June 9, 2022

Lisa Helmuth  
Water Resources Management Specialist  
Wisconsin Department of Natural Resources  
PO Box 7921  
Madison, WI 53707

Subject: Fond du Lac 2040 Sewer Service Area Plan Amendment

Dear Lisa Helmuth:

Please find enclosed a copy of a sewer service area (SSA) amendment request for the Fond du Lac 2040 SSA Plan which was approved by the East Central Wisconsin Regional Planning Commission’s Community Facilities Committee (CFC) on June 8, 2022. This amendment was submitted under Policy I, D by the Town Board of Taycheedah. This involves the addition of 0.59 acres to the Fond du Lac SSA. The Town Board certified that the proposed amendment is required for reasonable community growth to accommodate the addition of a garage and connection to the sewer lateral currently servicing the owner’s house. This amendment request is consistent with regard to the amendment criteria outlined in the Fond du Lac 2040 SSA Plan.

Attached is the staff memo, the amendment application, location map, and the CFC Draft Meeting Minutes. This information will also be uploaded to SWIMS.

If you require any additional information or have any questions, please contact me at wpaustian@ecwrpc.org or at 920-886-6832.

Sincerely,

Wilhelmina Paustian  
Senior Planner

att: Staff Memo to the CFC  
Amendment Application  
Location Map  
CFC Draft Meeting Minutes

cc: Kevin Englebert, ECWRPC  
Melissa Kraemer Badtke, ECWRPC  
Tim Asplund, WDNR
The Town Board of Taycheedah has submitted a request to amend the Fond du Lac Sewer Service Area (SSA) to include 0.59 acres of vacant agricultural land owned by Joshua and Alexus Berndt (see Land Use table below). The Berndt’s plan to install a small bathroom in a new garage on the 0.59 acres which will connect to the sewer lateral currently servicing their house.

The proposed garage follows the locally adopted land use plans for residentially zoned land. The proposed amendment was submitted under Policy I, D to expand the SSA and increase acreage to accommodate reasonable growth. The Town of Johnsburg Sanitary District No. 1 approved the petition on May 5, 2022 and the Town Board certified the petition on May 9, 2022.

There are no environmentally sensitive areas located on the property to be included in the Fond du Lac 2040 SSA Plan.

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<th>Fond du Lac SSA Amendment - Track 172</th>
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Based on the review of this amendment submittal, staff has determined that the proposed Fond du Lac SSA Amendment follows ECWRPC’s amendment criteria and is consistent with the Fond du Lac 2040 SSA Plan.

**Staff Recommendation:** Staff recommends that the Community Facility Committee approve the SSA Amendment request for Track No. 172.
STATE OF WISCONSIN   FOND DU LAC
COUNTY SANITARY DISTRICT NO. 1 OF THE
TOWN OF JOHNSBURG

In the Matter of
Addition of Property to the Sanitary
District No. I of the Town of Johnsburg

PETITION FOR ADDITION OF PROPERTY TO SANITARY DISTRICT

TO:  Town Board of Town of Taycheedah

Joshua E. Berndt and Alexus J. Berndt being first duly sworn on oath, state as follows:

1. We own certain property in the Sanitary District No. I of the Town of Johnsburg ("the district"), described as:

   Part of the Southeast 1/4 of the Southwest 1/4 of Section 1, Township 16 North, Range 18 East, Town of Calumet, Fond du Lac County, Wisconsin, and being described by: Commencing at the South Quarter corner of said Section 1; thence South 89° 37' 03" West along the South line of the Southwest 1/4 of said Section 1, a distance of 554.55 feet to the Southwest corner of Lot "A" of Certified Survey Map No. 97, as recorded in Volume 1 of Certified Survey Maps on Page 97, as Document No. 235419 of Fond du Lac County Records and the point of beginning; thence continue South 89° 37' 03" West along said South line, a distance of 130.00 feet; thence North 02° 07' 03" East, 214.67 feet; thence North 89° 37' 03" East 130.00 feet to Northwest corner of said Lot "A"; thence South 02° 07' 03" West (recorded as North 03° 30' East) 214.67 feet to the point of beginning; being subject to any and all easements and restrictions of records.

2. A survey showing the area and boundaries of the land to be included in the district is identified as Parcel A in the survey attached hereto as Exhibit A. The property shall hereinafter be referred to as "Parcel A".

