

**Jefferson County Land & Water Conservation Department
Authorizing Resolution for the 2020 Health Lakes Grant**

WHEREAS, the Jefferson County Land and Water Conservation Department (LWCD) is interested in obtaining a cost-share grant for up to \$5,500 from the Wisconsin Department of Natural Resources for the purpose of implementing Healthy Lakes practices within 1,000 feet of Jefferson County lakes;

WHEREAS, the Jefferson County LWCD attests to the validity and veracity of the statements and representations contained in the grant application;

WHEREAS, a grant agreement is requested to carry out the project; and

NOW, THEREFORE, BE IT RESOLVED, that the Jefferson County LWCD will meet the financial obligations necessary to fully and satisfactorily complete the project and hereby authorizes and empowers the following officials or employees to submit the following documents to the Wisconsin Department of Natural Resources for financial assistance that may be available:

Task	Title of Authorized Representative
Sign and submit a grant application	County Conservationist
Enter into a grant agreement with the DNR	County Conservationist
Submit quarterly and/or final reports to the DNR to satisfy the grant agreement, as appropriate	County Conservationist
Submit reimbursement requests(s) to the DNR no later than the date specified in the grant agreement	County Conservationist

BE IT FURTHER RESOLVED that the Jefferson County LWCD will comply with all local, state and federal rules, regulations and ordinances relating to this project and the cost-share agreement.

Adopted on December 18, 2019.

I hereby certify that the foregoing resolution was duly adopted by the Jefferson County Land and Water Conservation Committee at a legal meeting held on December 18, 2019.

Authorized Signature

Date Certified

Title

Fiscal Impact: LWCD staff time will be used to implement this project. A maximum of 10% of the total project costs can be included in the state share for technical assistance provided by LWCD. No LWCD funds other than staff time will be used.

Multi-discharger Phosphorus Variance



ELIGIBLE POINT SOURCES:

A point source must meet all of the following to request a MDV:

- Must be an **existing facility**
- Requires a **major facility upgrade** to comply with their phosphorus WQBELs
- Meets the primary and secondary **substantial** indicators
- Agrees to **reduce its phosphorus load** during the variance time-line
- Implements a **watershed project** to help curb nonpoint source phosphorus pollution

An eligibility quiz is available online to help point sources make this determination.

ACRONYMS

DNR: Wisconsin Department of Natural Resources

DOA: Wisconsin Department of Administration

EIA: Economic Impact Analysis

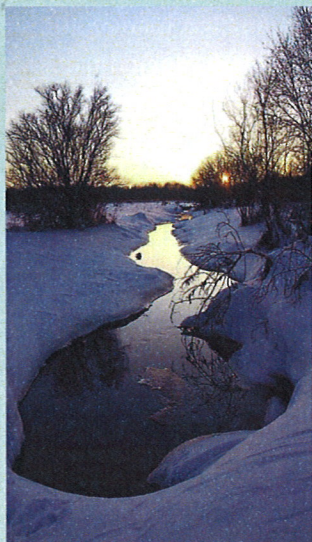
LCD: Land and Water Conservation Department

MDV: Multi-Discharger Variance

WPDES: Wisconsin Pollutant Discharge Elimination System

WQBEL: Water quality-based effluent limit

What is a multi-discharger variance?



A MULTIDISCHARGE VARIANCE (MDV) IS...

- A time extension for point sources facing restrictive phosphorus limits to comply with limits
- An opportunity for point sources to make meaningful strides towards water quality improvements in a more economically effective manner
- Approved on a case-by-case basis and implemented in a WPDES permit

A MDV IS NOT...

