

WISCONSIN DEPARTMENT OF NATURAL RESOURCES

# **MOU BETWEEN DSPS AND DNR**

## **On POWTS Regulations**

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Water Quality Program



# Agenda

- Background
- Joint Plan Review Process
- Permitting Process
- Co-Located Systems
- Ownership
- Existing Systems

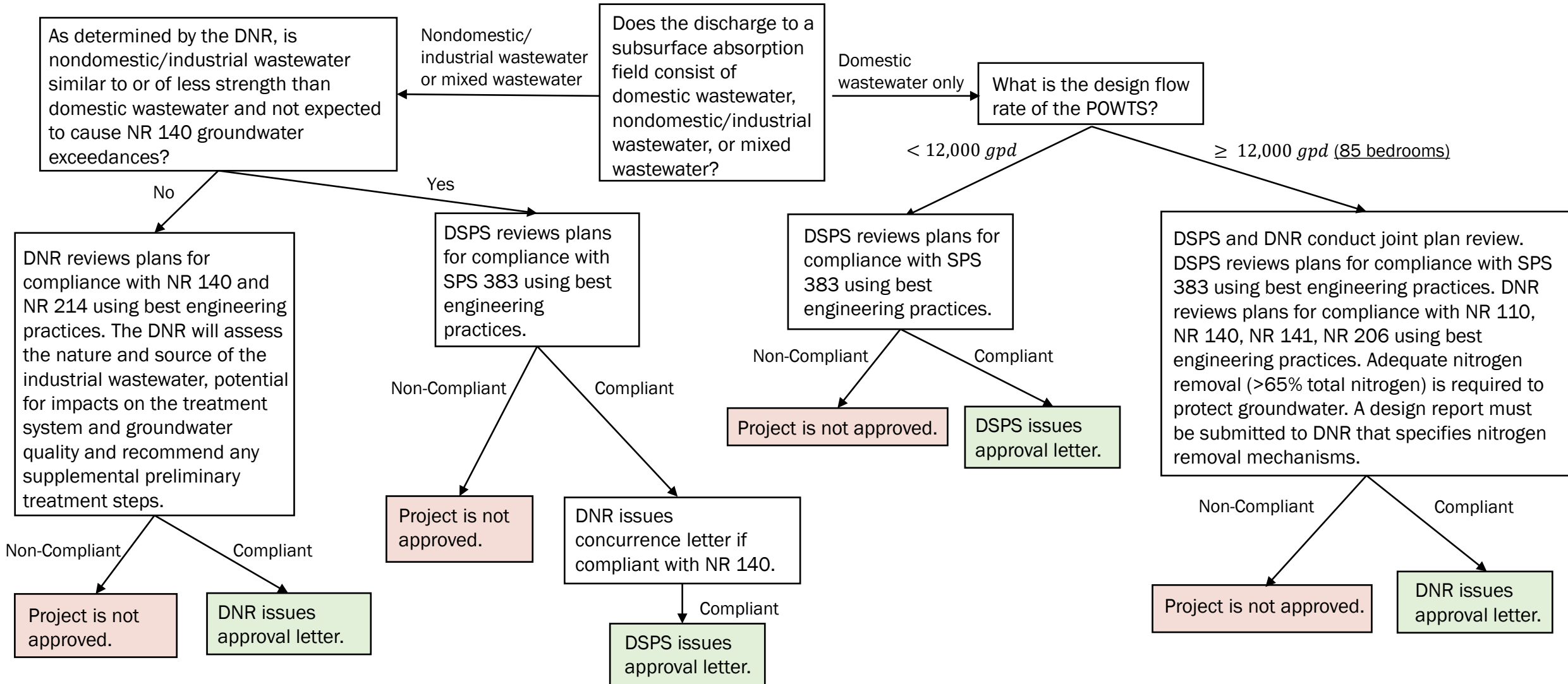
# Background

- 1999 MOU defined state agencies roles in regulation of POWTS