3. We intend to build a garage on Parcel A as illustrated on the aerial photo of Parcel A attached hereto as Exhibit B.

4. We intend to install a small bathroom in the garage and connect the plumbing to the sewer lateral currently serving our house at N9306 County Road W, Fond du Lac, WI 54937. The approximate location of the sewer lateral serving our house is illustrated on the map attached hereto as Exhibit C.
5. Parcel A is located outside the district and so it is necessary for Parcel A to be added to the district to allow us to obtain a sanitary permit to allow the plumbing in the garage to be connected to the sewer lateral currently serving our house.

6. Parcel A is also located outside the current Sewer Service Area for Fond du Lac County as set forth in the Fond du Lac 2040 Sewer Service Area Plan that was adopted on June 24, 2019 by the East Central Regional Planning Commission. A copy of the current Sewer Service Area Map for Fond du Lac County is attached hereto as Exhibit D. Exhibit E is a zoomed-in portion of the Service Area Map showing the boundary established for the Town of Johnsburg, showing Parcel A as being outside of the Sewer Service Area.

7. In accordance with Chapter 5, Section III.A. of the Fond du Lac Sewer Service Area Plan dated June 5, 2021, the Board of the Town of Taycheedah would need to request the East Central Planning Commission to amend the Sewer Service Area to include Parcel A. A proposed letter request is attached hereto as Exhibit F.

8. We are willing to pay the $250.00 SSA amendment review fee as set forth in the attached SSA Review Payment Form attached hereto as Exhibit G.

9. For the reasons stated above, we ask that Parcel A be added to the district in accordance with Wis. Stat. § 60.785(1)(a) and Wis. Stat. § 60.71 for the following reasons:
   a. It is necessary to include Parcel A within the district to allow our garage to be connected to the sewer lateral currently serving our house;
   b. Our health, safety, convenience, and welfare will be promoted by including Parcel A in the district.
   c. We have obtained the consent of Phillip E. and Karen DuWell, who are the adjoining land owners to Parcel A and for Parcel A to be included within the district.
   d. We request that the Board sign the attached letter request to amend the Sewer Service Area to include Parcel A.

WHEREFORE, petitioners request that the above described property be included in the district, contingent upon the approval of the East Central Wisconsin Regional Planning Commission approving the application as stated above, and that all taxing authorities and the Fond du Lac County real estate description office be advise of the inclusion.
Dated this 15th, day of March 2022

Joshua E. Berndt

Alexus J. Berndt

VERIFICATION

STATE OF WISCONSIN  )

)ss.

FOND DU LAC COUNTY  )

Subscribed and sworn to before me this 15th day of March, 2022, the above-named Joshua E. Berndt and Alexus J. Berndt, to me known to be the persons who executed the foregoing document and acknowledged the same.

Mary Beine
Notary Public, State of Wisconsin
My Commission expires: 6.24.2022
STATE OF WISCONSIN   FOND DU LAC
COUNTY SANITARY DISTRICT NO. 1 OF THE
TOWN OF JOHNSBURG

In the Matter of
Addition of Property to the Sanitary
District No. I of the Town of Johnsburg

CONSENT OF ADJOINING LAND OWNERS

TO: Town Board of Town of Taycheedah

Philip E. DuWell and Karen DuWell, state as follows:

1. We own certain real Property in the Town of Calment, Fond du Lac County,
Wisconsin, identified as Tax Parcel No. T05-16-18-01-12-011-00.

2. We have reviewed Joshua E. Berndt and Alexus J. Berndt’s Petition, requesting
that their land be included in the Sanitary District No. I of the Town of Johnsburg.

3. Our land boarders the northern and western sides of Parcel A as identified on the
survey attached to the Petition as Exhibit A.

4. We consent and approve of Joshua E. Berndt and Alexus J. Berndt’s request for
Parcel A. to be included within the Sanitary District No. I of the Town of Johnsburg.

Dated this 15th day of March 2022

Philip E. DuWell
Karen DuWell
Fond du Lac County, WI

Disclaimer: Map and parcel data are believed to be accurate, but accuracy is not guaranteed. This is not a legal document and should not be substituted for a title search, appraised, survey.