- An individual variance pursuant to s. 283.15
- A final compliance option for point sources
- Water quality trading or adaptive management
- Permanent

What the MDV requires:

A point source is responsible for evaluating its compliance options such as facility upgrades, water quality trading, adaptive management, and, potentially, a phosphorus MDV. If a facility meets the eligibility requirements and requests the MDV, the WPDES permit will, upon approval, be modified or reissued with the following requirements:

1. Reductions of effluent phosphorus: Point sources are required to reduce their phosphorus load each permit term. Interim limitations will be included in the permit based on current effluent quality, opportunities for optimization, and other site-specific considerations.
2. Implement a watershed project: Point sources must implement one of the following watershed project options to help reduce nonpoint source of phosphorus pollution:
 - Enter into an agreement with DNR to implement a project to offset the amount of phosphorus their discharge exceeds the target value.
 - Enter into a DNR-approved agreement with a third party to implement a project to offset the amount of phosphorus their discharge exceeds the target value.
 - Make payments to county LCDs of \$50 per pound times the number of pounds of phosphorus their discharge exceeds the target value.

The approval determination must be re-evaluated each permit reissuance of the MDV project timeline. The legal requirements of the MDV determination as well as general implementation procedures can be found in s. 283.16, Wis. Stat.

MDV APPROVAL & DURATION

EPA approved the MDV on February 6, 2017, which is effective until February 5, 2027. Permit terms and conditions that reflect the MDV cannot extend beyond the term of the variance expiration date. Several options are available to extend the current MDV approval to encompass the full time period allotted in s. 283.16, Wis. Stat., including:

- Seeking EPA approval on updated MDV packages, and
- Providing a compliance schedule after MDV expiration.

The Department will continue to work with EPA and stakeholders to pursue these options to maximize the duration of the MDV as necessary and appropriate. Section 283.16, Wis. Stat., authorized the DNR to seek MDV approval for up to 3 permit terms.

ONLINE RESOURCES

- MDV Implementation Guidance
- Informational Webinars
- Application Materials
- County Resources
- Watershed Project Resources
- MDV Package Submitted to EPA
- Local contact information



A grass waterway is an example of an agricultural BMP that can be used as part of a watershed project.

County Payment Option

It is voluntary for County LCDs to participate in the MDV. County LCDs should submit the "County Participation Form" to the DNR by January 1st of each year they wish to receive funding. At least 65% of MDV funds must be spent to bring farmers and other agricultural sources into compliance with NR 151 agricultural performance standards. The remaining funding may be spent on staffing, innovative projects, monitoring, modeling, demonstrations, etc. If a County chooses to participate, they will agree to:

- Develop a plan to use funds (due 1 year after funds received)
- Use the MDV funds appropriately
- Submit annual reports to the DNR until funds are used

Funds must be targeted to the highest phosphorus loading areas within the participating county. This may or may not be the same watershed the MDV funds were generated in. A "watershed plan" form has been created to help streamline the development and submittal of MDV watershed plans to DNR. Section 3.04 of the MDV Implementation Guidance is also designed to provide instructions to County LCDs on how to develop a successful MDV plan. Visit <http://dnr.wi.gov/>, search "statewide phosphorus variance" for more information.

Determining Substantial Impacts

A two-step process was used to determine if phosphorus standards compliance has a substantial impact to point source discharges. The purpose of the first step, commonly referred to as the "primary screener", is to determine the phosphorus standards' economic impact on dischargers in each category. The second step, referred to as the "secondary screener", gauges the wider community's socio-economic well-being and ability to adapt to changes that accompany implementation of phosphorus standards. In order to meet the "substantial determination" test, a facility must meet the primary screener and one or more secondary screeners. Permittees should review Appendices A-G of the MDV Implementation Guidance or the "eligibility quiz" at dnr.wi.gov, keywords "statewide phosphorus variance" for specific eligibility information:

Primary Screeners:

- Median household income (municipal WWTFs)
- Estimated compliance costs within the discharge category (industries)
- Estimated compliance costs within the county (industries)

Secondary Screeners:

- Median household income (industries only)
- Transfer receipts as a share of total personal income
- Jobs per square mile
- Population change
- Net earnings by place of residence
- Job growth
- Capital costs as a share of total wages

REVIEWING THE MDV

- In order to comply with federal requirements, DNR must triennially review new information to determine if revisions are needed to the MDV including the substantial and widespread socioeconomic determination.
- DNR will also review facility-specific applications of the MDV upon permit reissuance to re-evaluate the need for the variance and update permit terms and conditions associated with s. 283.16, Wis. Stat. and the EPA-approved MDV.
- DNR may request EPA approval of revised phosphorus MDV packages in the future based on new information gathered from these analyses. This may extend the duration of the MDV.

