

TOWN OF TRENTON PUBLIC HEARING INFORMATIONAL PACKET
AUGUST 15, 2023 6:00 P.M.
ZONING ORDINANCE AMENDMENT

Summary:

The State of Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP) notes:

- Under Wisconsin's livestock facility siting law (Wis. Stat. § 93.90 and Wis. Admin. Code ch. ATCP 51), local governments do not have to require conditional use or other permits for new or expanding livestock operations. If they choose to require permits for such operations, they must adopt all the standards and procedures of Wis. Stat. § 93.90 and ATCP 51. This does not affect other local ordinances such as shoreland and floodplain zoning. The law does, however, limit exclusion of livestock facilities from agricultural zones.
- The standards address
 - Property line and road setbacks
 - Management and training plans
 - Odor management
 - Nutrient management
 - Manure storage facilities
 - Runoff management
- Local governments requiring permits must use application worksheets provided here to determine if proposed facilities meet these standards. The Livestock Siting Review Board hears appeals of local decisions from applicants or neighboring landowners.

Explanation of Proposed Zoning Ordinances Changes:

Intention:

- Create a specific district in the town that would allow expanded Livestock Facility Siting
- Allow town to **protect areas in the town** where such expanded operations would not be appropriate.

Create AE (Agricultural Enterprise) zoning district AE

- AE district would be allowed in areas compatible with “Prime Agricultural” and “Open Space” designations in the 2050 Comprehensive Plan
- Due to the more intensive nature of uses proposed to be allowed in AE, it would not be intended for areas near moderately- to densely populated areas and it is not intended to accommodate residential uses as principle uses

Conditional Uses in AE district

- Permit required in certain circumstances when expanding existing livestock facility, which may include a CAFO
- Public hearing required
- Standards of operation set by ATCP 51, Wis. Adm. Code
- Compliance of CUP monitored by town
- Further compliance of CAFO monitored by DNR

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TO BE POSTED AS A LEGAL NOTICE AT THE TRENTON TOWN HALL BULLETIN BOARD AND ON THE TOWN'S OFFICIAL WEBSITE

8/1/2023

NOTICE OF PUBLIC HEARING – AMENDMENTS TO THE ZONING CODE, Town of Trenton

ORDINANCE #Z2023.08.01

NOTICE IS HEREBY GIVEN that a Public Hearing will be held before the Town Board of the Town of Trenton at the Town of Trenton Town Hall, 1071 STH 33 East, West Bend, WI at 6:00 P.M. on August 15, 2023. The Public Hearing will be held to consider amendments to the Zoning Code of the Town of Trenton. The following is a full draft of the proposed amendments. Items in blue can be found in full on the Planning-Zoning page at townoftrenton.wi.gov.

Section 1. Creating § 380-145 AE Agricultural Enterprise District.

- A. Purpose. The Agriculture Enterprise District is intended to preserve and promote a full range of agricultural uses, secure land for livestock production and other agricultural uses that may be more intensive than crop production, strengthen agriculture's contribution to an area's economic base (including new employment opportunities), support processing, value added, and other activities closely allied to the agricultural industry, and prevent conversion of land identified as a valuable agricultural resource to uses that are not consistent with agriculture. The district's uses and regulations are designed to implement Comprehensive Plan goals by encouraging livestock and other agricultural uses in areas where conditions are best suited to these agricultural pursuits and discouraging residential development to avoid potential land use conflict. The AE district is generally compatible with the "Prime Agriculture" and "Open Space" land use designations of the Comprehensive Plan. Due to the more intensive nature of uses allowed, the AE district is not intended to be applied near moderately- to densely populated areas, and it is not intended to accommodate residential uses as principle uses.
- B. Permitted Uses. All uses set forth in [§ 380-14B](#).
- C. Permitted Accessory Uses. All uses set forth in [§ 380-14C](#).
- D. Conditional Uses. All uses set forth in [§§ 380-47, 380-48, 380-50 and 380-53](#) which are permitted conditional uses in the EA district, plus any uses permitted exclusively in the AE district.
- E. Minimum lot area. No building, structure or use shall be established on any single parcel less than 40 acres or on multiple farm parcels providing a contiguous area of less than 40 acres. Exception: The minimum lot area may be reduced to 30 acres for agricultural buildings and structures if required for biosecurity or other operation-related reasons.
- F. General Setbacks.
 - (1) Property lines. Except as provided for waste storage structures, livestock structures must be located a minimum of 100 feet from the property line if the livestock facility will have fewer than 1,000 animal units, and 200 feet from the property line if the livestock facility will have 1,000 or more animal units. The setback requirement does not prevent the use or expansion of a livestock structure that was located within the setback area prior to the effective date of the setback requirement, except that a structure may not be expanded closer to the property line.
 - (2) Public road right-of-way. Except as provided for waste storage structures, livestock structures must be located a minimum of 100 feet from public road right-of-way if the livestock facility will have fewer than 1,000 animal units, and 150 feet from a public road right-of-way if the livestock facility will have 1,000 or more animal units. The setback requirement does not prevent the use or expansion of a livestock structure that was located within the setback area prior to the effective date of the setback requirement, except that a structure may not be expanded closer to the public road right-of-way.
 - (3) Waste Storage Structure Setback. A new waste storage structure may not be located within 350 feet of a property line, or within 350 feet of the nearest point of any public road right-of-way. A single new waste storage structure may be constructed closer to the property line or public road if a new structure is:
 - (a) Located on the same tax parcel as a waste storage structure in existence before May 1, 2006.
 - (b) No larger than the existing structure.
 - (c) No further than 50 ft. from the existing structure.
 - (d) No closer to the road or property line than the existing structure.This setback requirement does not apply to existing waste storage structures, except that an existing structure within 350 feet of a property line or road may not expand toward that property line or road.
- G. Water quality related setbacks

- (1) Navigable Waters and Wetlands. A livestock facility shall comply with setback and related requirements in any applicable shoreland or wetland zoning ordinances enacted within the scope of authority granted under [s. 59.692, 61.351 or 62.231, Stats.](#)
- (2) Floodplain. A livestock facility shall comply with setback and related requirements in any applicable floodplain zoning ordinance that is enacted within the scope of statutory authority under [s. 87.30, Stats.](#)
- (3) Wells. All wells located within a livestock facility shall comply with [chs. NR 811 and 812](#). New or substantially altered livestock structures shall be separated from existing wells by the distances required in [chs. NR 811 and 812](#), regardless of whether the livestock facility operator owns the land on which the wells are located. A livestock structure in existence on May 1, 2006 may be altered if the alteration does not reduce the distance between the livestock structure and an existing well.
- (4) Single-family residences. No single-family residence shall be constructed within 500 feet of a livestock structure or building, including animal waste storage areas. This provision shall not apply to dwelling units that are accessory to a livestock facility.

Section 2. Amending [§ 380-14B\(5\)](#) as follows:

- (5) Livestock Facilities of not more than 750 animal units.

Section 3. Creating § 380-50Q as follows:

- Q. Livestock facilities over 750 animal units in the AE District.

Section 4. Creating § 380-415 Conditional Uses (Special Exceptions)

- A. Approval Required. These procedures apply to livestock facilities that require a conditional use permit under this ordinance.
- B. Permits for Existing Livestock Facilities.
 - (1) A permit is required for the expansion of a pre-existing or previously approved livestock facility if the number of animal units kept at the expanded livestock facility will exceed all the following:
 - (a) The applicable size threshold for a conditional use permit established in the zoning district where the facility is located.
 - (b) The maximum number previously approved or, if no maximum number was previously approved, a number that is 20% higher than the number kept on ~~(May 1, 2006, or on the effective date of the permit requirement, whichever date is later)~~
 - (2) A permit is not required for livestock facility that existed before May 1, 2006, or before the effective date of the permit requirement in this ordinance except as provided in (1).
 - (3) A permit is not required for a livestock facility that was previously issued a conditional use permit or other local approval except as provided in (1). A prior approval for the construction of a livestock facility implies approval for the maximum number of animal units that the approved livestock facility was reasonably designed to house, except as otherwise clearly provided in the approval. Prior approval of a single livestock structure, such as a waste storage structure, does not constitute prior approval of an entire livestock facility.
- C. Application Procedure. A livestock operator must complete the application and worksheets prescribed by [ATCP 51](#), including any authorized local modifications. The application requirements specified in [ATCP 51, Wis. Adm. Code](#) are incorporated by reference, without reproducing them in full. The application form and worksheets establish compliance with the standards in [ATCP 51](#) and this ordinance. The operator must file 4 duplicate copies of the application form, including worksheets, maps, and documents (other than engineering design specifications) included in the application.
- D. Application Fee. A non-refundable application as listed in the Town of Trenton Official Fee Schedule shall accompany any application.
- E. Application Review Procedure
 - (1) Within 45 days after the Town receives an application, it shall notify the applicant whether the application is complete. If the application is not complete, the notice shall describe the additional information needed. Within 14 days after the applicant provides all the required information, the Town shall notify the applicant that the application is complete. This notice does not constitute an approval of the proposed livestock facility.
 - (2) Within 14 days after the Town notifies an applicant that the application is complete, the Town shall notify adjacent landowners of the application. The Town shall use the approved notice form in [ATCP 51](#) and mail a written notice to each adjacent landowner.
 - (3) The town shall grant or deny an application within 90 days after the notice of a complete application is provided as required by (2) above. The Town may extend this time limit for good cause, including any of the following:

- (a) The town needs additional information to act on the application.
 - (b) The applicant materially modifies the application or agrees to an extension.

