

1 NOTE: A county drainage board does not need department approval
2 for a restoration project, but may need a dredging permit from the
3 Wisconsin department of natural resources under s. 30.20 or s. 88.31,
4 Stats. A county drainage board may not, under the guise of a
5 "restoration project," dredge below the bottom elevation specified as
6 part of the formally established grade profile. See definition of
7 "restoration project" under s. ATCP 48.01(21).
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9 SECTION 25. ATCP 48.32(2) and (note) are amended to read:

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11 ATCP 48.32(2) The deposition of excavated materials, whether by land
12 spreading or piling, shall conform as nearly as practicable to the american society of
13 agricultural engineers engineering practice number ~~407-01~~ 407.1, section 5, 1993
14 edition as reconfirmed in December, 1996.

15 NOTE: Copies of ASAE EP ~~407-01~~ 407.1, section 5 are on file with the
16 department, the secretary of state and the revisor of statutes. Copies
17 may be obtained from the department. A county drainage board may
18 also contact the United States department of agriculture natural resources
19 conservation service or the army corps of engineers for technical
20 assistance related to the deposition of dredged or excavated materials.
21

22 SECTION 26. ATCP 48.33 is created to read:

23 **ATCP 48.33 STRUCTURES IMPEDING DRAINAGE. (1)**

24 PROHIBITION. Except as provided in sub. (2), no county drainage board may install
25 or modify any structure in a district drain, or approve the installation or modification
26 of any structure in a district drain, if the installation or modification causes or
27 aggravates a deviation from the formally established grade profile of that district drain.
28 An installation or modification is rebuttably presumed to cause or aggravate a deviation
29 from the formally established grade profile if it raises the water level in a district drain,
30 or slows the runoff of water from upstream lands in the drainage district.

1 NOTE: A "formally established" grade profile is a grade profile established by
2 court order, or by the county drainage board under s. ATCP 48.20 or
3 48.21.
4

5 (2) TEMPORARY MODIFICATIONS. Subsection (1) does not apply to any
6 of the following which the county drainage board undertakes or approves:

7 (a) A temporary structure or modification that is reasonably necessary to
8 protect the public health, safety or welfare in an emergency.

9 (b) A temporary structure or modification that is necessary for other lawful
10 construction or maintenance operations under this chapter.

11 (c) A temporary structure or modification to provide essential crop irrigation
12 during a drought if all of the following apply:

13 1. The county drainage board gives individual notice of the proposed structure
14 or modification to upstream landowners whose access to drainage may be affected.

15 2. The county drainage board resolves, to the satisfaction of the objecting
16 landowner, every objection by an upstream landowner whose access to drainage is
17 affected by the proposed structure or modification.

18 NOTE: For example, a county drainage board may resolve a landowner's
19 objection, to the satisfaction of a landowner, by imposing conditions
20 under subd. 3 which protect the interests of that landowner.
21

22 In determining whether a landowner's "access to drainage may be
23 affected" for purposes of par. (c)1. and 2., a county drainage board
24 should assume that the landowner has access to an outlet at the formally
25 established grade profile and cross-section and has installed the
26 necessary on-site drainage facilities to permit access to that outlet by
27 gravity flow, regardless of whether that outlet or those facilities
28 currently exist. A landowner may be adversely affected if the proposed
29 change would impede gravity flow from the drained lands to the real or
30 assumed outlet.
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1 3. The county drainage board approves the structure or modification subject to
2 written conditions that reasonably protect the public interest and the interests of all
3 landowners in the drainage district.

4 NOTE: A landowner withdrawing water for irrigation may need to obtain
5 a permit from the state of Wisconsin department of natural resources
6 under s. 30.18(2)(a)2., Stats.
7

8 (d) A temporary structure or modification to provide water for cranberry
9 harvest, or for cranberry winter ice cover, if all of the following apply:

10 1. The structure or modification is installed for not more than 14 days for
11 cranberry harvest, and not more than 14 days for cranberry winter ice cover.

12 2. The county drainage board gives individual notice of the proposed structure
13 or modification to upstream landowners whose access to drainage may be affected.

14 3. The county drainage board resolves, to the satisfaction of the objecting
15 landowner, every objection by an upstream landowner whose access to drainage is
16 affected by the proposed structure or modification.

17 NOTE: For example, a county drainage board may resolve a landowner's
18 objection, to the satisfaction of a landowner, by imposing conditions
19 under subd. 4 which protect the interests of that landowner.
20

21 In determining whether a landowner's "access to drainage may be
22 affected" for purposes of par. (d)2. and 3., a county drainage board
23 should assume that the landowner has access to an outlet at the formally
24 established grade profile and cross-section and has installed the
25 necessary on-site drainage facilities to permit access to that outlet by
26 gravity flow, regardless of whether that outlet or those facilities
27 currently exist. A landowner may be adversely affected if the proposed
28 change would impede gravity flow from the drained lands to the real or
29 assumed outlet.
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1 4. The county drainage board approves the structure or modification subject to
2 written conditions that reasonably protect the public interest and the interests of all
3 landowners in the drainage district.

4 **SECTION 27.** Ch. ATCP 48, subch. V (title) is repealed and recreated to
5 read:

6 **SUBCHAPTER V**

7 **CONSTRUCTION PROJECTS AND DRAINAGE ALTERATIONS;**

8 **DEPARTMENT APPROVAL**

9
10 **SECTION 28.** ATCP 48.34, 48.36 and 48.38 are repealed and recreated to
11 read:

12 **ATCP 48.34 CONSTRUCTION PROJECTS AND DRAINAGE**

13 **ALTERATIONS; DEPARTMENT APPROVAL REQUIRED. (1)**

14 **REQUIREMENT.** Except as provided in sub. (2), no county drainage board may do
15 any of the following without the department's written approval:

16 (a) Construct or modify any district drain, or authorize any person to construct
17 or modify a district drain.

18 (b) Install or modify any structure in a district drain, or authorize any person to
19 install or modify any structure in a district drain.

20 (c) Authorize any person to connect a private drain to a district drain.

1 (d) Take any action under s. ATCP 48.20 or 48.21 that changes the formally
2 established cross-section, grade profile or alignment of a district drain, regardless of
3 whether that action involves any physical alteration to a district drain or structure.

4 (2) EXEMPTIONS. Subsection (1) does not apply to any of the following:

5 (a) Actions, such as routine maintenance or repair projects, that do not cause or
6 aggravate any deviation from the formally established cross-section, grade profile or
7 alignment of a district drain. An action is rebuttably presumed to cause or aggravate a
8 deviation from a formally established grade profile if it raises the water level in a
9 district drain or slows the runoff of water from lands in the drainage district.

10 (b) Restoration projects.

11 NOTE: A restoration project is exempt under par. (b) only to the extent that it
12 is confined within the formally established cross-section, grade profile
13 and alignment of a district drain, and does not go beyond those formally
14 established specifications. See definition of "restoration project" under
15 s. ATCP 48.01(21).
16

17 (c) Temporary structures or modifications that a county drainage board installs
18 or approves in compliance with s. ATCP 48.33(2).

