Water Quality Trade Agreement

This Water Quality Trade Agreement ("Agreement") is made by and between Wisconsin Electric Power Company (doing business as "We Energies") and the Wisconsin Department of Natural Resources ("the Department" and together "the Parties").

1. Recitals

   a. Water quality trading is an alternative compliance option for Wisconsin Pollutant Discharge Elimination System ("WPDES") permit holders and is authorized by Wis. Stat. § 283.84.

   b. Wis. Stat. § 283.84(1)(e) provides that, "the [Department] may authorize a person required to obtain a permit to increase the discharge of pollutants above levels that would otherwise be authorized in the permit if the person . . . [r]eaches a binding, written agreement with [the Department] under which the person constructs a project or implements a plan that results in reducing the amount of water pollution from sources other than the source covered by the permit."

   c. The Department has issued guidance regarding water quality trading, including:

      i. Guidance for Implementing Wisconsin's Phosphorus Water Quality Standards for Point Source Discharges, No. 3400-2011-02 (Edition 2, February 8, 2017);

      ii. A Water Quality Trading How to Manual, No. 3400-2013-03 (September 9, 2013); and

      iii. Guidance for Implementing Water Quality Trading in WPDES Permits, No. 3800-2013-04 (August 21, 2013).

   d. We Energies submitted a permit application for the reissuance of WPDES Permit No. WI-0049131-04-0 (the "WPDES Permit") on March 28, 2019. The Permit is for a wastewater discharge from the Paris Generating Station in Paris, Wisconsin.

   e. The WPDES Permit will contain phosphorus water quality based effluent limits ("WQBELs") for Outfall 001, which is located in HUC-12 subwatershed 071200040103.

   f. We Energies has entered into a WB-24 Option to Purchase ("Option"), dated March 26, 2019, for the purchase of one farm field (the "Field") within the same HUC-12 watershed as Outfall 001. The Parent Parcel, described in Paragraph 1.g., will be divided into two lots in accordance with a certified survey map. The Option is contingent upon approval from governmental bodies, including, but not limited to, the Town of Paris and Kenosha County, and Department approval of the Water Quality Trading Plan and reissuance of the WPDES Permit with terms and conditions from the WQT Plan.

g. The property for the phosphorus water quality trading project is located in the Town of Paris, County of Kenosha, State of Wisconsin in Section 33 Township 2N Range 21E. The legal description of the Parent Parcel that includes the Field is included as Exhibit A.

h. For the past three years, the Field has been planted in corn grain or soybeans.

i. We Energies submitted to the Department a Water Quality Trading Plan (WQT Plan) under which We Energies will establish and maintain permanent vegetative cover on portions of the Field identified in the WQT Plan. The WQT Plan was originally submitted on March 28, 2019 and includes subsequent amendments.

j. The management practices will be installed and maintained in accordance with the Natural Resources Conservation Service (NRCS) technical standards listed below in Table One.

Table One – Applicable NRCS Technical Standards

NRCS Conservation Practice Standard	Description
327	Conservation Cover
657	Wetland Restoration

k. The WQT Plan includes a Restoration Plan for establishing, operating, and maintaining the permanent vegetative cover on the Field.

2. Agreement Terms

a. The Department will propose to reissue a WPDES Permit to allow We Energies to use water quality trading as a compliance option, in accordance with the WQT Plan as approved by the Department.

b. Subject to the terms of this Agreement and the terms of the WPDES Permit issued to We Energies, the Department shall allow We Energies to utilize phosphorus credits in the amount set forth in the approved WQT Plan to demonstrate compliance with phosphorus WQBELs in the WPDES Permit, provided We Energies implements the approved WQT Plan and complies with the related trading terms of the Permit.

c. Once the Department approves the WQT Plan and issues a WPDES Permit that includes trading terms that are consistent with the WQT Plan and this Agreement, We Energies shall exercise its Option to purchase the Field. So long as this Agreement remains in effect, We Energies shall establish and maintain the permanent vegetative cover on the Field consistent with the requirements in the approved WQT Plan (including the Restoration Plan).

d. Any duly authorized officer, employee or representative of the Department shall have the right to access and inspect the Field so long as this Agreement remains in effect. The Department shall provide reasonable notice to We Energies prior to

the site visit or inspection to ensure that adequate personnel can be scheduled to accompany the Department.

e. The Agreement shall become effective on the later date of the completion of the following conditions: i.) the Department approves a WQT Plan that is consistent with this Agreement; and ii.) The WPDES Permit includes trading terms that are consistent with both the approved WQT Plan and the terms of this Agreement.

