
Wisconsin Legislative Council



Anne Sappenfield
Director

TO: MEMBERS, JOINT COMMITTEE ON FINANCE

FROM: Anne Sappenfield, Director

RE: Department of Justice Proposed Plans of Settlement

DATE: September 13, 2023

This memorandum summarizes nine proposed plans of settlement that the Department of Justice (DOJ) submitted to the Joint Committee on Finance pursuant to s. 165.08 (1), Stats., in letters dated August 9, 23, and 31, 2023. DOJ seeks approval of the following proposed plans of settlement.

WISCONSIN V. DIDION—AGENDA ITEM I

State of Wisconsin v. Didion Milling, Inc., and Didion Ethanol, LLC (Columbia County Case No. 2022-CX-2) is a prosecution of the owners and operators of a corn milling facility and an ethanol production facility relating to air pollution and pollution discharge violations. The state alleges multiple violations, including:

- Emissions control violations.
- Failure to inspect pumps in volatile organic compound service to detect leaks.
- Inspection and record-keeping violations.
- Control device monitoring violations.
- Next-day reporting violation.
- Emissions inventory violations.

The total monetary penalty proposed is \$940,000, including \$639,369.05 in forfeitures. In addition, the defendants are required to operate the corn milling and ethanol production facilities in compliance with all permits and with all Wisconsin laws regulating air pollution.

WISCONSIN V. ELLSWORTH COOPERATIVE CREAMERY—AGENDA ITEM II

State of Wisconsin v. Ellsworth Cooperative Creamery (Pierce County Case No. 2022-CX-2) is a prosecution relating to violating requirements of the dairy cooperative's Wisconsin Pollutant Discharge Elimination System (WPDES) permit. The state alleges multiple violations, including exceeding 15 different effluent limitations.

The total monetary penalty proposed is \$250,000, including \$101,954.08 in forfeitures and \$10,000 in attorney fees. This amount also includes \$90,000 for costs of the Department of Natural Resources (DNR) to remove, terminate, and remedy the adverse effect of Ellsworth Cooperative's discharges into a creek, including the costs of replacing fish.

Ellsworth Cooperative must also install:

- A wastewater effluent chiller that will cool the water before it is released into the creek.
- A production-side system to better filter cheese particles from the facility's whey stream.
- A high-strength diversion system in the wastewater treatment plant that will divert wastewater with a high concentration of the five-day biochemical oxygen demand to an emergency spill tank.

NORTH SIDE GENETICS PROPOSED PLAN OF SETTLEMENT—AGENDA ITEM III

DOJ and North Side Genetics, LLC have reached a pre-suit settlement relating to violations of its WPDES permit. North Side Genetics is a concentrated animal feeding operation (CAFO) in Grant County. The state alleges that North Side Genetics failed to complete construction of a feed runoff control system by August 1, 2019, as required by the permit.

The total monetary penalty proposed is \$17,500, including \$11,307.82 in forfeitures and \$750 in attorney fees. In addition, North Side Genetics will complete construction of permanent feed storage area runoff controls in accordance with DNR approved plans and specifications and submit post-construction documentation within either 60 days after the completion of construction or on November 1, 2023, whichever is earlier.

HARTMAN PROPOSED PLAN OF SETTLEMENT—AGENDA ITEM IV

DOJ and Bradley M. Hartland and Hartland Well Drilling & Pump, Inc. have reached a pre-suit settlement relating to well drilling violations. The state alleges that Mr. Hartland and Hartland Well Drilling & Pump submitted false well water samples and failed to submit numerous reports associated with drilling, sampling, and sealing wells.

The total monetary penalty proposed is \$15,000, including \$8,756.80 in forfeitures and \$2,000 in attorney fees.

WISCONSIN V. BURNS—AGENDA ITEM V

State of Wisconsin v. Larry Burns, Jason Burns, and Musson Bros., Inc. (Marathon County Case Nos. 2021-CX-3 and 2021-CX-4) are prosecutions relating to violations of wetland protection and storm water pollution prevention laws. Due to procedural requirements, the violations are addressed in two separate cases.

For the first case, the state alleges that the parties discharged dredged or fill material into a wetland without a permit. For the second case, the state alleges the parties failed to obtain a storm water discharge permit and to prepare and submit a storm water pollution prevention plan to DNR prior to conducting nonmetallic mining activities.

The total monetary penalty proposed is \$80,000. For Musson Bros., the amount includes \$23,722.78 in forfeitures for the first case, and \$6,715.99 in forfeitures for the second case. For the Burnses, the amount includes \$16,920.07 in forfeitures for the first case, and \$6,715.99 in forfeitures and \$3,500 in attorney fees for the second case.