19 NOTE: A county drainage board should consult with the department to
20 determine whether a particular county drainage board action requires
21 department approval under this section. A county drainage board may
22 seek the department's advice or assistance regarding any proposed
23 construction, repair, restoration or maintenance action, regardless of
24 whether the action requires the department's approval under this
25 section. A county drainage board should consult with the department at
26 the early planning stage to facilitate timely assistance and, if
27 necessary, timely approval. A county drainage board may not deviate
28 from approved project specifications without the department's approval.
29 Before installing or modifying a dam or other structure in a district
30 drain, a county drainage board may need to obtain a permit from the
31 Wisconsin department of natural resources under ch. 31, Stats.

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ATCP 48.36 APPLYING FOR APPROVAL. (1) APPLICATION

REQUIRED. A county drainage board shall apply in writing for department approval of a proposed action under s. ATCP 48.34. The application shall include all of the following information, in detail commensurate with the proposed action:

(a) District name or number. The name or number, or proposed name or number, of the drainage district.

(b) Proposed action. A statement describing the proposed action.

(c) Objectives. The objectives which the county drainage board expects to achieve by taking the proposed action. If the county drainage board expects to improve drainage, the county drainage board shall express its drainage objectives in terms of drainage volume, thoroughness of drainage, geographic scope of drainage, or other pertinent drainage measures.

(d) Persons requesting action. The persons, if any, who are asking the county drainage board to take the proposed action.

(e) Estimated cost. The estimated cost of the proposed action, including any damage awards to landowners who will be adversely affected.

(f) Design specifications. Design specifications for the proposed action, prepared by an engineer who is qualified under s. 88.21(5), Stats. The design specifications shall comply with applicable standards under subch. IV. The engineer preparing the design specifications shall state whether, in the engineer's judgment, the

1 proposed action as designed will be effective in achieving the county drainage board's
2 stated objectives.

3 (g) Lands and waters affected. A map showing the location of the proposed
4 action, and the location of the lands and waters affected by the proposed action. The
5 map shall indicate all of the following if relevant:

6 1. The current and proposed use of the affected lands.

7 2. The topography of the affected lands.

8 3. The location of any affected wetlands.

9 4. The identity and location of any affected navigable waterway, stormwater
10 management district, lake district, priority watershed or lake under s. 144.25, Stats., or
11 wellhead protection area under ch. NR 811.

12 5. The identity and location of any affected building, transportation corridor or
13 utility easement.

14 (h) Hydrologic analysis. A hydrology analysis, prepared by an engineer who is
15 qualified under s. 88.21(5), Stats. The hydrology analysis shall analyze the effect of
16 the proposed action, if any, on all of the following:

17 1. Water surface elevations in district drains at base flow.

18 2. Water surface elevations in district drains in the event of a 10-year peak
19 discharge.

20 3. Water surface elevations in district drains in the event of a 25-year peak
21 discharge.

1 (i) Construction plan. A construction plan, if applicable, including all of the
2 following:

- 3 1. A plan for controlling construction site erosion.
- 4 2. The estimated amount of material, if any, that will be dredged or excavated.
- 5 3. A plan for depositing dredged or excavated material, if any, including the
6 location and configuration of any deposits.

7 (j) Notice and public hearing. A statement that the county drainage board has
8 complied with the notice and public hearing requirement under sub. (2).

9 (k) Formal changes to cross-section, grade profile or alignment. All of the
10 following information if the county drainage board proposes to change the formally
11 established cross-section, grade profile or alignment of a district drain:

12 1. The cross-section, grade profile or alignment which the county drainage
13 board proposes to change.

14 2. The new cross-section, grade profile or alignment proposed by the county
15 drainage board. The new specifications shall be prepared by an engineer who is
16 qualified under s. 88.21(5), Stats.

17 3. If the county drainage board proposes to change a formally established
18 alignment, a statement that the county drainage board has complied with s. ATCP
19 48.21(4)(a)1.

20 4. If the county drainage board proposes to change a formally established grade
21 profile, a statement that the county drainage board has complied with s. ATCP
22 48.21(5)(a)1. and 2.

1 (L) Assessment of benefits to landowners. A statement explaining how the
2 proposed action will affect the assessment of benefits to landowners under s. ATCP
3 48.06, if at all.

4 NOTE: See s. ATCP 48.06(2)(a) and s. 88.46, Stats.

5 (m) Financing plan. The drainage board's plan for financing the proposed
6 action, including any proposed cost assessments to lands in the drainage district.

7 NOTE: See s. ATCP 48.02.

8 (n) Environmental effects. An assessment of how the proposed action may
9 affect the human and natural environment, including effects on all of the following:

- 10 1. Lands and land uses identified under par. (g).
- 11 2. Surface water levels, quality and temperature.
- 12 3. Groundwater levels and quality.

13 (o) Alternatives. An assessment of alternatives to the proposed action,
14 including the alternative of doing nothing. The assessment shall discuss the relative
15 benefits, costs and environmental effects of the alternatives.

16 (2) COUNTY DRAINAGE BOARD; NOTICE AND HEARING ON
17 PROPOSED ACTION. Before a county drainage board submits an application to the
18 department under sub. (1), it shall do all of the following:

19 (a) Publish a hearing notice and hold a public hearing on the proposed action.
20 The notice and hearing shall comply with applicable requirements under s. 88.05 and
21 88.065, Stats. The hearing notice shall clearly describe the proposed action.

1 (b) Give members of the public at least 30 days, following the public hearing
2 under par. (a), to comment on the proposed action.

3 (3) COPIES FILED WITH OTHER AGENCIES. Whenever a county drainage
4 board files an application with the department under sub. (1), the county drainage
5 board shall simultaneously file copies of the application with all of the following:

6 (a) The Wisconsin department of natural resources.

7 (b) The United States army corps of engineers.

8 (c) The county zoning administrator.

9 (d) The county land conservation committee.

10 (e) Every municipality affected by the proposed action.

11 (f) The county highway committee if the proposed action may affect a public
12 highway.

13 (4) ADDITIONAL INFORMATION. The department may require a county
14 drainage board to file additional information, as necessary, before approving or
15 disapproving an application under sub. (1).

16 **ATCP 48.38 DEPARTMENT APPROVAL OR DISAPPROVAL.** (1)

17 APPROVING DRAINAGE ALTERATIONS. The department may not approve any
18 action under s. ATCP 48.34 that causes the cross-section, grade profile or alignment of
19 a district drain to deviate from the cross-section, grade profile or alignment formally
20 established for that drain, but may do any of the following based on the county
21 drainage board's application under s. ATCP 48.36:

1 (a) Approve an action that formally reestablishes the cross-section of a district
2 drain.

3 (b) Approve an action that formally reestablishes the alignment of a district
4 drain if the department finds that the county drainage board has complied with
5 applicable requirements under s. ATCP 48.21(4)(a)1.

6 (c) Approve an action that formally reestablishes the grade profile of a district
7 drain if the department finds that the county drainage board has complied with s. ATCP
8 48.21(5)(a)1. and 2.

9 (2) DEADLINE FOR APPROVAL OR DISAPPROVAL. Within 45 days after
10 a county drainage board files a complete application under s. ATCP 48.36, including
11 any additional information which the department requests under s. ATCP 48.36(4), the
12 department shall issue a written notice approving or disapproving the county drainage
13 board's proposed action under s. ATCP 48.34. The department may extend the
14 deadline to a date specified by the department if an environmental impact statement is
15 required under sub. (6).

16 NOTE: See ss. 88.32(3m) and 88.35(7), Stats.

17 (3) CONDITIONAL APPROVAL. The department may approve a proposed
18 action under s. ATCP 48.34 subject to conditions specified by the department.

