



## Legislative Fiscal Bureau

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2017

Joint Committee on Finance

Paper #148

### **Soil and Water Resource Management Funding (Agriculture, Trade and Consumer Protection)**

[LFB 2017-19 Budget Summary: Page 63-64, #4, #6 and #7]

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#### **CURRENT LAW**

Annually, the Department of Agriculture, Trade and Consumer Protection (DATCP), in coordination with the Department of Natural Resources (DNR), develops a joint allocation plan for grants to counties for projects that address or prevent nonpoint source water pollution. Joint allocation plan funding supports cost-share grants, land conservation staff, urban nonpoint source projects, targeted runoff management grants, notice of discharge grants and nutrient management planning and education. In 2017, total DATCP and DNR grants allocated to counties under the plan are \$21,281,400 from a variety of state and federal fund sources. Additional amounts awarded under DNR nonpoint programs to other local units of government, which are not listed in the joint allocation plan, totaled approximately \$2.8 million in 2016-17.

Funding for DATCP landowner cost-share activities comes from both nonpoint SEG and general obligation bonding authority. Non-structural practices, such as certain conservation activities, cannot be supported by bonding and are funded from nonpoint SEG. This paper discusses changes to funding and allocations affecting the DATCP annual appropriation for soil and water resource management (SWRM) grants. The appropriation was provided \$2.5 million nonpoint SEG annually during the 2015-17 biennium.

The SWRM grants appropriation primarily funds nutrient management planning cost-sharing, as well as a number of other grants to collaborating groups that promote nutrient management planning. In general, state law requires that landowners must receive an offer of cost sharing of at least 70% of the cost of installing an agricultural practice if the landowner is to be required to modify an existing operation. As a result, landowners are eligible to receive cost-share rates of \$7 per acre per year for four years to implement a nutrient management plan. The appropriation also supports: (a) development of SnapPlus software, which is used for development of nutrient management plans; (b) nutrient management farmer education (NMFE)

grants, which provide funding for workshops and training to farmers related to nutrient management planning; and (c) the Wisconsin Land and Water Conservation Association, which trains local conservation staff on nutrient management practices.

Beginning in 2015-17, the appropriation also provides \$250,000 annually for producer-led watershed protection grants, which are provided directly to producer-led groups for nonpoint source pollution abatement activities. Producer-led groups are eligible for up to \$20,000 per year as long as they have at least five members meeting certain minimum thresholds for farm income, are in one watershed, and collaborate with a state, county, or nonprofit conservation organization. Activities by producer-led groups include education and outreach, development and sharing of best management practices, and water quality monitoring and soil testing.

## **GOVERNOR**

Provide an additional \$825,000 nonpoint SEG annually for SWRM grants. The total budgeted amount for SWRM grants would be \$3,325,000 annually in the 2017-19 biennium. Create a separate appropriation with \$250,000 GPR annually under DATCP's Agricultural Resource Management Program for producer-led watershed protection grants, and repeal the requirement to provide up to \$250,000 annually to producers from the nonpoint SEG appropriation for SWRM grants. Further, require DATCP, in coordination with DNR, to prioritize projects in, near, or affecting impaired waters or agricultural enterprise areas (AEAs) when considering grant allocations under the annual joint allocation plan.

## **DISCUSSION POINTS**

### **A. Producer-Led Watershed Protection Grants**

1. DATCP provided 14 producer-led groups grants of \$242,600 in 2016, and 11 groups \$197,100 in 2017. Grant awards in 2017 include one new recipient, and 10 returning groups. Four groups chose not to apply for more funding in 2017, reporting that there was too quick of a turn-around time for the second round, or that they were still spending their first award (DATCP notes that it allowed 2016 grant recipients to extend unspent 2016 funds into 2017).