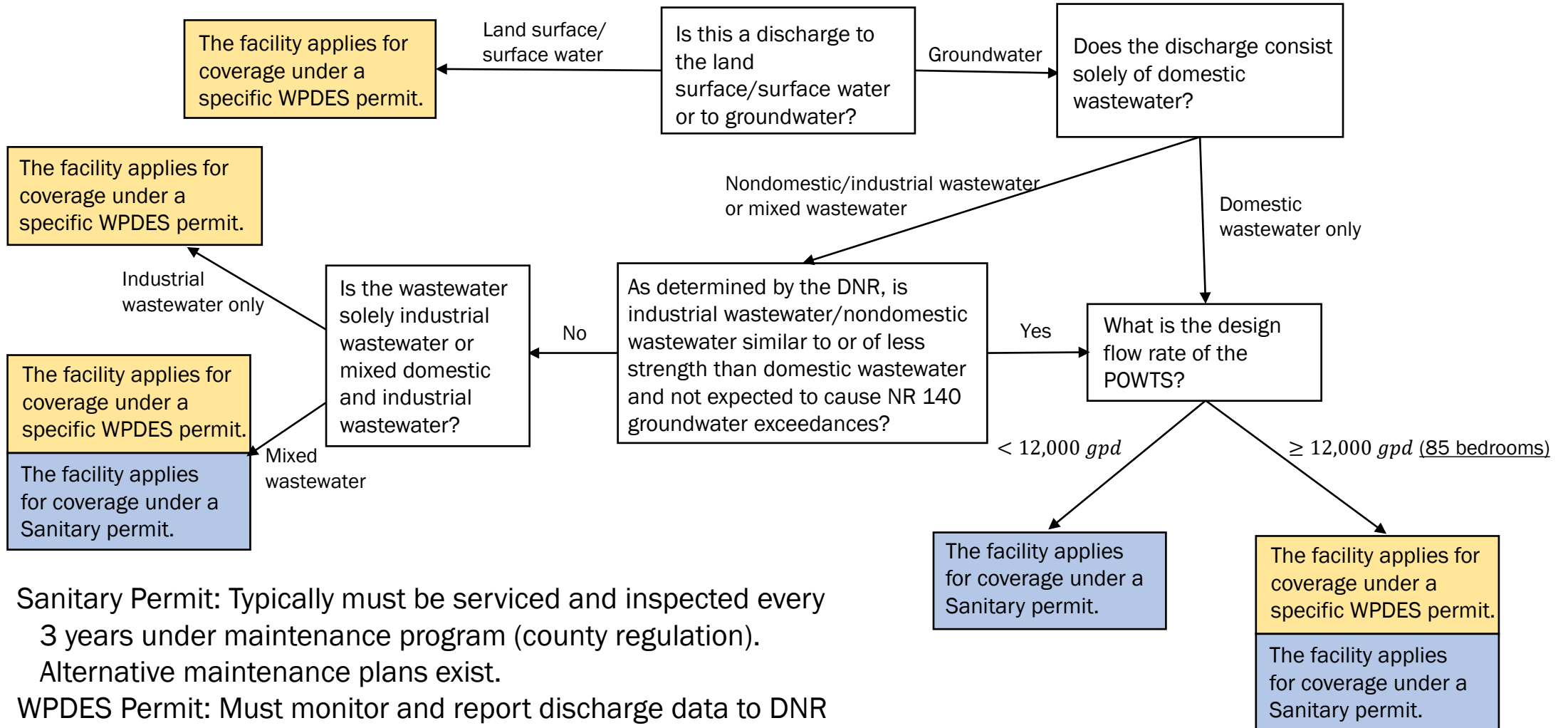
Type of Wastewater	Privately Owned	Municipally Owned (except “special-purpose districts”)
Domestic	Large – joint review Small – DSPS review	DNR review
Industrial	DNR review	DNR review
Mixed	Large – joint review Small – Industrial Strength: DNR review Domestic Strength: DNR concurrency letter, DSPS review	DNR review