f. The Agreement applies and is effective for the term of the issued Permit unless, subject to this section the Permit is modified, terminated or revoked and reissued by the Department to eliminate the trade or to revise the trading terms in a manner that is consistent with this Agreement. If the trade is removed or revised through a Permit action, this Agreement is terminated. In accordance with Wis. Stat. § 227.51(2), if the trade has not been eliminated or modified through a Permit action, and if We Energies files a timely application for the reissuance of the Permit, the terms of the Agreement will continue until the later of the following: 1.) the application has been finally acted upon by the Department, 2.) the last day for seeking review of the agency's decision, or 3.) a later date fixed by a reviewing court. The Agreement may extend into a subsequent reissued Permit upon approval of the Department.

g. The Parties may terminate this Agreement by written mutual agreement at any time.

h. We Energies may terminate this Agreement by providing at least sixty (60) days written notice to the Department of We Energies intent to terminate the Agreement.

i. In accordance with Paragraph 2.j. and the procedures and requirements of Wis. Stat. § 283.53(2) and Wis. Admin. Code §§ NR 203.135 and 203.136, the Department may terminate this Agreement and modify or remove the terms of the Permit related to the trade if any one of the following occur:

    i. We Energies fails to implement the WQT Plan as approved by the Department;

    ii. We Energies fails to comply with WPDES Permit terms and conditions related to water quality trading;

    iii. New information becomes available that causes the Department to determine that water quality trading is no longer an acceptable option, including an objection or disapproval of the trade by USEPA.

j. Any action by the Department to terminate this Agreement or otherwise to reduce or eliminate the number of phosphorus credits in the reissued WPDES Permit and approved WQT Plan shall be implemented through a modification, revocation and reissuance or reissuance of the WPDES Permit. Prior to termination of this Agreement, the Department shall notify We Energies of its intent to terminate the Agreement and shall provide an opportunity for We Energies to discuss the

proposed termination with the Department. If appropriate and feasible, the Department shall provide We Energies with a reasonable time period to correct the grounds for the proposed termination.

k. This Agreement may be amended only by a further written document signed by each of the Parties. The WQT Plan, Agreement, and Permit terms may be revised as part of a future Permit reissuance or modification.

l. This Agreement shall be interpreted pursuant to the laws of the State of Wisconsin.

m. This Agreement may be executed in one or more counterparts, and all such executed counterparts shall constitute the same agreement. A signed copy of this Agreement transmitted by facsimile or email shall be treated as an original and shall be binding against the party whose signature appears on such copy.

n. If any provision of this Agreement is held invalid or unenforceable, the invalidity or unenforceability shall be limited to the particular provision involved and shall not affect the validity or enforceability of the remaining provisions. The Parties shall work together in good faith to modify this Agreement if necessary to preserve its original intent.

o. In no event shall the Department be liable to any party under this Agreement or to any third party in contract, tort or otherwise for incidental or consequential damages of any kind, including, without limitation, punitive or economic damages or lost profits, except as provided under federal or state laws.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the latter day and year entered below.

WISCONSIN ELECTRIC POWER COMPANY, d/b/a We Energies

By: _____

Name: Paul Spicer

Title: Senior Vice President

Date: July 12th, 2019

WISCONSIN DEPARTMENT OF NATURAL RESOURCES

By: _____

Name: _____

Title: _____

Date: _____

EXHIBIT A

DESCRIPTION OF THE PARENT PARCEL

The Southwest Quarter of the Southeast Quarter of Section 33 and the East 20 acres of the Southeast Quarter of the Southwest Quarter of said Section 33, all in Township 2 North, Range 21 East of the Fourth Principal Meridian, lying and being in the Town of Paris, County of Kenosha and State of Wisconsin. EXCEPT that part described as follows:

A parcel of land in the Southwest Quarter of the Southeast Quarter of Section 33, Township 2 North, Range 21 East, in the Town of Paris, Kenosha County, Wisconsin, said parcel includes all land of the owner contained within the following traverse: Commencing at the South Quarter corner of Section 33; thence North 88 degrees 49 minutes 02 seconds East 147.64 feet along the South line of said Section 33 to the point of beginning; thence North 1 degree 10 minutes 58 seconds West 48.00 feet; thence North 88 degrees 49 minutes 02 seconds East 300.00 feet; thence South 1 degree 10 minutes 58 seconds East and to the South line of the Southeast Quarter of said Section 33, 48.00 feet; thence South 88 degrees 49 minutes 02 seconds West 300.00 feet along said South line to the point of beginning.

Property Address: 5626 172nd Avenue, Bristol, WI 53104
Tax Key Number: 45-4-221-333-0400