The town shall give written notice of any extension. The notice shall specify the reason for the extension, and the extended deadline date by which the Town will act on the application.
- F. Public Hearing. The town shall schedule a public hearing on the application within 90 days after issuing notice of a complete application.
- G. Standards. The standards for issuing a permit are as follows:
 - (1) The state livestock facility siting standards adopted under [ATCP 51, Wis. Adm. Code](#). These standards are incorporated by reference, without reproducing them in full.
 - (2) Setbacks authorized by this ordinance.
- H. Criteria for Issuance of a Permit.
 - (1) A permit shall be issued if the application for the proposed livestock facility contains sufficient credible information to show, in the absence of clear and convincing information to the contrary, that the proposed livestock facility meets the standards specified in this ordinance.
 - (2) A permit may be denied if any of the following apply:
 - (a) The application, on its face, fails to meet the standard for approval.
 - (b) The town finds, based on other clear and convincing information in the record, that the proposed livestock facility does not comply with applicable standards in this ordinance.
 - (c) Other grounds authorized by [s. 93.90, Stats.](#), that warrant disapproving the proposed livestock facility.
 - (3) No conditions may be imposed on the permit other than standards provided in this ordinance.
- I. Record of Decision.
 - (1) The Town Board shall issue its decision in writing. Its decision shall be based on written findings of fact supported by evidence in the record.
 - (2) If a permit is approved, the applicant shall receive a duplicate copy of the approved application, marked "approved." The duplicate copy must include worksheets, maps, and other documents (other than engineering specifications) included in the application.
- J. Notice to the DATCP. The town clerk (as required by [ATCP 51.36](#)) within 30 days of the town/county decision on the application shall:
 - (1) Submit written notice to the Department of Agriculture, Trade and Consumer Protection of the town's decision.
 - (2) File with the DATCP a copy of the final application granted or denied if the town has granted or denied an application under this ordinance. The copy shall include all the worksheets, maps and other attachments included in the application, except that it is not required to include the engineering design specifications.
 - (3) If the town has withdrawn a local approval under this ordinance, file with DATCP a copy of the final notice or order withdrawing the local approval.
- K. Expiration of Permit. A permit remains in effect regardless of the amount of time that elapses before the livestock operator exercises the authority granted under permit, and regardless of whether the livestock operator exercises the full authority granted by the approval. However, the town may treat a permit as lapsed and withdraw the permit if the permit holder fails to do all the following within 2 years after issuance of permit:
 - (1) Begin populating the new or expanded livestock facility.
 - (2) Begin constructing all the new or expanded livestock housing or waste storage structures proposed in the permit application.
- L. Permit modifications. The operator may make reasonable changes that maintain compliance with the standards in this ordinance, and the town shall not withhold authorization for those changes.
- M. Compliance Monitoring. The town shall monitor compliance with the ordinance as follows:
 - (1) Upon notice to the livestock facility owner, the Zoning Administrator or designee may request to personally view the permitted facility at a reasonable time and date to ensure that the owner is complying with all commitments of the application as approved.
 - (2) If the livestock facility owner refuses the Zoning Administrator the right to view the permitted facility, the Zoning Administrator may obtain a special inspection warrant from the circuit court to inspect the permitted facility for the purpose of protection of the public health and safety under [Sec. 66.0119 of Wis. Statutes](#).
 - (3) If a permitted facility is found to be in violation of the commitments made in the approved application, the Zoning Administrator shall issue a written notice to the livestock facility owner stating the violations and directing the owner to comply with the commitments of the approved application within a reasonable amount of time.

- (4) If non-compliance of the permit conditions as described in the written notice given by the Zoning Administrator continue past the stated reasonable time to comply, the Zoning Administrator may take further action as provided in this ordinance, including but not limited to issuance of a citation or seeking injunctive relief.
- (5) If the livestock facility owner disputes the conditions of the permit have not been complied with, the livestock facility owner may request a hearing in writing within 5 days of receipt of the notice of non-compliance. The town board shall schedule a hearing within five days to determine whether violation of the permit conditions exist.

- N. Terms of the Permit. A permit and the privileges granted by a permit issued under this ordinance is conditioned on the livestock operator's compliance with the standards in this ordinance, and with commitments made in the application for a permit. The town is authorized to suspend a permit or seek other redress provided in this ordinance for non-compliance.
- O. Transferability. A permit and the privileges granted by the permit run with land, and remain in effect, despite a change in ownership of the livestock facility, if the new operator does not violate the terms of the local approval. An applicant may record with the register of deeds, at the applicant's expense, the duplicate copy of the approved application. Upon change of ownership of the livestock facility, the new owner of the facility shall file information with the Town Clerk providing pertinent information, including but not limited to such information as the name and address of the new owner and date of transfer of ownership.
- P. Definitions. The following definitions shall apply to this section of the code and any other subsection referencing approvals which would be granted pursuant to this section.

"Adjacent" means located on land parcels that touch each other, or on land parcels that are separated only by a river, stream, or transportation or utility right-of-way.

"Agricultural use" means beekeeping, commercial feedlots, dairying, egg production, floriculture, fish or fur farming, forest and game management, grazing, livestock raising, orchards, plant greenhouses and nurseries, poultry raising, raising of grain, grass, mint and seed crops, raising of fruits, nuts and berries, sod farming, placing land in federal programs in return for payments in kind, owning land, at least 35 acres of which is enrolled in the conservation reserve program under [16 USC 3831 to 3836](#), participating in the milk production termination program under [7 USC 1446](#) (d), and vegetable raising.

"Animal unit" has the meaning given in s. [NR 243.03\(3\)](#) as of April 27, 2004.

"Complete application for local approval" means an application that contains everything required under ss. [ATCP 51.30\(1\) to \(4\)](#).

"DATCP" means the Department of Agriculture, Trade, and Consumer Protection.

"Expanded livestock facility" means the entire livestock facility that is created by the expansion, after May 1, 2006. "Expanded livestock facility" includes all livestock structures in the expanded facility, regardless of whether those structures are new, existing, or altered.

NOTE: This chapter applies to local approvals of new or expanded livestock facilities that will have 500 or more animal units (or will exceed a lower permit threshold incorporated in a local zoning ordinance prior to July 19, 2003). See s. [ATCP 51.02](#). Although this chapter covers all livestock structures in an "expanded livestock facility," existing structures are subject to less rigorous standards than new or expanded structures and are completely exempt from certain requirements.

"Expansion" means an increase in the largest number of animal units kept at a livestock facility on at least 90 days in any 12-month period. The acquisition of an existing livestock facility, by the operator of an adjacent livestock facility, does not constitute an "expansion" unless that operator increases the largest number of animal units kept at the combined livestock facilities for at least 90 days in any 12-month period.

"Livestock" means domestic animals traditionally used in this state in the production of food, fiber, or other animal products. "Livestock" includes cattle, swine, poultry, sheep, and goats. "Livestock" does not include equine animals, bison, farm-raised deer, fish, captive game birds, ratites, camelids, or mink.

“Livestock facility” means a feedlot, dairy farm, or other operation where livestock are or will be fed, confined, maintained, or stabled for a total of 45 days or more in any 12– month period. A “livestock facility” includes all the tax parcels of land on which the facility is located but does not include a pasture or winter grazing area. Related livestock facilities are collectively treated as a single “livestock facility” for purposes of this chapter, except that an operator may elect to treat a separate species facility as a separate “livestock facility.”

“Livestock structure” means a building or other structure used to house or feed livestock, to confine livestock for milking, to confine livestock for feeding other than grazing, to store livestock feed, or to collect or store waste generated at a livestock facility. “Livestock structure” includes a barn, milking parlor, feed storage facility, feeding facility, animal lot or waste storage facility. “Livestock structure” does not include a pasture or winter grazing area, a fence surrounding a pasture or winter grazing area, a livestock watering or feeding facility in a pasture or winter grazing area, or a machine shed or like facility that is not used for livestock.

“Navigable waters” has the meaning given in s. [30.01\(4m\)](#), Stats

“New livestock facility” means a livestock facility that will be used as a livestock facility for the first time, or for the first time in at least 5 years. “New livestock facility” does not include an expanded livestock facility if any portion of that facility has been used as a livestock facility in the preceding 5 years.

“Operator” means a person who applies for or holds a local approval for a livestock facility.

“Person” means an individual, corporation, partnership, cooperative, limited liability company, trust, or other legal entity.

“Populate” means to add animal units for which a permit or other local approval is required.

“Property line” means a line that separates parcels of land owned by different persons.

“Qualified nutrient management planner” means a person qualified under s. [ATCP 50.48](#).

“Related livestock facilities” means livestock facilities that are owned or managed by the same person, and related to each other in at least one of the following ways:

- (a) They are located on the same tax parcel or adjacent tax parcels of land.

NOTE: A mere acquisition of a neighboring livestock facility does not constitute an “expansion” unless more animal units are added to the combined facilities.

- (b) They use one or more of the same livestock structures to collect or store manure.

- (c) At least a portion of their manure is applied to the same landspreading acreage.

NOTE: Compare definition of “animal feeding operation” under s. [NR](#)

[243.03\(2\)](#). “Related livestock facilities” are treated as a single livestock facility for purposes of local approval, except that a “separate species facility” may be treated as a separate livestock facility.

