

BEFORE THE STATE OF WISCONSIN  
DEPARTMENT OF NATURAL RESOURCES  
ENVIRONMENTAL MANAGEMENT DIVISION

FINDINGS OF FACT  
CONCLUSIONS OF LAW  
WATER SUPPLY SERVICE AREA PLAN APPROVAL

The Wisconsin Department of Natural Resources (DNR) has the authority under Wis. Stats. § 281.348 to approve a water supply service area plan for a public water supply system. The DNR has reviewed the water supply service area plan for the Waukesha Water Utility and issued the following Findings of Fact, Conclusion of Law and Decision regarding the proposed water supply service area plan.

FINDINGS OF FACT

The DNR finds that:

1. The City of Waukesha (City) applied to the DNR for a diversion of Great Lakes water under Wis. Stat. § 281.346(4)(b), in May 2010 and submitted an updated application in October 2013.
2. The City submitted a water supply service area plan in conjunction with its diversion application, as required by Wis. Stat. § 281.346(4)(e)1.em., and § 281.348(3).
3. The water supply service area plan was delineated by the Southeastern Wisconsin Regional Planning Commission in accordance with Wis. Stat. § 281.348(3)(cm).
4. The City submitted documentation that the governing body of each city, village, and town whose public water supply is addressed by the proposed water supply service area plan has approved the plan, as required under Wis. Stat. § 281.348(3)(b)2.
5. The DNR held public hearings on August 17 and 18, 2015 at Carrol University Center for Graduate Studies, 2140 Davidson Rd, Waukesha, WI 53186; Zilber School of Public Health – University of Wisconsin Milwaukee, 1240 N. 10<sup>th</sup> St., Milwaukee, WI 53205; and Racine Masonic Center, 1012 Main St., Racine, WI 53403. Prior to the public comment portion of the hearings, the DNR held an informational meeting and question and answer session.
6. The City's water supply service area is consistent with the diversion area approved by the Great Lakes-St. Lawrence River Basin Water Resources Compact Council (Compact Council) on June 21, 2016, as required by Wis. Stat. § 281.348(3)(cr).
7. The City's water supply service area plan includes a consideration of existing regional water needs and other regional water supply planning information, as required in Wis. Stat. § 281.348(3)(bm).
8. The City's water supply service area plan includes an inventory of the current water supply sources and quantities in the area, as required by Wis. Stat. § 281.348(3)(c)2.
9. The City's water supply service area plan includes water demand forecasts for the planning period, as required in Wis. Stat. § 281.348(3)(c)3.

10. Existing and projected population estimated for the water supply service area over the planning period were completed by the Southeastern Wisconsin Regional Planning Commission (SEWRPC) and included in the water supply service area plan, as required in Wis. Stat. § 281.348(3)(c)3m.
11. The City identified water supply options and conservation alternatives for the time period covered in the plan, including analysis of the approvability and cost-effectiveness of the options described in the plan, as specified in Wis. Stat. §§ 281.348(3)(c)4. and 281.348(3)(d)1.
12. The City's water supply service area plan includes an assessment of the environmental and economic impact, as required in Wis. Stat. § 281.348(3)(c)5.
13. The water supply service area plan demonstrates effective utilization of wastewater infrastructure and existing water supply storage and distribution facilities, as required in Wis. Stat. §§ 281.348(3)(c)6. and 281.348(3)(d)2.
14. The water supply service area plan includes procedures for implementing and enforcing the water supply service area plan, as required in Wis. Stat. § 281.348(3)(c)7.
15. The water supply service area plan includes an analysis of how the water supply service area plan supports and is consistent with applicable comprehensive plans and approved areawide water quality management plans, as required in Wis. Stat. §§ 281.348(3)(c)8. and 281.348(3)(d)3.

#### CONCLUSIONS OF LAW

The DNR concludes that:

1. The City's proposed water supply service area plan complies with the requirements of Wis. Stat. § 281.348(3)(d).
2. The DNR has authority under Wis. Stat. § 281.348 to approve the water supply service area plan.
3. The City's diversion area, as approved by the Compact Council, is established as the City's water supply service area (see map in Attachment A), per Wis. Stat. § 281.346(3)(cr).
4. The DNR has complied with the public notice and comment procedures set forth in Wis. Stat. § 281.346(9)(b).

#### APPROVAL

The DNR pursuant to its authority in Wis. Stat. § 281.348 hereby approves the City's Water Supply Service Area Plan. This approval is subject to the terms and conditions described in this approval. The City shall comply with all conditions of this water supply service area approval. Non-compliance may be grounds for enforcement or revocation. If the City violates any terms of this approval, the City is subject to the penalties established in Chapter 281, Wis. Stats.