- Purpose of MOU: Agreement on agency jurisdictions

# Plan Review Jurisdiction



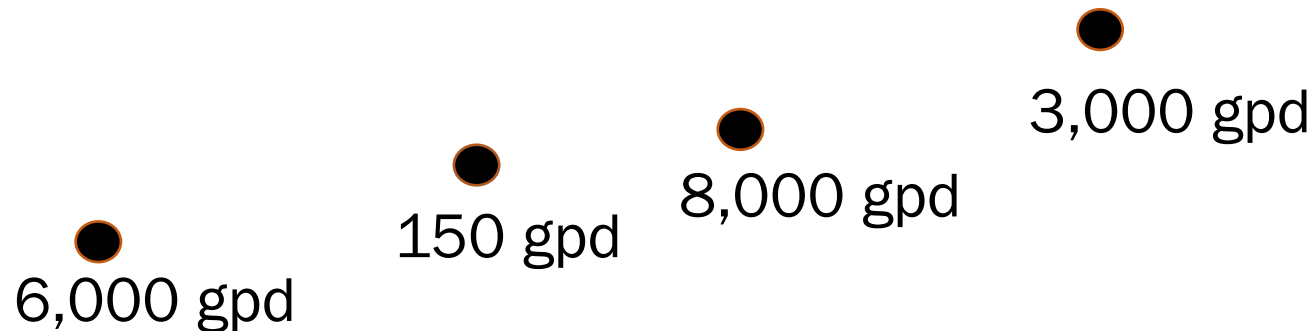
# Permitting (Operational) Jurisdiction



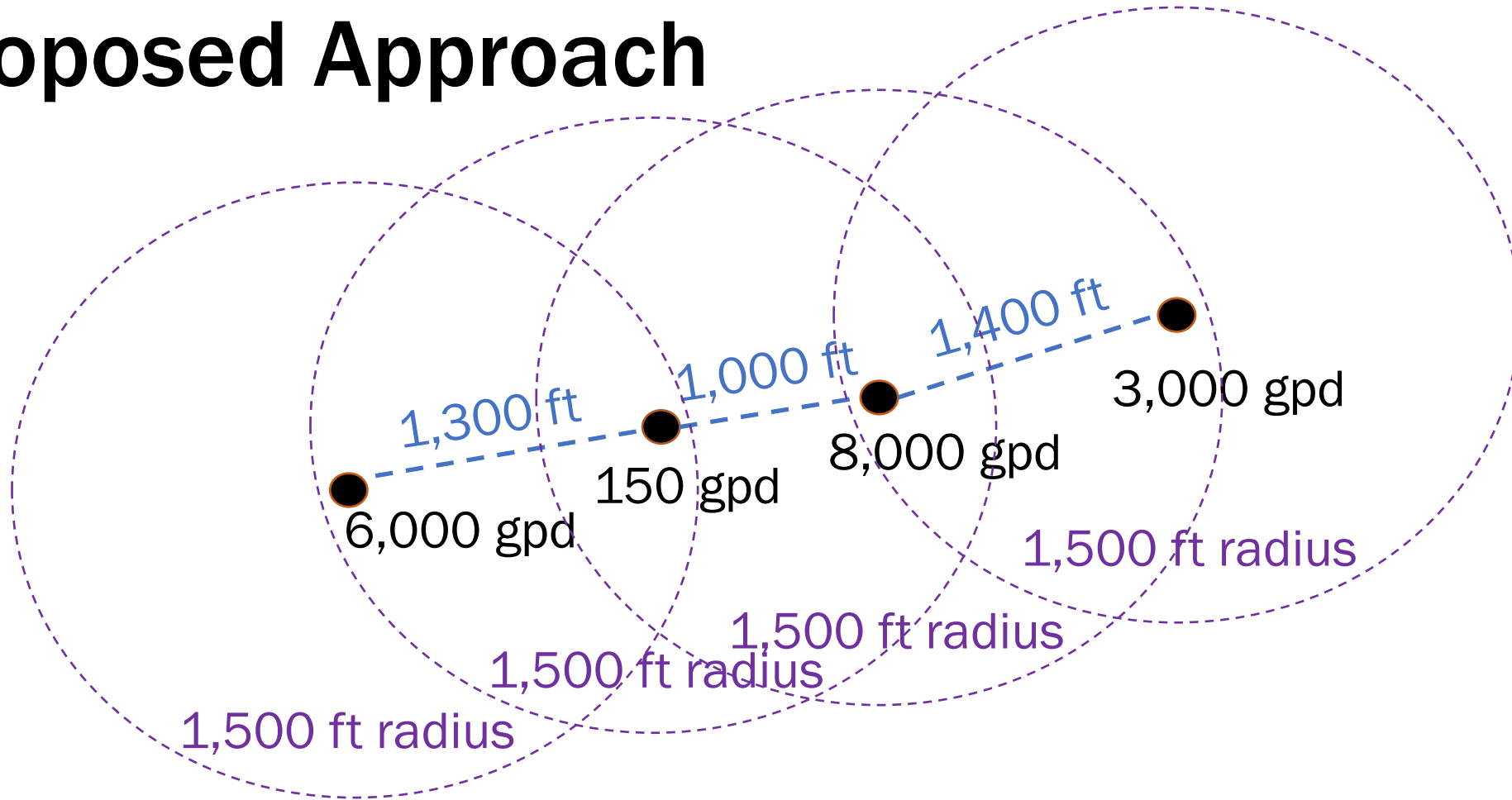
- Sanitary Permit: Typically must be serviced and inspected every 3 years under maintenance program (county regulation). Alternative maintenance plans exist.
- WPDES Permit: Must monitor and report discharge data to DNR