The Burnses are also required to purchase \$30,000 in wetland mitigation credits from one of two mitigation banks located in Marathon County.

WISCONSIN V. BRENSTEN EDUCATION—AGENDA ITEM VI

State of Wisconsin v. Brensten Education, Inc. and James Brent (Milwaukee Case No. 2018-CX-2) is a prosecution relating to making false, deceptive, and misleading representations to prospective students. Brensten Education was a for-profit post-secondary school, and Mr. Brent was the founder and owner.

The state alleges that the school made untrue, deceptive, or misleading statements regarding the following:

- Brensten's graduation rates.
- Brensten's success rate in placing its graduates in employment.
- The affordability of a degree.
- Financial rebate programs.

The total monetary penalty proposed is \$500,000, including \$295,941.45 in forfeitures and \$50,000 in attorney fees. The settlement also enjoins the defendants from making future misrepresentations and requires them to discharge debt for former students who took out private loans owed to Brensten Education, Inc.

STAHL BROTHERS DAIRY PROPOSED PLAN OF SETTLEMENT—AGENDA ITEM VII

DOJ and Thomas G. Stahl and Stahl Brothers Dairy, LLC have reached a pre-suit settlement relating to WPDES permit violations. Stahl Brothers Dairy is a large CAFO.

The state alleges the following in violation of the CAFO's WPDES permit:

- Manure exceeded the margin of safety in a waste storage facility on more than one occasion.
- The defendants failed to report to DNR that the manure exceeded the margin of safety on those occasions.
- Manure discharged from a waste storage facility to navigable waters on more than one occasion.
- The defendants failed to take all reasonable steps to minimize or prevent adverse impacts on waters of the state from the manure discharges.
- Manure was not retained where it was land applied on more than one occasion.
- Manure ran off the field on which it was land applied during dry weather conditions on more than one occasion.
- Manure ran off the field on which it was land applied during wet weather conditions on two occasions.
- Manure ponded on the field on which it was land applied on several occasions.
- The defendants failed to include a tile inlet on a map of restrictive features in their nutrient management plan.
- The defendants failed to timely submit an adequate engineering evaluation for a waste storage facility and a feedlot.
- Manure was stored in an unapproved location at the CAFO on two occasions.

The total monetary penalty proposed is \$228,000, including \$144,130.95 in forfeitures and \$16,000 in attorney fees.

WISCONSIN V. NATIONWIDE TRANSFER—AGENDA ITEM VIII

State of Wisconsin v. Nationwide Transfer, LLC, Michael Miles, and Stacey Hammit (Dane County Case No. 2021-CX-13) is a prosecution relating to violations of direct marketing laws. Nationwide Transfer markets and sells “timeshare termination” services. Mr. Miles and Ms. Hammit are its co-owners. The state alleges that Nationwide Transfer made calls to Wisconsin telephone numbers listed on the Do-Not-Call Registry and violated direct marketing laws.

The total monetary penalty proposed is \$230,000, including \$151,056.90 in forfeitures and \$105,752.20 in attorney fees. In addition, the consent judgment includes a permanent injunction that:

- Prohibits the defendants from engaging in unregistered telemarketing activities in Wisconsin.
- Prohibits misrepresentations about the defendants’ timeshare exit services.
- Requires the defendants to escrow consumer funds in the event the defendants promote their services with a money-back guarantee.
- Requires the defendants certain affirmative disclosures before accepting payments from consumers.
- Requires the defendants to make additional refunds under certain conditions.

The consent judgment includes a five-year monitoring period during which the defendants are required to submit a compliance plan and submit reports to the Department of Agriculture, Trade and Consumer Protection if they market services to Wisconsin residents.

FEDERAL TRADE COMMISSION V. AMGEN—AGENDA ITEM IX

Federal Trade Commission et al. v. Amgen Inc. et al (Northern District of Illinois Case No. 23-CV-3053) challenges the merger of Amgen Inc. and Horizon Therapeutics, PLC. Amgen is one of the world’s largest biopharmaceutical companies, and Horizon currently has a monopoly on the medicines that treat thyroid eye disease and chronic refractory gout.

The state, along with several other states, allege that the merger would result in an increased ability and incentive for the merged entity to violate antitrust laws. The parties have negotiated a settlement that allows the merger, but also includes requirements and monitoring to prevent certain antitrust violations.

Please let me know if I can provide any further assistance.

AS:ksm