

CORRESPONDENCE/MEMORANDUM DEPARTMENT OF JUSTICE

Date: August 9, 2023

To: Legislative Committee on Joint Finance

From: Lara Sutherlin
Administrator, Division of Legal Services,
DOJ

Winn Collins
Deputy Administrator, Division of Legal Services,
DOJ

Subject: Request for approval of a proposed plan under Wis. Stat. § 165.08

This memorandum seeks your Committee's review of a proposed plan of resolution.

1. State of Wisconsin v. Didion Milling, Inc., and Didion Ethanol, LLC
Columbia County Case No. 2022-CX-2

This matter involves allegations that Didion Milling, Inc. and Didion Ethanol, LLC (collectively referred to as "Didion") violated the State's air pollution control laws. Didion Milling owns and operates a corn milling facility in Cambria, Columbia County. Didion Ethanol owns and operates a nearby ethanol production facility. Both facilities are permitted under the same air pollution control permits.

Wis. Stat. ch. 285 governs sources of air contaminant emissions to prevent and reduce air pollution. DNR administers regulations and issues permits authorized pursuant to Wis. Stat. ch. 285. The State alleges in its Complaint numerous violations of Didion's air pollution permits. The penalty for violating these laws is contained in Wis. Stat. § 285.87(1). The Attorney General is authorized to prosecute violations pursuant to Wis. Stat. § 299.95.

The parties have negotiated a settlement that includes a monetary penalty of \$940,000.00, payable over the course of four years. That penalty consists of forfeitures of \$639,369.05 pursuant to Wis. Stat. § 285.87(1), a 26 percent penalty surcharge of \$166,235.95 pursuant to Wis. Stat. § 814.75(18), a 20 percent environmental surcharge of \$127,873.81 pursuant to Wis. Stat. § 814.75(12), \$25.00 in court costs pursuant to Wis. Stat. § 814.63(1), a \$13.00 crime laboratories and drug law enforcement surcharge pursuant to Wis. Stat. § 814.75(3), a \$68.00 court support services surcharge pursuant to Wis. Stat. § 814.75(2), a 1 percent jail surcharge of \$6,393.69 pursuant to Wis. Stat. § 814.75(14), and a \$21.50 justice information system surcharge pursuant to Wis. Stat. § 814.75(15).