19 (4) REASONS FOR DISAPPROVAL. If the department disapproves a
20 proposed action under s. ATCP 48.34, the department shall give the county drainage
21 board written notice of the reasons. The department may disapprove a proposed action
22 for any of the following reasons:

1 (a) The county drainage board has failed to provide information required under
2 s. ATCP 48.36.

3 (b) The proposed action would violate this chapter or ch. 88, Stats.

4 (c) The requested approval would violate this chapter or ch. 88, Stats.

5 (d) The proposed action is not technically feasible, is not technically sound, or
6 is not adequately designed to achieve the county drainage board's stated objectives.

7 (e) The proposed action will have a substantial adverse effect on water quality,
8 or on the human or natural environment.

9 (5) ENVIRONMENTAL ASSESSMENT. (a) The department shall prepare
10 an environmental assessment under s. ATCP 3.02 before it approves a proposed action
11 under s. ATCP 48.34 if any of the following apply:

12 1. The proposed action will drain more than 200 acres of land not previously
13 drained, or will substantially alter drainage from more than 200 acres of land.

14 2. The proposed action will drain more than 5 acres of wetlands.

15 3. The proposed action involves the construction or modification of a dam in a
16 drain with a navigable stream history.

17 4. The proposed action involves a cold water fishery in a district drain with a
18 navigable stream history.

19 5. The proposed action will substantially affect the base flow in surface waters
20 of the state.

21 6. The department determines that an environmental assessment is needed to
22 determine whether an environmental impact statement is required under s. ATCP 3.03.

1 (6) ENVIRONMENTAL IMPACT STATEMENT. The department shall
2 prepare an environmental impact statement under s. ATCP 3.03 before approving a
3 proposed action under s. ATCP 48.34 only if the department determines that an
4 environmental impact statement is required under s. ATCP 3.03.

5 SECTION 29. Ch. ATCP 48, subch. VI (title) is repealed and recreated to
6 read:

7 SUBCHAPTER VI

8 LANDOWNER RIGHTS AND RESPONSIBILITIES

9
10 SECTION 30. ATCP 48.40(2)(note) is amended to read:

11 NOTE: A county drainage board may take various actions in response to
12 landowner actions that adversely affect a drainage district. For example,
13 see ss. ATCP 48.02(5), 48.04, 48.06(2) and 48.30 and 48.44(3). See
14 also ss. 88.89 to 88.92, Stats.
15

16 SECTION 31. ATCP 48.44 is renumbered 48.43.

17 SECTION 32. ATCP 48.44 and 48.45 are created to read:

18 **ATCP 48.44 OBSTRUCTING OR ALTERING DISTRICT DRAINS.** (1)

19 PROHIBITION. Except as provided under sub. (2), no person may obstruct or alter a
20 district drain without prior written approval from the county drainage board.

21 (2) WITHDRAWING WATER; EXEMPTION. An owner of land adjacent to
22 a district drain may, without prior approval from the county drainage board, withdraw
23 water from a district drain and place an obstruction in the district drain for that purpose
24 while withdrawing that water if all of the following apply:

1 (a) The landowner notifies the county drainage board under s. ATCP 48.40
2 before withdrawing the water or placing the obstruction in the district drain.

3 (b) The landowner obtains a permit from the department of natural resources
4 authorizing the withdrawal, if a permit is required under s. 30.18(2)(a)2., Stats.

5 (c) The obstruction does not elevate the base flow in the district drain, at the
6 point of the obstruction, above the base flow elevation specified as part of the formally
7 established grade profile for that district drain.

8 (d) Neither the obstruction nor the withdrawal of water reduces the base flow,
9 in a district drain that has a navigable stream history, below the minimum base flow
10 which the state of Wisconsin department of natural resources has established for that
11 district drain under s. 88.31, Stats..

12 **NOTE:** A "formally established" grade profile is a grade profile established by
13 court order, or by the county drainage board under s. ATCP 48.20 or
14 48.21. A violation of par. (c) "materially defeats the purposes of
15 drainage" within the meaning of s. 88.93, Stats.
16

17 (e) The withdrawal does not injure any district drain, or make any district drain
18 more susceptible to injury. Injury to a district drain includes, for purposes of this
19 paragraph, all of the following:

- 20 1. Damage to any structure in a district drain.
- 21 2. The deposition of excavated materials in a district drain.
- 22 3. The weakening, undercutting or accelerated erosion of any side bank in a
23 district drain.

1 (3) DRAINAGE BOARD MAY REVIEW. A county drainage board may do
2 any of the following:

3 (a) Require a landowner to provide information showing that the landowner's
4 withdrawal of water complies with sub. (2).

5 (b) Prohibit a landowner from withdrawing water under sub. (2) if the drainage
6 board reasonably concludes that the withdrawal violates this chapter. The drainage
7 board shall document, in writing, the basis for its conclusion.

8 **ATCP 48.45 LANDOWNER RIGHTS. (1) ACTION TO ENFORCE**

9 COMPLIANCE. (a) An owner of land in a drainage district may file a written
10 petition with the county drainage board asking the county drainage board to do any of
11 the following:

12 1. Restore, repair, maintain or, if necessary, modify a district drain in order to
13 conform the drain to the cross-section, alignment or grade profile formally established
14 for that drain.

15 NOTE: Drain specifications are formally established by court order, or by
16 drainage board action under s. ATCP 48.20 or 48.21. Deviations from
17 formally established specifications may effectively deprive landowners of
18 drainage to which they are legally entitled.

19
20 2. Remove an obstruction placed in a district drain in violation of this chapter
21 or ch. 88, Stats.

22 3. Correct a violation of this chapter or ch. 88, Stats.

23 (b) A petition under par. (a) shall identify the grounds for the petition and the
24 action requested of the county drainage board. A county drainage board may require

1 the petitioner to provide further information which is reasonably necessary in order for
2 the board to properly evaluate the petition.

3 (c) Within 60 days after a landowner files a complete petition with the county
4 drainage board, the county drainage board shall provide the landowner with a written
5 response that does all of the following:

6 1. Describes and explains the action, if any, which the county drainage board
7 will take in response to the petition.

8 2. Explains the county drainage board's refusal to take action on the petition, if
9 the county drainage board refuses to take action.

10 (d) A petitioner under par. (a) may, after receiving a county drainage board's
11 response under par. (c), file a written petition with the department alleging that a
12 county drainage board has violated this chapter or ch. 88, Stats. The department may,
13 in its discretion, conduct an investigation to determine whether the county drainage
14 board has violated this chapter or ch. 88, Stats. If the department finds that a county
15 drainage board has violated this chapter or ch. 88, Stats., the department shall issue an
16 order under s. ATCP 48.52 which directs the county drainage board to correct the
17 violation.

18 **NOTE:** The remedies provided to a landowner under sub. (1) are in addition to
19 any other legal remedies which may be available to the landowner. A
20 landowner is not required to pursue any of the remedies under sub. (1)
21 before pursuing other legal remedies.

22
23 A landowner may challenge a county drainage board action that violates
24 this chapter or ch. 88, Stats., even if the department has approved that
25 action. (In some cases, the department may not be aware of facts
26 constituting a violation when it approves a county drainage board
27 action.)
28

1
2 (2) LAND OWNERSHIP CHANGE. A change of ownership does not relieve
3 or deprive a succeeding landowner of rights or responsibilities that run with the land
4 under ch. 88, Stats., or this chapter.

