



Administration

David A. Bretl
County Administrator

January 26, 2015

Mary Ann Lowndes, Chief
Runoff Management Section
Bureau of Watershed Management
Storm Water Program –WT/3
Post Office Box 7921
Madison, WI 53707-7921

RE: Notice of Intent to Coverage Under WPDES MS4 General Permit
No. WI-S050181-1

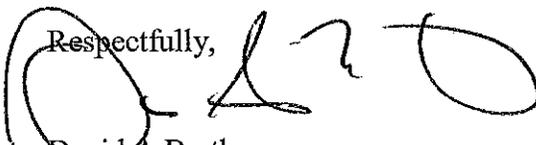
Dear Ms. Lowndes:

In response to your Notification, dated October 28, 2014, requesting Walworth County apply for Municipal Separate Storm Sewer System General Permit Coverage, I formally submit the enclosed *Notice of Intent to Coverage Under WPDES MS4 General Permit No. WI-S050181-1* and supplemental responses.

After a careful examination of the NR 216 of the Wisconsin Administrative Rules, relative to Municipal Storm water Discharge Permits, Walworth County respectfully requests the Wisconsin Department of Natural Resources consider waiving the requirement for Walworth County to obtain permit coverage. Documentation for the basis of such waiver has been included in the *Notice of Intent*. In addition, Walworth County requested assistance from the Southeastern Wisconsin Regional Planning Commission (SEWRPC) to prepare the necessary documentation supporting this waiver. A letter from Kenneth Yunker, SEWRPC Executive Director, is included in this submittal.

If you have any questions or comments regarding the NOI or the request for the waiver, please contact me directly at 262-741-4357 or dbretl@co.walworth.wi.us. A copy of this submittal is being furnished to Bryan Hartsook via email on today's date.

Thank you so much for your consideration.

Respectfully,

David A. Bretl
County Administrator

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Mary Ann Lowndes, Chief-Runoff Management Section
Bureau of Watershed Management
County Administrator letter conveying *Notice of Intent to Coverage*
January 26, 2015

Page | 2

C: Mike Hahn, SEWRPC
Michael Cotter, Walworth County Land Use and
Resource Management Director
Kevin Brunner, Walworth County Public Works Director
Joe Kroll, Walworth County Engineer
Faye Amerson, Urban Program Specialist – LURM Department
Bryan Hartsook, P.E. – DNR Water Resources Engineer

State of Wisconsin
Department of Natural Resources
dnr.wi.gov

**Notice of Intent to Apply for Coverage Under
WPDES MS4 General Permit No. WI-S050181-1**

Form 3400-191 (R 10/14)

Page 1

Notice: Pursuant to ss. 283.33 and 283.37, Wis. Stats., and chs. NR 151 and 216, Wis. Adm. Code, this form is used to apply for coverage under Wisconsin Pollutant Discharge Elimination System (WPDES) Municipal Separate Storm Sewer System (MS4) General Permit No. WI-S050181-1. This form and any required attachments constitute the permit application. Personal information collected will be used for administrative purposes and may be provided to requesters to the extent required by Wisconsin's Public Records Laws (ss. 19.31-19.39, Wis. Stats.).

Instructions: Complete all sections of this permit application. If additional space is needed to respond to a question, attach additional pages. Provide descriptions below that explain the program activities that you expect to develop and implement to comply with the MS4 general permit. Information on the MS4 general permit and the MS4 storm water program are available at: <http://dnr.wi.gov/topic/stormwater/municipal/>. Section 3 of the MS4 general permit contains the compliance schedule that directs when the individual program activities need to be developed and submitted to the Department for review. The detailed programs that are developed and submitted to the Department for review may deviate from the program activities described below if necessary. The descriptions provided below are necessary for the Department to verify that the municipality's program activities comply with the permit.

Section I: Applicant Information

Name of Municipality

Walworth County

Mailing Address PO Box 1001	City Elkhorn	State WI	ZIP Code 53121
County(s) in which Applicant is located Walworth	Type of Municipality: (check one) <input checked="" type="checkbox"/> County <input type="checkbox"/> City <input type="checkbox"/> Village <input type="checkbox"/> Town <input type="checkbox"/> Other (specify)		

Section II: Local Contact Information

Name of Municipal Contact Person David A. Bretl	Title County Administrator		
Mailing Address PO Box 1001	City Elkhorn	State WI	ZIP Code 53121
Email address dbretl@co.walworth.wi.us	Phone Number (incl. area code) (262) 741-4357	Website address, if available www.co.walworth.wi.us	