2. Nine groups received the maximum allocation in 2016, and six received it in 2017. DATCP reports well-established producer led groups have expressed desire to apply for grants larger than \$20,000 annually. Producer-led groups contend that larger grant allocations would expand their capacity to hire staff, and provide more sustainable funding for their operations. On the other hand, DATCP notes that the original intent of the grant program was to provide seed money for producer-led programs, and not to provide ongoing support. It is possible that a higher grant maximum would have resulted in complete allocations of \$250,000 in both years of the current biennium. However, DATCP reports it believes funding levels under current law and the bill are adequate.

3. Under current law, producer-led groups are funded from nonpoint SEG as part of the

SWRM grants appropriation to DATCP. The proposal would reduce obligations of nonpoint SEG cost-sharing funds and would allow for additional nutrient management planning cost-sharing, as discussed in later sections. To help address these concerns, the Committee could consider adopting the Governor's proposal to provide \$250,000 GPR annually to producer-led groups [Alternative A1]. Given incomplete allocations in both years of the 2015-17 biennium, it could consider reducing the GPR allocation to \$150,000 annually [Alternative A2]. The Committee could also consider providing nonpoint SEG in addition to GPR funding [Alternative A4a or A4b]. Conversely, the Committee could consider deleting the Governor's provision, which would maintain funding only from the nonpoint SEG SWRM grants appropriation [Alternative A3], and possibly reducing the nonpoint SEG allocation [Alternative A4a or A4b]. Finally, given support by some producer-led groups, the Committee could consider increasing the maximum grant allocation to \$40,000 per grantee [Alternative 5].

## **B. Soil and Water Resource Management Grants**

4. ATCP 50 establishes rules relating to the Department's SWRM program, including grant allocations to counties, land and water conservation practices, county staffing grants, and nutrient management planning. Currently, the Department is in the process of promulgating revisions to ATCP 50 to align it with federal standards updated in December, 2015, related to nutrient management. New standards under ATCP 50 would create more stringent requirements for nutrient application and manure spreading near wells or direct conduits to groundwater. DATCP reports these changes may increase compliance costs for farmers, including: (a) increased soil testing; (b) more time to develop management plans; and (c) requiring use of more cropland for manure spreading. As a result of these costs, ATCP 50 revisions would increase the state cost-share rate for nutrient management planning from \$7 per acre to \$10 per acre, per year for four years. The change is consistent with the statutory requirement that DATCP provide 70% cost share for landowners to be required to implement a conservation practice. Farmers would still be expected to pay remaining costs associated with nutrient management planning.

5. As part of the annual joint allocation plan, county land conservation departments request cost-share funding for nutrient management planning they intend to pursue during the year. In the 2017 allocation plan, counties requested funding of \$2,560,900 for approximately 91,400 acres, and received funding of \$1,735,900 for approximately 62,000 acres. DATCP notes it has consistently received requests that exceed available funding. The Governor's proposal would increase funding by \$825,000 annually, an amount sufficient to fill unmet requests for nutrient management planning cost sharing in the most recent joint allocation plan. DATCP reports it is difficult to estimate future demand for cost-share funds, and it is unclear how much requests for funding would increase under the new cost-share rate.

6. DATCP anticipates increased funding mostly to be allocated towards cost sharing and NMFE grants. It should also be noted that replacing producer-led watershed protection nonpoint SEG grant funding with GPR would free \$250,000 SEG annually in the appropriation, for a net increase of \$1,075,000 annually in funds available for cost sharing compared to the current biennium. Assuming DATCP would continue to allocate \$1,735,900 as it did under the 2017 allocation, total nonpoint SEG cost-share funding of \$2.81 million each year would provide nutrient

management planning on approximately 70,000 acres. This would provide funding for an additional 8,000 acres of cost-share funding relative to the 2017 allocation. In order to provide the higher cost-share rate to the 62,000 acres as were supported in the 2017 allocation plan, DATCP would require additional funding of approximately \$750,000 SEG annually [Alternative B2]. If the Committee adopts Alternative A1 above, it could consider providing an addition of \$500,000 SEG annually to maintain current acreage, since \$250,000 would be reallocated from producer-led watershed protection grants. [Alternative B3].