# Co-Located Systems

- NR 200.03(5): “When calculating design capacity under sub. (4), if one private sewage system is located near another private sewage system, **the design capacities of each of the systems shall be added together if the perimeter of the distribution cell of one system is less than 1,500 feet from the perimeter of a distribution cell of another system and the systems are under the same ownership.**”

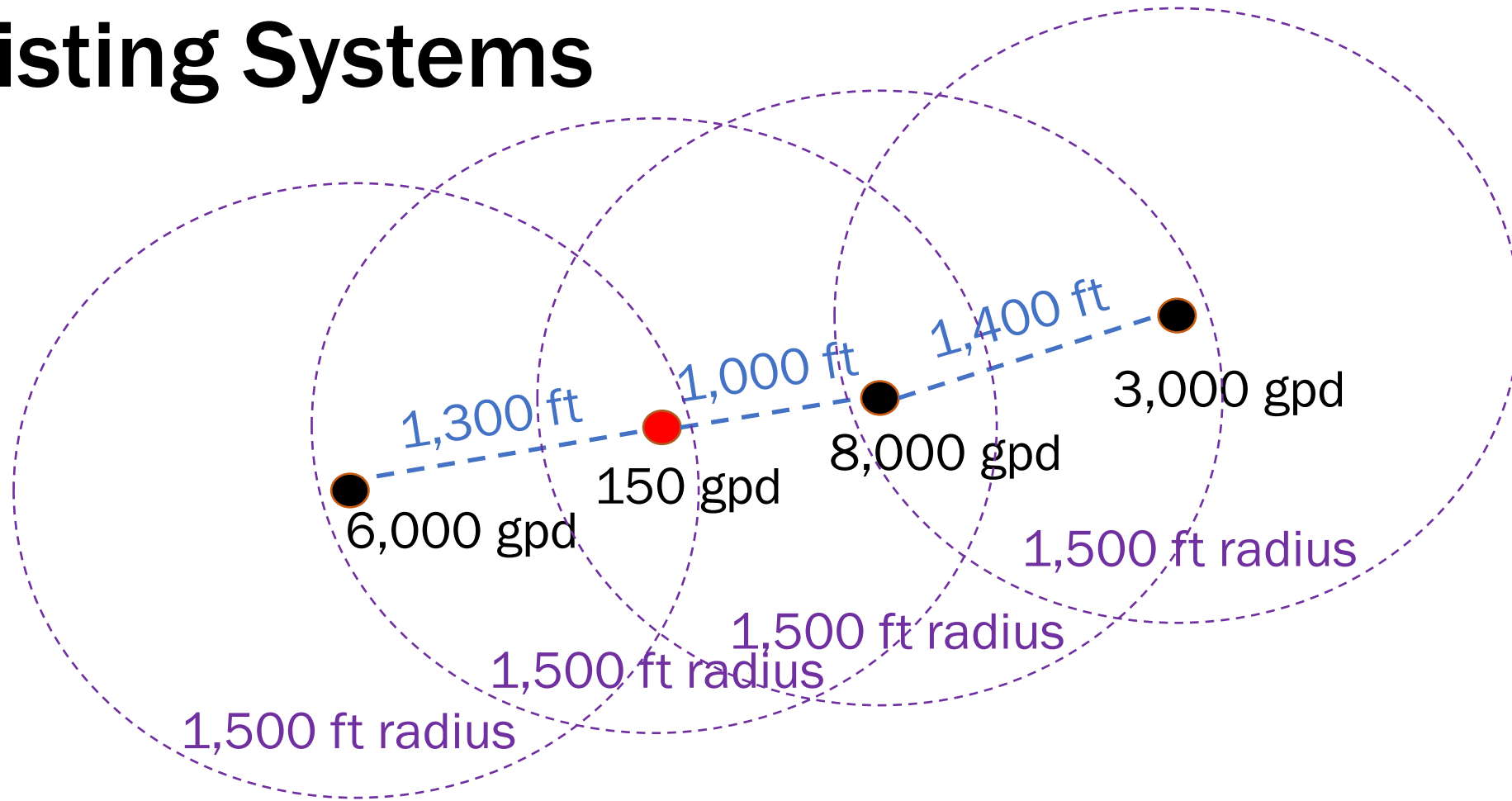


# Proposed Approach



To evaluate whether systems under common ownership are considered a single large on-site wastewater treatment system, the reviewer shall draw a 1500' radius circle around each individual system. If the design flows of all systems within any one of those circles cumulatively exceed 12,000 gpd, all of those systems within the circle are considered part of a large system.

# Existing Systems



- DNR will draft guidance on how to manage replacement of failing systems, etc.
- Continue current approach from 1999 MOU (systems replaced with N removal as they fail)




# Ownership

- SPS 383.22(2)(b)6.g.: "Ownership means a person, group of persons or a corporation which owns a majority interest in the properties where majority ownership is based upon a majority of the issued voting stock, a majority of the members if no voting stock is issued, a majority of the board of the directors or comparable governing body or participation of each general partner in the profits of a partnership."
- NR 200.03(5): "Any ambiguity regarding whether two or more systems are under the same ownership shall be resolved by the DNR and the DSPS on a case-by-case basis."

# Proposed Approach

- DSPS will update sanitary permit applications to disclose common ownership in POWTS

	<b>Department of Safety &amp; Professional Services, Industry Services Division</b>
