



*State of Wisconsin*  
**Livestock Facility Siting Review Board**

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**Meeting Minutes**

Livestock Facility Siting Review Board Meeting  
State of Wisconsin

10:00 AM

January 5, 2018

Department of Agriculture, Trade and Consumer Protection (DATCP)  
Board Room  
2811 Agriculture Drive  
Madison, WI

**CALL TO ORDER— Bob Topel, LFSRB Chair**

The meeting was called to order by Chairman Bob Topel at 10:00 a.m. Topel, Raymond Diederich, Lee Engelbrecht, Dr. Jerome Gaska, Scott Sand, Bob Selk, and Scott Godfrey were in attendance. Others present included Cheryl Daniels (LFSRB Attorney), and DATCP Division of Agricultural Resource Management employees Richard Castelnuovo, Chris Clayton, and Pat Schultz.

Daniels confirmed that the meeting was publicly noticed as required.

Daniels called roll, confirming that all LFSRB members were present.

Engelbrecht moved to approve the agenda as presented, Gaska seconded, and the motion carried.

Selk moved to approve the November 10, 2017 minutes as prepared, Diederich seconded, and the motion carried.

**Glenner v. Walworth County, and Friemoth v. Walworth County, Docket No. 17-LFSRB-02 – Cheryl Daniels, Board Attorney**

Daniels provided background information on the appeals. In this case, two different aggrieved parties submitted requests for review: the neighbors (Glenner) of the livestock facility by their attorney, and the operator of the livestock facility (Friemoth).

The LFSRB first addressed the following issues raised by the Glenner appeal including those specifically asserted by the aggrieved party in their request for review:

1. The request for review challenged the procedures followed by Walworth County, the decision-making authority, in determining the completeness of the livestock siting application submitted by Friemoth. The LFSRB considered the following:
  - a. A report by the Glenner's engineer that claims that the application was incomplete because the maps submitted as part of the application omitted required details. The LFSRB noted:

- d. The county took into account the oral testimony and issued the permit. Absent the findings of fact, the Board did not know how the county viewed this particular issue in its final decision.
  - e. The county should resolve questions about the operator's commitment to comply with the odor worksheet, and require that the applicant submit modifications to Worksheet 2 if needed.
4. The request for review contended that there was evidence in the record, including the amended siting application, to support a determination that the facility did not comply with the runoff management standard. The LFSRB considered the following:
- a. Amendments to a complete application are allowed to correct errors found during the county's decision-making process.
  - b. During the decision-making process, the applicant changed the size of one animal lot triggering a need to reanalyze the lot using the BARNY model. The LFSRB noted that:
    - i. No amended BARNY output was included in the record to reflect the change in the animal lot size.
    - ii. The record included different maps of the facility indicating both a buffer and no buffer would be built at the end of the animal lot.
    - iii. Although the application should amend itself because of the county's work, the work was not included in the record. As with all issues on appeal, the Board can only review the information in the record.
  - c. During the public hearing, an engineer hired by the Glenner contended that an existing feed storage structure was not evaluated for compliance with the runoff management standard in ATCP 51.20 (3) (b). The LFSRB noted that:
    - i. The particular standard in question applies to feed storage structures that hold high moisture feed (70% or greater) and are one acre or more in size.
    - ii. The applicant's engineer noted the paved bunker area covers less than one acre, and there was no evidence in the record to contradict the size description.
    - iii. The applicant's engineer certified on Worksheet 5 of the application that the standard in ATCP 51.20 was met.

The LFSRB addressed the following issues raised by the Friemoth appeal including those specifically asserted by the aggrieved party in their request for review:

1. The request for review contended that Walworth County exceeded its authority under the siting law by imposing conditions on the final decision approving the application for a siting permit. The request for review identified concerns with conditions nos. 1, 2, 7, and 12, and did not address the remaining 11 conditions in the permit. The LFSRB considered the following:
  - a. The siting permit cannot be conditioned on the timing of transporting animal waste on roadways (Condition #2). Applying a local standard that restricts the hours of transporting animal waste on roadways may be valid to protect public health and safety, but the county has not adopted more stringent local standards as part of its livestock facility siting ordinance in accordance with the required criteria in ATCP 51.10 (3).
  - b. The siting permit cannot be conditioned on requiring manure storage or restricting when a manure storage structure is emptied (Condition #7).
  - c. The siting permit cannot be conditioned on requiring a livestock facility operator to clean tracked soil or manure off of Town or County roadways (Condition #12).