Section III: Water Quality Concerns

Yes	No	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Does any part of the MS4 discharge to an outstanding resource water (ORW) or exceptional resource water (ERW) listed under s. NR 102.10 or 102.11, Wis. Adm. Code? (A list of ORWs and ERWs may be found on the Department's Internet site at: http://dnr.wi.gov/topic/surfacewater/orwerw.html)
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Does any part of the MS4 discharge to an impaired waterbody listed in accordance with section 303(d)(1) of the federal Clean Water Act, 33 USC § 1313(d)(1)(C)? (A list of Wisconsin impaired waterbodies may be found on the Department's Internet site at: http://dnr.wi.gov/topic/impairedwaters/)

Section IV: Potential Permit Exemption

Yes	No	Section NR 216.023, Wis. Adm. Code, allows certain MS4s that have less than 1000 people residing in an urbanized area to be waived from municipal storm water permit coverage.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Do you believe that the MS4 may be eligible for this potential exemption as described in s. NR 216.023, Wis. Adm. Code? See Page 3

If yes, please provide documentation supporting a permit exemption including the following (Attach additional pages if necessary):

Total municipal area in square miles

Total municipal population (2010 U.S. census)

MS4 service area within Urbanized Area in square miles

Municipal population within Urbanized Area (2010 U.S. census)

Additional information supporting an exemption under s. NR 216.023, Wis. Adm. Code

Note: Urbanized Area information is available from the USEPA at:

<http://water.epa.gov/polwaste/npdes/stormwater/Urbanized-Area-Maps-for-NPDES-MS4-Phase-II-Stormwater-Permits.cfm>

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Section V: Summary of Municipal Storm Water Program Activities

Describe the programs or activities the municipality is doing or will do to comply with the requirements of the MS4 general permit. Attach additional pages if necessary.

A. Public Education and Outreach

Describe the public education and outreach program activities that the municipality will implement to comply with section 2.1 of the MS4 general permit.

See Description Attached - Page 4

B. Public Involvement and Participation

Describe the public involvement and participation program activities that the municipality will promote to comply with section 2.2 of the MS4 general permit.

See Description Attached - Page 4

C. Illicit Discharge Detection & Elimination

Describe the illicit discharge detection and elimination program authority and activities that the municipality will develop and implement to comply with section 2.3 of the MS4 general permit.

See Description Attached - Page 5

D. Construction Site Pollution Control

Describe the construction site pollutant control program authority and activities that the municipality will develop and implement to comply with section 2.4 of the MS4 general permit.

See Description Attached Page 5 & 6

E. Post-Construction Site Storm Water Management

Describe the post-construction storm water management program authority and activities that the municipality will develop and implement to comply with section 2.5 of the MS4 general permit.

See Description Attached - Page 6

F. Pollution Prevention

Describe the pollution prevention program activities that the municipality will implement to comply with section 2.6 of the MS4 general permit.

See Description Attached - Page 6

Section VI: Certification

I hereby certify that I am an authorized representative of the municipality that is the subject of this application for general permit coverage, and that the information provided is true and complete, to the best of my knowledge. I understand that Wisconsin law provides severe penalties for submitting false information.

Authorized Representative Name David A. Brett	Title County Administrator / Corporation Counsel
Signature 	Date Signed 1/26/2015
Email address dbrett@co.walworth.wi.us	Phone Number (incl. area code) 262.741-4357

Return this completed form to: Wisconsin Department of Natural Resources
Storm Water Program – WT/3
PO Box 7921
Madison, WI 53707-7921

Notice of Intent to Apply for Coverage under WPDES MS4 General Permit No. WIS050181-1

Walworth County

Supplemental Responses

Section III: Water Quality Concerns. *Does any part of the MS4 discharge to an outstanding resource water (ORW) or exceptional resource water (ERW) listed under s.NR 102.10 or 102.11, Adm. Code?*

Note: Waters designated as ORW or ERW are surface waters which provide outstanding recreational opportunities, support valuable fisheries and wildlife habitat, have good water quality, and are not significantly impacted by human activities, (WDNR). Outstanding and Exceptional Waters are designated by Rule, and are listed in NR 102.1 of the Wisconsin Administrative Code.

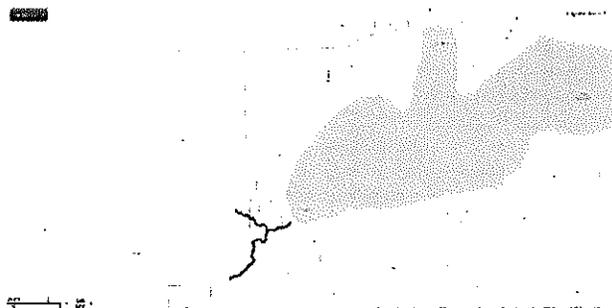
Four outstanding resource waters are designated in Walworth County and include: Lulu Lake, Bluff Creek, Potawatomi Creek and Van Slyke Creek. The location of the outstanding resource waters in Walworth County are shown on the maps below.



