



County of Door
SOIL & WATER CONSERVATION DEPT

County Government Center
421 Nebraska Street
Sturgeon Bay, WI 54235

Phone: (920) 746-2214
Fax: (920) 746-2369
swcd@co.door.wi.us

November 11, 2014

Leland & Mary Babler
PO Box 307
Maplewood, WI 54226

Mr. & Mrs. Babler:

This letter is being sent as a follow up to the Agricultural Performance Standards and Animal Waste Storage Ordinance notification letter sent to you on November 20, 2013 and changes in management that you have made to your operation.

Property Location (Parcel #): 0100004262533A1 0100004262532A

As outlined in that letter, the following items were found to be noncompliant:

- Manure Storage (Existing Facilities)
- Clean water diversions in a WQMA
- No overflow of manure storage facilities
- No unconfined manure pile in a WQMA
- No direct runoff from feedlot or stored manure into waters of the state
- No unlimited access of livestock to waters of the state

A cost share offer was extended to you to install Best Management Practices (BMP's) and/or corrective measures to achieve compliance with the agriculture standards and/or prohibitions in the same letter dated November 20, 2013. You opted not to accept the cost share agreement funding provided by TRM funding from WDNR and install BMP's and or corrective measures at your own cost to achieve compliance.

With the recent abandonment of the existing manure storage, installation of clean water diversions, reduction of animal numbers, reestablishment of vegetation of the lower animal lots, and installation of livestock fencing you meet all of the requirements of the statewide agricultural performance standards and manure management prohibitions. **You are currently in compliance with all items associated with Chapter 23 of the Door County Code. There is nothing that you are required to do at this time.**

Thank you for your cooperation and please remember, once compliance with a cropland performance standard and/or livestock performance standard or prohibition is attained, compliance shall be maintained by the existing landowner or operator and heirs or subsequent owners.

If, after the date of this letter, you fall out of compliance with any of the statewide agricultural performance standards and/or manure management prohibitions that have previously been determined to be compliant, Door County may: issue a citation pursuant to and in accordance with Section 66.0113 Wisconsin Statutes and Chapter 35 Door County Code; issue a cease and desist order for all operations on the above listed property that are out of compliance; institute other proceedings in court including a civil forfeiture or injunction. Items determined to be compliant in this notification that fall out of compliance will be subject to enforcement without the requirement of an offer of cost-sharing.

The Door County Soil and Water Conservation Department is available to provide or coordinate technical assistance for the planning, design and installation of all best management practices necessary to achieve compliance with the agricultural performance standards and prohibitions.

An appeal may be filed for a final compliance determination made in writing by the Soil & Water Conservation Department. Please see the attached Appeals Procedure for more information.

If you have questions regarding this letter or wish to review copies of the statutes or ordinance mentioned in this letter please contact the Door County Soil and Water Conservation Department at (920) 746-2214.

Sincerely,

A handwritten signature in black ink that reads "Rich Propsom". The signature is written in a cursive style with a large, looped initial "R".

Rich Propsom
Conservationist

Enc.
November 20, 2013 Notification Letter

Cc.
Larry Babler

Appeals Procedure

The final compliance determination or best management practices required to attain compliance stated in this letter can be appealed by the person aggrieved by the decision or a person aggrieved by the decision if such adversely impacts the substantial interests of that person by the following procedure.

1. Payment of \$300 for filing a Notice of Appeal.
2. Filing a Notice of Appeal with the Board of Adjustment (BOA), with a copy to the Soil and Water Conservation Department (SWCD).
3. Notice must identify appellant, specify the decision sought to be reviewed, and designate the factual and legal bases for the appeal.
4. Fee must be paid and Notice of Appeal filed within thirty (30) days from issuance of this letter, or an appeal is barred.

The appeal, ordinarily, stays all proceedings in furtherance of the decision appealed from. The appeal does not stay all proceedings if, after the appeal is filed, SWCD certifies to the BOA that a stay would pose an imminent threat to the environment, public health or public safety.

The burden of proof rests with the appellant. The appellant must submit evidence sufficient to support granting the appeal.

BOA shall fix the time for and location of hearing an appeal. The hearing shall commence within forty-five (45) days of the fee being paid and Notice of Appeal being filed.

The following process shall occur at the appeal hearing.

1. Opening Remarks by Appellant and then by SWCD. These opening remarks are intended to acquaint the BOA with the case and set out, in a general way, each side's case.
2. Appellant presents real and testimonial evidence first.
3. SWCD presents real and testimonial evidence second.
4. Appellant may offer rebuttal real and testimonial evidence.
5. Closing remarks by appellant and then by SWCD. These closing remarks are intended to be a brief summation of each side's position on the contested issues and the reasons each is entitled to prevail.
6. Appellant and SWCD may cross-examine witnesses of the other side.
7. BOA may swear witnesses.
8. BOA will mark and preserve exhibits.
9. BOA may cause the proceedings to be taken by a stenographer or by a recording device. The expense thereof to be paid by the parties to the proceeding. Any record of hearing will be retained by BOA.
10. The rules of evidence should be adhered to, but do not strictly apply.
11. The hearing shall be informal in nature.

The final determination/judicial review will occur by the following process. The BOA may affirm or reverse in whole or part or it may modify the decision on review. Within forty-five (45) days of completion of the hearing BOA shall mail or deliver to each side its written determination stating the reasons therefore. This determination shall be a final determination. Any party to the proceeding may seek judicial review thereof pursuant to and in accordance with Section 68.13 Wisconsin Statutes.

If the Appellant prevails and at the BOA's sole discretion, the filing fee may be refunded in whole or part. Otherwise, each party must pay its own costs and fees.