

BEFORE THE DANE COUNTY BOARD OF ADJUSTMENT

In the matter of the appeal of

Maier Farms Real Estate, LLC

Regarding the property located at:

Tax Parcel No. 0909-212-8140-0 & 0909-212-8500-7

Town of Vienna, Dane County, Wisconsin

DECLARATION OF SCOTT MAIER

I, Scott Maier, declare as follows:

1. I am an adult resident of the state of Wisconsin and make this declaration in support of Maier Farms Real Estate, LLC's (hereafter, "Maier") appeal of the Zoning Administrator's determination articulated in a letter dated March 20, 2024.
2. I am a member of Maier and am knowledgeable about Maier's operations and its farming and land use practices.
3. On or about December 27, 2023, Maier acquired Dane County Parcel Nos. 0909-201-8000-5 and 0909-212-8140-0 (collectively, the "Property").
4. Maier operates its dairy immediately south of the Property. Before acquiring the Property, I observed the prior owner of the Property farm it for many years.
5. I am aware there was an existing drainage system on the Property that facilitated drainage of surface water to Schumacher Road. Maier does not have any blueprint or plan reflecting the previously created system.
6. Based on my personal observation that more surface water accumulated on portions of the Property in recent years, Maier determined that any existing drainage system needed to be

upgraded so the Property could continue to be farmed in its entirety. I have also observed evidence of a prior existing system, specifically broken clay tile on the Property.

7. With the approval of the Wisconsin Department of Natural Resources (“WDNR”), in February 2024, Maier replaced the drainage system on the Property.

8. The new drainage system on the Property is constructed with plastic drain tiles, which is the current industry standard. Farms no longer use clay tiles for drainage systems.

9. Maier decided to upgrade the broken drainage system to maintain the Property as farmland. The Property has been cultivated as cropland for as long as I can remember, and the new drainage system will restore previously established drainage patterns and will allow the Property to be maintained as productive cropland.

10. In a letter dated March 6, 2024, Dane County Assistant Zoning Administrator Hans Hilbert alleged that Maier engaged in activities prohibited by the Dane County Shoreland-Wetland Zoning Ordinance, in part by upgrading the drainage system on the Property.

11. As stated in Mr. Hilbert’s letter, Maier also installed a pump adjacent to Schumacher Road.

12. WDNR had no objection to Maier's installation of a drainage system on the Property. The WDNR objected to the location of Maier's pump within the wetland boundary.

13. Maier worked with Jeffrey Kraemer, Principal Scientist and Vice President of Heartland Ecological Group, Inc., to address the WDNR’s concerns regarding the pump and Dane County’s concerns regarding the replacement of the existing drainage system.

14. Mr. Kraemer created a field map, which depicts the wetland boundary and location of the drainage system and pump on the Property.

15. The WDNR approved a restoration plan, which only required Maier to move the pump at issue outside of the wetland boundary and to connect the drainage system to the pump outside of the wetland boundary, as such boundary is depicted on the field map Mr. Kraemer created. Again, the WDNR had no objection to Maier's installation of the drainage system on the property.

16. The WDNR-approved restoration plan has not been completed due to the pendency of the County enforcement letter and this appeal.

17. Maier did not install a drainage system to convert a wetland. Rather, Maier replaced an existing, broken drainage system to maintain the Property as productive cropland.

18. On October 15, 2024, WDNR responded to Maier's request for a nonfederal wetland exemption determination on the Property. In a letter, the WDNR determined the wetland on the Property is a nonfederal wetland. A true and correct copy of WDNR nonfederal wetland exemption determination is attached to my declaration as Exhibit 1.


I declare under penalty of false swearing under the law of Wisconsin that the foregoing is true and correct.

Signed on the 4 day of February, 2025.



Scott Maier




2/14/2025



State of Wisconsin
DEPARTMENT OF NATURAL RESOURCES
625 E County Rd Y Suite 700
Oshkosh, WI, 54901

Tony Evers, Governor

Telephone 608-266-2621
Toll Free 1-888-936-7463
TTY Access via relay - 711



October 15, 2024

Pat Maier
7085 Schumacher Road
Waunakee, WI 53597

EXE-SC-2024-13-02732

RE: Nonfederal Wetland Exemption Determination for a proposed farm road on a wetland area located in Section 21, Township 9 North, Range 9 East, Town of Vienna, Dane County

Dear Mr. Maier:

This letter is in response to your request for a nonfederal wetland exemption determination for the above-mentioned wetlands.

According to 281.36 (4n), State Stat., a nonfederal wetland is a wetland that is not federally jurisdictional. Projects impacting nonfederal wetlands in rural areas must be less than 3 acres of total impact, and the project must be related to a structure such as a building, driveway, or road with an agricultural purpose (s. 281.36(4n)(c)3, Wis. Stat.). In addition, DNR must also consider whether the nonfederal wetland is a rare and high quality wetland as defined in s 281.36(4n)(a)3, Wis. Stat.

The Department reviewed the following materials to aid in our exemption determination:

- The request narrative including project scope and purpose
- Site location map and photographs that show different angles and views of the wetland
- Botanical survey results
- Wetland delineation information

Below is a summary of our findings:

Request Narrative

According to the request narrative the total wetland impacts will be 9,300 square feet. The purpose of this project is to construct an agricultural access road that establishes dry access between fields on the property.

Site Location and Photographs

The site location confirms that the wetland is located in a rural area. Wetland photographs also show the wetland area to be located in a managed agricultural field. This wetland would not meet the criteria to be considered a rare and high-quality wetland vegetation community type.

Wetland Delineation Information

The wetland delineation was completed via desktop determination and was confirmed with by the DNR as accurate.

Conclusion

Based upon the documentation provided above, the project meets the eligibility criteria pursuant to s. 281.36 (4n), State Stat. You are able to proceed with this project. If you have any questions or would like to schedule a meeting to discuss this approval, please call me at (608) 235-2057 or email Allison.Willman@wisconsin.gov.

Sincerely,

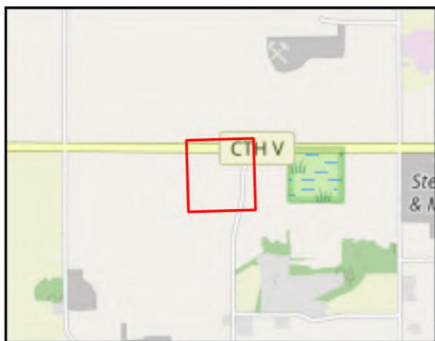
A handwritten signature in black ink, appearing to read "Allison Willman". The signature is fluid and cursive, with the first name being more prominent.

Allison Willman
Water Management Specialist

Enclosures:
Wetland Delineation/Exemption Location Figures

Copy to:

US Army Corps of Engineers
Al Ramminger, DNR Water Management Specialist
Brian Cunningham, DNR Waterways Team Supervisor
Jeff Kraemer, Heartland Ecological Group, Inc.
DNR Conservation Warden
Hans Hilbert, Dane County



- Study Area (44.95 ac)
- Dane Co 1' Contours
- Proposed Wetland Impacts for Access Road (8,205.80 sqft)
- Desktop Delineated Wetlands (12.09 ac)
- ROW Setback (30ft)
- Culverts



Heartland
ECOLOGICAL GROUP INC

Figure 8. Proposed Wetland Impacts

Maier Farm
Project #20200322
T9N, R9E, S21
T Vienna, Dane Co

2023 Maxar
Dane Co, HEG LRR: NCNE

Figure Created: 8/16/2024