FOR MORE INFORMATION

- Visit the DNR website: <http://dnr.wi.gov/>, search "phosphorus"
- Send comments or questions to DNRphosphorus@wisconsin.gov



Fact sheet for information only
Prepared by:
Wisconsin Department of Natural Resources
Box 7921
Madison, WI 53707-7921

Multi-Discharger Permit – 2020 Application

Total Funds Available to Jefferson County

- Upper Rock River Basin = \$13,414.95
- Upper Fox River Basin = \$38.30

Upper Rock River Basin

Location: upper portion of Jefferson County
(diamond shape on map)

Point Sources in 2020 Allocation:

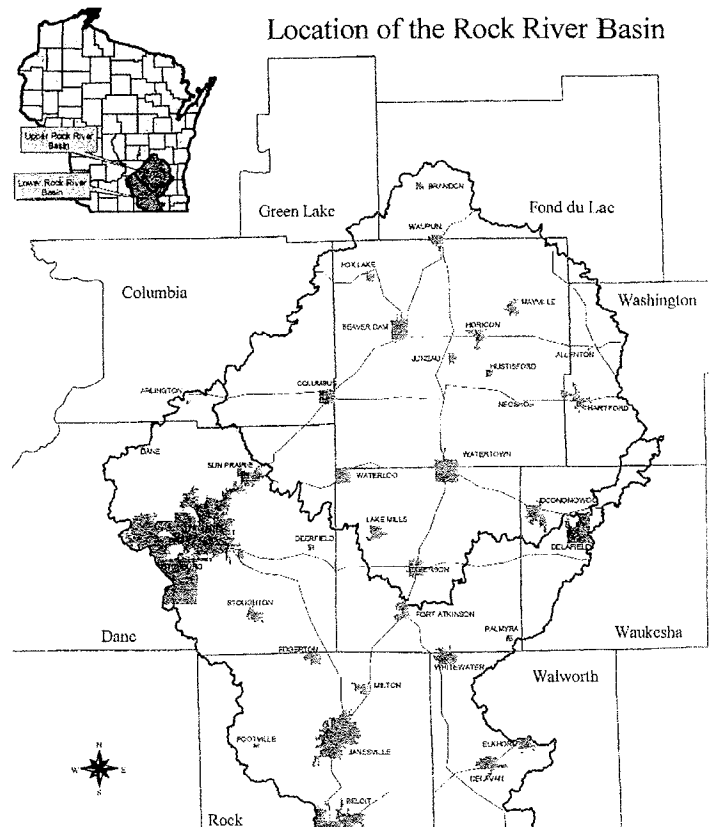
- Grande Cheese Co Brownsville
- Horicon WWTF
- Lebanon Sanitary District
- Lomira WWTF
- Randolph WWTF

Program Specifics

- Application Deadline January 1, 2020
- Check received by March 1, 2020
- Watershed plan required by March 1, 2021
- Annual reports required by May 1 starting in 2022

Fund Requirements

- Must be used in the designated watershed
- Must be targeted to the highest phosphorus loading areas
- At least 65% of funds must be used on practices = \$8,719.72
- Up to 35% can be used for staff, monitoring, modelling, demos = \$4,695.23



92.06 Land conservation committees. (1) **CREATION: MEMBERSHIP.** (a) *Creation.* Each county board shall create a land conservation committee.

(b) *Membership.* 1. The county board shall appoint to the land conservation committee at least 2 persons who are members of the committee on agriculture and extension education created under s. 59.56 (3) (b).

2. The county board shall appoint to the land conservation committee a person who is the chairperson of the county farm service agency committee created under 16 USC 590h (b) or other county farm service agency committee member designated by the chairperson of the county farm service agency committee.