“Separate species facility” means a livestock facility that meets all the following criteria:

- (1) It has only one of the following types of livestock, and that type of livestock is not kept on any other livestock facility to which the separate species facility is related (see definition of a “related livestock facility”):
 - (a) Cattle.
 - (b) Swine.
 - (c) Poultry.
 - (d) Sheep.
 - (e) Goats.
- (2) It has no more than 500 animal units.
- (3) Its livestock housing and manure storage structures, if any, are separate from the livestock housing and manure storage structures used by livestock facilities to which it is related.
- (4) It meets one of the following criteria:
 - (a) Its livestock housing and manure storage structures, if any, are located at least 750 feet from the nearest livestock housing or manure storage structure used by a livestock facility to which it is related.
 - (b) It and the other livestock facilities to which it is related have a combined total of fewer than 1,000 animal units.

“Waste” means manure, milking center waste and other organic waste generated by a livestock facility.

“Waste storage facility” means one or more waste storage structures. “Waste storage facility” includes stationary equipment and piping used to load or unload a waste storage structure if the equipment is specifically designed for that purpose and is an integral part of the facility. “Waste storage facility” does not include equipment used to apply waste to land.

“Waste storage structure” means a waste storage impoundment made by constructing embankments, excavating a pit or dugout, or fabricating a structure. “Waste storage structure” does not include equipment used to apply waste to land. For purposes of ss. [ATCP 51.12\(2\)](#) and [51.14](#), “waste storage structure” does not include any of the following:

- (1) A structure used to collect and store waste under a livestock housing facility.
- (2) A manure digester consisting of a sealed structure in which manure is subjected to managed biological decomposition.

“Winter grazing area” means cropland or pasture where livestock feed on dormant vegetation or crop residue, with or without supplementary feed, during the period October 1 to April 30. “Winter grazing area” does not include any of the following:

- (1) An area, other than a pasture, where livestock are kept during the period from May 1 to September 30.
- (2) An area which at any time has an average of more than 4 livestock animal units per acre.
- (3) An area from which livestock have unrestricted access to navigable waters of the state, such that the livestock access prevents adequate vegetative cover on banks adjoining the water.
- (4) An area in which manure deposited by livestock causes nutrient levels to exceed standards in [ATCP 51.16](#).

“WPDES permit” means a Wisconsin pollutant discharge elimination system permit issued by DNR under [ch. NR 243](#).

Section 4. Creating § 380-128A(4).

- (4) Variances relating to livestock facility siting.
 - (a) The Town is not authorized to grant a variance from the state requirements related to livestock facility siting, except as provided in [s. 93.90](#), [Stats.](#) and [ATCP 51](#).
 - (b) The town may reduce general setbacks specified in the AE district, but the setbacks shall not be less than:
 - (i) 100 feet for setbacks to roads and property lines
 - (ii) 250 feet for new manure storage structures.

These changes have been recommended by the Plan Commission following review of sections of the current building and zoning ordinances. Public comments will be considered at the Public Hearing of August 15, 2023. Persons unable to attend the Public Hearing may submit written comments delivering them in person to the Town Hall, 1071 Highway 33, West Bend (drop box also available) or by mailing them to:

Zoning Public Hearing Comments
P.O. Box 259
Newburg, WI 53060

Comments must be received no later than August 15, 2023 at 5:00 p.m. for consideration at the hearing.



Cindy Komro
Town Administrator

Posted on 8/1/2023 on the Town Hall bulletin board at 1071 Hwy 33, West Bend, WI and on the Planning-Zoning page at townoftrenton.wi.gov.

July 21, 2023

Mr. Mark Lipscomb
Chairman
Town of Trenton
Via Email:Chairman@townoftrenton.wi.gov

John Jansen
5939 Wausaukee Rd
West Bend, WI 53095
jrj5939@gmail.com

RE: Proposed CAFO in Trenton

Dear Mr. Lipscomb,

I'm writing to comment on the proposed zoning change to create an Agricultural Enterprise (AE) zoning prepared by the acting Town attorney on behalf of the Town Board. But first I'd like to share that in the few Town Board and Planning Commission meetings I have attended, I was surprised at the range of issues you need to address and the level of concern and consideration you bring to these issues. You are all providing a great public service to the Town and the average resident probably does not know or appreciate how much you are doing for them. This letter is intended to support you in your deliberations on a difficult issue.

I am a 19-year resident of the town of Trenton, a licensed Professional Geologist in the state of Wisconsin, with a PhD in hydrogeology. I have been actively managing groundwater resources for municipalities and Townships throughout Wisconsin for over 40 years. A key part of my practice over the last 10 years has been evaluating the impact of Concentrated Animal Feed Operations (CAFOs) on groundwater quality in several parts of the state. Please let me share some perspective on the proposed zoning changes based on the experience of other Townships who have faced this issue.

As you know, in April the Town received a petition from Robert and Cindy Roden to remove the restriction of 750 cattle allowed in the existing Exclusive Agriculture zoning and defer regulation to the DNR and EPA. The Town wisely tabled this petition and began a review of the legal standing of their zoning laws and their ability to regulate agriculture in consideration of existing state laws. The Farmland Preservation Act: Wis. Stat. s. 93.90 and ATCP 51, DNR's livestock siting regulations, commonly called the Right to Farm Act, appears to restrict local zoning authority on CAFOs, but it doesn't entirely displace it. On June 10th the acting Town Attorney proposed a change to the Town's zoning to create a new Agricultural Enterprise (AE) zoning, consistent with a model ordinance from the Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP), that would allow CAFOs in a limited area of the Town. The attorney also recommended requiring a Conditional Use Permit for CAFO applications on top of the zoning change. From what my legal colleagues tell me, this may be the best protection the Town can aspire to under current State law and should provide some protection to the residents from the undesirable impacts that can accompany large scale industrial farming.

It is important to remember that the current application of the Right to Farm Act is based on court rulings to interpret the law over the last few years and far exceeds the original intent of the law when it was originally passed over 40 years ago. It is likely that the position of the Wisconsin State Supreme Court may change when the new Justice takes the bench. The ability of the Town to regulate CAFOs and the probability of the Town being challenged in court may change in the near future. Delaying any decision on the zoning may allow the Town more options in the future.

It is also important to note that DNR regulates water contamination only. They do not regulate odor, noise, truck traffic or the many other problems CAFOs create in a community. In almost every case I have worked on, CAFOs have had significant negative impacts on the quality of life, surface water quality, and groundwater quality for residents. The most immediate complaints have usually been odor and truck traffic. After a few years the groundwater contamination issues become apparent. These industrial farms are not compatible with the current and future land use in the Town and must be controlled to the fullest extent possible under the law. There is a significant question of how sustainable a CAFO will be as a business entity in the Town in the future as the available manure spreading sites are retired due to residential development.

Your attorney's suggestion of requiring conditional use permits on top of the AE zoning may offer an opportunity to provide additional protection to the residents of the town. The Town should take full advantage of the leeway the law allows to protect the residents.

I appreciate your efforts to limit the proposed AE zoning to one farm operation and place restrictions that provide the maximum protection to the residents. However, it seems that your attorney is relying on state websites for his information as to what restrictions are allowed. I have consulted with several legal experts working in this area and there are additional restrictions that can be applied and would be protective of the public. Several Towns have placed restrictions on the operations of CAFOs to protect public health and welfare. The Town should assert their authority to require prudent restriction on the operation of any CAFO in. The proposed ordinance should be modified to include the following:

- GW monitoring at the CAFO site and at most vulnerable spreading sites based on soil conditions, application rates, and potential receptors as allowed by a State Supreme Court ruling from 2022. The Town should include a monitoring requirement in the proposed AE zoning and incorporate it into any conditional use permit layered on the zoning. I will volunteer to assist the Town review the monitoring requirements to keep them consistent with recent CAFO permit requirements and to make sure they are protective of the residents.
- Require a minimum separation of 1,000 to 500 feet between manure spreading and private residences to protect drinking water and avoid quality of life issues. The experience in other Townships has shown that the majority of problems arise from application of manure on thousands of acres of fields from the CAFO operations. Some of the fields can be miles from the CAFO and can cause significant odor, surface and groundwater contamination, and truck traffic issues well away from the CAFO site. It is important that the regulations consider the full impact of the CAFO, not just the operations on site.
- Have the proposed zoning change reviewed by an outside attorney with expertise working for Townships on these issues. This is important because of the complex nature of the regulations and the need to write zoning that is effective and defensible. This is a specialized area of law that is rapidly changing. It is unfair to expect your attorney to become fully versed in the rules and options without allowing him the help of legal experts in this area. This is no different than asking your family doctor to consult with a specialist when you have an unusual condition.

In addition, at the June planning commission meeting there was a proposal to amend the minimum separation of 1,000 feet between manure storage and new residences in the state's draft ordinance to 500 feet. The minimum separation distance is intended to protect current and future residents. Allowing someone to build closer to a CAFO increases the risk of disease or fatalities from contaminated

drinking water and exposes them to several quality of life issues. It is unreasonable to expect a common person to understand the risk and make an informed decision and it is irresponsible for the Town to give a blanket waiver of state recommendations when they may place the public at risk. While the setback will impact the future land use of adjoining land owners, that is just an example of one of the negative impacts from a CAFO. This separation distances in meant to protect the CAFO from liability. It is an inherent admission that it is often unsafe to live near a CAFO, but the setback seeks to place the burden of protection on the adjacent landowners. The separations distances should not be reduced arbitrarily without some attention to safety of the residents and consideration future owners of the property who may not be fully informed of the risk.

