



November 27, 2012

The Honorable Jack F. Chiovatero
Mayor's Office
3805 South Casper Drive
New Berlin WI 53151-0921

Subject: Approval of water supply service area plan revision and expansion of diversion area

Dear Mayor Chiovatero:

The Wisconsin Department of Natural Resources reviewed the City of New Berlin's (City) request for a revision to the City's Water Supply Service Area (WSSA) Plan and an expansion of the City's diversion area. The original WSSA Plan and diversion were approved on May 21, 2009. The department has the authority under §281.348, Wis. Stats., to approve WSSA plans, revisions and amendments. The attached *Approval of Water Supply Service Area Revision & Diversion Area Expansion* approves the revision to the WSSA Plan and an expansion of the City's diversion area.

The department confirms the following as part of the basis for the approved revision to the WSSA Plan and an expansion of the City's diversion area:

- 1) The terms and conditions of the May 21, 2009 Water Supply Service Area Plan and Diversion Approval remain in full force and effect except as specifically modified by the attached *Approval of Water Supply Service Area Revision & Diversion Area Expansion*.
- 2) The revisions to the WSSA and diversion area do not increase the total approved diversion amount. The maximum diversion amount remains at 2.142 million gallons per day (MGD) averaged over a calendar year as provided in the May 21, 2009 WSSA Plan & Diversion Approval.
- 3) The revision to the WSSA Plan and the expansion of the City's diversion area include the following information concerning the Lincoln Avenue and Beloit Road expansion areas consistent with [281.348 \(3\)](#) (χ) Wis. Stats., for the period covered by the WSSA Plan:
 - (χ1) An [amended map](#) clearly delineating the proposed expansion of the WSSA prepared by the SEWRPC;
 - (χ11) Forecasted [water use demand for Lincoln Avenue and Beloit Road](#);
 - (χ111) A [description](#) of the existing population and population density, and forecasts of the expected population for Lincoln Avenue and Beloit Road;
 - (χ112) A description of the environmental and cultural conditions within the applicable [comprehensive plan](#);
 - (χ113) Demonstration that the proposed revision is consistent with the applicable [comprehensive plans](#) and [applicable approved water quality management plans](#) and [amendments](#); and
 - (χ114) A copy of the [map](#) within the "First Amendment to Agreement Between the City of Milwaukee and the City of New Berlin for the Purchase of Water at Wholesale", which showed that the Lincoln Avenue and Beloit Road expansion areas are within the approved "Expanded Lake Water Service Area."

- A letter indicating that MMSD is willing to accept the return flow of the diverted water from the proposed expansion areas.
- 4) The City held a public hearing on [March 5, 2012](#) to give interested persons an opportunity to comment on the City of New Berlin's WSSA and diversion area revision regarding the Lincoln Avenue and Beloit Road expansions. The City of New Berlin published notice of the hearing concerning the Lincoln Avenue expansion in *New Berlin Now*, a paper of general circulation, on February 9, 2012 and February 16, 2012. The City of New Berlin also published notice of the hearing concerning the Beloit Road expansion in *New Berlin Now* on February 16, 2012 and February 23, 2012. The City provided to the department a video clip of the public comments recorded during the public hearing.
 - 5) Based on the City's submittal of the 2011 annual report, the department finds the City is in substantial compliance with all "[Tier 3](#)" water conservation and efficiency requirements contained in ch. NR 852, pertaining to persons with a new or increased diversion.
 - 6) The water that the City proposes to divert from Lake Michigan to the Lincoln Avenue and the Beloit Road expansion areas will be used solely for public water supply purposes, as required by §[281.346 \(4\) \(c\)](#), Wis. Stats., and as the phrase "public water supply" is defined in §[281.346 \(1\) \(pm\)](#) and [281.348 \(1\) \(d\)](#), Wis. Stats.
 - 7) Because the extension of the area served by Great Lakes basin water will not result in a new water loss from consumptive use that would average 5,000,000 gallons or more per day in any 90-day period, the proposal is not subject to regional review by the regional body, under § [281.346 \(4\) \(c\) 4.](#), Wis. Stats.
 - 8) The revision to the WSSA Plan includes the following information concerning the Moorland Road and Small Road expansion areas within the Great Lakes Basin, consistent with [281.348 \(3\) \(c\)](#) Wis. Stats., for the period covered by the plan:
 - An amended map clearly delineating the proposed expansion of the WSSA prepared by the SEWRPC;
 - Forecasted water use demand for [Moorland Road](#) and Small Road;
 - A description of the existing population and population density, and forecasts of the expected population for [Moorland Road](#) and Small Road;
 - A description of the environmental and cultural conditions within their [comprehensive plan](#);
 - Demonstration that the proposed revision is consistent with the applicable [comprehensive plans](#) and [applicable approved water quality management plans](#) and [amendments](#); and
 - A copy of the map within the "First Amendment to Agreement Between the City of Milwaukee and the City of New Berlin for the Purchase of Water at Wholesale", which showed that the expansion areas are within the approved "Expanded Lake Water Service Area."
 - A letter indicating that the Milwaukee Metropolitan Sewerage District (MMSD) is willing to accept the return flow of the diverted water from the proposed expansion areas.
 - 9) The City held a public hearing on [July 25th, 2011](#) to give interested persons an opportunity to comment on the City of New Berlin's WSSA map revision for the Moorland Road expansion. The City of New Berlin held a plan commission meeting on [November 10, 2010](#) and a public hearing on [August 30, 2010](#) to give interested persons an opportunity to comment on the City of New Berlin's proposed Small Road expansion development.

Sincerely,

A handwritten signature in black ink, appearing to read "Kenneth G. Johnson". The signature is fluid and cursive, with the first name "Kenneth" being the most prominent.

Kenneth G. Johnson, P.E.
Water Division Administrator

Encl.: Approval for City of New Berlin Water Supply Service Area Revision and Diversion Area Expansion

Cc: Greg Kessler (by email only)
Jill Jonas (by email only)
Eric Ebersberger (by email only)