

COOPERATIVE AGREEMENT  
BETWEEN  
WISCONSIN DEPARTMENT OF AGRICULTURE, TRADE AND CONSUMER PROTECTION  
AND  
WISCONSIN DEPARTMENT OF TRANSPORTATION  
ON THE PROCEDURES TO BE USED TO IMPLEMENT SECTION 32.035, WIS. STATS.,  
TITLED  
"AGRICULTURAL IMPACT STATEMENTS"

I. STATEMENT OF PURPOSES

The Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP) and the Wisconsin Department of Transportation (WisDOT) recognize that the Wisconsin legislature has charged DATCP with the duty and responsibility of preparing an Agricultural Impact Statement (AIS) which assesses the impacts on the State's farm operations resulting from the acquisition by condemnors of agricultural lands or any interests therein for projects involving the actual or potential exercise of the power of eminent domain. DATCP and WisDOT recognize that the Wisconsin legislature has charged WisDOT with the duty and responsibility of furnishing the citizens of Wisconsin with an adequate, safe and economical transportation system. DATCP and WisDOT further recognize that the construction, reconstruction, maintenance and repair of transportation facilities, such as highways, bridges, harbors, railroads and airports may have adverse effects on the State's farm operations.

DATCP and WisDOT agree that in order to carry out their respective duties and responsibilities in a timely, reasonable and economical manner which is in the total public interest, they will consult and cooperate with each other as set forth in this agreement. DATCP and WisDOT concur in this agreement with the intent that each agency may continue to perform its statutory duties and responsibilities and assure that adverse effects on Wisconsin's farm operations that may result from the improvement and maintenance of transportation facilities are minimized to the most reasonably possible extent within the need to provide Wisconsin citizens, businesses, and industries with adequate, safe, and economical transportation systems.

II. WISDOT OBLIGATIONS

- A. WisDOT shall complete coordination with DATCP as indicated below and consistent with Part III H for all projects which propose to acquire interests in farm operations. WisDOT will include, as appropriate, DATCP's analysis of agricultural impact as a part of the environmental documentation for each project, except for projects exempted by s. 32.035(4)(a).

1. Projects requiring only non-significant acquisitions as defined in Part IV, A of this Agreement (generally strips of one acre or less) may be reported to DATCP using a summary format, which shall include the following information:
  - a. WisDOT Project ID number
  - b. Highway number or name
  - c. County
  - d. Number of farms affected
  - e. Total acres to be acquired
  - f. Project location map
  
2. Projects which would acquire more than one acre but less than five acres from a farm operation shall be reported individually to DATCP and shall include the following information:
  - a. A description of the existing facility.
  - b. A description of the proposed action.
  - c. A summary of the alternatives to the proposed action.
  - d. Project location maps and other exhibits including aerial photographs, if available, which clearly illustrate the project limits and the farm operations affected.
  - e. A summary of farm acreage by use and nature of acquisition, fee simple or easement, that would be acquired for each alternative still under consideration.
    - 1) Cropland and pasture
    - 2) Woodland
    - 3) Land of undetermined or other use
  - f. Direct effects to farm operations caused by:
    - 1) Changes in alignment
    - 2) Changes in access to farm operations
    - 3) Severances
    - 4) Acquisition of farm buildings, structures, irrigation resources or other improvements
    - 5) Changes to equipment or livestock passes and crossings
    - 6) The obliteration of the old roadway
  - g. Any known changes to farmland use which would cause indirect or secondary effects.
  - h. Any perceived adverse, beneficial, or controversial effects, which have been publically stated by farm owners or operators.
  - i. A summary of all non-significant interests from farm operations.
  
3. Projects having at least one acquisition over five acres from a farm operation shall be reported individually and shall include all the information indicated in 2) above. In addition, information specific to the acquisition(s) over five acres shall include a mailing list of the names,

addresses, and if available, the telephone numbers of affected farmland owners or operators, if available and different from the owner. Any other individual, group, club or committee which has demonstrated an interest in and requested receipt of the AIS for the project shall be included on the mailing list. When available, WisDOT shall provide DATCP with a list of local or county officials contacted and farm owners or operators attending informational meetings. If available, the telephone numbers of the attendees shall also be provided to DATCP.

- B. WisDOT shall provide in writing, additional information requested by DATCP within 14 days\* of receipt of the request.
- C. WisDOT shall notify DATCP of any change in a project's acquisition of interests in any farm operation and supply information at the appropriate level of detail as shown above in II.A.1, 2, or 3.
  - 1. WisDOT agrees to provide in writing additional information requested by DATCP concerning the changed interests within 14 days of receipt of the request.
  - 2. A notification of a change to DATCP is not required if a landowner requests a change and is the only landowner from which the varied interest would be acquired.
- D. WisDOT shall review and comment on a pre-published AIS in a timely manner.
- E. WisDOT shall compensate DATCP, on a monthly basis, for all actual costs incurred in their review and evaluation of all WisDOT projects that require an AIS or a supplement to an AIS.\*\*

### III. DATCP OBLIGATIONS

- A. Within 10 days of their receipt of an individual notification, DATCP will inform WisDOT in writing of their decision whether to prepare an AIS.
- B. For projects requiring an AIS DATCP shall inform WisDOT in writing within 14 days, of any additional information needed for the preparation of that AIS.
- C. DATCP shall prepare a pre-published AIS within 60 days of receiving the above requested additional information from WisDOT and will inform WisDOT in writing of the commencement of the 60 day period.
- D. DATCP with agreement from WisDOT may extend the time limits in B or C above by up to 21 days.