The Cedarburg Bog State Natural Area and UWM Field Station lies adjacent to the likely CAFO applicant. The Bog has been a research area for over 70 years and has been monitoring groundwater quality for over 40 years. This site has significant ecological significance and warrants some level of protection and monitoring in any conditional use permit.

The last point I would like to make is that there is a dire need for public education on this issue. The average person is unaware of what is being discussed and will not understand the valid reasons for what you are doing. There is a real risk for public backlash and emotional reactions to blame the Town in the absence of reliable information. I urge you to postpone any actions on this matter until you have provided balanced information to the public and had one or more public information events with time for public discussion before any votes are taken. There was an appearance of a rush to push the ordinance at the last planning commission meeting. The public could get the impression that they are being excluded from the decision.

I appreciate your service to our community and your attention to this matter. I have attached additional information on the problems created by CAFOs for your review. Thank you for your hard work and consideration of this issue.

Yours truly,

A handwritten signature in black ink, appearing to read "John Jansen". The signature is fluid and cursive, with the first name "John" and last name "Jansen" clearly distinguishable.

John Jansen, P.G., Ph.D.

CC: Ed Doerr, Ian Prust Cindy Comro, Ray Werhand, Scott Schwiezer, Dennis Kay, Jay Koenitzer, Joan Baumgartner, Friends of Cedarburg Bog

Background Information on CAFOs

Submitted to the Town of Trenton

Submitted by John Jansen, P.G., Ph.D.

July 21, 2023

What is a CAFO?

A CAFO is a Concentrated Animal Feeding Operation. CAFOs are defined by the USDA as any operation with over 1,000 animal units, or about 700 cows. A CAFO can be cows, pigs, chickens, anything allowed as a farm animal by State code. Once an area is open to CAFOs, it is open to any type CAFOs, not just cows or dairies. CAFOs are subject to additional levels of permitting and regulation by the State, though those regulation have often been found to be ineffective at protecting the public and the environment from the negative consequences of raising thousands of animals in a small area.

Why is This Coming Up Now?

In April the Town received a petition from Robert and Cindy Roden to revise the current zoning in Exclusive Agriculture (EA zoning; the zoning that currently controls farm land in the Town) to remove the restriction of 750 cattle and defer regulation to the DNR and EPA. This would have effectively opened up any EA zoned land in the Town for developments of CAFOs and prevented the Town from having any control over them.

The Town wisely tabled this petition and began a review of the legal standing of their zoning laws and their ability to regulate agriculture in consideration of existing state laws. The Farmland Preservation Act: Wis. Stat. s. 93.90 and ATP 51, DNR's livestock siting regulations, commonly called the Right to Farm Act, appears to restrict local zoning authority on CAFOs, but it doesn't entirely displace it. On June 10th the acting Town Attorney proposed a change to the Town's zoning to create a new Agricultural Enterprise (AE) zoning, consistent with a model ordinance from the Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP), that would allow CAFOs in a limited area of the Town. The attorney also recommended requiring a Conditional Use Permit for CAFO applications on top of the zoning change. Based on limited discussion with legal experts, this may be the best protection the Town can aspire to under current State law and should provide some protection to the residents from the undesirable impacts that can accompany large scale industrial farming.

It is important to remember that the current application of the Right to Farm Act is based on court rulings to interpret the law over the last few years and far exceeds the original intent of the law when it was originally passed over 40 years ago. It is likely that the position of the Wisconsin State Supreme Court may change when the new Justice takes the bench. The ability of the Town to regulate CAFOs and the probability of the Town being challenged in court may change in the near future. Delaying any decision on the zoning may allow the Town more options in the future.

It is also important to note that DNR regulates water contamination only. They do not regulate odor, noise, truck traffic or the many other problems CAFOs create in a community. CAFOs require thousands of acres for their Nutrient Management Areas, essentially their manure spreading sites. They produce

millions of gallons of sludge that need to be disposed of and they are under pressure to apply the waste as heavily as they can to control costs. The impacts of a CAFO are quite literally carried away in trucks and sprayed on farm fields that can be tens of miles from the CAFO.

In almost every case I have worked on, CAFOs have had significant negative impacts on the quality of life, surface water quality, and groundwater quality for residents. The most immediate complaints have usually been odor and truck traffic. After a few years the groundwater contamination issues become apparent. These are large scale industrial farms that are not compatible with the current and future land use in the Town and must be controlled to the fullest extent possible under the law. There is also a significant question of how sustainable a CAFO will be as a business entity in the Town in the future as the available manure spreading sites are retired due to residential development.

The Town Board is considering this issue carefully and struggling to find the best compromise for the residents. However, in the face of heavy pressure from the farm lobby, the options available to the Town are not clear cut. The residents will all be impacted by the strategy they elect to pursue. These are complex issues and the public needs to be informed about the issues and their voices need to be heard as these decisions are being made. If you are concerned about your property values and your quality of life, you need to let the Town Board know you are concerned and you expect them to stand up for you and not cave in to threats and political pressure from the farm lobby.

Why Are CAFOs a Concern?

CAFOs create serious risk of surface and groundwater contamination and even more immediate deterioration in the quality of life of surrounding residents due to odor and truck traffic. Several CAFOs have caused documented major groundwater contamination issues that have negatively impacted public health and property values of surrounding properties. Until recently, most CAFOs have successfully avoided groundwater monitoring requirements that have made it difficult to hold them responsible for the damage they have caused. A recent Wisconsin Supreme Court ruling allows the DNR to require groundwater monitoring for new CAFO permits though the industry continues to fight these requirements and it often takes external pressure to give the DNR enough cover to require monitoring.

While the negative impacts of CAFOs are borne by many, the economic benefits accrue to very few. In the current situation the proposed zoning changes are likely to benefit a single farm, though it is likely additional farms will try to get their zoning changed and the Town may face litigation if they are denied. Groundwater and surface water contamination is almost assured, but the extent will vary depending on local soil conditions, when and how the manure is applied, and other factors beyond the Town's control. These risks apply to the CAFO site and to all the manure application sites that may be miles from the CAFO. Once groundwater is contaminated, it is not suitable for portable use for several decades. This can have serious public health consequences as well as detrimental effects on property values. The impact to surface water quality will also be significant with eutrophication (green slime) in streams and ponds and a loss of aquatic habitat. In short, the average citizen will suffer harm to enrich a select few and the net economic change will be negative for the Town.

Recent CAFO Contamination Problems

Several recent high-profile cases demonstrate the potential impacts of CAFOs. There are many more local conflicts over CAFOs being fought around the state that have received less media attention but are none the less very contentious and disruptive to the communities:

1. Kinnard farms in Brown County was sued over extensive groundwater contamination that impacted many homes and caused life threatening gastrointestinal infection in surrounding residents. The documented contamination included nitrates and drug resistant pathogens and viruses. Kinnard recently entered into a settlement and agreed to eliminate land spreading of manure within four years in exchange for not being required to monitor groundwater quality. They also agreed to drop a lawsuit they initiated in April 2022 after the DNR modified the company's permit to expand their animal limits from approximately 8,000 cows to 11,369, an increase of 45%. The company was seeking a larger increase and reserved the right to press for a future increase.
2. The Golden Sands Dairy near Nekoosa has been sued by a group of over 200 homeowners whose wells were contaminated by the dairy. The US EPA ruled that the Dairy was responsible for the contamination. The case was settled last fall, but the details have not been released. I have heard through unofficial channels that the decision will force the dairy to shut down and awarded a substantial settlement to the homeowners.
- 3) The Gordonville Dairy in Portage County has been found to be responsible for contaminating at least half of the domestic water supply wells in the Village of Nelsonville. Some of the wells are contaminated with nitrate to the point where they can't even be treated to be safe to drink. The Dairy is resisting any efforts to hold them accountable for the contamination. The DNR recently installed several monitoring wells to document the extent of the contamination in support of enforcement actions against the uncooperative operator.

Why Can't the Town Just Say No to CAFOs

Simply outlawing CAFOs is not an option for the Town. The way the Right to Farm Law is currently being interpreted, a farmer could sue the Town and override its existing zoning. It appears likely that at least one farmer would probably sue if the Town chose to place an outright ban on CAFOs. If he were to prevail, that would leave all the agricultural land in the Town potentially at risk for becoming a CAFO.

There are only a few things the Town can do to preserve some local zoning control under the current interpretation of the law. The Town probably cannot place a total ban on CAFOs and must allow them in at least a part of the Town. One strategy is to zone a small area of the Town for CAFOs and restrict them as much as possible everywhere else. This has been called the Sacrificial Area Strategy. While the Town may need to designate an area where CAFOs are allowed, ideally this area will be as small as possible and placed where it will impact as few people as possible. Should the Wisconsin Supreme Court change their stance on these types of issues, there may be more options for additional restrictions in the future.

The recent zoning petition has highlighted deficiencies in the Town's current zoning, but these deficiencies can be corrected. CAFOs are attracted to areas with weak zoning. Several townships around the state have been trying to prevent CAFOs from opening or limit the damage from CAFOs that they could not prevent. In most cases they can't even get the CAFOs to agree to basic water monitoring. Recently, five Townships in Polk and Burnett Counties used local zoning to prevent a 21,000 hog CAFO from getting a permit. The Town of Saratoga in Portage County successfully defeated a proposed 6,700

cow dairy. The White Earth Tribal Government stopped a 21,000 cow CAFO in Northern Minnesota from being permitted. These are examples of how Townships have been able to stand up to the Dairy Lobby, but many more Towns have been intimidated and have not stood up to proposed CAFOs.

