segment C and D

The Hughes Farms, LLC farm operation consists of nearly 23 acres of cropland, pasture, homes and farm buildings. The operation has an estimated 9 horses. They identified the following concerns to the Department on how the proposed Project could impact their farm operation: impacts to drainage or drain tile, impacts to fencing, proximity of the existing farm residence/farm buildings to the ROW, loss of productive forest within the ROW and loss of productive agricultural land. The Redlichs identified a potential 11% loss of land available for hay production within the ROW which is the primary feed source for their horses; as well as a concern for risks related to stray voltage.

Russell G. Payne, Segment D

The Payne farm operation consists of 80 acres of cropland, pasture, managed woodlands and homes and farm buildings. They identified the following concerns to the Department on how the proposed Project could impact their farm operation: erosion control, access, loss of productive forest within the ROW.

Milton Abel, Segments D & E

The Abel farm operation consists of 80 acres of cropland. Abel identified the following concerns to the Department on how the proposed Project could impact their farm operation: loss of productive farmland.

APPENDIX D: WISCONSIN STATUTES

The Department of Agriculture, Trade and Consumer Protection (the Department) 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. The Department 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 the Department 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 prepare the AIS. DATCP shall publish the AIS upon receipt of the fee required to prepare the AIS. The Department 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.

I. AGRICULTURAL IMPACT STATEMENT STATUTE

[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.

II. 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>).

The Department 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.

III. 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.

IV. 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.

V. LANDOWNER BILL OF RIGHTS

[Wisconsin Statute § 182.017](#) **Transmission lines; privileges; damages** is provided below:

(1g) Definitions. In this section:

(a) "Commission" means the public service commission.

(b) "Company" means any of the following:

1. A corporation, limited liability company, partnership, or other business entity organized to furnish telegraph or telecommunications service or transmit heat, power, or electric current to the public or for public purposes.
2. An independent system operator, as defined in s. 196.485 (1) (d).
3. An independent transmission owner, as defined in s. 196.485 (1) (dm).
4. A cooperative association organized under ch. 185 or 193 to furnish telegraph or telecommunications service.
5. A cooperative association organized under ch. 185 to transmit heat, power, or electric current to its members.
6. An interim cable operator, as defined in s. 66.0420 (2) (n).
7. A video service provider, as defined in s. 66.0420 (2) (zg).

(bm) "Municipal regulation" means any contract, ordinance, resolution, order, or other regulation entered into, enacted, or issued by a municipality before, on, or after July 2, 2013.

(c) "Municipality" means a city, village, or town.

(cq) "Telecommunications service" means the offering for sale of the conveyance of voice, data, or other information, including the sale of service for collection, storage, forwarding, switching, and delivery incidental to such communication regardless of the technology or mode used to make such offering.

(ct) "Urban rail transit system" means a system, either publicly or privately owned, which provides transportation by rail in a municipality to the public on a regular and continuing basis and which begins service on or after July 2, 2013.

(d) "Video service network" has the meaning given in s. 66.0420 (2) (zb).

(1r) Right-of-way for. Any company may, subject to ss. 30.44 (3m), 30.45, 86.16, and 196.491 (3) (d) 3m. and to reasonable regulations made by any municipality through which its transmission lines or systems may pass, construct and maintain such lines or

systems with all necessary appurtenances in, across or beneath any public highway or bridge or any stream or body of water, or upon any lands of any owner consenting thereto, and for such purpose may acquire lands or the necessary easements; and may connect and operate its lines or system with other lines or systems devoted to like business, within or without this state, and charge reasonable rates for the transmission and delivery of messages or the furnishing of heat, power, or electric light.

(2) Not to obstruct public use. But no such line or system or any appurtenance thereto shall at any time obstruct or incommode the public use of any highway, bridge, stream or body of water.

(3) Abandoned lines removed. The commission after a public hearing as provided in s. 196.26, and subject to the right of review as provided in ch. 227, may declare any line to have been abandoned or discontinued, if the facts warrant such finding. Whenever such a finding shall have been made the company shall remove such line, and on failure for 3 months after such finding of abandonment or discontinuance, any person owning land over, through or upon which such line shall pass, may remove the same, or the supervisors of any town within which said lines may be situated, may remove the said lines from the limits of its highways, and such person or supervisors shall be entitled to recover from the company owning the lines the expense for labor involved in removing the property.