Bluff Creek
Town of Whitewater



Lulu Lake
Town of Troy



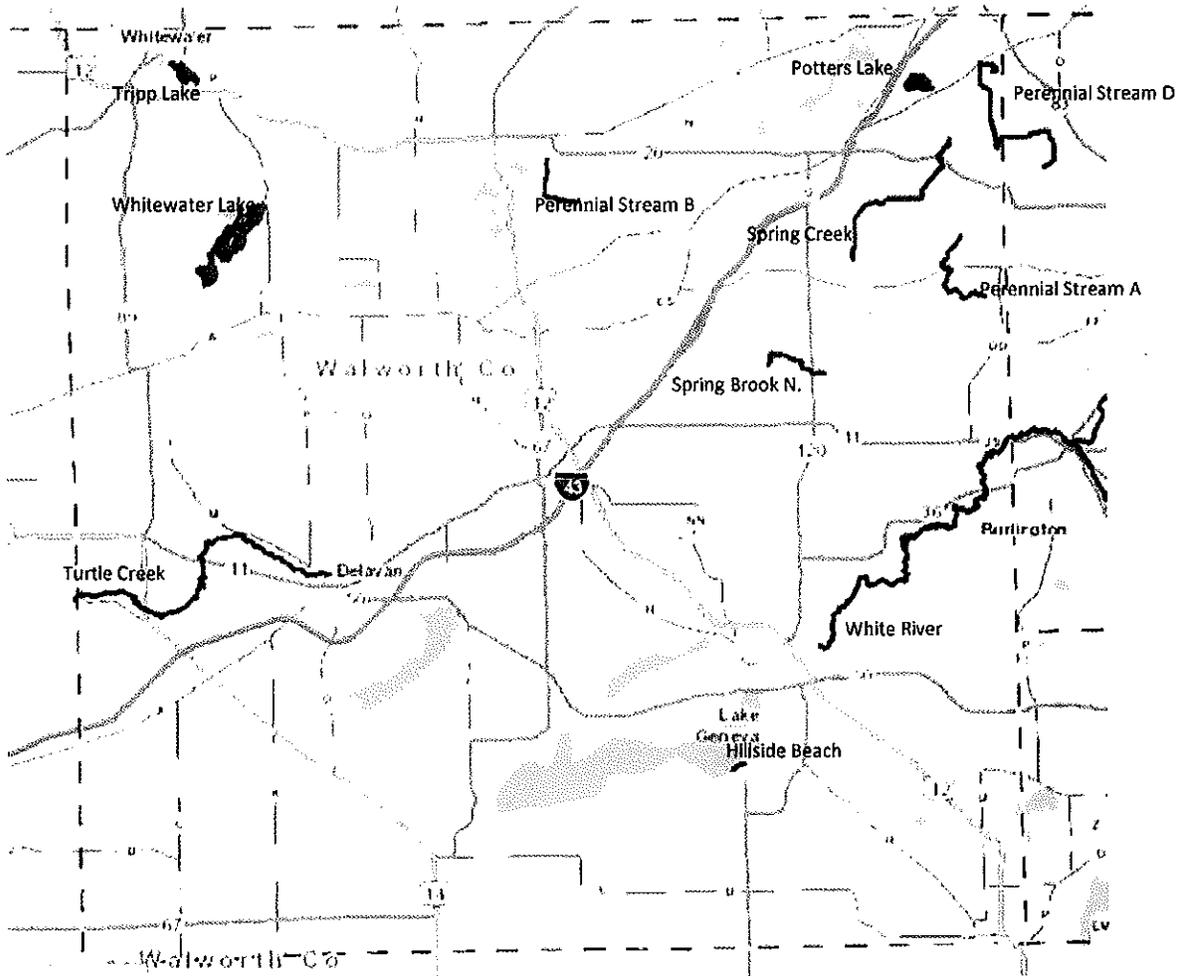
Potawatomi Creek
and Van Slyke Creek
Village of Fontana

Section III: Water Quality Concerns. *Does any part of the MS4 discharge to an impaired waterbody listed in accordance with section 303(d)(1) of the federal Clean Water Act 33 USC § 113(d)(1)(C)?*

Note: Under section 303(d) of the Clean Water Act, states, territories, and authorized tribes are required to develop lists of impaired waters. These are waters that are too polluted or otherwise degraded to meet the water quality standards set by states, territories, or authorized tribes. The law requires that these jurisdictions establish priority rankings for waters on the lists and develop TMDLs for these waters. A Total Maximum Daily Load, or TMDL, is a calculation of the maximum amount of a pollutant that a waterbody can receive and still safely meet water quality standards. Every two years, Section 303(d) of the Clean Water Act requires states to publish a list of all waters that *do not meet* water quality standards. The list, also known as the Impaired Waters List, is updated to reflect waters that are newly added or removed based on new information or changes in water quality status.

