



February 25, 2013

#8913

The Honorable Michael J. Murphy  
Alderman, 10<sup>th</sup> District  
City of Milwaukee  
200 E. Wells St.  
Milwaukee, WI 53202

Dear Alderman Murphy:

Thank you for your letter of February 14, 2013 regarding the water supply service area proposed for the City of Waukesha.

Wisconsin's water supply service area planning statute, s. 281.348, Wis. Stats., specifies that "an areawide water quality planning agency designated by the governor ... shall delineate the proposed water supply service areas for all of the public water supply systems in the planning agency for this the agency is designated."<sup>1</sup> As you know, the Southeastern Wisconsin Regional Planning Commission (SEWRPC) is the designated planning agency for the areas included in the City of Waukesha's proposed water supply service area plan. Thus, SEWRPC delineated the water supply service area that was included in the City of Waukesha's application for a diversion of Great Lakes water.

The law also requires that the water supply service area plan be approved by the governing body of each city, village, and town whose public water supply is addressed by the plan ...,<sup>2</sup> thus it is required that the Waukesha Town Board approve the plan. As you've noted, the Waukesha Town Board has expressed a preference to have the water supply service area include a significantly smaller portion of the Town than what was delineated by SEWRPC.

Apparently based on the department's citing the statutory language requiring that SEWRPC delineate the City of Waukesha's water supply service area, you have inferred that the service area cannot be altered. The department has not taken that position, nor have we intended to imply that. The law also gives the department the authority and responsibility to review and approve the water supply service area plan. The department will continue to consider the City of Waukesha's proposed water supply service area plan to determine whether it meets the statutory requirements—including considering a smaller water supply service area, should the City propose that following the Waukesha Town Board's decision. Given the statutory language quoted above related to the necessity of plan approval by the town's governing body, the Waukesha Town Board's action is directly relevant. While we appreciate the City of Milwaukee's opinion regarding the extent of the proposed water supply service area for the City of Waukesha, the City of Milwaukee's public water supply is not addressed by the City of Waukesha's water supply service area plan; thus, from the department's perspective, the Town of Waukesha and the City of Milwaukee are in distinctly different positions with regard to influencing the extent of the water supply service area.

<sup>1</sup> See s. 281.348 (3) (cm), Wis. Stats.

<sup>2</sup> See s. 281.348 (3) (b) 2., Wis. Stats.

Finally, the City of Waukesha must identify a proposed water supplier in its application to divert Great Lakes water, and it has done so. The department has expressed no preference among the City of Waukesha's proposed suppliers of Great Lakes water. What we have said, and I reiterate, is that the department will not forward for consideration by the other Great Lakes States and Provinces a diversion application with a water supplier that categorically refuses to serve jurisdictions within the water supply service area—whatever the final contours of the service area end up being.

I appreciate your interest in this issue. If you have additional questions or concerns, please contact Eric Ebersberger, Water Use Section Chief at (608) 266-1722.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Cathy Stepp', is written over the word 'Sincerely,'.

Cathy Stepp  
Secretary

cc: Preston Cole, WDNR Board Chairman  
Ken Johnson, WDNR Water Division Administrator