7. DATCP reports approximately 2.96 million acres in Wisconsin were under nutrient management planning in 2016, representing approximately 33% of Wisconsin's harvested cropland, which comprises about nine million acres. This includes 1,264,000 acres under cost sharing from DATCP, DNR or state or federal programs. A plurality of the acres under nutrient management plans are attributable to the landowner accepting an offer of cost-share funding. Further, funding for nutrient management planning encourages participation in DATCP's farmland preservation program and compliance with state soil and water conservation standards. As landowners become compliant with state standards, including nutrient management planning, they are eligible to claim the farmland preservation tax credit, which generally provides per-acre tax credits to landowners. It is expected that increased funding for nutrient management planning will increase the proportion of farmland under nutrient management plans in Wisconsin, which would be expected to improve water quality. Further, nonpoint SEG allocations for nutrient management planning have been reduced from \$6.5 million in 2008-09 to \$2.25 million under current law. Given the opportunity to increase the proportion of acres under nutrient management plans in Wisconsin and potential benefits to water quality, the Committee could consider adopting the Governor's proposal [Alternative B1].

8. It should be noted that increased funding for SWRM grants would contribute to the anticipated structural imbalance in the nonpoint account during the next biennium, as discussed in more detail in budget paper #475 entitled "Environmental Fund Overview." Given concerns about available funding for nonpoint programs, the Committee could consider deleting the Governor's proposal [Alternative B4].

### **C. Grant Allocation Priority**

9. Agricultural enterprise areas (AEAs) are designated by DATCP and consist of land targeted for agricultural preservation, development, or expansion. In order to be designated as an AEA, land must be: (a) located entirely in a farmland preservation area identified in a certified farmland preservation plan, (b) primarily in agricultural use; and (c) contiguous parcels. Statutes limit DATCP designation of AEAs to a total of 2 million acres. There are currently 33 AEAs covering 1,117,100 acres in 24 counties, or about 56% of the statutory cap. Lands in an AEA may be eligible to claim farmland preservation tax credits of up to \$10 per acre, which requires compliance with state soil and water conservation standards. This provision may encourage further participation in the AEA program, since landowners within certain AEAs could receive more funding for cost-share grants and other assistance to help them comply with conservation standards, which would make it easier to claim the tax credits. A map and list of designated AEAs in Wisconsin can be found in Attachment 1.

10. Impaired waters are those identified by DNR as not meeting state water quality standards. A list of impaired waters is submitted biennially to the Environmental Protection Agency under requirements of the Clean Water Act. A map of impaired waters in Wisconsin can be found in Attachment 2.

11. Consideration could be given to how new allocation criteria may impact allocations of nonpoint SEG cost sharing, to the extent it would. As seen in the attachments, landowners in the south and western portions of the state may benefit from criteria based on impaired waters. Further, landowners in counties with high AEA enrollment may also benefit, notably Clark, Dodge, Lafayette, Langlade, Marathon, and Monroe counties, among others. Certain counties with low AEA enrollment and limited impaired waters, most notably in northern Wisconsin, may not immediately benefit under the provision. Given there are a number of criteria related to grant allocation, it is difficult to anticipate to what extent these criteria will shift allocations to areas as described by the maps in the attachment.

12. Identification of impaired waters and designation of AEAs are policy tools intended, in part, to further nonpoint source water pollution abatement and land conservation, respectively. It could be argued that integration of these policy tools with funding sources found in the joint allocation plan would maximize the cost-effectiveness of state grant funds by targeting them to these areas. The Committee could consider adopting the Governor's recommendation [Alternative C1].

13. The administration indicates it intends for this provision to be applied while providing cost-sharing for nutrient management planning under the revised ATCP 50. However, it should be noted that the provision would affect allocation procedures under the entire joint allocation plan, rather than procedures solely for provision of nutrient management cost-sharing. The provision could be in conflict with other directives for awarding grants, such as provisions that allocate certain percentages of funding for conservation staff in every county. DNR programs also have statutory and administrative rule provisions prioritizing grants. The Committee could consider modifying this provision to specify that these two prioritization criteria would apply only to cost-share funds provided for nutrient management planning [Alternative C2].