5 SECTION 33. ATCP 48.46(1)(b) is amended to read:

6 ATCP 48.46(1)(b) Approves the construction, enlargement, extension or
7 modification of a district drain. The record shall include any information describing
8 ~~profiles and cross-sections~~ cross-sections, grade profiles and alignments of drains
9 affected by the order.

10 SECTION 34. ATCP 48.46(1)(d) is created to read:

11 ATCP 48.46(1)(d) Formally establishes any drainage district specifications
12 under s. ATCP 48.20 or 48.21.

13 SECTION 35. ATCP 48.46(2) is repealed and recreated to read:

14 ATCP 48.46(2) DRAINAGE DISTRICT SPECIFICATIONS. A county
15 drainage board shall have on file, at all times, drainage district specifications
16 established by court order, or by the county drainage board under s. ATCP 48.20 or
17 48.21. Specifications shall include all existing specifications designating any of the
18 following:

19 (a) Drainage district boundaries, district drains and district corridors.

20 (b) Cross-sections, alignments and grade profiles of district drains.

21 SECTION 36. ATCP 48.46(3) is repealed.

1 **EFFECTIVE DATE.** The rules contained in this order shall take effect upon
2 the first day of the month following publication in the Wisconsin administrative
3 register, as provided in s. 227.22(2)(intro.), Stats.

4

5 Dated this _____ day of _____, 19_____.

6

STATE OF WISCONSIN
DEPARTMENT OF AGRICULTURE,
TRADE AND CONSUMER PROTECTION

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By _____
Ben Brancel, Secretary

**SUMMARY OF ADDITIONAL WRITTEN TESTIMONY SUBMITTED
INDEPENDENT OF PUBLIC HEARINGS
On Proposed Revisions to ATCP 48, Wis. Adm. Code**

Jack Crescio, Jack's Pride Farms, Inc. - Specifications are a waste of money. The members of the drainage districts will not benefit from this in any way. Drainage boards do not function properly now because DNR and DATCP require too many permits. The proposed revisions will only make that situation worse. To make drainage boards function properly, free them of all these restrictions and let them do the job they were created to do.

Nickolas Somers, Plover River Farms, Inc. - He is a vegetable grower in Central Wisconsin. He does not agree with the following issues raised by the cranberry growers: 1) that current profiles should be grandfathered, and 2) that the 14-day harvest and freeze exemption should be more flexible. He does not feel that the changes the cranberry growers are requesting would be fair to his business or to that of his neighbors.

Francis Wysocki, Ellis Industries - He is in favor of the proposed revisions as they were presented at the hearings. He is opposed to granting longer than 14-day periods for installation of temporary modifications in ditches for the purposes of cranberry harvest or "freeze." In addition, he is opposed to grandfathering in existing structures for cranberry operations that would infringe on adjacent landowners' rights to drainage.

Gary Wysocki, Wysocki Produce Farm, Inc. - He supports the rule revisions as contained in the May 26, 1998, hearing draft. DATCP is to be commended on the timeliness of the proposed rule revisions, as they are needed to help resolve many potential conflicts arising from the advent of cranberry production in drainage districts. He strongly opposes grandfathering in cranberry operations that were installed prior to this rule revision. The altering of the profile to allow those dams to be installed in the first place was either done illegally, or by permission of an ill-advised drainage board. In response to testimony that the 14-day periods for harvest and winter ice cover for cranberry operations are insufficient, that testimony was presented despite the fact that 14 days is what the cranberry growers and their organization have repeatedly stated was adequate. It is recognized and has been demonstrated that the technology exists and is affordable to achieve both harvest and freeze of cranberries within the 14 days.

Ann Wasielski - She supports the proposed revisions to the rule as they currently read. Drainage is very important to her farming operation, however, over the years the drains have fallen into disrepair or have been altered. Those drains that have been altered make it seem that the base flow levels in the ditches are higher than the ones originally established by the courts. It is important to document base flow and profiles so it is clear how much drainage everyone can access. She opposes grandfathering in existing cranberry structures and opposes extending the 14 day harvest/winter freeze period.

**Summary of Additional Written Testimony Submitted Independent of
Public Hearings on Proposed Revisions to ATCP 48, Wis. Adm. Code**

Jeff Sommers, Sommers Farms - The proposed revisions should be adopted in their entirety. He is opposed to the request by the cranberry interests that drainage ditch profiles that have been altered to integrate the drainage ditches into cranberry operations to manipulate the water table be grandfathered and be declared the profile. He is also opposed to extending the 14-day harvest and winter freeze requirement for temporary modifications. It's time the cranberry industry be made to acknowledge the rights of others and amend their operations accordingly.

Robert Woyak, Woyak Farms, Inc. - He supports the proposed revisions to the rule as they currently read. Drainage is very important to his farming operation, however, over the years the drains have fallen into disrepair or have been altered. Those drains that have been altered make it seem that the base flow levels in the ditches are higher than the ones originally established by the courts. It is important to document base flow and profiles so it is clear how much drainage everyone is entitled to. He opposes grandfathering in existing cranberry structures and opposes extending the 14-day harvest/winter freeze period.

Ron Williams, Waukesha County Drainage Board - The Waukesha County Drainage Board, like many drainage boards in the state, is struggling with the mapping and specification requirements set forth in ch. ATCP 48. Financial assistance is needed in order to accomplish these tasks.

Michael Carter, Director, Government and Grower Relations, Wisconsin Potato and Vegetable Growers Association - (As an addition to oral and written testimony he presented at the hearing, he provided additional written comments further expressing his support of the proposed revisions to the rule.) Drainage is very important to the farmers represented by his organization, however, over the years the drains have fallen into disrepair or have been altered. Those drains that have been altered make it seem that the base flow levels in the ditches are higher than the ones originally established by the courts. It is important to document base flow and profiles so it is clear how much drainage everyone can access. He opposes grandfathering in existing cranberry structures and opposes extending the 14-day harvest/winter freeze period.

Stephen Diercks, President, Coloma Farms Inc. - Mr. Diercks is a potato and grain farmer. He supports the proposed revisions to the rule as they read. It is very important that the base levels and the profiles are documented so that it is clear to everyone how much drainage they can expect. He opposes the position that some cranberry growers have argued for: that operations installed prior to the effective date of the proposed rule should have current profiles grandfathered in. He opposes this position because it takes drainage rights away from upstream landowners. The courts set up these rights and these rights must be upheld.

Victor Anthony, Jr., Anthony Farms, Inc. - Mr. Anthony runs a 4,800 acre vegetable farm in Wood and Juneau counties. Drainage is very important for his operation. In the past 15 years, the rapid expansion of the cranberry growers and their desire to hold large amounts of water has caused his company great harm. Each passing year, the backing up of water is causing additional crop losses. Asking the neighboring cranberry operations to lower the water level has fallen on

**Summary of Additional Written Testimony Submitted Independent of
Public Hearings on Proposed Revisions to ATCP 48, Wis. Adm. Code**

deaf ears. He welcomes a visit to his operation to witness the damage that is being done by maintaining artificially high water levels.