\* All days referred to in this agreement are "calendar days"

\*\* See footnote on page 4.

- E. DATCP shall review, evaluate and determine the need for an AIS or a supplement to an AIS in the manner of A, B, C and D above whenever WisDOT supplies a notification of a change to a project's proposed acquisition of interests in any farm operation.
- F. DATCP shall provide WisDOT with three copies of the pre-published AIS or the pre-published supplement to an AIS. DATCP shall provide WisDOT with three copies of the published AIS or the published supplement to an AIS.
- G. DATCP shall provide WisDOT a monthly billing, with actual\* detailed costs for each individual project notification which resulted in the preparation of an AIS or a supplement to an AIS.
- H. If DATCP exceeds any of the time limits in A, B, or C above or those mutually extended as in D above, WisDOT may proceed with project development activities but may not negotiate with an owner or make a jurisdictional offer until 30 days after the AIS is published.

#### IV. AREAS OF MUTUAL AGREEMENT

- A. Acquisitions of interests which do not require detailed information:
  - 1. DATCP and WisDOT agree that notification of certain WisDOT acquisitions of interests in farm operations do not require detailed information in the project notification.
    - a. These acquisitions shall be termed non-significant acquisitions.
    - b. These acquisitions are typified as minor amounts of land, the loss of which would not have a significant adverse effect on a farm operation.
      - 1) Non-significant acquisitions for projects which involve linear corridors, such as highways or railroads, are typified by strip acquisitions of narrow width along and generally parallel to existing right of way lines for the purpose of maintaining or improving an existing transportation facility or service.
      - 2) Non-significant acquisitions for projects which are non-linear such as airport, wayside, weigh station or building construction, are typified by having small acquisitions contiguous to existing right of way or other publicly owned land for the purpose of maintaining or improving an existing transportation facility, structure, building or service.

\* Monthly billing system will not be implemented immediately. The effective date for implementation will be by mutual agreement of staff representatives.

2. DATCP and WisDOT agree that for an acquisition of interest in a farm operation to be non-significant all the criteria listed below shall be met:
  - a. The criteria for non-significant acquisitions of interests in farm operations for linear corridors projects, e.g., highway, railroads, etc., are those that:
    - 1) Are one acre or less in size
    - 2) Result in no severance(s)
    - 3) Do not significantly alter or restrict access presently enjoyed by the owner
    - 4) Do not involve moving or demolishing any improvements necessary to the operation of the farm
    - 5) Do not involve a high value crop
  - b. The criteria for non-significant acquisitions of interests in farm operations for non-linear projects, e.g., airports, waysides, weigh stations, or buildings, are those that:
    - 1) Are 5 acres or less in size and the only acquisition from a farm operation
    - 2) Result in no severance(s)
    - 3) Do not deny or restrict the use of the remaining land for farming purposes presently enjoyed or anticipated by the owner
    - 4) Do not require the removal of improvements necessary to the operation of the farm.

B. Advance right of way acquisition:

1. DATCP and WisDOT agree that where owners of farmland would otherwise suffer extreme and unnecessary hardship as a result of delaying an acquisition, WisDOT may acquire right of way parcels in advance of satisfying the requirements of s.32.035 Wis. Stats. Such acquisitions are termed "hardship" acquisitions and must comply with the requirements of s.84.09 Wis. Stats. and 32.25(1) Wis. Stats.
2. WisDOT shall notify DATCP of each proposed hardship acquisition that involves an interest in any farm operation and include the reason(s) for the acquisition whenever:
  - a. The hardship acquisition would be necessary in advance of satisfying the requirements of s.32.035 Wis Stats.
  - b. The hardship acquisition involves a change in acquisition from a farm operation either before or after the satisfaction of the requirements of s.32.035 Wis. Stats.

3. A notification of a hardship acquisition is not required when:

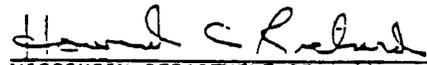
- a. The hardship status of the acquisition occurs after the acquisition has been addressed in an AIS and the other requirements of s.32.035 Wis. Stats have been satisfied.
  - b. The hardship acquisition results from a landowner's request for a variance and is the only landowner from which the interest would be acquired.
- C. WisDOT recognizes that DATCP may need to contact affected landowners to discuss a proposed acquisition and its effects on the farm operation in order to fully evaluate potential agricultural impacts.
- D. DATCP recognizes that agents acting under the direction of WisDOT may fulfill the obligations of the Cooperative Agreement.
- E. DATCP and WisDOT agree that an audit of this Cooperative Agreement will be conducted biennially from the date the agreement is signed by DATCP and WisDOT.

V. REVIEW OF AGREEMENT

This agreement shall, at a minimum, be reviewed biennially from the date the agreement is signed by DATCP and WisDOT for the purpose of determining if there is a need to revise any or all provisions of the agreement.

  
WISCONSIN DEPARTMENT OF TRANSPORTATION

11-6-87  
DATE

  
WISCONSIN DEPARTMENT OF AGRICULTURE,  
TRADE AND CONSUMER PROTECTION

12-9-87  
DATE