(4) Location of poles. In case of dispute as to the location of poles, pipes or conduits, the commissioners appointed in condemnation proceedings under ch. 32 may determine the location. In no case, except where the owner consents, shall poles be set in front of or upon any residence property, or in front of a building occupied for business purposes, unless the commissioners find that the same is necessary and the court may review the finding.

(5) Tree trimming. Any company which shall in any manner destroy, trim or injure any shade or ornamental trees along any such lines or systems, or, in the course of tree trimming or removal, cause any damage to buildings, fences, crops, livestock or other property, except by the consent of the owner, or after the right so to do has been acquired, shall be liable to the person aggrieved in 3 times the actual damage sustained, besides costs.

(6) Municipal franchise required. No lighting or heating corporation or lighting or heating cooperative association shall have any right hereunder in any municipality until it has obtained a franchise or written consent for the erection or installation of its lines from such municipality.

(7) High-voltage transmission lines. Any easement for rights-of-way for high-voltage transmission lines as defined under s. 196.491 (1) (f) shall be subject to all of the following conditions and limitations:

- (a) The conveyance under ch. 706 and, if applicable, the petition under s. 32.06 (7), shall describe the interest transferred by specifying, in addition to the length and width of the right-of-way, the number, type and maximum height of all structures to be erected thereon, the minimum height of the transmission lines above the landscape, and the number and maximum voltage of the lines to be constructed and operated thereon.
- (b) In determining just compensation for the interest under s. 32.09, damages shall include losses caused by placement of the line and associated facilities near fences or natural barriers such that lands not taken are rendered less readily accessible to vehicles, agricultural implements and aircraft used in crop work, as well as damages resulting from ozone effects and other physical phenomena associated with such lines, including but not limited to interference with telephone, television and radio communication.
- (c) In constructing and maintaining high-voltage transmission lines on the property covered by the easement the utility shall:
 - 1. If excavation is necessary, ensure that the top soil is stripped, piled and replaced upon completion of the operation.
 - 2. Restore to its original condition any slope, terrace, or waterway which is disturbed by the construction or maintenance.
 - 3. Insofar as is practicable and when the landowner requests, schedule any construction work in an area used for agricultural production at times when the ground is frozen in order to prevent or reduce soil compaction.
 - 4. Clear all debris and remove all stones and rocks resulting from construction activity upon completion of construction.
 - 5. Satisfactorily repair to its original condition any fence damaged as a result of construction or maintenance operations. If cutting a fence is necessary, a temporary gate shall be installed. Any such gate shall be left in place at the landowner's request.
 - 6. Repair any drainage tile line within the easement damaged by such construction or maintenance.
 - 7. Pay for any crop damage caused by such construction or maintenance.

8. Supply and install any necessary grounding of a landowner's fences, machinery or buildings.
- (d) The utility shall control weeds and brush around the transmission line facilities. No herbicidal chemicals may be used for weed and brush control without the express written consent of the landowner. If weed and brush control is undertaken by the landowner under an agreement with the utility, the landowner shall receive from the utility a reasonable amount for such services.
- (e) The landowner shall be afforded a reasonable time prior to commencement of construction to harvest any trees located within the easement boundaries, and if the landowner fails to do so, the landowner shall nevertheless retain title to all trees cut by the utility.
- (f) The landowner shall not be responsible for any injury to persons or property caused by the design, construction or upkeep of the high-voltage transmission lines or towers.
- (g) The utility shall employ all reasonable measures to ensure that the landowner's television and radio reception is not adversely affected by the high-voltage transmission lines.
- (h) The utility may not use any lands beyond the boundaries of the easement for any purpose, including ingress to and egress from the right-of-way, without the written consent of the landowner.
- (i) The rights conferred under pars. (c) to (h) may be specifically waived by the landowner in an easement conveyance which contains such paragraphs verbatim.
- (8) Commission review.**
- (a) Upon complaint by a company that a regulation by a municipality under sub. (1r) is unreasonable, the commission shall set a hearing and, if the commission finds that the regulation is unreasonable, the regulation shall be void. Subject to pars. (am) to (c), if the commission determines that a municipal regulation that was in effect on January 1, 2007, and immediately prior to January 9, 2008, or that a community standard, as demonstrated through consistent practice and custom in the municipality, that was in effect on January 1, 2007, and immediately prior to January 9, 2008, is substantially the same as the municipal regulation complained of, there is a rebuttable presumption that the latter regulation is reasonable.
- (am) A municipal regulation is unreasonable if it has the effect of creating a moratorium on the placement of company lines or systems under sub. (1r) or on

the entrance into the municipality of a video service provider, as defined in s. 66.0420 (2) (zg), or is inconsistent with the purposes of s. 66.0420.