John Ver Voort, Chair, Outagamie Drainage Board - The Outagamie Drainage Board strongly opposes the drain cross-section and grade profile requirements of the proposed revisions to the rule. The farmers in the drainage districts will receive no benefit from documenting these specifications. Likewise, it will be of no benefit to the county drainage board. The proposed rule revisions will not allow county drainage boards to change or enlarge any district drains when industrial parks, villages or cities put in more black-top streets and parking lots and consequently add more water to the ditches. If the state passes this rule, it is the position of the Outagamie County Drainage Board that the state should pay for all costs.

Reginald Lien, Dane County Drainage Board - The comments made by the attorney for the Jefferson County Drainage Board at the hearing held in Jefferson on July 29, 1998, were well expressed and reflect the feelings of active members of a drainage district. They want the best drainage they can get at a reasonable maintenance cost. As a member of the Dane County Drainage Board, he would like to endorse and second the attorney's comments.

Timothy Gapen - He is a cranberry producer in the Portage County Drainage District. He believes the whole proposed rule should be rejected. Some of the changes might be good, but a lot of what was presented at the hearing in Wisconsin Rapids scares him to death. He is afraid that the proposed rule revisions will put him out of business.

Robert Propst - Mr. Propst is a landowner in the Dodge County Drainage District #74. He opposes the proposed revisions to the rule because it is too costly to provide all the drain specification information by the county drainage board and the involved landowner.

Wayne Propst - As a landowner in Dodge County Drainage District #74, he is opposing the proposed rule revisions for the single reason that it is too costly for the county drainage board, and ultimately the landowner, to provide drain specification information. He has been involved with this drainage district for a number of years and, during that time, has had three different drainage board chairs. It is difficult to find people to handle that type of position. He suggests that DNR and county soil maps have most of the necessary information at their disposal, except for the grades which could be obtained for each new project as it presents itself.

Andy Propst - He opposes the revision of ch. ATCP 48 because it will be too costly to the drainage boards and landowners.

Sheryl Paczwa, acting for Patricia Leavenworth, State Conservationist, USDA Natural Resources Conservation Service

- NRCS would like to see additional language inserted into the proposed rule in Section 3. ATCP 48.01(6m) and Section 16. ATCP 48.20(1)(b) that explains that the cross-section should include a details of any in-channel structure such as culverts or bridges. The proposed

Summary of Additional Written Testimony Submitted Independent of
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definition of cross-section applies strictly to ditch drains. The definition should be expanded to include documentation requirement for district subsurface drainage conduits.

- In Section 5. ATCP 48.01 (13m) and Section 16. ATCP 48.20(1)(c), the grade profile should also include the elevations of any in-channel structures such as culverts or bridges. The definition should be expanded to include documentation requirements for subsurface drainage conduits. If the 10-year peak discharge elevation will continue to be required, it should be further clarified as the peak discharge from a 10-year frequency, 24-hour storm duration.
- Under Section 18. ATCP 48.22(2)(b), NRCS has commented that this section seems to assume the district drain is an aggrading ditch. The ditch could be degrading and dredging would not apply. The district drain could also be a subsurface conduit. Requirements for a restoration plan should include the proposed method of restoring noncomplying drains to formally established conditions. This general requirement should encompass all types and conditions of district drains.
- Regarding Section 18. ATCP 22(2)(d), the inclusion of a requirement for a plan to control erosion and runoff in the drainage district is excellent. Does the proposed rule require implementation of the plan?
- It seems counter-productive for the rule to require an erosion runoff control plan for the district, yet under Section 22. ATCP 48.24(5), allow row cropping in the district corridor. The corridor is an excellent opportunity to gain the effects of buffers adjacent to surface drains.
- Consider rewording Section 28. ATCP 48.36 (1)(h) items 2 and 3 as follows: "Water surface elevations in district drains from the peak discharge of a 10-year (or 25-year for item 3), 24-hour duration storm event."

P.W. Bender, Agronomist, Paramount Farms, Inc. - Mr. Bender supports the proposed revisions to the rule. His business owns and operates 10,000 acres of potatoes and vegetables of which greater than 50% of the acres rely on excess water drainage. Many of the ditches currently in use are in gross disrepair with fallen trees and grass choking the flow. In addition, some have been altered by downstream property owners. Actions by some deprive others of rights to drain excess water from fields. He believes that the base levels for these ditches should be as originally established. Property owners downstream do not have the right to alter base levels so as to restrict others' drainage needs. Already altered base levels should not be grandfathered in.

Dennis Zeloski, President, Muck Farms, Inc. - As a member of two drainage districts, he feels that the mapping requirements within the proposed rule revisions are costly and unnecessary. If the State of Wisconsin wants these maps, then the State of Wisconsin should fund them. The department's fiscal estimate of \$2,500 per mile will cost Jefferson County Drainage District No. 15 approximately \$63,000, and Mr. Zeloski almost \$33,000. The local drainage boards know and understand the needs and requirements of their area. What happened to local control? He opposes requiring drainage districts to submit all construction projects and drainage alterations that require more than routine maintenance to DATCP approval. He feels that this is an impossible requirement. Local control is imperative, especially since DATCP does not have a

**Summary of Additional Written Testimony Submitted Independent of
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State Drainage Engineer at the present time. Current workload for local drainage boards is growing at a tremendous pace. More money from the general revenue fund is needed to meet all the state and federal mandates required. Drainage boards have been requesting that the Department of Natural Resources tell them which drains are navigable and which are not. All drainage boards need the DATCP's assistance in this matter. The response time of both departments is very slow.

Fred and David Reid, Empire Farms, Inc. - They support the proposed revisions to the rule as they currently stand. They farm 6,000 acres of potatoes and vegetables, so drainage is very important to them. They are opposed to grandfathering in profiles that have been altered by cranberry operations. This amounts to a stealing of their drainage rights. If this happens, there would be continued losses by upstream landowners. They also object to changing the 14-day temporary modification requirement.

James Burns, James Burns & Sons Farm, Inc. - He has specific complaints regarding cranberry growers in the Leola Drainage District in Adams County. Through what he believes to be arrogant and illegal actions, he claims that the cranberry growers have essentially shut down his drainage completely. After two years of ineffectual efforts to bring about a remedy, he gave up trying to restore his drainage.

Russell Rasmussen, Chief, Environmental Services Section, Department of Transportation Section ATCP 48.34 (Construction Projects and Drainage Alterations), should specifically exempt from DATCP approval all projects not initiated by the drainage district itself, or at a minimum, should specifically exempt highway departments. The requirement that DATCP approve the qualifications of DOT engineers preparing design plans for construction projects in a district drain should be deleted, as this requirement goes well beyond the intent of the statutes. It should also be noted that drainage boards have a responsibility to provide DOT information on their district boundaries and drain locations and elevations if effective cooperative efforts are to be achieved.

Justin Isherwood - Mr. Isherwood is an upland farmer in Plover. With the addition of the cranberry element, he has witnessed many conflicts over drainage rights. He believes what is necessary is a new and involved study of water management. What is fair land use? How can we more equitably share an extremely good quality water source, and protect it at the same time?

SUMMARY OF ORAL & WRITTEN TESTIMONY

Holly Karris, Holly Ranch Cranberries - There is a need to create a statewide standard for the issue of "materially defeating drainage." The proposed rule revision is unconstitutional and will not survive legal challenge. Send copies of any legal papers that were created through the rule-revising process, as well as a copy of the Clearinghouse Report.

Edwin Keller, Aniwa Creek Cranberry, Inc. - How much drainage is enough? This is a difficult determination to make.