3. The county board may appoint to the land conservation committee any number of members who are also members of the county board.

4. The county board may appoint to the land conservation committee up to 2 members who are not members of the county board.

(c) *Terms.* Each member of the land conservation committee shall serve for a term of 2 years or until a successor is appointed, whichever is longer.

(d) *Reimbursement.* Each member of the land conservation committee shall be reimbursed for necessary expenses and shall be paid the same per diem as members of other county board committees.

(e) *Programs and responsibilities.* The county board may assign other programs and responsibilities to the land conservation committee.

(2) **DESIGNATED REPRESENTATIVES.** The county board shall designate a representative of each county committee with responsibilities related to natural resource management to serve as an adviser to the land conservation committee. The county board shall designate, at a minimum, representatives from any county zoning or land use, forestry, parks and solid waste committees. In addition, the land conservation committee may invite any state, federal or local agency with which the county or committee has a memorandum of understanding to designate a representative to advise the land conservation committee.

(4) **PUBLIC PARTICIPATION.** The committee shall actively solicit public participation in the planning and evaluation of soil and water conservation programs.

History: 1981 c. 346; 1985 a. 29; 1995 a. 201; 2011 a. 253.

Appointments to the conservation committee are made by the county board, not the county executive. 76 Att. Gen. 173.

Committee responsibilities and prohibitions of private interests in public contracts are discussed. 76 Att. Gen. 184.

92.07 Land conservation committee; powers.

(1) **POWERS GENERALLY.** Each land conservation committee may carry out the powers delegated to the committee subject to the approval of the county board.

(2) **STANDARDS.** Each land conservation committee may develop and adopt standards and specifications for management practices to control erosion, sedimentation and nonpoint source water pollution. The standards and specifications for agricultural facilities and practices that are constructed or begun on or after October 14, 1997, and, if cost-sharing is available to the owner or operator under s. 92.14 or 281.65 or from any other source, for agricultural facilities and practices that are constructed or begun before that date shall be consistent with the performance standards, prohibitions, conservation practices and technical standards under s. 281.16 (3). The land conservation committee shall use the rules promulgated under s. 281.16 (3) (c) to determine whether cost-sharing is available.

(3) **DISTRIBUTE FUNDS.** Each land conservation committee may distribute and allocate federal, state and county funds made available to the committee for cost-sharing programs or other incentive programs for improvements and practices relating to soil and water conservation on private or public lands, and within

the limits permitted under these programs, to determine the methods of allocating these funds.

(5) **EDUCATIONAL AND OTHER PROGRAMS.** Each land conservation committee may encourage research and educational, informational and public service programs, advise the University of Wisconsin System on educational needs and assist the University of Wisconsin System and the department in implementing educational programs under ss. 36.25 (7), 59.56 (3) and 92.05.

(6) **PREVENTIVE AND CONTROL MEASURES AND WORKS OF IMPROVEMENT.** Each land conservation committee may carry out preventive and control measures and works of improvement for flood prevention and for conservation, development, utilization and control of water within the county. These preventive and control measures and works of improvement may include, but are not limited to, changes in the use of land and use of engineering operations such as terraces, terrace outlets, desilting basins, floodwater retarding structures, floodways, dikes and ponds, methods of cultivation and the growing of vegetation. These preventive and control measures and works of improvement may be carried out on lands owned or controlled by this state or any of its agencies, with the cooperation of the agency administering and having jurisdiction of the land, and on any other lands within the county upon obtaining the consent of the landowner or the necessary rights or interests in the land.

(7) **ASSISTANCE.** Each land conservation committee, in the name of the county, may cooperate with, enter into agreements with, or furnish financial, technical, planning or other assistance to any agency, governmental or otherwise, or any landowner or land user within the incorporated or unincorporated parts of the county, in carrying out resource conservation operations and works of improvement for flood prevention or for the conservation, development, utilization and protection of soil and water resources within the county.