<b>Sanitary Permit Application</b> <small>In accordance with SPS 383.21(2), Wis. Adm. Code, submission of this form to the appropriate governmental unit is required prior to obtaining a sanitary permit. Note: Application forms for state-owned POWTS are submitted to the Department of Safety and Professional Services. Personal information you provide may be used for secondary purposes in accordance with the Privacy Law, s. 15.04(1)(m), Stats.</small>	

- In determining whether two or more systems are under common ownership, DNR and DSPS will typically evaluate whether the same person, group of persons, or corporation(s) own a majority stake (i.e.,  $\geq 50\%$ ) in each of the systems. See next slide for examples:

# Proposed Approach (Examples)

1. If **John** owns 100% of System A and 49% of System B, and **Tom** owns 51% of System B, the systems are not under common ownership. **John** is the sole majority owner of System A, and **Tom** is the sole majority owner of System B.
2. If **John** owns 51% of System A and 49% of System B, and **Tom** owns 49% of System A and 51% of System B, then **Tom** and **John**, as a group of persons, are the majority owners of both systems, so the systems are under common ownership.
3. If **John** and **Tom** each own 25% of both System A and System B, **Harry** owns 50% of System A, and **Luis** owns 50% of System B, the systems are under common ownership because **John** and **Tom** are a group of persons who together have a majority ownership of both systems.

System A



System B



# Forthcoming DNR Guidance

- Handling of existing systems
- Nitrogen removal requirements
- Concurrence letters – how does DNR determine wastewater is “domestic strength?”
- When is a general vs. individual WPDES permit appropriate?

# Discussion