Gary Vanatta - Mr. Vanatta is a resident of Wisconsin Rapids and raises cranberries in Juneau and Adams counties. He is opposed to removing authority of the drainage board. It appears that drainage boards will become ineffective under these proposals. Things are more complicated than they are perceived from a map in Madison. Local people will do a far better job in the long run. He is concerned over the cost of compliance with the proposed rule. Landowners have voted to disband in the district that he is in. It appears that recommendations from some of the advisory committee members were not considered.

Mark Klish, Adams County Land Conservationist - He would like to see language in subchapter IV explaining that the maps should clearly and accurately show the location, dimensions, and elevations of every district dam, bulkhead or grade control structure.

Tom Lochner, Wisconsin State Cranberry Growers Association - He generally supports the proposed revisions. He believes the rule changes were intended to allow rights to water while protecting landowner rights to drainage. When the Association asked their members to comment on the proposed revisions, the response was general support, with a few concerns. Substantial costs will be resisted and the result will be the dissolution of districts. Under section 48.33(2)(d), temporary modifications, he would like the county drainage boards to be given the flexibility to allow temporary structures to be installed for more than 14 days. Weather conditions may require additional time for harvest or winter flood. Under section 48.44(2), withdrawing water; exemption, he supports this language but requests a clarification that it is excluded from the prohibition in section 48.33(1). Growers have petitioned drainage boards and have been allowed to install modifications. They would strongly object to DATCP prohibiting these courses of action. There is a concern over the recent Portage County decision limiting the number of dams. This should be closely monitored and the drainage board should be held to the legally established profiles.

Francis Podvin, Prairie Vista Cranberries, LLC - Prairie Vista Cranberries has worked cooperatively with the Adams County Drainage Board to set up an agreement which allows the company to maintain structures in the district drain. Based on this agreement, the company has spent thousands of dollars on land improvements and structures. These existing operations should be grandfathered in or catastrophic hardship would be caused to the cranberry growers. In addition, the rule should allow for more than 14 days for temporary access to water for

cranberry operations. The profiles to be established under the rule should be those which presently exist. Existing cranberry operations should not be affected.

Dean Zuleger, Heartland Farms, Inc. - He believes the proposal provides equity. It authorizes oversight by DATCP, while maintaining local control. Oversight is needed so the local drainage boards are not taken to court over emotional landowner issues. Based on meetings of the Adams and Portage County Drainage Boards, fiscal concerns have the drainage boards deeply troubled. The state needs to be cognizant to the fact that creative financing is necessary. Heartland Farms is in support of the proposed revisions.

Mike Carter, Wisconsin Potato and Vegetable Grower's Association - He approves of DATCP oversight and landowner appeal process. This will help keep issues out of the court system. The proposed rule clearly lays out the responsibilities of county drainage boards and landowners, likely resulting in fewer disputes.

Bill Graumann, Wisconsin Association of Drainage Districts - The proposed rule revisions will place a financial burden on the districts and will further delay the submission of required information. He strongly recommends that DATCP offer financial assistance to complete maps, cross-sections, grade profiles and alignment requirements.

SUMMARY OF ORAL & WRITTEN TESTIMONY

Edwin Wade, Portage County Drainage Board - There were problems with the existing rule and it's good to see DATCP involvement. There is a concern over the requirement for cross-sections. Portage County has only one drainage district, but it is one of the largest in the state. Records of original specifications are either non-existent or lost. It would be extremely costly to bring the district into compliance with the proposed rule's specifications requirements, especially in the timeframe given. He supports waiving DATCP approval of restoration projects. He would like to see DNR and DATCP permit processes coincide so there is no duplication. In some instances, a ditch doesn't need maintenance work for ten years. Given that agriculture has been struggling, and expenses add up, we need to look at what is practical to keep expenses down. In regard to the hearing process, notice requirements are sometimes unnecessary and costly.

Jim Kurtz, Department of Natural Resources - DNR's concern over dams stem from a concern over public safety. In addition, drainage necessary for production agriculture must be consistent with navigability and public rights in or public use of navigable waters. DNR would like to be in a position to issue long-term permits to county drainage boards that are in compliance with Chapters 88, Wis. Stats., and ATCP 48. Permits cannot be issued unless the applicant complies with DATCP rules. The expenses are a reality, but the investment by the drainage board to define their legal rights to drainage will benefit them in the long run. A district's cross-section and profile must be protective of the public interest while at the same time protecting the economic interest of the people who need to have land drained for agriculture. Drainage district plans need to provide for regular maintenance. Communication between the county drainage boards, DNR and DATCP needs to be maintained to facilitate effective drainage which is consistent with the public's rights to navigable waters. This could be done through a memorandum of understanding (MOU) that recognizes DNR's authorities to both set levels for dams and operate dams in drainage districts. The MOU would need to address the fact that all dams require engineering plan approvals that look at safety and flood plain issues.

Jerry Timm, Portage County Drainage District Resident - Formally established cross-sections and profiles are important and it is good to require that records be filed with the county register of deeds. He believes you can have viable agriculture in central Wisconsin, but there is a concern over how to re-establish and keep those profiles. Ten-year flood levels and base flow calculations require evaluations of water flow. DNR and DOT have methods for getting cross-sections to meet requirements and to maintain a properly designed ditch. When files/deeds are not maintained, this becomes a property rights issue. Ditch standards and designs should allow for both successful agriculture and water quality.

John Sager, J & J Cranberries - He is opposed to agriculture within the 20 ft. corridor. This would have the potential for creating erosion problems. His primary concern is for his cranberry operation. In 1993, he got all the approvals necessary and always cooperated with the drainage

district. He has invested millions of dollars in his operation and now has concerns that the state will cause him to go out of business with these new proposals.

Donald Hamerski - He is mostly in favor of the proposed revisions and likes the idea of going back to the original profile. Drainage districts are not reservoirs and landowners should be able to have recourse to collect damages from people who are causing flooding. He has concerns over the cost of mailings for public meeting notices. He suggests that the drainage board be allowed to add an insert to a mailing asking a recipient if they wish to receive future notifications, and if not, that they could be removed from the mailing list.

SUMMARY OF ORAL & WRITTEN TESTIMONY

Allison Blackmer, Town Chair, Town of Harrison, Calumet County - She has been working with the Town of Buchanan and the Village of Combined Locks for the past year to develop a joint stormwater detention facility. These efforts have focused on compliance with the Clean Water Act, Phase 2, stormwater management provisions. She believes that their cooperative efforts may be hindered if the county drainage board has the authority to go over their heads. She is opposed to the proposed revisions and wishes to prevent the expansion of such an outdated form of non-elected government. She believes it is unconstitutional to give a non-elected form of government taxing authority and does not approve of such decision-making authority in the hands of people who are not engineers. She does not believe county drainage boards have the ability to address the complex issues that they are being faced with, especially when it comes to municipal/rural conflicts.

John VerVoort, Outagamie County Drainage Board - This proposed rule should not be in place for legal drains. There is no good reason to go to all the expense of developing a profile, measuring the top and bottom heights of the ditch, and calculating the elevation of the water level, when the job of drainage boards is simply to clean and maintain the ditch. The landowners should not be responsible for the cost of these requirements.

Greg Baeten, landowner - He is concerned about the costs to the landowners that will result from implementation of the proposed revisions. He is skeptical that any resulting benefits will outweigh the initial costs. Information and education efforts directed toward residents of drainage districts could go a long way toward avoiding future conflicts and problems.