Eleven (11) waterways in Walworth County are listed on the WDNR 303(d)(1) list and designated as impaired. The locations and names of Walworth County impaired waterways are shown on the map below.

Section 303(d) listed Impaired Waterways—Walworth County



Note: Honey Creek and Sugar Creek are *proposed* for 303(d)(1) listing in 2014.

Section IV: Potential Permit Exemption

Walworth County has been a leader in terms of providing stormwater pollution education and enacting regulations to prevent stormwater runoff pollution from urban land uses with the intent to protect the water quality of the Walworth County lakes, streams, wetlands and groundwater. Notwithstanding this fact, Walworth County believes that it may be eligible for an exemption from the Wisconsin Department of Natural Resources from the requirement to obtain permit coverage under the provisions of NR 216.023 and NR 216.014, of the Wisconsin Administrative Code.

NR 216.023 Urbanized Area Exemption.

- 1) Walworth County is not otherwise required to obtain a permit municipal stormwater permit coverage pursuant to NR 216.02(3). Walworth County was never notified in writing by the WDNR prior August 1, 2004, to obtain a municipal stormwater permit. Walworth County meets this permit exemption criteria.
- 2) Walworth County's separate storm sewer or storm conveyance system within the Round Lake Beach-McHenry-Grays Lake, II-WI urbanized area is extremely small and it is questionable if the system serves a population greater than 1,000 or more per square mile. The Southeastern Wisconsin Regional Planning Commission (SEWRPC) will provide the WDNR with additional documentation to support the population level and density criteria as requested in Section IV of the Notice of Intent, (Form 3400-191). Additional documentation to demonstrate Walworth County meets this exemption criteria will be forwarded to the WDNR no later than February 16, 2015.
- 3) Runoff from Walworth County's separate storm sewer system within the Round Lake Beach-McHenry-Grays Lake, II-WI urbanized area is not contributing substantially to the pollutant loadings of a physically interconnected municipal separate storm sewer system that is regulated. The Walworth County's separate storm sewer systems within the Round Lake Beach-McHenry-Grays Lake, II-WI urbanized area mainly consist of grassed lined swales that discharge to the East Branch of the Nippersink Creek, (WBIC 743400) and the North Branch of the Nippersink Creek, (WBIC 742700). These waterways are classified as Areas (waterways) of Special Natural Resource Interest, (ASNRJ) by the WDNR. Additional documentation to demonstrate Walworth County meets this exemption criteria will be forwarded to the WDNR no later than February 16, 2015.
- 4) Stormwater runoff from the Walworth County's separate storm sewer or storm conveyance system within the Round Lake Beach-McHenry-Grays Lake, II-WI urbanized area does not discharge to any impaired waterway listed in accordance with section 303(d)(1) of the federal Clean Water Act, 33 USC§1313(d)(1)(C). See map of Walworth County Impaired Waterways provided on Page 2 of the supplemental responses. Walworth County meets this permit exemption criteria.

Section V. Summary of Municipal Storm Water Program Activities

Note: Regulated municipalities (MS4s) are required to develop and implement the following 6 storm water management control program elements or best management practices. Collectively, the implementation of the 6 elements are expected to result in a significant reduction of pollutants discharged to waterways from storm water runoff. Walworth County is required to include each of the 6 elements in its storm water management program to meet the conditions of the MS4 general permit.

A. Public Education and Outreach. Describe the public education and outreach program activities that the municipality will implement to comply with section 2.1 of the MS4 general permit.

Walworth County is currently recruiting interested citizens, local governmental elected officials and business representatives to join a County-wide Storm Water Pollution Prevention Work Team for the purpose of developing and advancing regulatory and non-regulatory programs and activities to prevent and management storm water pollution and protect Walworth County lakes, streams, wetlands and groundwater. Walworth County was awarded an Urban Storm Water Planning Grant to advance this initiative. A major role of this Work Team is to develop a County storm water information and education plan that identifies programs, activities, materials and ways to raise public understanding of storm water pollution causes and effect and recommend behaviors that result in positive actions to improve Walworth County waterway, including groundwater.

Walworth County will enter into Intergovernmental Agreements with interested Walworth County municipalities including, but not limited to the City of Elkhorn, Village of Genoa City, and Village of Bloomfield, to develop and carry-out public information as required in Section 2.1 of the MS4 general permit. This collective effort is expected to create uniform storm water public education messages for Walworth County, while maintaining the uniqueness of each municipal storm water program.

A formal Walworth County public information and outreach plan will be developed and include the elements listed in Section 2.1 of the MS4 general permit to identify targeted audiences, messages, and strategic ways to reach residents, businesses, developers, visitors, and youth. The plan will include measureable goals to insure storm water education and outreach results in outcomes that are effective in preventing and reducing the impacts of storm water pollution and delivered efficiently.

Public education and outreach will be carried out throughout the duration of the MS4 Permit.

