

Addendum #1

**Intergovernmental Agreement Between
The Town of Delafield and Waukesha County
for
Storm Water Program Services**

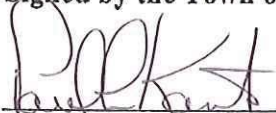
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Land Resources
Division

The parties above have previously executed an agreement to implement certain provisions of their Municipal Separate Storm Sewer System (MS4) Permit, issued by the Department of Natural Resources under Chapter NR 216 Wisconsin Administrative Code. This addendum shall serve to amend said agreement in accordance with the following:

1. Replace Exhibit A with a revised version of the Waukesha County Storm Water Education Program, attached herein as Exhibit X; and
2. Extend the term of the agreement to match the term of the MS4 Permit, unless otherwise terminated by either party. Upon renewal, extension, or re-issuance of the MS4 Permit by the Wisconsin Department of Natural Resources, this agreement will automatically be extended and renewed for the period of the permit, unless otherwise agreed to by the parties or terminated in accordance with the agreement.

All other terms and conditions of the existing agreement shall remain in effect. This addendum shall become effective upon execution by both parties and shall be binding upon the parties and their respective successors and assigns.

Signed by the Town of Delafield:



(Signature)

11/24/09
(Date)

Paul L. Kanter, Town Chairman

Signed by Waukesha County:



(Signature)

12/3/09
(Date)

Perry M. Lindquist, Land Resources Manager

**INTERGOVERNMENTAL AGREEMENT BETWEEN
THE TOWN OF DELAFIELD AND WAUKESHA COUNTY**

Whereas, the Town of Delafield ("Town") and the Waukesha County Department of Parks and Land Use - Land Resources Division ("County") both recognize the negative impacts that uncontrolled soil erosion and storm water runoff from urbanizing lands can have on local water resources and downstream properties, and are both subject to storm water discharge permits by the State under Chapter NR 216 Wis. Admin. Code; and

Whereas, as conditions of a storm water discharge permit, communities are required to conduct an information and education program on controlling nonpoint source water pollution and enforce a construction site erosion control and storm water management ordinance that complies with NR 216;

Whereas, the County already complies with the above noted permit requirements, including the enforcement of a construction site erosion control and storm water management ordinance ("County Ordinance") that applies within the jurisdictional boundaries of the Town;

Whereas, a written agreement to jointly coordinate ordinance enforcement and educational activities between the Town and the County can be a cost-effective way to satisfy State storm water discharge permit requirements for both units of government;

Now, therefore, in consideration of these premises, the Town and the County under the authority of subsection 66.0301 Wis. Stats. hereby agree to cooperate on the implementation of the County Ordinance and an information and educational program within the Town in accordance with the following:

(a) SERVICES, FEES AND CONTACTS

1. **County Ordinance Enforcement.** The County shall administer and enforce the County Ordinance within the jurisdictional boundaries of the Town with the understanding that the County is subject to the same obligations and regulatory oversight as the Town related solely to the adoption and enforcement of an erosion control and storm water management ordinance under WPDES Permit No. WI-S050105-1, issued to the Town on November 1, 2004 by the Wisconsin Department of Natural Resources under Chapter NR 216 Wis. Admin. Code. The County will provide all necessary reports of County activity to the town related to implementation of the County Ordinance within the Town under said permit. The County Ordinance meets the requirements of sections E8 (construction site runoff) and E5(a) (post construction stormwater management) of the DNR permit. The County is not responsible for any other provision of WPDES Permit No. WI-S050105-1 than those specifically stated in this agreement.
2. **Information and Education.** Starting in 2006, the County agrees to provide the Town the information and educational services described in Exhibit "A" in exchange for the fee described in sub. 3 below. The County will establish an education advisory committee made up of all the municipalities that are participating in the program and any other entities that the County deems appropriate. Each year the advisory committee will coordinate the specifics

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of program activities and propose the committee's budget to the County. Unless otherwise noted in Exhibit "A", the County will take the lead on implementing the activities and the Town will provide the necessary staff support as needed for local efforts.