Many CAFOs are funded by out of state corporations, sometimes with foreign investors. Even some CAFOs that present a family farm face have hidden investors. These parties often have legal and political resources that can dwarf a single township. The Farm Lobby often threatens legal action against Towns that attempt to control farming in their jurisdictions. While litigation is an expensive risk, Townships can resist or limit CAFOs if they do not cower from pressure from the Farm Lobby. The current application of the Right to Farm Act is based on recent court rulings and exceeds the intent of the law. For good or for bad, the balance of power on the State Supreme Court will be changing in August and the legal basis for the current application of the law is likely to change in favor of the Townships. This is likely to reduce the probability that a local farm will challenge local zoning control in the near future. It is important that this decision not be rushed to allow time for the political process to play out and the realm of legal strategies available to the Town to become more clear.

The zoning petition submitted to the Town references the “highly trained staff knowledgeable in the best practices for the raising of livestock and good stewardship of the land with the best interests of the public”. This statement can be taken as either naïve or cynical, but not seriously. While the DNR staff who work on CAFOs are dedicated professionals who try to fulfill their duties, they are also hamstrung by politics and will privately admit they are not allowed to enforce existing regulations or protect natural resources around CAFOs without outside support. It is only when local governments and concerned citizen groups become involved that DNR staff feel they have cover to enforce the regulations. Contamination and pollution around CAFOs are the norm, not the exception.

It is important to understand that DNR rules only regulate water quality impacts from CAFOs and have a poor track record at that. DNR CAFO permits do not give the DNR authority to address air, odor, traffic, lighting, land use nor any of the social concerns people have about large farms. Most CAFOs aggressively resist any groundwater monitoring requirements because the results of the monitoring would reveal the magnitude of the groundwater contamination they are causing. Additional protections above the minimum standard provided by existing DNR regulations are critical to protect the residents and environment.

The Future of the Dairy Industry

The petition submitted to the Town mentions the need for expansion of farms due to the economic trends in the dairy industry. This is an unfortunate consequence of the proliferation of large industrial farms in the state, something the Town should not be encouraging. Ten years ago, Wisconsin had 11,155 dairy farms — about 47% more farms than the 6,116 dairy farms in the state on Jan. 1, 2023. A major cause of this loss of family farms is the 327 CAFOs in the state. This trend is causing the destruction of the family farm that we have all come to appreciate, replacing them with large industrial scale farming.

While it is unfortunately true that the economics of Dairy Farming are pushing farmers toward larger scale operations, that is not to say that all areas are suitable for large industrial farms. Large industrial farming greatly changes the character of a community, especially communities that have struck a balance between reasonably scaled family farms with rural housing developments such as Trenton. Picturesque and historic barns will be demolished to make room for industrial farm buildings. Quiet

country roads will become raceways for smelly tanker trucks, usually speeding, and slopping manure onto roads not designed to handle the weight. The CAFOs will assure you that this is not how they operate, but local residents living with them will tell you differently. Once the character of a community has shifted, outside economic forces tend to push the balance toward more large agriculture at the expense of everyone else. It is probably a wiser long term strategy for farms that want to expand to move to areas that are more suitable for expansion, but that is a business decision to be made by each farmer. It is clear that farms that do expand within Trenton will face growing opposition and will become unwelcome naissances until they are eventually formed out be encroachment from development.

When considering the zoning change, the town board should be aware of the serious and long-term consequences that will follow if strict limits on CAFOs are not included. Operating a CAFO is a bit like jumping on a treadmill. Market forces press CAFO operators to continue to seek larger herds. A 1750 cow CAFO is probably not economically viable in the long term and there will be pressure to expand to many thousands of cows. The largest CAFO in the state was recently granted a 45% increase in its permit limits to over 11,000 cows and has made it clear it wants further increases. A firm animal limit is critical to maintaining control of the character of the Town.

Preserving Local Control

Several CAFOs from beyond the Town boundaries are already spreading manure in Trenton. The town cannot control this under existing law. Given the mix of residential and agricultural zoning, there simply isn't enough available spreading land to easily accommodate more large operations. This will create pressure to apply heavy loads of manure slurry near residential properties which will result in conflict and angry citizens. While the DNR places limits on the loading rate of manure, these limits are often skewed toward heavier rates than the crops can assimilate and the DNR has a poor track record of policing violations of spreading limits and over application on fields conveniently located near the CAFOs is common.

In addition to the serious risk of extensive groundwater contamination around the dairy site, there is an even more significant risk of groundwater contamination around manure spreading sites. Manure spreading sites are fields under contract with a CAFO for spreading of the manure as part of the Nutrient Management Plan. These fields typically extend miles away from the CAFO and require intense hauling operations with heavy tanker trucks. You are not protected from potential impacts just because you do not live near a CAFO. If there is available farm land near you, there will be pressure to apply manure slurry on it. The contamination concerns include nitrate, phosphorus, and antibiotic resistant pathogens as has been documented in Wisconsin by USDA researchers. Nutrient Management Programs are supposed to prevent these risks but are widely known to be ineffective at protecting groundwater and are commonly called Manure Disposal Plans by people working in the field.

In addition to the long term contamination issues, the many negative social factors associated with CAFOs are more immediate and more disruptive on a day-to-day basis. There will be increased truck traffic for manure spreading which will cause a significant deterioration in the quality of life in the township as well as extensive damage to the roads from the numerous heavy trucks. State regulation exempt CAFOs from weight limits on roads and the residents are left to face the increased road maintenance costs, or more likely, live with beaten up and broken up roads. Talk to residents in any Township with a CAFO and you will hear frequent complaints about a constant stream of smelly overweight trucks speeding down country roads for days or weeks on end. Odor will be a common

problem during periods of land application and immediately around the dairy on a persistent basis. Bright lighting, more intensive farming practices, and a loss of rural character are common complaints around CAFOs. The State regulations do not control any of these issues, however the Town may be able to control them by placing conditional use permit requirements on top of the EA zoning.

I recommend the following restrictions be placed on any Conditional Use Permit awarded to a CAFO:

- GW monitoring at the CAFO site and at most vulnerable spreading sites based on soil conditions, application rates, and potential receptors as allowed by a State Supreme Court ruling from 2022. The Town should include a monitoring requirement in the proposed AE zoning and incorporate it into any conditional use permit layered on the zoning. I will volunteer to assist the Town review the monitoring requirements to keep them consistent with recent CAFO permit requirements and to make sure they are protective of the residents.
- Require a minimum separation of 1,000 to 500 feet between manure spreading and private residences to protect drinking water and avoid quality of life issues. The experience in other Townships has shown that the majority of problems arise from application of manure on thousands of acres of fields from the CAFO operations. Some of the fields can be miles from the CAFO and can cause significant odor, surface and groundwater contamination, and truck traffic issues well away from the CAFO site. It is important that the regulations consider the full impact of the CAFO, not just the operations on site.
- Do not reduce the minimum setback for a new home from a manure storage area. While the Town's intent may be to reduce the financial impact on the adjacent land owner, the setbacks are intended to protect the health of current and future residents. Allowing someone to build closer to a CAFO increases the risk of disease or fatalities from contaminated drinking water and exposes them to several quality of life issues. These setbacks are in place to shield the CAFO from liability. Arbitrarily reducing the setback may further harm the affected land owner and may expose the Town to liability if someone gets sick or dies in the future.

The Path Forward

The zoning proposed zoning change presented by the Acting Town Attorney appears to be a reasonable compromise based on existing State law. The suggestion of adding a Conditional Use Permit on top of the AE zoning may offer an opportunity to negotiate reasonable limits to the size of the CAFO that is driving this change. Some reasonable numeric limit could be included as part of the AE zoning area that applies to a limited area, presumably only one property, while retaining the existing herd limits in the rest of the Town. A cap in the range of 1,000 to 1500 animal units, tied to an agreement to include an effective groundwater monitoring program that focuses on the dairy site as well as the most vulnerable spreading sites, would be reasonable. That should allow the current applicant a reasonable amount of growth without opening the door to larger CAFOs. This is only one of several strategies that could be employed to preserve local zoning and preserve the character of the Town.

It is important that the Town have the proposed zoning change reviewed by an outside attorney with expertise working for Townships on these issues. This is important because of the complex nature of the regulations and the need to write zoning that is effective and defensible. This is a specialized area of law that is rapidly changing. It is unfair to expect your attorney to become fully versed in the rules and

options without allowing him the help of legal experts in this area. This is no different than asking your family doctor to consult with a specialist when you have an unusual condition.

It is unfortunate that one farmer has decided to force the Town into making difficult choices for his personal gain. While no one wants to unfairly restrict a local business, the Town should recognize that this business is putting its own self interests in front of everyone else without regard for the impact on others. The Town should be prepared to push back to the full extent possible to protect the residents. Personalities and personal relationships need to be set aside and decisions need to be made that are in the long term best interests of the majority of the residents, not just the well connected few.