14. However, it should be noted that DATCP already uses a number of criteria specific to allocation of nutrient management planning cost-share grants. DATCP awards are scored based on: (a) the number of nutrient management plan checklists submitted in the previous year to DATCP, which describe a farmer's plan and compliance with conservation standards; (b) the number of farmers in the county claiming the farmland preservation tax credit; (c) the county having spent at least 80% of its funds in the most recently completed calendar year (2015 for the 2017 allocation); and (d) the existence of AEAs in the county. Attachment 3 shows DATCP cost-share awards for nutrient management planning under the 2017 allocation, and includes scoring based on these criteria. Similar criteria are established for 2018 grants, the application for which closed in April, 2017. Under these criteria, certain counties with AEAs, impaired waters, or both already receive relatively higher nutrient management cost-share funding.

15. More generally, ATCP 50 lists numerous criteria for consideration during the annual joint allocation process. These criteria include, among others: (a) continuity of county staff and

ongoing projects; (b) focus on statewide priorities identified by DATCP and DNR; (c) likelihood a grant will resolve problems identified in a LWRM plan; (d) cost-effectiveness of a given grant; (e) discharges to impaired waters; (f) farms claiming farmland preservation credits; and (g) other factors relevant to the allocation of grants. It could be argued that additional criteria for grant allocations are unnecessary and redundant, and would further complicate allocation procedures. ATCP 50 already provides priority to prevent discharges into impaired waters, and to those claiming farmland preservation tax credits, which landowners in AEAs are assumed to do. Finally, ATCP 50 provides DATCP discretion, noting it may consider "other factors" relevant to the allocation of grants. The Committee could consider deleting the provision, given that current rules for both the joint allocation plan generally and nutrient management planning specifically provide sufficient guidance and discretion to implement this prioritization without statutory changes [Alternative C3]. Conversely, adoption of the Governor's proposal would codify certain criteria into the statutes, rather than administrative rules.

## ALTERNATIVES

### A. Producer-Led Watershed Protection Grants

1. Adopt the Governor's proposal to create a new appropriation of \$250,000 GPR annually during the 2017-19 biennium for producer-led watershed protection grants.

| ALT A1 | Change to |      |
|--------|-----------|------|
|        | Base      | Bill |
| GPR    | \$500,000 | \$0  |

2. Modify the Governor's proposal to provide \$150,000 GPR annually during the 2017-19 biennium for producer-led watershed protection grants.

| ALT A2 | Change to |            |
|--------|-----------|------------|
|        | Base      | Bill       |
| GPR    | \$300,000 | -\$200,000 |

3. Delete provision. (The producer-led watershed grant program would continue to be funded from nonpoint SEG under the SWRM grants appropriation.)

| ALT A3 | Change to |            |
|--------|-----------|------------|
|        | Base      | Bill       |
| GPR    | \$0       | -\$500,000 |

4. In addition to Alternative A1, A2, or A3 above, specify that DATCP may continue to award up to one of the following amounts each fiscal year for producer-led watershed protection

grants using the original authorization under the SWRM grants appropriation:

- a. \$100,000 nonpoint SEG annually.
- b. \$150,000 nonpoint SEG annually.

5. In addition to the alternatives above, increase the maximum grant allocation to \$40,000 annually, up from \$20,000.

**B. Soil and Water Resource Management Grants**

1. Adopt the Governor's proposal to provide an additional \$825,000 nonpoint SEG annually for SWRM grants.

| ALT B1 | Change to   |      |
|--------|-------------|------|
|        | Base        | Bill |
| SEG    | \$1,650,000 | \$0  |

2. Modify the Governor's proposal to provide an additional \$750,000 nonpoint SEG annually for SWRM grants. (This would fully fund the same amount of acreage as the 2017 allocation at the new cost-share rate.)