(as) Notwithstanding sub. (2), a municipal regulation is unreasonable if it requires a company to pay any part of the cost to modify or relocate the company's facilities to accommodate an urban rail transit system.

(b) A municipal regulation is unreasonable if it requires a company to pay more than the actual cost of functions undertaken by the municipality to manage company access to and use of municipal rights-of-way. These management functions include all of the following:

1. Registering companies, including the gathering and recording of information necessary to conduct business with a company.
2. Except as provided in provided in par. (c), issuing, processing, and verifying excavation or other company permit applications, including supplemental applications.
3. Inspecting company job sites and restoration projects.
4. Maintaining, supporting, protecting, or moving company equipment during work in municipal rights-of-way.
5. Undertaking restoration work inadequately performed by a company after providing notice and the opportunity to correct the work.
6. Revoking company permits.
7. Maintenance of databases.
8. Scheduling and coordinating highway, street, and right-of-way work relevant to a company permit.

(c) A municipal regulation is unreasonable if it requires a company to be responsible for fees under s. 182.0175 (1m) (bm) that may be assessed to a municipality as a member of the one-call system under s. 182.0175.

(d) It is reasonable for a municipal regulation to provide for the recovery of costs incurred under par. (b) 1., 2., 3., and 7. through a preexcavation permit fee.

(e) It is reasonable for a municipal regulation to provide for the recovery of costs incurred under par. (b) 4., 5., and 6. only from the company that is responsible for causing the municipality to incur the costs.

(9) Time limit for permits. If a municipality establishes a permit process under sub. (1r), the municipality shall approve or deny a permit application no later than 60 days after receipt of the application, and, if the municipality fails to do so, the municipality shall be considered to have approved the application and granted the permit. If a municipality denies a permit application, the municipality shall provide the applicant a written explanation of the reasons for the denial at the time that the municipality denies the application.

APPENDIX E: ADDITIONAL INFORMATION SOURCES

Wisconsin State Statutes

- 1) Wisconsin Statute Chapter 91: [Farmland Preservation](#)
 - a. Subchapter 91.46(4): [Conditional Uses](#)
- 2) Wisconsin Statute Chapter 32: [Eminent Domain](#)
 - a. Subchapter 32.035: [Agricultural Impact Statement](#)

Department of Agriculture, Trade and Consumer Protection Website Links

- 3) [DATCP \(datcp.wi.gov\)](#)
- 4) [Farmland Preservation](#)
- 5) [Agricultural Impact Statements](#)
- 6) [Wisconsin Farm Center](#) (Information on services provided to Wisconsin farmers including financial mediation, stray voltage, legal, vocational, and farm transfers)
- 7) [Drainage Districts](#)

Department of Administration (DOA) Website Links

- 8) [DOA \(doa.wi.gov\)](#)
- 9) [Relocation Assistance](#) (Publications on landowner rights under Wisconsin's eminent domain law)
- 10) [Wisconsin Relocation Rights Residential](#)
- 11) [Wisconsin Relocation Rights for Businesses, Farm and Nonprofit Organizations](#)
- 12) [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 (facility plan) Website Links

- 13) [DNR \(dnr.wi.gov\)](#)
- 14) [Managed Forest Law](#)

U.S. Department of Agriculture (USDA)

- 15) [USDA \(usda.gov\)](#)
- 16) [National Agricultural Statistics Service](#)
- 17) [Web Soil Survey](#)
- 18) [Soil Quality – Urban Technical Note No. 1, Erosion and Sedimentation on Construction Sites](#)

Wisconsin Department of Safety and Professional Services (DPS)

- 19) [DPS \(dps.wi.gov\)](https://dps.wi.gov)
- 20) [Real Estate Appraisers](#) (Look-up for state certification status of different types of real estate appraisers)

State Bar of Wisconsin

- 21) [State Bar of Wisconsin \(www.wisbar.org\)](http://www.wisbar.org) (For general legal information and assistance in finding a lawyer)

APPENDIX F: DATCP AG. MONITORING FORM - ARM-LWR-543

See attachment on next page



Wisconsin Department of Agriculture, Trade and Consumer Protection

Division of Agricultural Resource Management

PO Box 8911, Madison, WI 53708-8911

Phone: (608) 224-4646 Fax (608) 224-4615

Agricultural Monitoring Form for Transmission Line Projects

s. 32.035, Wis. Stats.

