



State of Wisconsin
Governor Tony Evers

Department of Agriculture, Trade and Consumer Protection
Bradley M. Pfaff, Secretary

DATE: May 31, 2019

TO: Wisconsin Livestock Facility Siting Review Board (LFSRB)

FROM: DATCP Staff

SUBJECT: *Ledgeview Farms, LLC (“Applicant”) v. Town of Ledgeview (“Town”)* (Docket No. 19-LFSRB-01) – Issues presented to LFSRB for consideration

- A. By failing to cooperate with a lawful inspection of the livestock facility undertaken to verify the conditions on farm and the credibility of the information related to commitments in the application, did the Applicant’s actions constitute a constructive withdrawal of its application or provide another basis for the denial of the permit?
- B. May the Town deny the CUP application based on Applicant’s failure to provide information that is complete, consistent or credible regarding the current number of animal units at the livestock facility or the planned number to be housed on the livestock operation as demonstrated by:
 1. Deliberate actions to mislead DNR to avoid a CAFO Permit?
 2. Inconsistencies in the reporting of animal units in submissions to the Town for a CUP?
 3. Deliberate actions to block access to accurate information by refusing to allow an inspection authorized by a warrant to determine the conditions on the farm?
- C. Was the Town required to consider a CAFO (WPDES) in determining compliance with siting standards if the CAFO permit was not referenced in the application for local approval and issued to the Applicant after the Town’s final decision to deny the siting application?
- D. May the Town deny the CUP application under Wis. Admin. Code §§ ATCP 51.34(1)(b) and 51.34(4), on the grounds that Ledgeview Farms did not correctly characterize its status as a CAFO and the permits issued to the farm?
 1. Do misstatements in the application go to the issue of the credibility of the application, which under ATCP 51.30(1) must contain information that is credible and internally consistent?
- E. May the Town deny the CUP application under Wis. Admin. Code § ATCP 51.34(4) on the grounds that Ledgeview Farms has violations that would warrant a revocation of a permit?
 1. How soon must the Applicant act on commitments made in the application to install practices or perform management activities to address ongoing violations of the siting standards?

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- F. Was there sufficient evidence in the record to overcome the presumption of compliance arising from the engineer certification in Worksheet 4 that existing manure storage structures were not failing or leaking?
- G. Was there sufficient evidence in the record to overcome the presumption of compliance arising from the commitments in Worksheets 2 and 5 to:
 - 1. Meet the odor standard by maintaining a bio-cover as an odor control practice for the proposed Heifer Site manure storage structure and implement the odor management plan?
 - 2. Prevent significant discharges of manure and process waste water into waters of the state from existing livestock structures?
 - 3. Prevent unrestricted livestock access to surface waters of the state?

To what extent could the Town base its denial of a permit on the following factors affecting the credibility of the information relating to the Applicant's commitments to rectify continuing discharges and meet other ATCP 51 requirements:

- 1. The Applicant's history of violations of state and federal law including the ongoing violations determined by DNR in its November 14, 2018 inspection report prepared shortly after Ledgeview Farms submitted its second siting permit application?
 - 2. The refusal to provide the Town access to the farm after be served with a warrant for inspection?
- H. Did the Town meet the criteria for adopting and enforcing the following more stringent local standards:
 - 1. An increased property line setback of 1,320 feet for the manure storage structure planned for the heifer site?
 - 2. The general CUP conditions in Sections 20-24 of the Town's June, 2018 decision?