SUMMARY OF ORAL & WRITTEN TESTIMONY

Eugene Anderson, Winnebago County Drainage Board - He supports the new standards for assessment of benefits, public notice, temporary modification, withdrawing water and landowner rights to drainage. He opposes specifications and thinks they should only be done when needed to reconstruct the ditch so that adequate drainage can be achieved. He opposes the corridors provision. He thinks that restoration projects should again only be done when needed to handle water for the drainage district members. The same holds true for drain specification changes. Under the landowner rights section, he believes we need to make it very clear to all members of a drainage district that the drainage board is a government entity, and all landowners who receive benefits are responsible for that district.

SUMMARY OF ORAL & WRITTEN TESTIMONY

Representative Robert Goetsch, 56th Assembly District - Rep. Goetsch is a farmer and a member of the drainage district in Oak Grove, WI. He was part of the special legislative counsel study that produced revisions to chapter 88 back in 1992.

- He questions whether DATCP has the authority to expand its role in this program.
- Under specifications, he does not think DATCP has the legal authority to require grade profiles be submitted. He agrees that detailed profiles should be on file with the county, but does not believe that DATCP should necessarily be approving them.
- A landowner appeal process already exists through the courts, so this is not necessary.
- He envisions that DATCP keep copies of the records, however, so that they would be available for public review.
- Goetsch believes there is a lack of statutory authority for requiring compliance plans. He worries that if the drainage districts develop compliance plans and then don't adhere to them for some reason, that they will be subject to legal action. This has not been enforced in the past, obviously, and there are some onerous components of these plans.
- For repair and maintenance, he is not sure we should require all of this information. An erosion control plan would be beneficial, however.
- The corridor suggestion is good and waiving the requirement to submit restoration projects over 3000 cubic yards for approval is good.
- DATCP should not have a role in approving construction projects. This is the purview of the county drainage board and the landowners. They are the ones that walk these drains. These decisions should not be made by someone in Madison who has no first-hand knowledge of the ditch.
- He has some questions about changing the former cross-section, profile and alignment.
- Temporary modifications are fine.
- Withdrawal of water does not affect most drainage districts.
- He agrees that dam elevations should not be modified without approval.
- Goetsch sees a potential problem with municipal discharge into drainage ditches and cited an example of such a problem in Sun Prairie.
- Under landowner rights, he again believes that DATCP should not be involved and that the landowner appeal process was reserved for the courts.

On a separate issue, he has heard that DNR has been unilaterally declaring sections of drainage ditches navigable even though these sections were previously not considered navigable. If he sees that this is happening in the rest of the state, he intends to introduce legislation to address this issue.

Joe Grove, Jefferson County Drainage Board - He agrees with the change in the corridor requirements. He doesn't see that the specifications are necessary. There have been no problems in the past due to the current maps. It seems like maps should only be updated when needed. It looks like specifications only benefit the state. If that's the case, the state should be funding it. He doesn't see that the landowners can afford the costs of the specifications. If the drainage boards are forced to tell the landowners their assessments will be increased to pay for these new

requirements, there will be a mass exodus of people who will want to get out of the drainage districts. He also agrees with most of Goetsch's comments.

Steve Querin-Schultz, Dane County Drainage Board - Base flow and ten-year peak discharge figures are very costly to determine. They require engineering assistance and are unnecessary in most districts. If the rule revisions are adopted, the deadline should be later because costs are so enormous. Landowners will need more time to pay for it.

Andrew Griggs, Jefferson County Drainage Board Attorney - He has been working with the county drainage board for the last ten years and sees a number of problems with the proposals. Specifications create a bureaucratic nightmare. The cost for Jefferson County to comply with these requirements would exceed \$100,000. None of their maps are in compliance right now. These costs would come at a time when farmers are struggling. More small family farms are going out of business. The benefit of tax relief the state has provided will be lost if the state will be taking it back with the other hand to pay for specifications. The proposed requirements will entail considerable work for county drainage board members and their attorneys. Drainage board members may resign in light of these new requirements. They already have a difficult time recruiting interested members. The proposals make service on the county drainage board even less appealing. When chapter 88 was revised, it was well directed at reducing circuit court involvement and allowing the vast majority of decisions to be made by those most familiar with those drains. He agrees with much of Rep. Goetsch's testimony. There are some improvements, however, in the proposed revisions. The change in the corridor requirement is appropriate. He suggests that specifications only be required if an objection arises within a district or if the district is dealing with a project of substantial magnitude.

Jeffrey Graber, Jefferson County Land and Water Conservation Department - In regard to the corridor, he is concerned about the nutrient and sediment loading that may occur if farmers are allowed to row-crop within the corridor. Twenty feet back from the top of the ditch may be too far, but there should be some kind of a setback. This change is in direct opposition to the Natural Resource Conservation Service's Conservation Reserve Program buffer initiative and the DNR nonpoint source program. There needs to be a minimum setback.

Kenneth Degner, Jefferson County Drainage Board - He agrees with the change in the corridor requirement. They have had many complaints in their districts regarding not being able to farm within the corridor. The county drainage board hasn't been enforcing it because they've been afraid to impose that restriction on the farmers. He believes it is the drainage board's responsibility to oversee this program. The expense for updating maps would be enormous and he is afraid to even approach his landowners about increasing their assessment to pay for specifications.

SUMMARY OF ORAL & WRITTEN TESTIMONY

Kenneth Degner, Jefferson County Drainage Board - He would like DNR to establish, once and for, all which ditches are navigable and which are not. They say it changes over time; he does not agree. Regarding public meeting notices, they have traditionally had very poor attendance at their annual meetings, even after publishing class 2 notices. He believes this requirement is unnecessary.

SUMMARY OF ORAL & WRITTEN TESTIMONY

Paul Zimmerman, Wisconsin Farm Bureau - Wisconsin has a long agricultural drainage history but over the last few decades the drains have not been maintained or the county drainage boards have not been active. The proposed revisions are a good step toward addressing those problems. The proposal has the potential for causing a lot of conflict, however. The state needs to address when DNR permits are necessary. DATCP needs to get information out to the county drainage boards on which drains are classified as navigable.

Representative Eugene Hahn, 47th Assembly District - The ATCP Board should take up the issue of budgeting for drainage district assistance. He is concerned about state-owned lands and whether those ditches are being cleaned out or are being allowed to revert back to wetland. He would like time requirements built into the rule so that DNR is responsible for replying to permit applications in a timely fashion.

James Hebbe, Green Lake County Land Conservationist - He read the fiscal estimate and saw that there is the potential for adding 2 permanent engineering positions to the department for the drainage program. This is a great idea. The counties need help in the field doing that work. There is a problem with getting the money to fund that, however. He recommends that DOT contribute funds to the program. Drainage districts are assumed to benefit landowners but they also help out with the function of roads. He approves of the new deadlines for compliance plans. Information and education efforts are important to avoid misunderstandings. Removing the requirement for DATCP approval of restoration projects over 3,000 cubic yards is good. He is concerned about the amount of time it will take to update maps. In the case of Green Lake County, after a deed search was conducted, it was found that most records are not updated or do not exist. This poses a real challenge to the drainage boards. There is a problem with recreational lands. The owners of those lands don't care if the acreage is drained or if the ditches are maintained. However, inaction by these landowners may have a negative impact on the upstream farmers, who are then not receiving sufficient drainage.