B. Public Involvement and Participation. Describe the public involvement and participation program activities that the municipality will promote to comply with section 2.2 of the MS4 general permit.

Walworth County will develop a Public Involvement and Participation Plan to insure that citizens, local units of government and businesses are provided with opportunities to contribute in establishing the County's storm water management priorities and programs to comply with the requirements of the MS4 general permit. The County will recruit and convene a storm water pollution prevention stakeholders committee to guide each element of the County-wide Storm Water Management Program. Citizens will have an opportunity to voice their concerns and present their suggestions before the County-wide Storm Water Pollution Prevention Plan is finalized.

Walworth County currently has procedures in-place that require public notification and provide opportunities for the public to participate in County decision making.

C. Illicit Discharge Detection and Elimination. Describe the illicit discharge detection and elimination program activities that the municipality will develop and implement to comply with section 2.3 of the MS4 general permit.

Note: An illicit discharge is any discharge to a municipal separate storm sewer system (MS4) that is not composed entirely of storm water, with some exceptions. Illicit discharges enter a storm water conveyance system through either faulty connections, spills, or direct dumping. The result is untreated discharges to waterways with high levels of pollutants, including heavy metals, toxics, oil, grease, solvent, nutrients, and bacteria. Recognizing the adverse impacts illicit discharges can have on Walworth County waterways, section 2.3 of the MS4 general permit requires Walworth County to develop an illicit discharge detection and elimination program.

Walworth County does not have the authority to conduct inspections on privately-owned properties to detect illicit discharges or regulate the abatement of illicit discharges, if discovered. Walworth County will consider addressing the prevention and elimination of illicit discharges to County controlled conveyance systems within its current regulatory authority for storm water management. Walworth County will consider necessary amendments to the County Storm Water Management Ordinance or the County Ordinance to include the detection and elimination of illicit discharges to County facilities and include a procedure to notify local jurisdictions and the Wisconsin Department of Natural Resources, if illicit discharges are discovered.

As part of the Intergovernmental Agreements, the County will assist interested municipalities promulgate rules for the detection and elimination of illicit discharges within their jurisdictions. A model ordinance will be developed and provided to all Walworth County Municipalities, including those required to obtain MS4 general permit coverage.

Walworth County will develop and adopt a policy that establishes procedures for illicit discharge detection for Walworth County-owned facilities. The policy will include field screening requirements of all major outfalls as outlined in Section 2.32 of the MS4 General Permit. The policy will include response procedures for any known or suspected illicit discharges as outlined in Section 2.34 of the MS4 General Permit. The policy will include a prohibition on any illicit discharges from its facilities to any storm sewer outfall. This policy will include a training program for specific Walworth County employees.

D. Construction Site Pollution Control. Describe the construction site pollutant control program authority and activities that the municipality will develop and implement to comply with section 2.4 of the MS4 general permit.

Walworth County currently administers a Construction Site Erosion Control Ordinance, contained in Chapter 26, Article II and III of the Walworth County Code of Ordinances. This Ordinance regulates most land disturbing activities within the un-incorporated areas of the Walworth County, with the exception of the non-shoreland areas of the Town of Bloomfield. This Ordinance was subject to a major revision in 2007, to include the construction site performance standards contained in NR 151, the Wisconsin Administrative Rules for Runoff Management. The County administers separate regulations to require compliance with specific construction site erosion control performance standards on one- and two-family construction projects. The County has entered into agreements with 9 of the 16 townships in the County to enforce the provisions of the Wisconsin Building Code related to construction site erosion control.

Administration of the County Construction Site Erosion Control Ordinance is the responsibility of the Walworth County Land Use and Resource Management Department. Eight members of the Department are certified Soil Erosion Inspectors by the Wisconsin Department of Safety and Professional Services. The County processes approximately 350 construction site erosion control permits annually, conducts over 400 inspections and has the authority to use a variety of enforcement tools to gain compliance. The County maintains records on the number of permits issued, a description of the land disturbing activities permitted, inspections and the number and description of enforcement actions.

Following the release of the revised *State Model Construction Site Erosion Control Ordinance* by the WDNR, Walworth County will examine those provisions of the County Construction Site Erosion Control Ordinance that may require amendments to comply with the provisions of the new model ordinance and Act 20.

Through the *Intergovernmental Agreement*, Walworth County will work cooperatively with other municipalities to adopt ordinance amendments to achieve County-wide uniformity.

E. Post-Construction Site Storm Water Management. Describe the post-construction storm water management program authority and activities that the municipality will develop and implement to comply with section 2.5 of the MS4 general permit.