EXHIBIT B
NO SANITARY LATERAL CONNECTION

NOTE!
PROPERTY LINES DEPICTED ON THE PLAN ARE FROM FOND DU LAC COUNTY GIS FILE ONLY. MAY NOT REFLECT ACTUAL LOT.
April 7, 2022

East Central Wisconsin Regional Planning Commission
400 Ahnaip St Suite 100
Menasha, WI 54952

RE: Amendment to Fond du Lac Sewer Service Area Plan
Dated June 5, 2021

To Whom it May Concern,

Pursuant to Chapter 5, Section III.A, of the Fond du Lac Sewer Service Area Plan dated June 5, 2021 (the “Plan”), this letter is a request to amend and modify the boundaries of the septic sewer service area for Fond du Lac County (the “SSA”). This letter is being written to you after this Board has approved the attached petition by Joshua E. Berndt and Alexus J. Berndt, (the “Berndts”), who are the owners of certain real property located in the Sanitary District No. 1 of the Town of Johnsburg, described as:

Part of the Southeast 1/4 of the Southwest 1/4 of Section 1, Township 16 North, Range 18 East, Town of Calumet, Fond du Lac County, Wisconsin, and being described by: Commencing at the South Quarter corner of said Section 1; thence South 89° 37' 03" West along the South line of the Southwest 1/4 of said Section 1, a distance of 554.55 feet to the Southwest corner of Lot "A" of Certified Survey Map No. 97, as recorded in Volume 1 of Certified Survey Maps on Page 97, as Document No. 235419 of Fond du Lac County Records and the point of beginning; thence continue South 89° 37' 03" West along said South line, a distance of 130.00 feet; thence North 02° 07' 03" East, 214.67 feet; thence North 89° 37' 03" East 130.00 feet to Northwest corner of said Lot "A"; thence South 02° 07' 03" West (recorded as North 03° 30' East) 214.67 feet to the point of beginning; being subject to any and all easements and restrictions of records.
The Berndts have requested that our Board submit a request to amend the SSA to include approximately 0.6 acres of vacant land which they have purchased and intend to build a garage on, ("Parcel A"). The Berndts have petitioned the Town of Taycheedah to include Parcel A in the Johnsburg Sanitary District, since the land is currently outside the boundaries of the district. However, Parcel A is also outside the current boundary of the SSA.

As set forth in the attached petition, the Berndts wish to connect a toilet, sink, and six floor drains in the exterior garage to the sewer lateral that is currently serving their house, located at N9306 County Road W, Fond du Lac, WI 54937. The Berndts' house is located within the SSA and the Johnsburg Sanitary District. Building the garage is a unique and unanticipated facility, which would serve the Berndts who are members of the local community. Adding Parcel A to the SSA to allow the Berndts to connect the garage to the Johnsburg Sanitary District would have minimal impact on the Johnsburg Sanitary District and the environment. Finally, Parcel A is zoned residential and the Berndts' intent to build an exterior garage is within the locally adopted land use plans for residentially zoned land.

The Board hereby certifies that the proposed amendment is required for the reasonable community growth to allow the Berndts' to build an exterior garage and that the use of Parcel A is within the locally adopted land use plans for Parcel A. In accordance with the Plan, the Town of Taycheedah has received Designated Management Agency ("DMA") status over the relevant area. Given the minimal impact of adding Parcel A to the SSA, we request that East Central amend the SSA boundaries to include Parcel A within the septic sewer area of Fond du Lac County under Chapter 5, Section I Policy D for the following reasons:

i. The building of the garage is a unique and unanticipated facility, which would serve the Berndts who are members of the local community,

ii. Adding Parcel A to the SSA to allow the Berndts to connect the garage to the Johnsburg Sanitary District would have minimal impact on the Johnsburg Sanitary district and the environment,

iii. There would be no increase to the population in the expansion area,

iv. The wastewater generation in the expansion area would be minimal and would be well within the means of the Johnsburg Sanitary District to handle,

v. Parcel A is less than 1,000 acres and so the WDNR should approve the amendment and certify the applicable Water Quality Management Plan,

vi. There are no environmentally sensitive areas within Parcel A, and

vii. Parcel A has a common boundary with the current SSA, and

viii. During construction of the exterior garage, the Berndts will be required to comply
with all applicable rules and regulations regarding stormwater management and construction practices applicable to residential structures.

Sincerely,

TOWN BOARD OF TAYCHEEDAH

Joseph Thome, Chairperson
1. Welcome and Introductions
   Vice Chairperson Schneider called the meeting to order at 10:01 a.m.