| ALT B2 | Change to   |             |
|--------|-------------|-------------|
|        | Base        | Bill        |
| SEG    | \$1,500,000 | - \$150,000 |

3. Modify the Governor's proposal to provide an additional \$500,000 nonpoint SEG annually for SWRM grants. (Combined with Alternative A1 above, this would fully fund the most recent allocation's acreage at the new cost-share rate.)

| ALT B3 | Change to   |             |
|--------|-------------|-------------|
|        | Base        | Bill        |
| SEG    | \$1,000,000 | - \$650,000 |

4. Delete the Governor's proposal. SWRM grants would be budgeted at \$2,500,000 annually during the 2017-19 biennium.

| ALT B4 | Change to |               |
|--------|-----------|---------------|
|        | Base      | Bill          |
| SEG    | \$0       | - \$1,650,000 |

### **C. Grant Allocation Priority**

1. Adopt the Governor's recommendation to prioritize grants under the joint allocation plan based on projects in, near, or affecting impaired waters or AEAs.
2. Modify the Governor's recommendation to apply the prioritization criteria only to cost-share grants for nutrient management planning.
3. Delete provision.

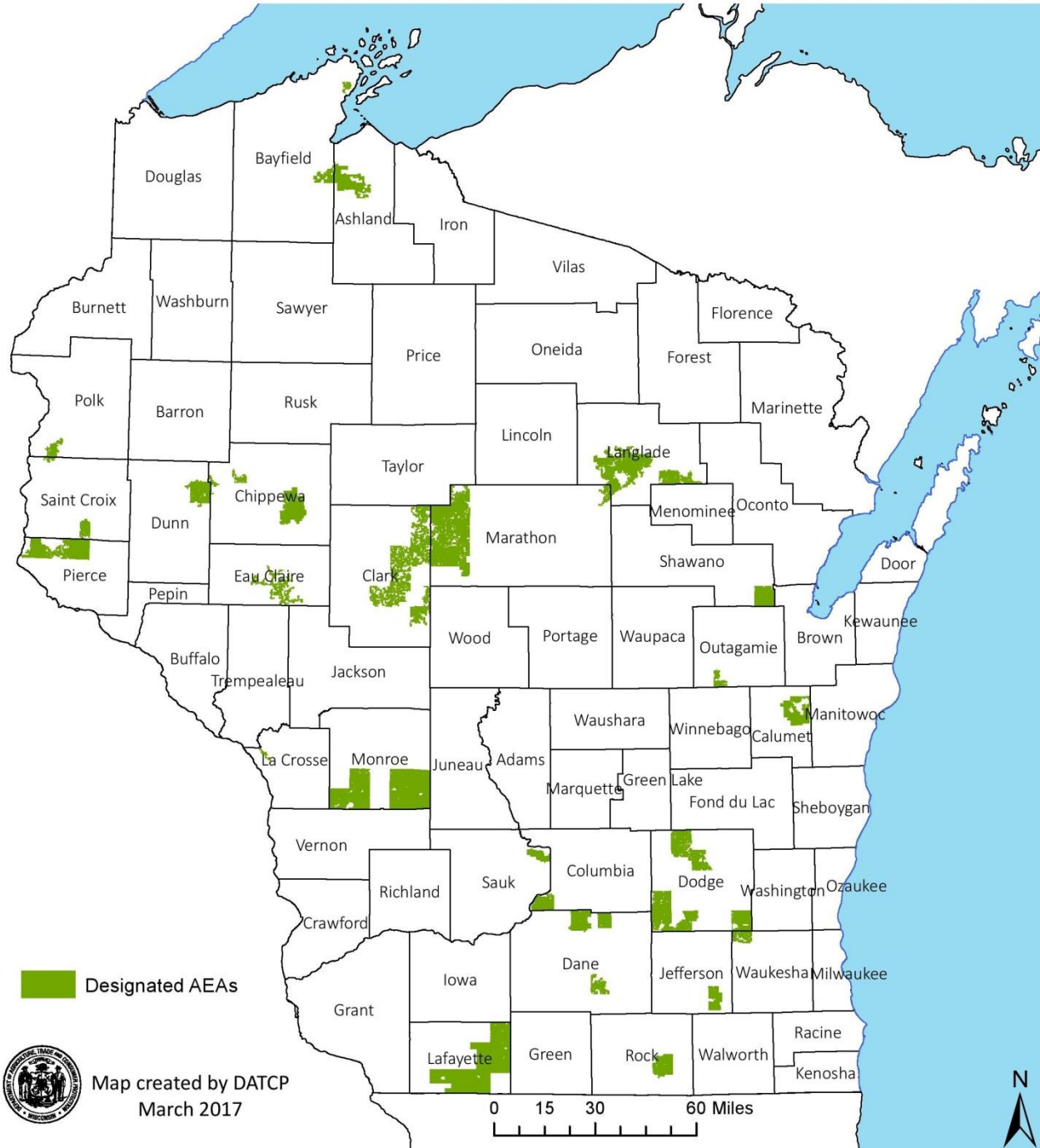
Prepared by: Rory Tikalsky  
Attachments