1. This approval expires on June 29, 2041, 20 years from the date of issuance. Following approval, the City must submit a new water supply service area plan at least 180 calendar days before the existing approval expires.
2. Proposed water supply service area plan revisions require an application for review and a new water supply service area plan approval by the DNR and may require approval from the Great Lakes-St. Lawrence River Basin Water Resources Compact Council. Revisions include but are not limited to, modifications to the delineated water supply service area, and water source alternatives.
3. If the City fails to comply with the terms and conditions of this approval, the City is subject to the penalty provisions in Wis. Stat. § 281.98.
4. All other permits and approvals that the City has received from the DNR remain in effect. This water supply service area approval does not replace or change any of the conditions or requirements of other permits or approvals issued under other authority.

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*Jim Zellmer*  
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James Zellmer, Deputy Division Administrator  
Division of Environmental Management

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Date

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*Adam Freihoefer*  
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Adam Freihoefer, Chief  
Water Use Section  
Bureau of Drinking Water & Groundwater

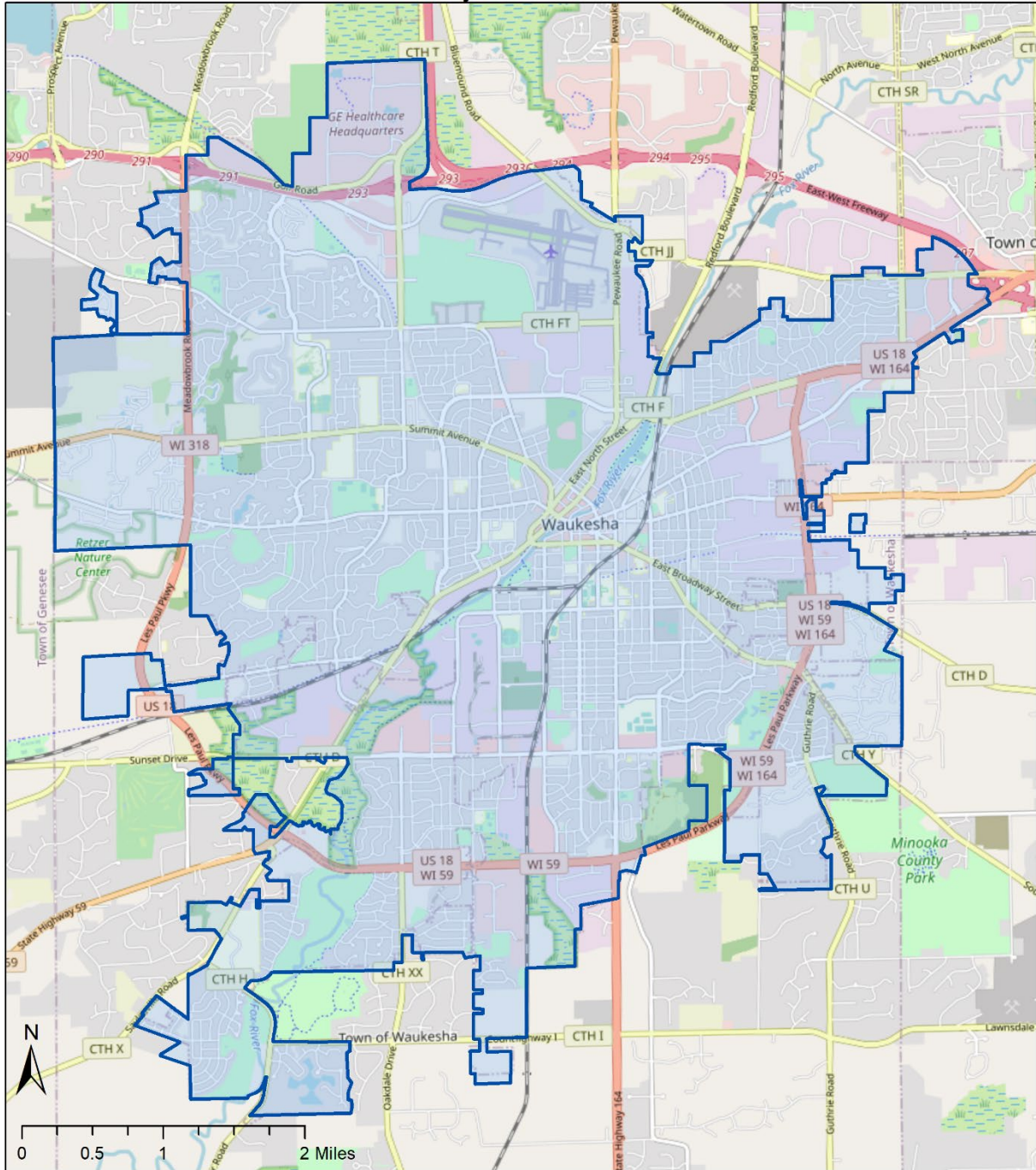
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### Attachment A: Approved Water Supply Service Area Map