Walworth County currently administers a Storm Water Management Ordinance, contained in Chapter 26, Article 1, of the Walworth County Code of Ordinances. This Ordinance requires the preparation and implementation of a storm water management plan on most land disturbing activities covering more than one (1) acre within all unincorporated areas of the Walworth County. This Ordinance was subject to a major revision in 2007, to include the post-construction storm water management performance standards contained in NR 151, the Wisconsin Administrative Rules for Runoff Management.

Following the release of a revised *Model Storm Water Management Ordinance* by the WDNR, Walworth County will examine those provisions of the County Storm Water Management Ordinance that may require amendments to comply with the new model ordinance and Act 20.

Through the *Intergovernmental Agreement*, the County will work cooperatively with other municipalities to adopt post-construction storm water management ordinance amendments to achieve County-wide uniformity and comply with state performance standards.

F. Pollution Prevention. Describe the pollution prevention program activities that the municipality will implement to comply with section 2.6 of the MS4 general permit.

Note: Pollution prevention or good housekeeping measures must be implemented to ensure the reduction of the type and amount of pollution that collects on roadways, parking lots, open spaces, and storage and vehicle maintenance areas. Basically, Walworth County is required to develop and implement an operation and maintenance program to prevent or reduce storm water pollution from municipal operations.

An inventory and assessment of the conditions of Walworth County-owned structural storm water management facilities will be prepared.

A storm water pollution prevention program will be formally prepared and adopted to include all of the elements listed in section 2.6 of the MS4 general permit, including, but not limited to:

- An up-date of the storm water pollution prevention plan for the Walworth County Highway and Maintenance Facilities.
- Roadway deicing information as required in 2.6.5 of the MS4 general permit.
- Inventory and assessment of the condition of County-owned structural storm water management structures.
- Street sweeping methods, locations and schedule.
- Management of leaves and grass clippings.
- Turf management on County facilities to insure compliance with WDNR Conservation Practice Code #1100, Turf Nutrient Management. The County will examine current nutrient management practices and make adjustments if required to comply with the WDNR Technical Standard.
- Education and training of appropriate County staff to insure good housekeeping and pollution prevention.

Additional WPDES MS4 General Permit Conditions and Requirements

Storm Water Quality Management. Walworth County will develop a storm water management plan to meet the storm water quality management provisions contained in section 2.7 of the MS4 general permit.

Note: A municipal separate storm sewer system (MS4) is a conveyance or system of conveyances that collects and transports storm water runoff from the municipality which it is often discharged untreated into local waterbodies. A conveyance system includes storm drains, pipes, and ditches. To prevent harmful pollutants from being washed or dumped into an MS4, operators must obtain a NPDES permit and develop a stormwater management program.

Municipal Separate Storm Sewer System (MS4) Map. Walworth County will prepare and keep current, a Municipal Separate Storm Sewer System (MS4) Map. The MS4 Map will include the applicable features listed in section 2.8 of the MS4 general permit. The MS4 will be prepared with guidance from the WDNR.

Pollutant-loading analysis. Using a model, such as WinSLAMM or an equivalent assessment approved by the WDNR, Walworth County will examine and conduct a pollutant loading analysis for areas within the Walworth County MS4, as determined by the WDNR.

Storm Water Quality Management Plan. The County will prepare a storm water quality management plan for the County MS4 areas, as determined by the WDNR, to meet the pollution reduction goals specified in section 2.7.1 of the MS4 general permit.

Compliance Schedule. Walworth County will fulfill the WPDES MS4 Storm Water Program Requirements according to the compliance schedule listed in Section 3 of the MS general permit and as shown on page 8 of the supplemental responses to the Notice of Intent.