In summary, Trenton is a beautiful residential area with homes and rural subdivisions living in harmony with family farms. The proposed AE zoning appears to be an unfortunate, but probably necessary, strategy to maintain the maximum degree of local control as possible. However, there are extra restrictions that should be included to protect the residents. Consultations with other parties with experience in these issues will undoubtedly uncover more important protections to be added. The elected representatives of the Town have a responsibility to protect the residents and their properties and a responsibility to inform them of this proposed change and encourage a full exchange of information with extensive public comment.

I am hopeful that you will consider this information in the spirit that it is offered, that is to look out for the long-term interests of the residents of the Town. If you have further questions, I am willing to meet with you. I can provide documentation and consultations from attorneys involved in representing townships who have been seriously and negatively impacted by CAFOs that they were unable to stop and have been dealing with the impacts ever since.

We love our community and we do not want to see it changed in careless ways.

A few recent news pieces:

Wisconsin towns brace for next fight on local control over large farms. Bennet Goldstein, Wisconsin Watch, 7/7/23.

<https://www.wisfarmer.com/story/news/2023/07/07/officials-in-the-remaining-towns-with-livestock-regulations-wonder-whether-they-too-are-in-legal-cro/70387371007/>

Massive Kewaunee factory farm, DNR reach settlement on manure spreading, water monitoring. Milwaukee Journal Sentinel, 5/15/23.

<https://www.jsonline.com/story/news/local/wisconsin/2023/05/15/wisconsin-cafo-kinnard-farms-reaches-settlement-with-state/70219598007/>

Wisconsin DNR scales back expansion for Door County factory farm. AP Jul 12, 2023

https://www.channel3000.com/news/wisconsin-dnr-scales-back-expansion-for-door-county-factory-farm/article_555c2fda-dfba-538b-9892-839f03e06ad6.html

Baby's death sparks water safety fight with ag industry. Star Tribune, 12/27/2018.

<https://www.startribune.com/baby-s-death-sparks-water-safety-fight-with-ag-industry/502477031/>

About 200 households suing large farms in Wood and Juneau counties, WSAW, 1/7/2020/\.

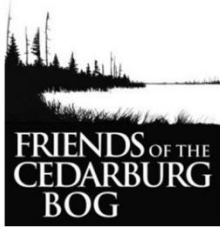
<https://www.wsaw.com/content/news/About-200-households-suing-large-farms-in-Wood-and-Juneau-counties-566793441.html>

Gordondale Farms petitions against DNR order for nitrate monitoring plan, Wisconsin State Farmer, 10/25/2022.

<https://www.wisfarmer.com/story/news/2022/10/25/gordondale-farms-petitions-against-dnr-order-for-nitrate-monitoring/69589248007/>

Nelsonville's water woes: How nitrate contamination has consumed the community, PBS Wisconsin, 12/15/2022.

<https://pbswisconsin.org/news-item/nelsonvilles-water-woes-how-nitrate-contamination-has-consumed-the-community/>



Monday, August 07, 2023

Mr. Mark Lipscomb
Chairman Town of Trenton
Via Email:Chairman@townoftrenton.wi.gov

Re: Proposed CAFO at the Roden Farm in the Twon of Trenton

Dear Chairman Lipscomb,

I am writing to express my concern for the effect that expansion of the herd size at the Robert and Cindy Roden Farm on CTH Y will have on the Cedarburg Bog State Natural Area. The Cedarburg Bog is one of the first two Natural Areas designated in Wisconsin, recognized for its ecological quality, uniqueness, and high diversity of native plants and animals.

In addition to the obvious connection of the wetland to its surface water drainage basin, the Bog is hydrologically connected to the shallow groundwater aquifers at its northern and western boundaries. This is the groundwater in the permeable surficial glacial deposits within the wetland drainage basin. Applying excessive quantities of animal waste within the groundwater basin of the Bog will negatively affect the water quality and cause irreversible damage to one of the most precious wetlands in our state.

An examination of the landscape surrounding the Roden Farm shows a limited acreage of agricultural land that is suitable for application of manure. Increasing the size of the already very large herd will increase demand for disposal of animal waste on the available land. The Roden farm already applies liquid manure to fields along Knollwood Road that are within the drainage basin of the Bog. These fields are apparently within a radius of distance where piping the slurry is feasible and are therefore desirable locations for disposal of as much waste as possible.

The Friends of Cedarburg Bog oppose approval of a heard of more than 750 cattle at the Roden Farm. If it is not possible to prevent the growth of a CAFO at that location, then a condition on the use of that property for a CAFO should be that animal waste from that operation is not allowed to be spread within the Cedarburg Bog groundwater or surface water drainage basin, which includes essentially all of the ag land east of Hwy Y. Disposal of manure from this large operation should be prohibited within the hydrologic basin of the Bog to protect this valuable wetland.

Thank you very much for seriously considering this matter and for allowing me to submit these comments. I will not be able to attend the public hearing on 15 August and request that these comments be submitted to the proceedings.

Sincerely,

James A. Reinartz, Board President

Board President

James Reinartz

Vice President

Stephen Sirkis

Treasurer

Andrew Holman

Secretary

Pam Uihlein

Board of Directors

Cory Gritzmacher

Lisa Miller

Julia Robson

Andrew Struck

Staff

Michelle Inhofer

Executive Assistant

Advisors

Paul Engevoild

Director, UW-Milwaukee
Field Station

Sharon G. Fandel

Department of Natural
Resources

James A. Reinartz / Jill A. Hapner
360 Cedar Sauk Road, West Bend, Wisconsin 53095
Phone: (262) 675-6318; Email: jimr@uwm.edu

Mr. Mark Lipscomb
Chairman Town of Trenton
Via Email:Chairman@townoftrenton.wi.gov

6 August 2023

Re: Proposed CAFO at the Roden Farm in the Twon of Trenton

Dear Chairman Lipscomb,

We would like to address two issues associated with the increased animal waste that would be generated by allowing the concentration of animals at the Roden farm to exceed the already very large herd size of 750 animals, the odors associated with waste disposal, and the risk of potential impacts to the North Branch of Cedar Creek.

We live in the Town of Trenton where we have owned our land for 42 years. We do not expect to live in the country and not smell the occasions when manure is spread on farm fields. We live 1.5 miles from the Roden farm and experience many days during the summer with a powerful odor from their manure disposal events, which have increased in frequency over the past few years as the farm has expanded. The odor from the waste generated by that increased intense concentration of livestock already affects the value of our property as well as our neighboring properties. While we understand that some odor is a necessary condition of the particular farming methods they have chosen to practice, we do not support allowing that herd to be increased to over 750 animals. That is not a reasonable or sustainable number of animals at a single location in our area.

We heard about this proposal through our connection to an organization with an interest in the proposal. We would never have been made aware of this proposed zoning change simply because we are nearby Trenton residents within the "odor-shed" affected by the farming operation. It would seem only fair and reasonable that any resident who lives within the "odor shed" of the fields used by the Roden farm to dispose of manure should be notified of a public hearing and allowed the opportunity to comment on this conditional use. In any other conditional use permit process, we believe that adjacent landowners must be notified in writing of the hearing considering that conditional use. The Town of Trenton should hold a public hearing after all of the Town residents within some distance, at least 1 mile, of the fields used for manure disposal are notified of the proposal to allow an even larger herd at the Roden farm. People who would be directly affected by a CAFO at this location should have a right to be involved in the decision process and a decision should be deferred until that notification can take place.

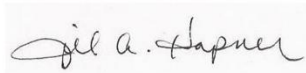
Another vital concern is the potential effect of additional animal waste disposal on the quality of the North Branch of Cedar Creek which runs just north of, and is contiguous with the wetland, on our property. NB Cedar Creek runs less than ½ mile west of the Roden farm and its corridor runs north-south through all of the agricultural fields that the farm must use for its waste disposal. There is clearly a limit to how much animal waste can be spread on land before it adversely affects the quality of a watercourse running through that land. An increase of the Roden herd to over 750 animals will additionally threaten the quality of NB Cedar Creek. The creek should be afforded stringent protection because of its key location in the center of the manure disposal area. Long-term repeated manure disposal in this stream corridor can have a negative cumulative effect on that stream. Whatever affects NB Cedar Creek will have an impact on all of Cedar Creek downstream and increased manure disposal in this corridor should receive a serious study before it is permitted.

Thank you very much for considering our comments and the work that you do for our Township.

Sincerely,



James A. Reinartz



Jill A. Hapner

To Whom It May Concern:

Roden Echo Valley, LLC is a multi-generational family farm in the Town of Trenton, owned by Bob and Cindy Roden, Rick and Melissa Roden, and Joe Roden. We take great pride in producing high-quality milk while providing the best care for our animals and serving as stewards of the land.

Dairy farming has been a long-time family tradition for the Roden family, and through the years we have embraced technology and expanded the herd to allow for more family members to join the family business. Bob and Cindy's son Rick joined the farm in 2003 by purchasing heifers, their daughter Jacki opened her business, Roden Barnyard Adventures, LLC, in 2014, and Bob's brother Joe became part owner in 2022.

Our farm has reached the size to where we need to apply for a concentrated animal feeding operation (CAFO) which is heavily regulated by the United States Environmental Protection Agency (EPA) and the Department of Natural Resources (DNR). Over the last several years, we have spent thousands of dollars in engineering fees to meet current EPA and DNR regulations.