3. Fees.

- A. County Ordinance. The County will establish, retain and modify fees for permit applicants as necessary to support County costs for administering the County Ordinance. The County will charge no fees to the Town for services performed to administer Storm Water Permits under the County Ordinance. The Town is responsible for annual municipal permit fees to the state under NR 216.08.
 - B. Illicit Discharges. The County will enforce the "illicit discharge" provision of the County Ordinance upon written request by the Town identifying the property owner for the alleged violation or upon the County's own initiative. Costs associated with enforcing this provision of the Ordinance will be billed to the Town. The Town may use their special assessment authority to collect these costs from the violator.
 - C. Information and Education. By March 1, 2006, the Town agrees to pay the County \$2,000 annually for implementing the information and education program described in sub. 2. After 2006, this fee shall be subject to an annual increase not to exceed 5% or the actual County cost increases for salary and benefits involved in providing these services, whichever is less. The Town shall approve and be responsible for any bulk mailing costs within the Town related to implementing this program.
- 4. Contacts.** For the administration of this agreement, the primary contact for the Town shall be the Town Engineer or designee. The primary contact for the County shall be the Land Resources Manager or designee.

(b) ADMINISTRATIVE PROCEDURES

- 1. **Intent.** In order to effectively enforce the County Ordinance under this agreement, it is important to incorporate storm water management concepts into site planning early in the land development process. To do this requires coordination of certain procedures between the County and Town. This section describes how this will be done.
- 2. **Plan Review/Approval Procedures.** The Town and the County will notify each other of any scheduled on-site visits for proposed subdivision plats and other developments that may trigger the need for a storm water management plan under the County Ordinance. Copies of all correspondence generated by the Town or the County relating to a permit under the County Ordinance will be provided to each other. The Town Clerk will notify the County of all meetings scheduled to review the projects subject to a storm water management plan and provide copies of plats and other materials to the County in accordance with the following:

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- A. Preliminary Plats & Site Plans/CSM's. Two weeks prior to scheduled action by the Town Planning Commission or Town Board, the Town will provide copies of all certified survey maps (CSM's), site plans, preliminary plats and other proposed developments subject to a storm water management plan under the County Ordinance. This will allow time for the County to prepare a "Preliminary Storm Water Review Letter" and resolve spatial issues related to storm water management early in site planning, as described in the County Ordinance.
 - B. Grading/Construction Plans. The Town Engineer will provide the County with any comments from the Town relating to the enforcement of the County Ordinance, which the County will incorporate into the permit process, as authorized. The Town Engineer is responsible for ensuring compliance with all other applicable Town codes, permits and approvals.
 - C. Final Plats and CSM's. Final Plats and CSMs will not be approved by the Town or County until the County provides "Certification of Compliance" with the County Ordinance. This will help ensure that items such as drainage easements, BMP locations, maintenance agreements, access lanes, utility easements and other related items are properly addressed.
- 3. Financial Assurance.** The Town will include a provision in the developer's agreement and/or financial assurance document that expressly allows the County to use the developer's agreement and/or the financial assurance document to enforce the provisions of the County Ordinance, and will provide a copy of the document to the County. Upon request, the County will recommend the amount needed to enforce the County Ordinance. The County will require a separate smaller financial assurance from the permit holder to be held until as-built documents and construction verification are obtained.
- 4. Preconstruction Meetings.** Preconstruction meetings will be coordinated between the Town Engineer and the County to review all regulatory requirements and ensure that the Town, the County, the developer and all affected contractors have the final approved set of construction plans.
- 5. Plan Revisions or Modifications.** The Town and the County must each receive in a timely manner a set of any construction plans that are revised or modified after the Preconstruction meeting.
- 6. As-Built Documentation.** As stated in the County Ordinance, the County will rely on the engineer of the holder of the County stormwater permit to verify compliance with approved plans and provide as-built documentation to the County.
- 7. Permit Enforcement Procedures.**
- A. Enforcement. The Town will forward any concern or complaint the Town receives relating to enforcement of the County Ordinance for a

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response by the County within 24 hours on working days. If the Town determines that a violation of the Ordinance requires immediate attention, the Town may respond immediately or request that the County respond immediately.

- B. Legal Services. The County Corporation Counsel's Office will provide legal services to the County regarding enforcement of the County Ordinance.
- C. Appeals. The County Board of Adjustment will hear all appeals related to the implementation of the County Ordinance. The County has additional enforcement authority under the County Ordinance, including citation authority.

