

February 20, 2025

Dane County Board of Adjustment

Re: The Administrative appeal by Maier Farms Real Estate LLC appealing the determination of the zoning administrator regarding a wetland use violation at 7119 Schumacher Rd, being a tract of land in the NW 1/4 NW 1/4 Section 21, Town of Vienna.

Dear Dane County Board of Adjustment,

On behalf of the Wisconsin Farm Bureau Federation, I am writing to express our support of Maier Farms Real Estate, LLC regarding their ongoing dispute with Dane County over the installation of a drainage system on their property.

The Wisconsin Farm Bureau Federation strongly supports the rights of farmers to manage their land in accordance with state and federal regulations while ensuring continued agricultural productivity. The documentation provided by Maier Farms demonstrates that the property in question has been classified as Prior-Converted Cropland / Non-Wetland by the USDA's Natural Resources Conservation Service (NRCS) and has received a nonfederal wetland exemption from the Wisconsin Department of Natural Resources (WDNR).

Furthermore, Wis. Stat. § 281.36(12m) explicitly prohibits local government ordinances in effect before March 30, 2018, from regulating discharge permits for nonfederal or artificial wetlands. As a result, any regulations of nonfederal wetlands enacted before the effective date of 2017 Wisconsin Act 183 (Act 183) are unenforceable. Despite this clear preemption, Dane County continues to assert authority under Dane County Ordinance (DCO) Chapter 11, particularly §§ 11.06-11.09, as the foundation for its enforcement actions against Maier Farms. However, this ordinance conflicts directly with Wis. Stat. § 281.36(12m) and is invalidated under state law.

The legislative history of Act 183 confirms its intent to simplify the "complex patchwork of regulations" affecting wetlands and to ensure regulatory consistency at the state level. I am particularly familiar with the legislative intent of this provision, having served as Chief of Staff to the principal author of the Substitute Amendment that became Act 183. Given this clear statutory preemption, Dane County's reliance on DCO Chapter 11 is legally unsound and should be abandoned and rescinded.

Maier Farms has taken all necessary steps to comply with state regulations, including agreeing to adjust the location of the drainage system pump in response to WDNR's recommendations. The Wisconsin Farm Bureau Federation strongly believes that Dane County should acknowledge Maier Farms' compliance with the laws governing nonfederal wetlands and cease enforcement actions that contradict state law.

As an organization dedicated to advocating for Wisconsin farmers, we urge the County to resolve this matter in a way that respects state law and acknowledges the long-standing agricultural use of the land. We support Maier Farms' request for a stipulation that would allow them to maintain their drainage system, thereby avoiding unnecessary litigation and potential state regulatory intervention.

We appreciate your time and consideration on this matter and look forward to your response. Please do not hesitate to contact us if further discussion is needed.

Thank you,



Jason Mugnaini

Executive Director of Government Relations

Wisconsin Farm Bureau Federation