Hearing Location: Green Lake - Green Lake County Courthouse 6:30 p.m. Session

SUMMARY OF ORAL & WRITTEN TESTIMONY

No testimony was given at this session.

Hearing Location Wisconsin Rapids - Mead Inn

2:30 p.m. Session

Name	Start/End Times	Register/Testify/Written	For or Against *	Exhibits
Holly Karris - Holly Ranch Cranberries	3:10 - 3:22	testify/written	against	letter
Edwin Keller - Aniwa Creek Cranberry, Inc.	3:22 - 3:26	testify/written	against	letter
Glen Heyer - Leola Cranberry, Prairie Vista Cranberries	3:26 - 3:28	testify	against	
Gary Vanatta	3:28 - 3:32	testify	against	
Mark Klisch - Adams County Land Conservationist	3:32 - 3:33	testify	general support	
Tom Lochner - WI Cranberry Growers Association	3:33 - 3:38	testify/written	general support	letter
Fran Podvin - Prairie Vista Cranberries	3:38 - 3:42	testify/written		letter
Dean Zuleger - Heartland Farms	3:42 - 3:54	testify	support	
Mike Carter - WI Potato & Vegetable Growers Assn.	3:54 - 3:56	testify/written	support	letter
Jerry Hoffman - Aniwa Creek Cranberry, Inc.		register	against	
Ben Meils		register	general support	
Margorie Staples			information only	
Crimson Star Cranberry			information only	
Don Zanow - Aniwa Creek Cranberry, Inc.		register	against	
Gene Noonan - Holly Ranch Cranberries		register	against	

Name	Start/End Times	Register/Testify/Written	For or Against *	Exhibits
Edwin Wade, Portage County Drainage Board	7:15 - 7:21	testify	mostly in favor	
Jim Kurtz, Dept. of Natural Resources	7:23 - 7:29	testify/written		memo
Jerry Timm	7:30 - 7:36	testify	support	
John Sager, J & J Cranberries	7:36 - 7:40	testify	against	
Donald Hammerski, Portage County Drainage Board	7:40 - 7:42	testify	mostly in favor	
Lester Wichman		register	against	
Keith Schroeder, J & J Cranberries			information only	
Hazel Isherwood, Portage County Drainage Board			information only	

* "against" may indicate opposition to any or all provisions of the rule, but does not necessarily mean opposition to the rule in its entirety

Attend Testify Written
 8 5 1

Hearing Location Appleton/Kimberly - Liberty Inn

2:30 p.m. Session

Name	Start/End Times	Register/Testify/Written	For or Against *	Exhibits
Allison Blackmer	3:45 - 3:51	testify	against	
John VerVoort, Outagamie County Drainage Board	3:52 - 3:54	testify	mostly in favor	
Greg Baeten	3:56 - 3:58	testify	against costs	
Ms. Elkington			information only	
Gilbert Laabs, Outagamie County Drainage Board			information only	
Jeanne Bellin			information only	
Harold Emons			information only	
Erno Szilagyi			information only	
Gary Stanke, NRCS			information only	

* "against" may indicate opposition to any or all provisions of the rule, but does not necessarily mean opposition to the rule in its entirety

Attend Testify Written
 9 3 0

Hearing Location Appleton/Kimberly - Liberty Inn

6:30 p.m. Session

Name	Start/End Times	Register/Testify/Written	For or Against *	Exhibits
Representative Judy Klusman, 56th Assembly District			information only	
Harvey Haferman, Brown County Drainage Board			information only	
Omer Smits, Brown County Drainage Board			information only	
Leo Berg, Town of Buchanan			information only	
Alwin Baeten			information only	
Charles Kramer, Town of Freedom			information only	
Dean Van Vreede			information only	
Ron Van Handel			information only	
Harrison Sturgis, Jr.			information only	
Gerald Peterson, Winnebago County Drainage Board		register	mostly in favor except for costs	
Arthur Hietpas		register	support	
Dave Schlimm, Town of Greenville			information only	
Paul Tassoul, Town of Greenville			information only	
Rosalie Murphy, Oconto County Resident		register	support	
John Murphy, Oconto County Drainage Board		register	support	
Andy Peters, Town of Greenville			information only	
Thomas Reischl			information only	

Hearing Location Jefferson - Jefferson County Courthouse

2:30 p.m. Session

Name	Start/End Times	Register/Testify/Written	For or Against *	Exhibits
Representative Robert Goetsch, 56th Assembly District	3:15 - 3:30	testify	against	
Joe Grove, Jefferson County Drainage Board	3:32 - 3:37	testify	against	
Steve Querin-Schultz, Dane County Drainage Board	3:37 - 3:40	testify	against	
Andrew Griggs, Jefferson County Drainage Board Attorney	3:40 - 3:50	testify	against	
Jeffrey Gaber	3:50 - 3:53	testify	against	
Kenneth Degner, Jefferson County Drainage Board	3:53 - 3:54	testify	against	
Norbert Sorby			information only	
Judy Grove			information only	
Robert Biver, Jefferson County Drainage Board		register	against	
Reginald Lien, Dane County Drainage Board			information only	
Lloyd Holterman, Jefferson County Land Conservation Committee Chair			information only	
Selma Pederson			information only	
Robert Weissmann		register	against	
Bob Pofahl, Resource Engineering Associates, Inc.			information only	

Hearing Location Jefferson - Jefferson County Courthouse

6:30 p.m. Session

Name	Start/End Times	Register/Testify/Written	For or Against *	Exhibits
Kenneth Degner, Jefferson County Drainage Board	7:10 - 7:13	testify	against	
Nellie Crull, Rock County Resident			information only	
Eugene Crull, Rock County Drainage Board			information only	
Horst Krause, H&D Krause Land Imp. Inc.			information only	
Wayne Probst			information only	
Curt Pagenkopf			information only	

* "against" may indicate opposition to any or all provisions of the rule, but does not necessarily mean opposition to the rule in its entirety

Attend Testify Written
 6 1 0

Hearing Location Green Lake - Green Lake County Courthouse 2:30 p.m. Session

Name	Start/End Times	Register/Testify/Written	For or Against *	Exhibits
Paul Zimmermann, Wisconsin Farm Bureau	3:19 - 3:21	testify	general support	
James Hebbe, Green Lake County Land Conservationist	3:22 - 3:24	testify	support	
Representative Eugene Hahn, 47th Assembly District	3:24 - 3:27	testify	general support	
Lee Bartlett, Resource Engineering Associates			information only	
Raymond Gregor, Green Lake County Drainage Board			information only	
Mark Schumacher, Waushara County Zoning			information only	
Kyle Kidney, Columbia County Land Conservationist			information only	
Mike Stoddard, Green Lake County Land Conservation Committee			information only	
Rick Hoefl, Winnebago County Zoning Department			information only	
Henry Marvin			information only	
Norbert Walejko, Waushara County Drainage Board Chair			information only	

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Attend Testify Written
 11 3 0

Hearing Location Green Lake - Green Lake County Courthouse

6:30 p.m. Session

Name	Start/End Times	Register/Testify/Written	For or Against *	Exhibits
John Piechowski, Waushara County Drainage Board			information only	

* "against" may indicate opposition to any or all provisions of the rule, but does not necessarily mean opposition to the rule in its entirety

Attend Testify Written
 1 0 0