(7m) **ASSISTANCE TO THE DEPARTMENT OF TRANSPORTATION.** Each land conservation committee shall cooperate with the department of transportation as requested under s. 85.195.

(8) **OBTAIN PROPERTY.** Each land conservation committee, in the name of the county, may obtain options upon and acquire, by purchase, exchange, lease, gift, grant, bequest, devise or otherwise, any property or rights or interests in property or in water. A land conservation committee may maintain, administer and improve any properties acquired. A land conservation committee may receive income from these properties on behalf of the county and may expend this income in carrying out the purposes and provisions of this chapter. A land conservation committee may sell, lease or otherwise dispose of the property or interests in property in furtherance of the purposes and the provisions of this chapter.

(9) **MACHINERY AVAILABILITY.** Each land conservation committee may make available, on terms it may prescribe, to landowners and land users within the incorporated and unincorporated parts of the county, agricultural and engineering machinery and equipment, fertilizer, seeds and seedlings, and other material or equipment which will assist the landowners and land users in carrying on operations upon their lands for the conservation of soil resources, for the prevention and control of soil erosion, for flood prevention, for the conservation, development and utilization of water or for the prevention of nonpoint source water pollution.

(10) **STRUCTURES.** Each land conservation committee may construct, improve, operate and maintain structures necessary or convenient for the performance of any of the operations or activities authorized in this chapter.

(11) **ADMINISTRATION OF PROJECTS OR PROGRAMS.** Each land conservation committee, in the name of the county, may acquire, by purchase, lease or otherwise, and administer, any soil conservation, flood prevention, water management or nonpoint source water pollution abatement project or combinations of these projects, and participate in programs concerned with the conservation of natural resources located within the county undertaken by the United States or any of its agencies, or by this state

or any of its agencies. A land conservation committee may administer, as agent of the United States or any of its agencies, or of this state or any of its agencies, any soil conservation, flood prevention, water management, water quality improvement, nonpoint source water pollution abatement, erosion control, erosion prevention project or resource conservation program within the county. A land conservation committee may act as agent for the United States, or any of its agencies, or for this state or any of its agencies, in connection with the acquisition, construction, operation or administration of any resource conservation program within the county. A land conservation committee, on behalf of the county, may accept donations, gifts and contributions in money, services, materials or otherwise from any source and use or expend these moneys, services, materials or other contributions in carrying on its operations.

(12) **CONTRACTS; RULES.** Each land conservation committee, in the name of the county, may make and execute contracts and other instruments necessary or convenient to the exercise of its powers.

(13) **CONTRIBUTIONS; AGREEMENTS.** As a condition to extending any benefits under this chapter to, or the performance of work upon, any lands not owned or controlled by this state or any of its agencies, a land conservation committee may require contributions in money, services, materials or otherwise to any operations conferring the benefits, and may require landowners and land users to enter into and perform agreements or covenants respecting the use of land as will lead to conservation of soil and water resources.

(14) **ENTER UPON LANDS.** Each land conservation committee may enter upon any lands within the county to examine the land and make surveys or plans for soil and water conservation without being liable for trespass in the reasonable performance of these duties. This authorization applies to the land conservation committee members and their agents.

(15) **ADMINISTRATION AND ENFORCEMENT OF ORDINANCES.** A land conservation committee may, if authorized by the county board, administer and enforce those provisions of an ordinance enacted under s. 101.65 (1) (a) related to construction site erosion, a zoning ordinance enacted under s. 59.693 or an ordinance enacted under authority granted under s. 101.1206.

History: 1981 c. 346; 1983 a. 119 s. 220 (1) (2); 1985 a. 332 s. 251 (8); 1991 a. 306; 1993 a. 16; 1995 a. 201; 1997 a. 27; 1999 a. 9; 2009 a. 28; 2011 a. 32.

Cross-reference: See ss. 59.70 (2) (c) and 60.10 (2) (c) for authorization of county or town appropriations.

92.09 Land conservation committee staff. The land conservation committee may employ county soil and water conservation staff, subject to the approval of the county board. The county soil and water conservation staff is responsible for the administration of the county soil and water conservation program and may exercise the powers granted to the land conservation committee.