2. Roll Call

   Committee Members Present:
   Brenda Schneider .............................................. Fond du Lac County
   Jeff Nooyen ........................................................ Outagamie County
   James Lowey ....................................................... Menominee County
   Aaron Jenson (Perm. Alt. for Brian Smith)......................... Waupaca County
   David Albrecht (Perm. Alt. for Tom Egan) ......................... Winnebago County

   Committee Members Absent (Excused):

   ECWRPC Guests:
   Melissa Kraemer Badtke ........................................ Executive Director
   Kevin Englebert .................................................. Deputy Director
   Wilhelmina Paustian .............................................. Senior Planner
   Leann Buboltz ................................................... Administrative Coordinator

   ECWRPC Guests:
   Kevin Mraz ........................................................ Algoma Sanitary District
   Lawrie Kobza ....................................................... Boardman & Clark, LLP
   Jonathan Smies .................................................. Godfrey & Kahn, S.C.
   Bill Nelson ........................................................ Godfrey & Kahn, S.C.
   Steve Gohde ....................................................... City of Oshkosh Public Works
   James Rabe ........................................................ City of Oshkosh Public Works
   Mark Mommaerts ................................................ Village of Harrison
   Mary Jo Miller ..................................................... Martenson & Eisele
   Tim Asplund ....................................................... WDNR
   Gunilla Goulding .................................................. WDNR

3. Approval of the Agenda/Motion to Deviate
   A motion was made by Mr. Lowey and second by Mr. Nooyen to approve of the agenda. Motion carried unanimously.
4. **Public Comment** – Kevin Englebert-Deputy Director East Central Regional Planning Commission set time restrictions for public comments. Public input limited to 10 minutes per group.

   Attorney Jonathan Smies – On behalf of the City of Oshkosh. The City of Oshkosh SSA Amendment will change the DMA status along Witzel Avenue in the City of Oshkosh. The sewer extension plan would allow the City to provide sanitary sewer service to the Wit property, ideally opening in the next few months. Mr. Smies stated that the property is within the City’s Corporate boundaries.

   Attorney Lawrie Kobza – On behalf of the Algoma Sanitary District No 1. The Algoma Sanitary District opposed the amendment request. Ms. Kobza stated that the City does not need to extend DMA status all the way to Wyldewood Road. In order for the City to provide a connection from Witzel Avenue to the Wit, they would only need to extend DMA status the east of Maryden Road.

   Kevin Mraz - Algoma Sanitary District No. 1. Mr. Mraz discussed how the Sanitary District can more cost effectively provide sanitary sewer service to the Wit.

5. **Approval of the Minutes of the January 12, 2022 Community Facilities Committee Meeting**

   A motion was made by Mr. Lowey and seconded by Mr. Jensen to approve as presented. Note – Mr. Nooyen abstained from the vote. Hearing of no further discussion, motion carried unanimously.

6. **Announcements** –

   A. **Staff Report** – Wilhelmina Paustian, Senior Planner. East Central staff continues to conduct sanitary sewer reviews for conformance with the Water Quality Management Program (WQM). Staff consults with the Wisconsin Department of Natural Resources (WDNR) on various projects to ensure compliance with State Statutes. Staff continues work on the Fox Cities 2030 SSA Plan which was last approved in 2006. Staff met with the Communities in the Fox Cities and the Wastewater Treatment Facilities (WWTF) operators to provide an update on the Plan update process.

   B. **Approval of the 2022-2023 Community Facilities Committee Meeting Schedule.** Mr. Nooyen commented that he supports having the virtual option available.

   A motion was made by Mr. Nooyen and second by Mr. Jensen to approve of the schedule. Motion carried unanimously.
7. New Business/Action Items

A. Election of Chair and Vice Chair
   Chair: Mr. Lowey nominated Ms. Schneider to serve as Chair by acclamation. Mr. Nooyen second. Motion carried unanimously.
   Vice-Chair: Mr. Nooyen nominated Mr. Lowey to serve as Vice-Chair by acclamation. Mr. Jensen second. Motion carried unanimously.

B. Track 171 – Neenah-Menasha 2030 Sewer Service Area Amendment
   Request: The amendment was submitted under Policy I, A (acreage swap). The amendment adds a total of 62.81 acres (Dietz Woodland Road Property) and removes a total of 72 acres (Bartlein Property) for a future development. The information provided by the applicant was thorough and complete with regard to ECWRPC’s amendment criteria. Staff recommended that the Community Facilities Committee approve the Village of Harrison’s SSA Amendment request for Track No. 171. The applicant notified the property owner to be removed from the SSA of the Amendment request. No formal response from that property owner was received.