## Approved Water Supply Service Area City of Waukesha



 Approved Water Supply Service Area

This map is not intended to be used for navigation, nor is this map an authoritative source of information about legal land ownership or public access. Users of this map should confirm the ownership of land through other means in order to avoid trespassing. No warranty, expressed or implied, is made regarding accuracy, applicability for a particular use, completeness, or legality of the information depicted on this map.

This Attachment was prepared based on the following as of May 18, 2016: (1) the City of Waukesha boundaries as recorded by the Waukesha County Register of Deeds; (2) unincorporated land lying within the perimeter boundary of the City of Waukesha, as recorded by the Waukesha County Register of Deeds, that is either fully surrounded by territory incorporated in the City of Waukesha or is bordered on one side by a transportation right-of-way and on the remaining sides by territory incorporated in the City of Waukesha; and (3) areas currently served that are outside the City of Waukesha's jurisdictional boundaries, consisting of the following

**We Energies**

WAKT1298986003	PWC 0983031
WAKT1298985	PWC 0983040
WAKT1297938	PWC 0983041
WAKT1297937	PWC 0983042
WAKT1298986001	PWC 0983043
WAKT1298986006	PWC 0983044
WAKT1298986005	PWC 0983030
WAKT1297936	PWC 0983028
WAKT1298986004	PWC 0983012
WAKT1298999	PWC 0983045
	PWC 0983029
	PWC 0983046

**Cloverland Farms**

PWC 0983017	PWC 0983011
PWC 0983018	PWC 0983047
PWC 0983020	PWC 0983010
PWC 0983016	PWC 0983009
PWC 0983019	PWC 0983048
PWC 0983021	PWC 0983008
PWC 0983015	PWC 0983049
PWC 0983022	PWC 0983007
PWC 0983014	PWC 0983006
PWC 0983025	PWC 0983050
PWC 0983023	PWC 0983005
PWC 0983039	PWC 0983051
PWC 0983038	PWC 0983004
PWC 0983037	PWC 0983052
PWC 0983024	PWC 0983003
PWC 0983026	PWC 0983053
PWC 0983036	PWC 0983002
PWC 0983035	PWC 0983054
PWC 0983034	PWC 0983001
PWC 0983033	PWC 0983055
PWC 0983013	PWC 0983056
PWC 0983032	PWC 0983058
PWC 0983027	PWC 0983057

## Appeal Rights

If you believe that you have a right to challenge this decision, you should know that Wisconsin Statutes and Administrative Rules establish time periods within which requests to review Department decisions must be filed. For judicial review of a decision pursuant to Sections 227.52 and 227.53 of the State Statutes, you have 30 days after the decision is mailed, or otherwise served by the Department, to file your petition with the appropriate circuit court and serve the petition on the Department. Such a petition for judicial review must name the Department of Natural Resources as the Respondent.

To request a contested case hearing pursuant to Section 227.42 of the State Statutes, you have 30 days after the decision is mailed, or otherwise served by the Department, to serve a petition for hearing on the Secretary of the Department of Natural Resources. The filing of a request for a contested case hearing is not a prerequisite for judicial review and does not extend the 30-day period for filing a petition for judicial review.

All requests for contested case hearings must be made in accordance with section 227.42, Wis. Stats., and section NR 2.05(5), Wisconsin Administrative Code, and served on the Secretary in accordance with section NR 2.03, Wisconsin Administrative Code. Pursuant to Section NR 2.05(5), Wisconsin Administrative Code, and Section 227.42, Wis. Stats., the Petitioner is required to include specific information demonstrating the following:

1. The substantial interest of the Petitioner which is injured in fact or threatened with injury by Department action or inaction;
2. That there is no evidence of legislative intent that this interest is not to be protected;
3. That the injury to the Petitioner is different in kind or degree from the injury to the general public caused by the Department action or inaction; and
4. That there is a dispute of material fact (you must specify the disputed fact(s)).