Please complete this form at the end of the week for the duration of the transmission line construction project, summarizing the daily construction activities and inspection observations on agricultural land for that week. This form should be submitted to DATCP electronically at DATCPAgImpactStatements@wisconsin.gov, unless another electronic project document storage location is specified.

Personal information you provide may be used for purposes other than that for which it was originally collected (s. 15.04 (i)(m), Wis. Stats).

Section 1: Project/Site Information.

INSPECTION DATES:	DATCP PROJECT # AND NAME:
MONITOR NAME:	MONITOR PHONE # AND EMAIL:
LOCATION OF WORK CONDUCTED THIS WEEK (AGRICULTURAL PARCEL NUMBERS OR STRUCTURE NUMBERS):	
WEEKLY WEATHER/ SITE CONDITIONS:	

Section 2: Summary of Daily Construction Activities for the Week.

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Section 3: Landowner Communication - Complete for each landowner correspondence that week. Add additional rows as necessary.	
NAME OF LANDOWNER:	DESCRIBE COMMUNICATION:
LOCATION (PARCEL NO. OR STRUCTURE NO.):	
DATE:	

Section 4: Weekly Inspection Summary - Indicate the status of each inspection item on agricultural land, summarized for the week. If an item was observed as not acceptable but was corrected later in that week, make note in the comments section that the item was already corrected.					
Items Inspected On Agricultural Land	Acceptable	Not Acceptable	Follow Up Required	N/A	Comments
Clearing Practices	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Dewatering Facilities	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Erosion Control Practices	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Soil Segregation and Storage of Topsoil Spoils	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Soil Mixing	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Soil Compaction	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Excess Rock Content in Soil	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Rutting	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Crop Damage	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Damage to Drainage Improvements (tile, ditches, etc.)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Unnatural Field Flooding or Ponding of Water	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Biosecurity Concern	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Organic Farms	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Damage to Conservation Techniques (grassed waterways, terraces, contour strips, etc.)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Other:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Other:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

Section 5: Outstanding Ag Impact Items to Date – Complete for all locations requiring follow-up actions as identified in Section 4. Previously identified issues should remain in this table on each weekly report until they are corrected. Add additional rows as necessary.				
ISSUE LOCATION	ISSUE	DATE OBSERVED	ACTION/RESOLUTION NEEDED	DATE CORRECTED

Section 6: Photos of Construction Observations - Include at least one photo for each item inspected in Section 4. The photo(s) of each inspection item should be representative of the daily observations that week. Add rows as needed.

INSERT PHOTO	<p><u>PHOTO 1</u></p> <p>DATE:</p> <p>LOCATION:</p> <p>DESCRIPTION:</p> <p>FOLLOW-UP REQUIRED:</p>
INSERT PHOTO	<p><u>PHOTO 2</u></p> <p>DATE:</p> <p>LOCATION:</p> <p>DESCRIPTION:</p> <p>FOLLOW-UP REQUIRED:</p>
INSERT PHOTO	<p><u>PHOTO 3</u></p> <p>DATE:</p> <p>LOCATION:</p> <p>DESCRIPTION:</p> <p>FOLLOW-UP REQUIRED:</p>

INSERT PHOTO	<p><u>PHOTO 4</u></p> <p>DATE:</p> <p>LOCATION:</p> <p>DESCRIPTION:</p> <p>FOLLOW-UP REQUIRED:</p>
INSERT PHOTO	<p><u>PHOTO 5</u></p> <p>DATE:</p> <p>LOCATION:</p> <p>DESCRIPTION:</p> <p>FOLLOW-UP REQUIRED:</p>
INSERT PHOTO	<p><u>PHOTO 6</u></p> <p>DATE:</p> <p>LOCATION:</p> <p>DESCRIPTION:</p> <p>FOLLOW-UP REQUIRED:</p>

<p>INSERT PHOTO</p>	<p><u>PHOTO 7</u></p> <p>DATE:</p> <p>LOCATION:</p> <p>DESCRIPTION:</p> <p>FOLLOW-UP REQUIRED:</p>
<p>INSERT PHOTO</p>	<p><u>PHOTO 8</u></p> <p>DATE:</p> <p>LOCATION:</p> <p>DESCRIPTION:</p> <p>FOLLOW-UP REQUIRED:</p>



**WISCONSIN DEPARTMENT OF AGRICULTURE,
TRADE AND CONSUMER PROTECTION**

**DIVISION OF
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