# ATTACHMENT 1

## Designated AEAs in Wisconsin

### Wisconsin State Designated Agricultural Enterprise Areas (AEAs)



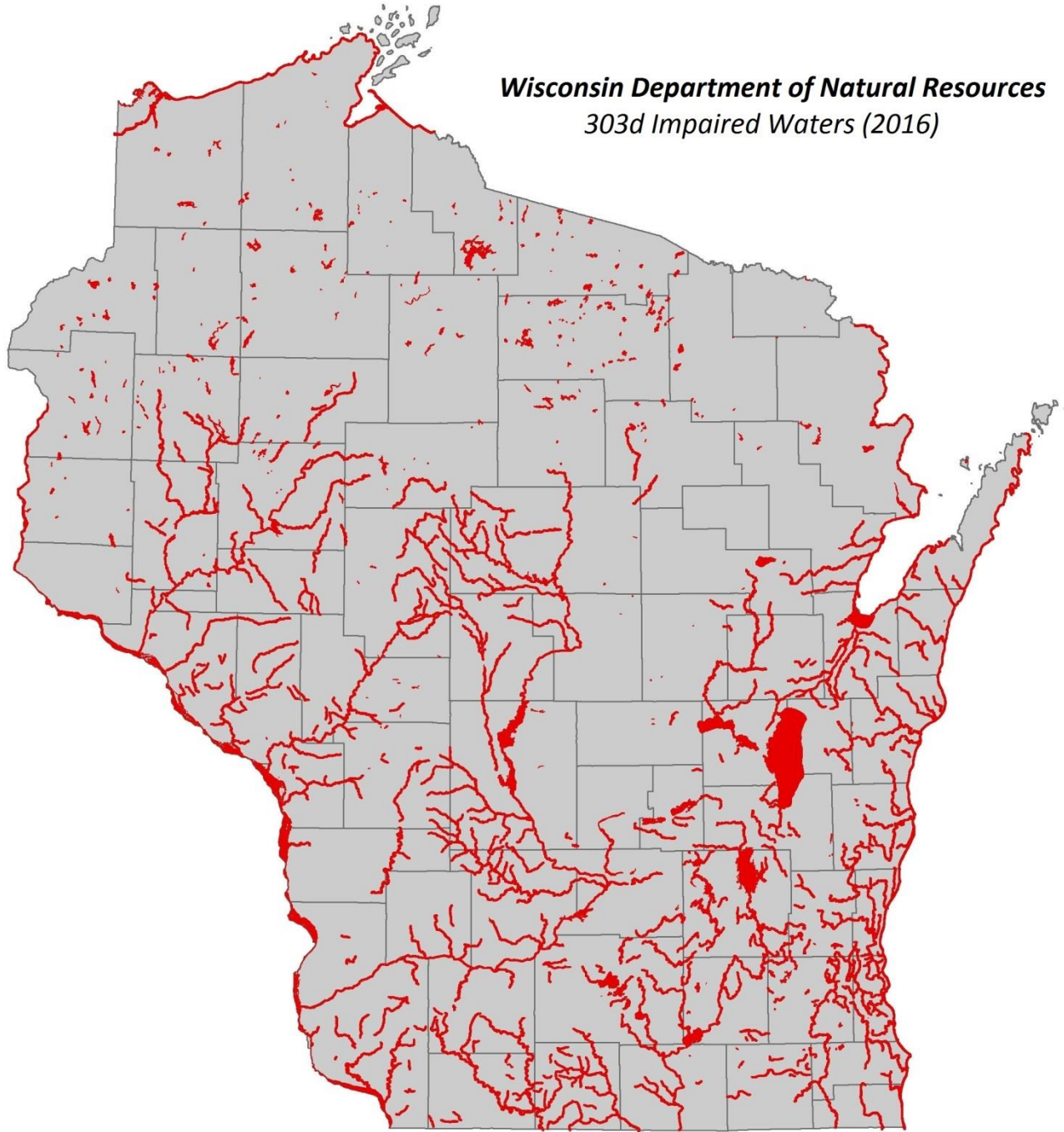
## ATTACHMENT 1 (continued)