Walworth County WPDES MS4 General Permit Compliance Schedule

WPDES Permit Section	Activity	Compliance Date	Implementation Date	Responsible County Department
Section 1.5.1	Prepare map showing location of discharges to impaired waterways.	Within 90 days of the start of WPDES general permit and by March 31 of each odd-numbered year there-after.		LURM and Public Works
Section 1.5.4.4.	Prepare tabular summary & plan for achieving compliance with approved TMDL plan, if applicable.	Within 48 months of the start of the WPDES general permit.		LURM and Public Works
Section 2.1	Prepare SWPP Public Education Strategic Plan	Within 18 months of the start date of the WPDES general permit	Within 24 months of the start date of the WPDES general permit	LURM and Walworth County Storm Water Pollution Prevention Group, including Walworth MS4 permittees.
Section 2.2	Prepare public involvement and participation plan	Within 18 months of the start date of the WPDES general permit	Within 24 months of the start date of the WPDES general permit	LURM and Walworth County Storm Water Pollution Prevention Group, including Walworth MS4 permittees
Section 2.3	Illicit Detection and Elimination Ordinance And discharge response procedures	Within 24 months of the start date of WPDES general permit	Within 30 months of the start of the WPDES general permit	LURM and Walworth County Storm Water Pollution Prevention Group, including Walworth MS4 permittees
Section 2.3	Illicit detection and elimination complete initial screening		Within 36 months of the start of the WPDES general permit	Public Works
Section 2.3	On-going illicit discharge screening	Within 36 months of start date of WPDES general permit	Within 48 months of the start date of the WPDES general permit	Public Works
Section 2.4	Construction Site Erosion Control Ordinance Update and Procedures	Within 18 months of start date of WPDES general permit	Within 24 months of the start date of the WPDES general permit	LURM and Walworth County Storm Water Pollution Prevention Group, including Walworth MS4 permittees
Section 2.5	Storm Water Management Ordinance Update and Procedures	Within 18 months of start date of WPDES general permit	Within 24 months of the start date of the WPDES general permit	LURM and Walworth County Storm Water Pollution Prevention Group, including Walworth MS4 permittees
Section 2.6	Prepare Pollution Prevention Program Plan	Within 24 months of the start date of the WPDES general permit.	Within 30 months of the start date of the WPDES general permit.	LURM, Public Works, and Walworth County Storm Water Pollution Prevention Group, including Walworth MS4 permittees
Section 2.7	Inventory and examination of County-owned storm water structures	Within 24 months of the start date of the WPDES general permit.		Public Works with assistance from LURM
Section 2.7	Prepare Storm Water Quality Management Plan Assessment and compliance	Within 24 months of the start date of the WPDES general permit		LURM and Public Works
Section 2.9	Submit MS4 Annual Report to WDNR	Submit by March 31 of each year		County Administrator

SOUTHEASTERN WISCONSIN REGIONAL PLANNING COMMISSION

W239 N1812 ROCKWOOD DRIVE • PO BOX 1607 • WAUKESHA, WI 53187-1607 • TELEPHONE (262) 547-6721
FAX (262) 547-1103

Serving the Counties of

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January 23, 2015

RECEIVED

JAN 26 2015

WALWORTH COUNTY ADMINISTRATION

Mr. David A. Bretl
Administrator
Walworth County
P.O. Box 1001
100 W. Walworth
Elkhorn, WI 53121

Dear Mr. Bretl:

We are writing in response to Walworth County's request for assistance in evaluating options relative to the preliminary determination by the Wisconsin Department of Natural Resources (WDNR) "that Walworth County owns or operates a municipal separate storm sewer system (MS4) that requires coverage under Wisconsin Pollutant Discharge Elimination System (WPDES) MS4 General Permit No. WI-S050181-1." The County was notified of that preliminary determination in an October 28, 2014, letter to you from Mary Anne Lowndes, Chief of the WDNR Runoff Management Section. The County's request for our assistance was made through action at a joint meeting of the County Land Conservation and Public Works Committees whereby the Committees unanimously voted "to approve submission of the Stormwater Discharge Permit Notice of Intent (MS4) based upon recommendation from SEWRPC to do so: if SEWRPC recommends applying for exemption from the permit, staff is directed to do so."

In the course of reviewing and evaluating the County's options in this matter, the SEWRPC staff spoke with you; Fay Amerson, Urban Program Specialist in the Walworth County Land Conservation Division; Bryan Hartsook, Water Resources Engineer in the WDNR Water Division; and Maureen McBroom, WDNR Wastewater Specialist. The SEWRPC staff's conclusions are based on those discussions, and associated e-mail correspondence, and our review of Chapter NR 216, "Storm Water Discharge Permits," of the *Wisconsin Administrative Code* and of parts of WPDES MS4 General Permit No. WI-S050181-1. (Chapter NR 216 can be accessed at: http://docs.legis.wisconsin.gov/code/admin_code/nr/200/216.pdf.)

The Villages of Bloomfield and Genoa City in the southeastern corner of the County are located within the Round Lake Beach-McHenry-Grayslake, IL-WI urbanized area as defined under the 2010 United States census. The October 28, 2014, letter from WDNR to the County establishes that the inclusion of those villages in the Round Lake Beach urbanized area is the basis for the preliminary determination that the County requires coverage under the MS4 General Permit.

Mr. David A. Bretl

Page 2

January 23, 2015

Section IV, "Potential Permit Exemption," of the notice of intent (NOI) to apply for coverage under the MS4 General Permit states that "Section NR 216.023, Wis. Adm. Code allows certain MS4s that have less than 1000 people residing in an urbanized area to be waived from municipal storm water permit coverage." Section NR 216.023, "Urbanized area exemption," states that WDNR "may waive the requirement to obtain permit coverage" for an MS4 within an urbanized area if all of the following criteria are met:

"(1) The owner or operator of the system is not otherwise required to obtain permit coverage pursuant to s. NR 216.02 (2).

(2) The system serves a population less than 1,000.

(3) The system is not contributing substantially to the pollutant loadings of a physically interconnected municipal separate storm sewer system that is regulated under this subchapter.