   A motion was made by Mr. Lowey and second by Mr. Nooyen to approve of the proposed Track 171 SSA Amendment. Motion carried unanimously.

C. Track 172 – Fond du Lac 2040 Sewer Service Area Amendment Request: The Town Board of Taycheedah has submitted a request to amend the Fond du Lac Sewer Service Area (SSA) to include 0.59 acres of vacant agricultural land. The proposed amendment was submitted under Policy I, D to expand the SSA and increase acreage to accommodate reasonable growth for the property owner to build a garage. The Sanitary District No. 1 of the Town of Johnsburg approved the petition, and the Town Board certified the petition. Staff recommended that the Community Facilities Committee approve the SSA Amendment request for Track No. 172.

   A motion was made by Mr. Albrecht and second by Mr. Nooyen to approve of the proposed Track 171 SSA Amendment. Motion carried unanimously.

D. Track 173 – Oshkosh 2030 Sewer Service Area Amendment Request: Change in DMA Status. The City of Oshkosh submitted a request to amend the Designated Management Agency (DMA) boundaries in the Oshkosh 2030 Sewer Service Area (SSA) Plan. The City of Oshkosh requested dual DMA Status along Witzel Avenue with the Algoma Sanitary District, and a change in DMA status along the northern portion of the lot on Witzel Avenue in order to extend sanitary sewer to serve a multi-family housing development called “the Wit.” Right now, the Town of Algoma Sanitary District is the sole DMA for both of these locations.

   The City of Oshkosh provided documentation that they annexed the property where the Wit is located in March 2018. The City also sent supporting documentation of court proceeding transcripts from April 18, 2022 which indicate the Algoma Sanitary District’s injunction is intended to stop the City from affecting the Sanitary District’s current infrastructure and not to prevent the City from extending service to the Wit.
Recently, the Algoma Sanitary District was granted a temporary injunction relating to certain proposed sanitary sewer construction plans issued by the City of Oshkosh in this area. Commission staff stated that they are aware of the current court proceedings and that they intend to follow any legal decisions that arise with respect to the SSA Plan. It is also the responsibility of the City of Oshkosh and the Algoma Sanitary District to follow the court rulings and the applicable law to service sanitary sewer customers and construct sewer lines in this area.

Staff also noted that Lawrie Kobza, from Boardman & Clark, sent a letter stating that the Algoma Sanitary District objects to this Amendment request made by the City of Oshkosh. In addition, the Algoma Sanitary District submitted a cost-effective alternative proposal. The Sanitary District stated that they can serve the Wit in a more cost-effective manner using existing sewer main infrastructure.

Commission staff has been in close contact with WDNR regarding this amendment and is following WDNR's guidance regarding this request. At this time Staff did not have a recommendation for the Community Facility Committee.

Mr. Nooyen inquired to hear where the DNR stands on this. Mr. Englebert shared that his understanding is that the DNR will wait to see how the Committee handles this kind of amendment prior to making a decision. The WDNR ultimately makes the final decision on the amendment request.

Mr. Asplund - DNR agreed with Mr. Englebert and shared that the Commission acts on behalf of the DNR in administering the Clean Water Act and the State Statutes. The DNR will use the findings of this process as one aspect of their review regarding this matter. Mr. Englebert shared that there is an appeal process following the DNR's review and action, which can be outlined in more detail if that situation arises.

A motion was made by Mr. Nooyen and second by Mr. Albrecht to approve the proposed Track 171 SSA Amendment. Discussion – Chair Schneider stated her thoughts of the process procedure that typically a building permit does not get issued prior to knowing who would serve the structure. Ms. Paustian stated that the intergovernmental agreement was between the City of Oshkosh and Town of Algoma. Motion carried with Chair Schneider voting nay due to the lawsuit that is currently active.
8. **Informational/Discussion Items**
   County Roundtable Discussion – Mr. Albrecht apologizes for being late due to poor weather conditions.

9. **Establish Time and Place for Next Commission Meeting**
   A. *The next Community Facilities Meeting will take place Wednesday, September 14, 2022 at 10:00 a.m. Further details will be forthcoming.*
   B. *The next Quarterly Commission Meeting will take place Wednesday July 27, 2022 at 10:00 am. Held at the city of New London- Municipal Building. Further details will be forthcoming.*

10. **Adjourn** – A motion was made by Mr. Jensen and second by Mr. Albrecht to adjourn. Time noted at 10:57 a.m.

Respectfully submitted
Leann Buboltz – ECWRPC Administrative Coordinator