### Designated AEAs in Wisconsin

| <u>AEA Name</u>                           | <u>County</u>                     | <u>Total<br/>Acreage</u> |
|---|-----------------------------------|--------------------------|
| Antigo Flats                              | Langlade, Marathon                | 74,104                   |
| Ashippun-Oconomowoc                       | Dodge, Waukesha                   | 28,833                   |
| Bayfield                                  | Bayfield                          | 2,821                    |
| Bloomer Area                              | Chippewa                          | 4,380                    |
| Burnett                                   | Dodge                             | 14,736                   |
| Cadott Area Cooperative                   | Chippewa                          | 34,141                   |
| Elba-Portland                             | Dodge                             | 38,571                   |
| Evergreen-Wolf River AEA                  | Langlade                          | 19,842                   |
| Fairfield                                 | Sauk                              | 9,501                    |
| Friends in Agriculture                    | Clark                             | 16,705                   |
| Fields, Waters and Woods                  | Ashland, Bayfield, Bad River Band | 41,212                   |
| Greenville Greenbelt                      | Outagamie                         | 6,178                    |
| Golden Triangle AEA                       | Eau Claire                        | 21,394                   |
| Halfway Creek Prairie                     | La Crosse                         | 1,647                    |
| The Headwaters of Southwest Monroe County | Monroe                            | 86,306                   |
| Heart of America's Dairyland              | Clark, Marathon                   | 225,511                  |
| Hilbert Ag Land on Track                  | Calumet                           | 28,217                   |
| La Prairie                                | Rock                              | 20,698                   |
| Maple Grove                               | Shawano                           | 21,669                   |
| North-West Pierce County AEA              | Pierce                            | 51,069                   |
| Pecatonica                                | Lafayette                         | 45,776                   |
| Rush River Legacy                         | St. Croix                         | 8,370                    |
| Scenic Ridge and Valley AEA Region        | Monroe                            | 62,494                   |
| Scuppernong                               | Jefferson                         | 14,015                   |
| Shields-Emmet                             | Dodge                             | 16,041                   |
| Southwest Lead Mine Region                | Lafayette                         | 103,143                  |
| Squaw Lake                                | Polk, St. Croix                   | 9,942                    |
| Town of Dunn                              | Dane                              | 10,038                   |
| Town of Grant                             | Chippewa, Dunn                    | 25,920                   |
| Trenton                                   | Dodge                             | 26,492                   |
| Vienna-Dane-Westport                      | Dane                              | 20,663                   |
| West Point                                | Columbia                          | 15,888                   |
| Windsor                                   | Dane                              | <u>10,775</u>            |
| Total                                     |                                   | 1,117,092                |