8. Town Funded Projects. For any road maintenance project or other construction funded by the Town that may trigger the need for a permit under the County Ordinance, no fees or financial assurance will apply and the County will assist the Town in meeting the County Ordinance in accordance with the following:

- A. New Construction/Reconstruction. The Town Engineer will involve the County early in the planning process to determine applicability of various technical requirements of the County Ordinance. The County will advise the Town Engineer or other designated consultant on the preparation of plans that comply with all applicable requirements.
- B. Road and Ditch Maintenance. The County will provide the Town with sample erosion control plan templates for common road maintenance work that may trigger the need for an erosion control plan, including maintenance work to ditches and other stormwater conveyance systems. If the Town uses these templates, roadwork can proceed after a 24-hour notification to the County. For other road maintenance projects, the Town must provide the County at least 7 days notice, so that the County can review erosion control plans for the site.

(c) TOWN POLICIES

It is the policy of the Town to require new roads and buried utilities to be installed in a timely manner that minimizes soil erosion, environmental damage and future maintenance problems. The County will ensure that the following Town policies are adhered to during the preparation and implementation of erosion control plans through the County Ordinance:

- 1. **Utilities.** Whenever practicable, no buried utilities shall be installed within the design flows of open channels in Town road right-of-ways, except for right angle crossings. Preferred placement on new roads is 3 feet inside of property boundaries with a 10 foot recorded easements for future maintenance. This policy may vary depending on soil conditions, trees and other obstructions.
- 2. **Road Construction Deadlines.** September 15 is recognized as the deadline for successful seeding of permanent grasses. In accordance with the County Ordinance, new road construction will generally not be allowed to proceed

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unless it is demonstrated that this deadline will be met. Exceptions to this rule may be made under unique circumstances only if no off-site impacts are likely to occur and the Town Engineer and the County approve the construction plans.

(d) LONG TERM MAINTENANCE OF STORMWATER FACILITIES

The following procedures are aimed to ensure the proper long-term maintenance of storm water management facilities within the Town. Proper maintenance will help minimize structure failure and possible damage and ensure that the facilities continue to serve their designed functions. It is understood by the Town that all County activities listed in this subsection will be completed as staff time allows.

1. **GIS Database.** The County will create and maintain a computerized map and database of all storm water management facilities within the Town, including: basic design data, the year it was installed, ownership and maintenance responsibilities (if able to determine), and a record of any inspections completed. The Town Engineer will be given read and write access to this database upon request at no charge.
2. **Inspections.** The County will conduct periodic on-site inspections of storm water management facilities in the Town and produce a written report concerning the current condition of each facility inspected. During the inspection, the County may complete simple maintenance measures such as clearing debris from outlets or removal of trash or woody vegetation. If the County recommends additional inspection or maintenance action, the County will discuss the needs with the Town Engineer and include final recommendations in a written inspection report to the Town.
3. **Enforcement.** The Town will be responsible for notifying the owner(s) of the storm water facility and enforcing any inspection and maintenance requirements.
4. **Disclaimer.** It is understood that the County does not certify the design, construction or performance of any storm water management facility in the Town, regardless of the conditions noted in an inspection report. In addition to County inspections, the Town must meet DNR permit section E5(e) regarding sediment and inspection of stormwater facilities.

(e) MISCELLANEOUS PROVISIONS


1. **Effective Date.** The effective date of this Agreement shall be the date upon which it is executed by both parties. All provisions shall take effect immediately unless otherwise noted above. This Agreement shall remain in effect through October 31, 2009 (the term of WPDES Permit No. WI-S050105-1) or until otherwise terminated by either party under sub. 3. below.
2. **Review and Amendments.** The terms of this Agreement shall be reviewed annually and may be modified if approved in writing by both parties and duly executed by the authorized representative. Documentation of the 2007-2009

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annual fee for information and education services under sub. (a)3.C. above shall become an addendum to this agreement each year.

3. **Termination.** The County or the Town may terminate this Agreement at any time upon a 60-day written notice of intent. The Town is responsible for notifying the DNR of any termination of this agreement and for subsequent compliance with DNR permit requirements.
4. **Effect of Agreement.** This Agreement contains the entire agreement of the parties. The County and the Town recognize that this Agreement is the product of a unique set of circumstances. Accordingly, it is mutually acknowledged that many of the provisions contained herein are unique unto themselves and should not be seen as precedent for any future agreement between the County and other entities.
5. **Severability.** If any clause, provision or section of this Agreement be declared invalid by any Court of competent jurisdiction, the invalidity of such clause, provision or section shall not affect any of the remaining provisions of this Agreement.
6. **Binding Agreement.** This Agreement is binding upon the parties hereto and their respective successors and assigns.

