



**Before The  
State Of Wisconsin  
DIVISION OF HEARINGS AND APPEALS**

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In the Matter of an Application by the Village of  
Howard for Water Quality Certification of the  
Federal Clean Water Act to Fill .63 Acres of  
Wetland for the Purpose of Industrial Development  
in Wetlands Located in the Village of Howard,  
Brown County, Wisconsin

Case No.: IP-NE-2008-5-0003LF

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**ORDER ADOPTING STIPULATED SETTLEMENT FOR  
WATER QUALITY CERTIFICATION**

The Village of Howard, 1336 Cornell Road, Green Bay, Wisconsin, filed an application with the Department of Natural Resources for water quality certification pursuant to Section 401 of the Federal Clean Water Act, Wis. Stat. §§ 281.15 and 281.36 and Wis. Admin. Code §§ NR 103 and 299. The Village of Howard proposed to place fill affecting .63 acres of wetland and construct four railroad spurs through wetlands for the purpose of industrial development. The proposed project is located in the SW ¼ of Section 3, Township 24 North, Range 20 East, Village of Howard, Brown County.

The Department of Natural Resources evaluated this application and determined that there was not reasonable assurance that the proposal would comply with standards pursuant to Wis. Admin. Code §§ NR 103.08(3) and NR 299.04. The Department of Natural Resources denied the application in a letter dated June 24, 2008.

On July 21, 2008, the Department of Natural Resources received a request for a contested case hearing from Attorney Dennis M. Duffy on behalf of the Village of Howard. By letter dated August 20, 2008, the Department of Natural Resources granted the request for hearing. On April 27, 2008, the Department filed a Request for Hearing with the Division of Hearings and Appeals (the Division).

Pursuant to due notice, a contested case proceeding was scheduled for October 20, 2008. Prior to the hearing, the parties advised the Division that they would like an opportunity to discuss settlement.

On January 9, 2009, the Division received the attached Stipulation and Settlement setting forth terms and conditions for issuance of a Water Quality Certification to the Village.

**ORDER**

The Division having reviewed the Stipulation and Settlement, and having adopted the same, **IT IS HEREBY ORDERED**, that the Stipulation and Settlement for Water Quality Certification be entered pursuant to the conditions set forth therein.

Dated at Madison, Wisconsin on January 9, 2008.

STATE OF WISCONSIN  
DIVISION OF HEARINGS AND APPEALS  
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By \_\_\_\_\_  
**JEFFREY D. BOLDT**  
**ADMINISTRATIVE LAW JUDGE**

## NOTICE

Set out below is a list of alternative methods available to persons who may desire to obtain review of the attached decision of the Administrative Law Judge. This notice is provided to insure compliance with Wis. Stat. § 227.48 and sets out the rights of any party to this proceeding to petition for rehearing and administrative or judicial review of an adverse decision.

1. Any party to this proceeding adversely affected by the decision attached hereto has the right within twenty (20) days after entry of the decision, to petition the secretary of the Department of Natural Resources for review of the decision as provided by Wisconsin Administrative Code NR 2.20. A petition for review under this section is not a prerequisite for judicial review under Wis. Stat. §§ 227.52 and 227.53.
2. Any person aggrieved by the attached order may within twenty (20) days after service of such order or decision file with the Division of Hearings and Appeals a written petition for rehearing pursuant to Wis. Stat. § 227.49. Rehearing may only be granted for those reasons set out in Wis. Stat. § 227.49(3). A petition under this section is not a prerequisite for judicial review under Wis. Stat. §§ 227.52 and 227.53.
3. Any person aggrieved by the attached decision which adversely affects the substantial interests of such person by action or inaction, affirmative or negative in form is entitled to judicial review by filing a petition therefore in accordance with the provisions of Wis. Stat. §§ 227.52 and 227.53. Said petition must be filed within thirty (30) days after service of the agency decision sought to be reviewed. If a rehearing is requested as noted in paragraph (2) above, any party seeking judicial review shall serve and file a petition for review within thirty (30) days after service of the order disposing of the rehearing application or within thirty (30) days after final disposition by operation of law. Since the decision of the Administrative Law Judge in the attached order is by law a decision of the Department of Natural Resources, any petition for judicial review shall name the Department of Natural Resources as the respondent and shall be served upon the Secretary of the Department either personally or by certified mail at: 101 South Webster Street, P. O. Box 7921, Madison, WI 53707-7921. Persons desiring to file for judicial review are advised to closely examine all provisions of Wis. Stat. §§ 227.52 and 227.53, to insure strict compliance with all its requirements.