History: 1981 c. 346.

92.10 Land and water resource management planning program. (1) **CREATION.** There is created a land and water resource management planning program. The department, board and land conservation committees jointly shall develop and administer this program.

(2) **PURPOSES.** The purposes of the land and water resource management planning program are to conserve long-term soil productivity, protect the quality of related natural resources, enhance water quality and focus on severe soil erosion problems.

(4) **IMPLEMENTATION; DEPARTMENT DUTIES.** (a) *Data.* The department shall develop a systematic method of collecting and organizing data related to soil erosion. The department shall cooperate with the department of administration under s. 16.967 in developing this methodology or any related activities related to land information collection.

(c) *Plan assistance.* The department shall assist land conservation committees in preparing land and water resource management plans.

(d) *Plan review.* The department shall review and approve or disapprove land and water resource management plans submitted by the land conservation committees. The department may require land conservation committees to indicate specific projects to be funded under each plan and the related cost-sharing rates.

(5) **IMPLEMENTATION; BOARD DUTIES.** (a) *Plan review.* The board shall review land and water resource management plans submitted by the land conservation committees and make recommendations to the department.

(b) *Solicit comments.* The board shall solicit comments on land conservation committee plans from the agencies identified as advisers to the board under s. 15.135 (4).

(6) **IMPLEMENTATION; COMMITTEE DUTIES.** (a) *Plan preparation.* A land conservation committee shall prepare a land and water resource management plan that, at a minimum, does all of the following:

1. Includes an assessment of water quality and soil erosion conditions throughout the county, including any assessment available from the department of natural resources.

2. Specifies water quality objectives for each water basin, priority watershed, as defined in s. 281.65 (2) (c), and priority lake, as defined in s. 281.65 (2) (be).

3. Identifies the best management practices to achieve the objectives under subd. 2 and to achieve the tolerable erosion level under s. 92.04 (2) (i).

4. Identifies applicable performance standards and prohibitions related to the control of pollution from nonpoint sources, as defined in s. 281.65 (2) (b), and to soil erosion control, including those under this chapter and chs. 281 and 283 and ss. 59.692 and 59.693.

5. Includes a multiyear description of planned county activities, and priorities for those activities, related to land and water resources, including those designed to meet the objectives specified under subd. 2 and to ensure compliance with the standards and prohibitions identified under subd. 4.

6. Describes a system to monitor the progress of activities described in the plan.

7. Includes a strategy to provide information and education related to soil and water resource management.

8. Describes methods for coordinating activities described in the plan with programs of other local, state and federal agencies.

(b) *Notification.* A land conservation committee shall notify landowners and land users of the results of any determinations concerning soil erosion rates and nonpoint source water pollution, and provide an opportunity for landowners and land users to present information relating to the accuracy of the determinations during preparation of the land and water resource management plan.

(c) *Hearings.* A land conservation committee shall hold one or more public hearings on the land and water resource management plan.

(d) *Plan submission.* A land conservation committee shall submit the land and water resource management plan to the board and department.

(8) **DUTIES OF THE DEPARTMENT OF NATURAL RESOURCES.** The department of natural resources shall provide counties with assistance in land and water resource management planning, including providing available water quality data and information, providing training and support for water resource assessments and appraisals and providing related program information.

History: 1981 c. 346; 1983 a. 524; 1985 a. 29; 1987 a. 27; 1989 a. 31; 1997 a. 27 ss. 2188 to 2489L, 9456 (3m); 1999 a. 9; 2003 a. 33 s. 2811; 2003 a. 48 ss. 10, 11; 2003 a. 206 s. 23; 2005 a. 25 ss. 1742, 2493.

92.11 Regulation of local soil and water resource management practices. (1) **PROPOSED ORDINANCES.** To promote soil and water conservation or nonpoint source water pollution abatement, a county, city, village or town may enact ordinances for the regulation of land use, land management and pollutant management practices.