Signed by the Town:

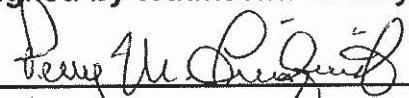


Paul L. Kanter, Town Chairman

2/14/06

Date

Signed by Waukesha County:



Perry M. Lindquist, Land Resources Manager

2/17/06

Date

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**INTERGOVERNMENTAL AGREEMENT BETWEEN
THE TOWN OF DELAFIELD AND WAUKESHA COUNTY**

Exhibit "A"

**Nonpoint Information & Education Program Proposal
Waukesha County Portion
2006-2009**

The following activities will be conducted by the Waukesha County Department of Parks and Land Use – Land Resources Division through an intergovernmental agreement with the participating municipalities from the Upper Fox Watershed Community Group. Unless otherwise noted below, the County will take the lead on these activities and the municipality will provide support services, as needed. Details of each activity are not provided in this document. These will be further developed in the fall of 2005 and updated each of the four years through an education advisory committee made up of each of the participating communities. The proposed activities are grouped by three general target audiences, as listed below.

Contractors, Builders, Developers & Consultants:

1. Workshops – Conduct periodic workshops to explain erosion control and storm water management program requirements and permitting procedures. Also use the workshops to promote conservation subdivisions, green roofs, rain gardens and other effective BMPs. It is anticipated that at least one workshop be conducted annually in the county.
2. Demonstrations – Offer periodic demonstrations and tours to local sites to show how conservation subdivisions and BMPs such as those noted above can be used to reduce runoff pollution and meet local storm water regulations. This may be combined with the annual workshops or run as a separate event, depending on interest and availability of sites.
3. Newsletters – Offer newsletter articles for MBA and other local newsletters targeted to this audience, focusing on local nonpoint pollution control problems, solutions, on-going program efforts and success stories. Also use these to advertise local workshops, tours and demonstrations.

General Public:

1. Storm Drain Stenciling – Provide stencils, paint and educational door hangers to schools, student groups or adult organizations to paint the message "Dump No Waste – Drains to River/Lake" on local storm drains. This on-going activity educates the people doing the stenciling and residents living in the neighborhoods being stenciled.
2. News Releases/Newsletters - Offer periodic news releases and articles to local newspapers and articles for municipal newsletters announcing water quality related activities, programs and services.

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3. Presentations – Offer a speaker with or without Power Point presentation and equipment to local civic groups and other organizations to speak about local water quality issues and actions local citizens can take.
4. Displays – Assist each community with preparing displays with handout materials for special events or building lobbies and entryways. Displays will focus on water quality, but be tailored to address seasonally specific issues, such as snow management, lawn fertilizer, fall leaf collection, etc.
5. Rain Garden/Rain Barrel promotion – Promote runoff reduction from individual homes and businesses through a local rain garden workshop or demonstration, in cooperation with DNR and the UWEX.
6. Recognition Program – Recognize (in local news releases/newsletters, etc.) local citizens that adopt “water friendly” practices around their home or business or otherwise promote nonpoint pollution control. This activity will depend on having good examples to recognize.
7. Resource Lists/Web Page – Create resource lists for rain gardens, rain barrels, housekeeping, porous pavement, leaf mulching, composting, etc. Offer them as handouts and on the county web page.
8. Citizen Stream Monitoring – Offer interested citizens the opportunity to monitor a stream site once a month from April to September. Train and equip them to collect temperature, turbidity, biotic index, flow and dissolved oxygen. This activity educates participants while collecting useful water quality data for monitoring program progress.
9. Yard Waste – Promote yard waste composting and on-site mulching of leaves through flyers, web page, videos, etc. Continue offering free yard waste disposal and composting at the county-owned site in Genesee for all communities. Final compost product will be used as a topsoil substitute to reclaim a county-owned gravel pit on the site.