**ATTACHMENT 2**

**Impaired Waters in Wisconsin**





### ATTACHMENT 3

#### 2017 SEG Cost-Share Awards for Nutrient Management Planning

| <u>County</u> | <u>Score</u> | <u>Award</u> | <u>County</u> | <u>Score</u> | <u>Award</u>  |
|---------------|--------------|--------------|---------------|--------------|---------------|
| Adams*        | 85           | \$28,000     | Marinette     | 85           | \$42,400      |
| Ashland*      | 85           | 14,000       | Marquette     | 65           | 37,000        |
| Barron        | 80           | 28,000       | Menominee     | N/A          | 0             |
| Bayfield      | 65           | 8,400        | Milwaukee     | N/A          | 0             |
| Brown         | 100          | 5,000        | Monroe        | 65           | 16,800        |
| Buffalo       | 55           | 14,000       | Oconto        | N/A          | 0             |
| Burnett       | 55           | 17,000       | Oneida        | N/A          | 0             |
| Calumet       | 100          | 62,500       | Outagamie     | 100          | 62,500        |
| Chippewa      | 55           | 37,000       | Ozaukee       | 80           | 42,400        |
| Clark         | 100          | 62,500       | Pepin         | 65           | 11,200        |
| Columbia      | 100          | 62,500       | Pierce        | 55           | 15,000        |
| Crawford      | 65           | 21,000       | Polk          | N/A          | 0             |
| Dane          | 100          | 45,000       | Portage       | N/A          | 0             |
| Dodge         | 90           | 10,000       | Price         | N/A          | 0             |
| Door*         | 85           | 19,600       | Racine        | 65           | 37,000        |
| Douglas       | N/A          | 0            | Richland      | 80           | 28,000        |
| Dunn          | 55           | 11,200       | Rock*         | 100          | 56,000        |
| Eau Claire    | 80           | 42,400       | Rusk          | 55           | 14,000        |
| Florence      | N/A          | 0            | Saint Croix   | 80           | 20,000        |
| Fond du Lac*  | 100          | 24,000       | Sauk          | 80           | 42,400        |
| Forest        | N/A          | 0            | Sawyer        | 15           | 2,531         |
| Grant         | N/A          | 0            | Shawano       | 90           | 27,600        |
| Green         | 80           | 42,400       | Sheboygan     | 100          | 14,000        |
| Green Lake    | 100          | 28,000       | Taylor*       | 65           | 28,000        |
| Iowa          | 80           | 24,000       | Trempealeau   | 80           | 42,400        |
| Iron          | N/A          | 0            | Vernon        | 80           | 42,400        |
| Jackson       | 65           | 28,000       | Vilas         | N/A          | 0             |
| Jefferson     | 90           | 14,000       | Walworth      | 80           | 20,020        |
| Juneau        | 65           | 37,000       | Washburn      | 55           | 5,600         |
| Kenosha*      | 65           | 14,000       | Washington    | 85           | 10,080        |
| Kewaunee      | 100          | 16,800       | Waukesha*     | N/A          | 0             |
| La Crosse     | 100          | 62,500       | Waupaca       | 85           | 42,400        |
| Lafayette     | 80           | 42,400       | Waushara      | 85           | 20,000        |
| Langlade      | 100          | 28,000       | Winnebago     | 100          | 50,000        |
| Lincoln*      | N/A          | 0            | Wood          | 65           | <u>32,004</u> |
| Manitowoc     | 100          | 62,500       |               |              |               |
| Marathon      | 100          | 62,500       | Total         |              | \$1,735,935   |

\* County transferred 2015 SEG funds

N/A: Did not apply for SEG funds

Note: Scoring is on a 100-point scale, with: (a) 15 points for counties with farmland preservation tax credit claimants; (b) 10 points for counties with one or more AEAs; (c) 60 points based on the number of nutrient management plan checklists submitted to DATCP for farmers in the county; and (d) 15 points based on the county's record in spending at least 80% of its most recently completed allocation.