Currently, the farm consists of different entities to be able to farm. Rob-n-Cin Farms will apply for the conditional use permit because Rob-n-Cin Farms owns the land. Rob-n-Cin Farms, Roden Echo Valley and Roden Barnyard Adventures are all LLC's that are a part of the business. Roden Hfr Ctr, located in the Town of Saukville in Ozaukee County, is also part of Rob-n-Cin Farms where animals for the farm are raised, we grow crops and have land for disposing waste.

The farm owns land in the Towns of Trenton, Saukville and Fredonia. We also lease several acres in five other townships for feed production and animal waste disposal.

Before we are eligible for a CAFO, we must have land available for waste disposal under the guidelines of the DNR. We have certified crop consultants that provide us with a nutrient management plan that is submitted to the DNR for approval annually.

We are currently milking 850 cows and with our recent expansion adding the new milking facility, we are capable of milking 1,500 cows. The CAFO permit we are applying for would be for 2,000 animal units.

Since 1992, the Roden family has hosted the Breakfast on the Farm five times, most recently in June 2023. Prior to Roden Barnyard Adventures opening in 2014, Bob and Cindy did numerous farm tours for school and civic groups. We are always open to sharing what our farm has to offer and find it important to educate the public about agriculture.

We look forward to having our farm continue to be an essential part of the community for years to come and invite you to come to the farm to learn more. If you have any questions, contact Bob Roden at 262.689.1037 or robncinfarms@gmail.com or Rick Roden at 262.689.1038.

Sincerely,

Bob and Cindy Roden, Rick and Melissa Roden, Joe Roden

To whom it may concern:

After graduating from UW-River Falls in 2013, I found my spot back on the family farm by opening the farm to community members. My dreams of coming back home to the family farm, and being able to use my passion of education to promote the agriculture industry, has been made possible with strong support from my family and the farm. My dreams with Roden Barnyard Adventures would not be possible without Roden Echo Valley being a modern-day family farm that is sustainable in more than one way.

I am in the middle of year ten hosting Farm Camps, and I am beyond grateful for all the support from other families as well, who find this to be a valuable experience for their children to come back for many consecutive years. I consider myself blessed to have grown up on a farm, and now to be able to raise my children on the farm as well. Therefore, I feel the need to offer a farm life experience to others who don't have a farm to call their own.

It's an honor to allow school groups, daycares, 4-H clubs and families to the farm for a tour. They have an opportunity to learn about where their food comes from and meet the people working hard who are passionate about producing the foods we eat. Everyone who comes to the farm gets to see first-hand how we raise our baby calves, and a highlight is being able to bottle feed a calf. Visitors will learn about what our cows are eating, where we store their manure, and where the cows live. In addition, they get to see the new rotary milking parlor where we milk our cows three times a day. Visitors can watch the cows getting milked from the viewing area, which has been a huge asset to avoid disruptions to our milking process. Everyone has been impressed with the "merry-go-round" our cows get to ride on while being milked, and I have had many customers express their gratitude that we are willing to open our farm to the community in these ways.

Offering tours on dairy farms is not uncommon in our industry, and quite frankly it is being encouraged. With less than 2% of today's population involved in production agriculture, we find it important to open our doors to help educate. Kelley's Country Creamery, Sassy Cow Creamery, Pagel's Ponderosa Dairy and Crave Brothers Cheese are just a few of the farms in our dairy state that offer these similar opportunities.

If you're interested in learning more about what we offer at Roden Barnyard Adventures or to schedule a tour, please visit our website at www.rodenbarnyard.com.

Make it a DAIRY good day!

Jacki Moegenburg
Owner, Roden Barnyard Adventures



July 31, 2023

Town of Trenton Plan Commission
P.O. Box 259
Newburg, WI 53060

Subject: Public Comment on the Approval of Livestock Facility Siting Permit for Roden Echo Valley, LLC.

To Whom It May Concern:

On behalf of Washington and Ozaukee County Farm Bureau we jointly write in support of the approval of a Livestock Facility Siting permit for Roden Echo Valley, LLC. Roden Echo Valley, LLC is largely located within Washington County and plays a significant role in the nearly \$63 million of milk produced within the county. As the agricultural industry throughout the state of Wisconsin is growing and evolving, Roden Echo Valley, LLC has equally needed to grow and evolve and has now reached a size where they need to apply to become a concentrated animal feeding operation (CAFO), which additionally subjects them to more stringent federal and state regulations.

Operating as a multi-generational family farm in the Town of Trenton, the farm is owned by Bob and Cindy Roden, Rick and Melissa Roden, and Joe Roden. The Roden Family has long proven to be strong stewards of the land and have equally provided countless unique agricultural education opportunities for children and families through Jacki Moegenburg's business, Roden Barnyard Adventures.

Roden Echo Valley, LLC currently milks 850 cows and due to the expansion of a new milking facility, will have the capacity to milk 1,500 cows, and thus applying for a permit for 2,000 animal units.

The Roden Family has been very open and transparent to sharing their farm with the community and hold a core value in educating others about agriculture here in Wisconsin. Their continuous service to the community is clearly demonstrated through their willingness to regularly host the annual Breakfast on the Farm, including this year in June 2023. Members of the Roden Family continue to be strong leaders within both the Washington and Ozaukee County Farm Bureaus, serving as county board members and serving on several Wisconsin Farm Bureau Federation state-wide committees. With such strong and deep agricultural ties, The Roden Family and their farm easily serve as premier examples of agricultural and environmental stewardship.

Washington County Farm Bureau and Ozaukee County Farm Bureau ask the Town of Trenton Plan Commission to support the approval of a Livestock Siting Facility permit for Roden Echo Valley, LLC.

Sincerely,

A handwritten signature in black ink, appearing to read 'Bob Nash'.

Bob Nash,
President, Ozaukee County Farm Bureau

A handwritten signature in black ink, appearing to read 'Randy Thull'.

Randy Thull,
President, Washington County Farm Bureau

"It can be good and not be ours,
But it can't be ours and not be good"

Tel. 262-334-2337
1-800-334-2337
www.wbelevator.com



P.O. Box 408
West Bend, WI 53095

August 14, 2023

Town of Trenton Plan Commission
P.O. Box 259
Newburg, WI 53060

Subject: West Bend Elevator Support for Issuance of a Livestock Facility Siting Permit for Roden Echo Valley, LLC

Dear Members of the Town of Trenton Plan Commission,

On behalf of the West Bend Elevator, I am writing to express our support of Roden Echo Valley, LLC's request for a Livestock Facility Siting Permit. West Bend Elevator is a proud member of Wisconsin's dairy community and has been doing business with farmers throughout the Trenton township and across neighboring counties for more than 75 years. Core values of being good environmental stewards, industry advocates and strong contributors to the growth and health of local communities are characteristics we share with Roden Echo Valley, LLC.

Whether it's hosting Washington County dairy breakfasts, offering farm camps, contributing to community causes or being an agrotourism destination, they are backbone members of the Trenton township. Their proposed livestock facility has undergone close examination to ensure compliance with all necessary regulations including the Wisconsin CAFO permit requirements. They are also compliant with ATCP 51 (Agriculture Management Performance Standards and Prohibitions) which are important to promoting responsible agricultural practices, including nutrient management, odor control, and safeguarding water quality.

When the Trenton township grants a Livestock Facility Siting Permit to Roden Echo Valley, LLC, it's a commitment to our state's agricultural heritage, the growth of our local communities and to overall stewardship of our area's natural resources. Their expansion will positively impact the township and other local businesses while serving as an example of best practices within Wisconsin agriculture.

In summary, we urge the Town of Trenton Plan Commission to approve the Issuance of a Livestock Facility Siting Permit for Roden Echo Valley, LLC. West Bend Elevator joins in supporting the Roden family and their vision for the future of their farming business.

Thank you for considering our support. If you have any questions, please contact me.

Sincerely,

A handwritten signature in black ink that reads "Michael A. Otten". The signature is fluid and cursive, with the first name being the most prominent.

Michael A. Otten
President
West Bend Elevator

August 10, 2023

Town of Trenton Plan Commission
P.O. Box 259
Newburg, WI 53060

To Whom It May Concern:

Farmers are great stewards of the land and I support any farm that wants to expand, including those who are permitted to be a concentrated animal feeding operation (CAFO).

Many community members don't understand the rules and regulations that farmers have to abide by, and those rules and regulations become more stringent once a farm becomes a CAFO. Land application of manure is not something that is done every day, it is highly regulated by the farms nutrient management plan and farmers can only apply manure at certain times of the year to avoid runoff. I don't believe the Town of Trenton should put more regulations on the farmers, as they are already highly monitored at the state and federal level.

I currently live near Roden Echo Valley, LLC and would much rather live next to the farm and farmland versus living in the city or a residential developed area. Buying property in the country was a choice, I understood the smells, noise and traffic that come with it. The farm is on a county highway, so it's not just farm traffic but a lot of truck traffic on the road at all times of the day.

The farm is a multi-generational farm and does a lot of educating to the public. The Roden family is totally transparent to everything that happens on the farm, welcoming school groups and most recently welcomed thousands to the 2023 Washington County Breakfast on the Farm. The farm has supplied many jobs to Town of Trenton residents and hopes to continue supporting the community for many years to come.

If you ate today, be sure to thank a hard-working farmer for the food on your table, and let's support Roden Echo Valley, LLC in their expansion.