(4) If the system discharges a pollutant that has been identified as a cause of impairment of any water body to which it discharges, storm water controls must not be needed based on wasteload allocations that are part of a U.S. EPA approved or established TMDL that addresses any pollutant of concern."

Potential compliance with each of these criteria relative to County lands within the Round Lake Beach urbanized area is evaluated below:

Criterion 1, Section NR 216.023(1): Section NR 216.02(2) refers to an MS4 owner or operator being notified in writing by WDNR prior to August 1, 2004, of the need to obtain a WPDES MS4 permit. The County did not receive such notification; therefore, this criterion is met.

Criterion 2, Section NR 216.023(2): Preliminary estimates by WDNR staff indicate that the population served by the County MS4 is less than 1,000 persons; therefore, on that basis, this criterion is met.

Criterion 3, Section NR 216.023(3): Determination of whether this criterion is met depends on whether the County system contributes substantial pollution loads to the MS4s of the Villages of Bloomfield and Genoa City. The decision on what constitutes a "substantial" contribution rests with WDNR.

Estimates of pollution loads from the County stormwater management system alone relative to the loads from the Villages systems would be helpful in making such a determination. The SEWRPC staff could use year 2010 land use information for the urbanized area, information provided by the County on the extent of county-owned lands within the urbanized area, and generalized unit area loads for total suspended solids to estimate the relative pollution load contributions from the County-owned land and from each Village.

Mr. David A. Bretl
Page 3
January 23, 2015

Criterion 4, Section NR 216.023(4): United States Environmental Protection Agency (USEPA)-approved or established total maximum daily loads (TMDLs) for any pollutants have not been established for the streams in the urbanized area within Wisconsin. Based on information on the Illinois Environmental Protection Agency web site (<http://www.epa.state.il.us/water/tmdl/statewide-basemap.pdf> and <http://www.epa.illinois.gov/topics/water-quality/watershed-management/tmdls/reports/index>), TMDLs have also not been established for the North Branch of Nippersink Creek or Nippersink Creek in Illinois. Therefore, this criterion is met.

In the course of our discussions with WDNR staff, they noted that, even if the exemption criteria set forth in Section NR 216.023 are met, the WDNR staff would likely still consider whether the County may be required to obtain permit coverage under Section NR 216.025. That section of the code provides three conditions under which the WDNR could still require permit coverage for any MS4 even if the criteria of Section NR 216.023 were met. The conditions relate to 1) the amount of commercial land, industrial land, institutional land, and/or residential land with more than four houses per acre served by the MS4 in question, 2) site specific information that WDNR may have relative to whether stormwater from the MS4 could threaten or impair designated uses of waters of the State, or 3) whether controls on pollution from an MS4 are needed based on a USEPA-approved or established TMDL or equivalent analysis. As you are aware, TMDLs have been developed by WDNR and USEPA for the Rock River Basin, within which much of the western part of the County is located.

If an exemption were granted by WDNR, the County would not be covered by the general permit. If an exemption were not granted by WDNR, it would be expected that the County would be required to implement the six minimum control measures set forth in Section NR 216.06, map its stormwater management system, model pollutant loads to its system, and address State requirements regarding control of total suspended solids from areas of existing development in the urbanized area (Villages of Genoa City and Bloomfield) and in the other permitted municipalities in the County. The same requirements would apply if WDNR determined that the County met the exemption requirements of NR 216.023, but required the County to obtain permit coverage based on application of NR 216.025.

In summary, we conclude that the County has a basis for applying for an exemption from coverage under the MS4 General Permit, but there is no guarantee that such an exemption would be granted by WDNR, and that, even in the event that the County were found to satisfy all criteria for an exemption as set forth in Section NR 216.023, WDNR could still require that the County obtain a permit based on application of Section NR 216.025.

The SEWRPC staff can prepare total suspended solids load estimates as described above relative to Section NR 216.023(1), and we can work with County staff to provide additional information deemed pertinent to a County request for an exemption. We estimate that development of the supporting information require about three weeks, and could be completed by February 16, 2015.

Mr. David A. Bretl
Page 4
January 23, 2015

We trust that the foregoing information is helpful to the County. If you have any questions or comments, please contact Michael G. Hahn, SEWRPC Deputy Director, at (262) 953-3243, or mhahn@sewrpc.org.

Sincerely,



Kenneth R. Yunker, P.E.
Executive Director

KRY/MGH/dd
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cc: Ms. Faye Amerson, Walworth County
Mr. Michael Cotter, Walworth County
Mr. Kevin Brunner, Walworth County
Mr. Bryan Hartsook, WDNR-Waukesha
Ms. Maureen McBroom, WDNR-Waukesha
Mr. Benjamin Benninghoff, WDNR-Milwaukee
Ms. Mary Anne Lowndes, WDNR-Madison
Mr. James Bertolacini, WDNR-Madison