Teachers & Students:

1. Project WET (Water Education for Teachers) - Offer training and curriculum guides for teachers on the use of project WET in the classroom. Project WET is not an entire curriculum, but is supplemental water education that can be used in science, math, art, physical education and other areas. All activities are hands-on and water related.
2. Presentations – Offer a speaker with or without Power Point presentation and equipment to local classrooms to discuss local water quality issues, including actions that students and their families can take to reduce nonpoint pollution.
3. Green Schools - Help participating schools work through the DNR’s “Green & Healthy Schools” program. Assist school teams with completing the “water” and “school grounds” inventories, making recommendations for controlling runoff and reducing water usage. The County may also provides some grant dollars to help implement the recommendations and move toward state certification.
4. Stream Monitoring – Offer local teachers the opportunity to expose students to a one-time field trip for stream monitoring. Students would collect temperature, turbidity, biotic index, flow and dissolved oxygen. This type of monitoring is primarily designed to educate students on water quality issues and the techniques used to measure the impacts of land use on water quality.



State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Jim Doyle, Governor
Scott Hassett, Secretary
Gloria L. McCutcheon, Regional Director

Waukesha Service Center
141 NW Barstow Street, Room 180
Waukesha, Wisconsin 53188
Telephone 262-574-2100
FAX 262-574-2117

April 29, 2005

Mr. Paul Kanter, Chairman
Town of Delafield
S10 W31599 Glacier Pass
Delafield, WI 53018

Subject: **Notice of Noncompliance**

WPDES Permit no. WI-S050105-1: 1st Annual Report and accompanying submittals
(Upper Fox River Watershed Communities Group Municipal Stormwater Permit)

Dear Mr. Kanter:

The Department has completed a review of the Town of Delafield's Annual Report and all other submittals received on March 31, 2005 in accordance with the Upper Fox River Watershed Communities Group Municipal Stormwater Permit. Each of the submittals is discussed in detail below.

Annual report

Since the NR 216 Municipal Storm Water Permit was issued on November 1, 2004, the 1st Annual Report covers a period from November 1, 2004 through December 31, 2004. During these 2 months, many of the measurable activities may not have taken place. However, the Town did not include measurable data for any activities that typically do occur during the latter part of the year. The Town at this time is not in compliance with this requirement of the NR 216 permit.

Examples of measurable activities that could be reported include the amount of oil collected, hazardous household waste collected, leaves collected, and solids removed from street sweeping activities. Other reportable activities include the location, length, and stabilization details of maintained ditches; the number of construction erosion control plans approved; the location and effectiveness of best management practices that were applied for within the specified time frame; and the number of street sweeper miles and hours driven. Another example of reportable items are the amount of roads maintained and the amount of salt used to de-ice roads in winter. In the deicing program the Town submitted to the Department it was stated the Town had used 650 tons of salt and 800 tons of sand in the 2003-2004 winter season. This information needs to be included in the Town's annual report.

Illicit discharge, revised erosion control, and revised post construction stormwater control ordinance adoption

In the submitted materials, the Town of Delafield has indicated it has entered into an intergovernmental agreement with Waukesha County thereby adopting the County's approved illicit discharge, revised erosion control, and revised post construction stormwater control ordinances. The Department understands that the intergovernmental agreement is undergoing legal review by the County at this time. As evidence of this commitment a signed copy of this agreement must be submitted to the Department. The evidence of the adoption of these ordinances was to be submitted by March 31, 2005. Therefore, the Village at this time is not in compliance with this requirement of the NR 216 permit.

Catch basin cleaning proposal

The proposed catch basin cleaning schedule submitted by the City is adequate.

Information and education program proposal

Department staff have reviewed the Town of Delafield's Information and Education (I & E) Program Proposal. We are encouraged by your commitment to coordinate efforts with Waukesha County and other participating communities within the Upper Fox River Watershed Communities Group. The Town's I & E program is adequate.

To be in compliance with its NR 216 permit the Town of Delafield must submit any measurable activities for the end of 2004 and a signed copy of the intergovernmental agreement it has with Waukesha County regarding the adoption of ordinances. All requested information must be submitted to the Department by June 15, 2005. Send the required documents to the Department with attention to either Jim D'Antuono or myself. Any questions or concerns about this review or the NR 216 permit can be addressed to Mr. D'Antuono at 262-574-2122 or myself at 262-574-2174.

Sincerely,



James D'Antuono

Southeast Fox River Basin Supervisor

cc: Deborah Roszak, DNR – Environmental Enforcement Specialist
Mike Hahn, SEWRPC
Waukesha County
Mr. Timothy Barbeau, R.A. Smith & Associates