Sincerely,



Patti Wilhelme
Town of Trenton Resident

To Whom it may concern,

No Farms No Food. Farmers help feed the world. Support Local Farmers. We have been farming in the town of Trenton since 1995 when my parents purchased the farm on Hwy Y. The farm we moved to was started by the Fechter family many years ago. The Fechter family was always making updates to the farm. They built a double 8 herringbone parlor in 1969, which was one of the first parlors in the state of Wisconsin. They also hosted many Gehl equipment and Harvester events on the farm. The farm has a long history of making advancements and embracing new technology and techniques.

We recently built a 40-stall rotary milking parlor that could someday be capable of milking up to 1500 cows. I get asked by other farmers often why only a 40 as a 40 stall is the smallest standard size rotary most companies make. We purposely did not build anything bigger for the reason that we don't want to be the biggest farm in Wisconsin, nor is the Town of Trenton the place to milk several thousand cows on one site. For us to someday milk 1500 cows would be the maximum our parlor could handle.

My parents have been farming their whole lives. My Dad at the age of 70 is still the one out feeding cows every morning and my mom takes care of all the baby calves. My parents have 18 grandkids with 19 and 20 on the way and all of them enjoy spending time on the farm. Riding along in equipment and being around the animals are some of the best memories on our family farm. We open up our farm in many ways to the public with tours and allowing kids to show animals from our farm for the county fair. We employ several employees that include highschoolers, college students, and interns that all love to learn and aren't afraid to take on any tasks.

My Dad, Bob is one of the founding members, of the Clean Farm Families in Ozaukee County, and we attend many events with the Cedar Creek Farmers watershed group. We have been doing many of the practices that these groups promote from cover crops to minimum till to prevent erosion and soil loss. Soil is very important to grow our crops as well as the manure we apply to our fields which is the best source of fertilizer to assist our crops to grow. Some changes we've made recently are instead of applying manure once a year we apply less manure more often through the year which helps prevent runoff and the nutrients to be applied when the plants need them.

Another benefit is not all of our cattle is housed at the home farm. We have 2 other farms with most of our young stock in a neighboring township.

There are neighboring towns currently with CAFO permits who haul manure into the Town of Trenton. Most of the manure we spread in the township we are able to hose which means a reduction of a truck hauling manure on the road. Only about half of the land we crop is in the township. We run land in Saukville, Fredonia, Port Washington and Cedarburg.

We have had a Comprehensive Nutrient Management Plan for several years already and when we become permitted, we have an even stricter guideline to meet. Around the farm for the past several years we have been getting things engineered to meet CAFO guidelines.

The goal is to continue to be a sustainable farm for years and generations to come. With 3 kids of my own who all are in love with the farm it would give me great joy to have one or all of them to have the chance to be able to take over the farm someday.

It is my belief we need to support all farms, big or small, organic or conventional, dairy, beef, hogs, chickens, crops veggies and more.

We always help those in need in the area when called upon, from plowing snow to helping those who get stuck, and we have always been good neighbors and willing to give a lending hand wherever needed.

Sincerely,

A handwritten signature in black ink, appearing to read "Rick Roden". The signature is fluid and cursive, with the first name "Rick" and last name "Roden" clearly distinguishable.

Rick Roden

The biggest chance I was given was at 12 years old when Roden Echo Valley hired an attitude, sassy kid, who never wanted to hear the word No. But slowly learned you do whatever you're told. I was given many opportunities, some maybe I wasn't so thankful as others. Like being covered in manure or some how finding the courage to call them when I broke/messed up equipment or something. But most of all I was given an opportunity to be more than just part of the farm but a family. I can't thank them enough for the things they have taught me (The hard life lessons or easy ones) At the end of the day it's family not just a farm.

The Roden's are like my second family and they run a very successful farm, and I would support them with applying for a CAFO permit as they have been growing just the short few years I've worked there. They are always doing farming practices to make their farm better for the future and more efficient. This CAFO permit is something they have been working toward for several years already.

Mikayla Uhlig



August 9, 2023

Town of Trenton Plan Commission
P.O. Box 259
Newburg, WI 53060

Subject: Dairy Business Association Support for Issuance of a Livestock Facility Siting Permit for Roden Echo Valley, LLC

Dear Members of the Town of Trenton Plan Commission,

On behalf of the Dairy Business Association, I write to express our support for the issuance of a Livestock Facility Siting Permit for Roden Echo Valley, LLC, located primarily in Washington County. As a representative of Wisconsin's dairy community, we recognize the significance of modern agricultural practices in meeting the growing demand for food production and the importance of adhering to state regulatory requirements and environmental standards.

Roden Echo Valley, LLC's proposed livestock facility has undergone careful scrutiny to ensure compliance with all necessary regulations, particularly the Wisconsin CAFO permit requirements. We commend Roden Echo Valley's commitment to meeting these stringent criteria, which are designed to protect both the environment and the well-being of livestock.

Additionally, I want to highlight Roden Echo Valley, LLC's dedication to compliance with ATCP 51 (Agricultural Management Performance Standards and Prohibitions). These standards are essential for promoting responsible agricultural practices, including nutrient management, odor control, and safeguarding water quality. We are confident that Roden Echo Valley's project aligns with the requirements of ATCP 51, ensuring the utmost consideration for the surrounding community and environment.

As an organization representing dairy producers and affiliated businesses throughout Wisconsin, we recognize the importance of sustainable and responsible agriculture. Livestock facilities like the one proposed by Roden Echo Valley, LLC play a crucial role in fostering economic growth and supporting our state's agricultural heritage.

By granting a Livestock Facility Siting Permit to Roden Echo Valley, LLC, the Town of Trenton will contribute to the growth and prosperity of local agriculture while maintaining a strong commitment to environmental stewardship. We believe that this endeavor will have a positive impact on the community and serve as an example of best practices within our state's agricultural sector.

In conclusion, we urge the Town of Trenton Plan Commission to approve issuance of a Livestock Facility Siting Permit for Roden Echo Valley, LLC. Dairy Business Association stands behind this initiative as it aligns with our shared vision of sustainable, responsible, and thriving agriculture in Wisconsin.

Thank you for considering our support. If you require any additional information or have any questions, please do not hesitate to contact us.

Sincerely,

Chad Zuleger
Director of Government Affairs

August 2, 2023

Dear Town of Trenton Officials and Citizens:

This correspondence is intended to serve you by providing information on Roden Echo Valley Farm's management and practices related to their cropland.

Roden Echo Valley Farm is farming their cropland to improve soil health, which has a host of benefits. These include maximizing water infiltration which results in less soil erosion and runoff; improving nutrient cycling, which lessens the usage of commercial fertilizer; increasing carbon stored in the soil, reduces the release of carbon dioxide gas into the atmosphere since they do very little tillage; reducing the use of pesticides; and increasing farm profits. Overall, healthy soil provides cleaner water, a healthier environment, healthy food and healthier people.

Roden Echo Valley Farm is among a growing number of farms striving to achieve healthy soils which will result in more productive land with less inputs, improved water quality, and increased farm profits.

To achieve the benefits of healthy soil, Roden Echo Valley Farm follows the 4 Soil Health Principles: 1. Minimize Soil Disturbance, 2. Keep the soil covered, 3. Have living roots in the soil throughout the year, and 4. Achieve plant diversity.

Instead of tilling the soil after crops are harvested in the fall and leaving bare over winter and spring, Roden Echo Valley Farm plants no-till cover crops into the harvested crop field. This practice not only protects the soil from eroding, but also provides for living roots throughout the year, which dramatically improves soil biology and in turn improves nutrient cycling, lessening the need for commercial fertilizer. These living cover crops sequester nutrients that otherwise may have runoff. When it is time to plant the crops, they use no-till planting (i.e., plant directly into undisturbed soil). No-till planting along with cover crops results in more life in the soil and greater soil porosity, increasing infiltration and resulting in less runoff.

Manure is also applied to cropland following methods to improve soil health. In the past the manure was applied as a single, large application once a year. Roden Echo Valley Farm presently splits the manure application rate and applies it twice a year on a field. These split applications are found to be more beneficial to promote the soil microorganisms, allowing for better infiltration and cycling of nutrients. The manure is also applied to soils which have living roots (cover crops), which uptake the manure nutrients, making them available to the future crop and reducing runoff. Their manure application practice is environmentally friendly and is being promoted on other farms locally and throughout the country.

I have always found the Roden's to be good stewards of the land. Bob Roden presently serves on the Clean Farm Families Board, a local farmer led group established to promote healthy soil and improve water quality. The Roden's are recognized regionally and state-wide as leaders in the soil health movement. Bob Roden's Saukville Farm in the 1980's served as a demonstration farm for the Milwaukee River Priority Watershed Program, a state program designed to improve the water quality of the

Milwaukee River. Bob demonstrated Best Management practices to reduce barnyard runoff to the Milwaukee River.

In closing, I will share a little bit about myself. I worked for the Ozaukee County Land & Water Management Department for 37 years serving as Director. Upon my retirement in August of 2022, I was approached by the Milwaukee Metropolitan Sewerage District to contract with them to promote soil health in the Milwaukee River watershed, so I am presently working with farmers in Washington, Ozaukee, Fond du Lac and Sheboygan counties. It is in this capacity I presently work with Roden Echo Valley Farm to promote healthy soil to improve water quality and other natural resources in the Milwaukee River watershed.

Respectfully submitted by,

A handwritten signature in black ink, appearing to read "Andy Holschbach", followed by a long horizontal line extending to the right.

Andy Holschbach
Healthy Soil Advantage, LLC