



GEORGE E. PATAKI
GOVERNOR

DENISE M. SHEEHAN
COMMISSIONER

STATE OF NEW YORK
DEPARTMENT OF ENVIRONMENTAL CONSERVATION
ALBANY, NEW YORK 12233-1010

AUG 15 2006

Honorable Scott Hassett
Secretary
Wisconsin Department of Natural Resources
101 S. Webster Street, Box 7921
Madison, Wisconsin 53707-7921

Dear Secretary Hassett:

Governor Pataki has asked me to respond to your letter regarding the City of New Berlin, Wisconsin's proposal to divert Great Lakes Basin water to portions of the city located within the Mississippi River Basin.

As is evidenced by Governor Pataki's recent signing of the Great Lakes - St. Lawrence River Basin Water Resources Compact, New York remains deeply committed to the protection of the quantity and quality of water in the Great Lakes Basin.

It is New York's understanding that your letter does not, at this time, constitute a formal water diversion request pursuant to Section 1109 of the Water Resources Development Act of 1986. As you know, such a request would require approval by the Governor of each Great Lakes State.

The New York State Department of Environmental Conservation is reviewing the April, 2006 document you have also provided on the proposed project and will provide technical comments directly to your Public Water Supply Section per your request.

Thank you for this opportunity to review New Berlin's proposal.

Sincerely,

A handwritten signature in black ink that reads "Denise M. Sheehan".

Denise M. Sheehan

New York State Department of Environmental Conservation
Division of Water
Bureau of Water Resource Management, 4th Floor
625 Broadway, Albany, New York 12233-3508
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SEP 22 2006

September 18, 2006

DRINKING WATER & GW

Mr. Lee Boushon, P.E.
Chief, Public Water Supply Section
Wisconsin Department of Natural Resources
Box 7921
Madison, WI 53707

Re: New Berlin, Wisconsin
Proposed Great Lakes Basin Diversion

Dear Mr. Boushon:

As instructed by Secretary Hassett's June 13, 2006, letter to Governor Pataki, I am providing you some preliminary comments/questions on the City of New Berlin's water diversion proposal.

The application acknowledges that the proposed Great Lakes - St. Lawrence River Basin Water Resources Compact is not a binding document until it is enacted into law by each Great Lakes state and approved by Congress. Therefore, until the Compact is fully enacted, New York State is required to consider any formal request of the Governor and State Legislature to divert water from the Great Lakes basin in accordance with NYS Environmental Conservation Law 15-1613. The requirements of this statute can be reviewed at:

<http://public.leginfo.state.ny.us/menugetf.cgi?COMMONQUERY=LAWS>. However, the New York Department of Environmental Conservation ("Department") agrees that it is appropriate and encourages the review of this proposal using the new standards contained in the Compact.

As the application points out, the proposed Compact designates communities that lie on both sides of the Great Lakes Basin divide as being "straddling communities." The Department agrees that New Berlin meets this criteria since the Great Lakes Basin boundary runs through the eastern portion of the city, bisecting it from north to south.

The Compact allows for the consideration of potable water service to the areas of straddling communities which are located outside of the basin if certain criteria can be met. In

this case, New Berlin is proposing that water service from the City of Milwaukee be extended into the western portion of the city to replace existing groundwater supplies that no longer meet EPA maximum contaminant levels for Radium 226 and 228.

Overall, the format of the application aids in evaluating consistency with the Compact criteria. However, responses to several of the individual criterium are not adequately supported with data or descriptions of the situation and feasible options. In addition, the proposal would greatly benefit from a series of improved maps at varying scales that clearly depict locations of wells, intakes, pumping stations and wastewater treatment plants with respect to the basin boundaries, cities of New Berlin and Milwaukee, and Lake Michigan.

Also, a more thorough discussion of all water supply options that were considered is needed. The premise of this proposal appears to rest on recommendations from a Ruckert/Mielke 2003 study and two alternatives suggested in a Radium Remediation Study of 2004. However, neither of these studies are included in the application package and no evidence is offered regarding the validity and public opinion of these studies. This raises the question of why other treatment options are not evaluated or considered feasible?

Has the concept of blending Lake Michigan water with existing well water, or other treatment options, to lower radium levels in finished water been investigated? This could potentially reduce the amount of Great Lakes Basin water withdrawn to serve the western portion of the city.

The correspondence from Mr. Schultz refers to seven wells in the sandstone aquifer while Table 1 lists 11 wells. This apparent discrepancy should be addressed, possibly by providing more detail on each well and whether they serve in or out of the basin.

The correspondence also should describe the estimated cost needed to modify New Berlin's existing water distribution system to serve the western portion of the city with Lake Michigan water. Finally, further detail is needed describing how the current water distribution system is separated.

Specific Comments on the Application Discussion Document:

Pg 2:

Why is there no mechanism in place to account for consumption by public water system users? Are all of New Berlin's water customers metered? What is the total population served and number of metered customers?

It would be helpful in evaluating the City's water conservation program if it could be organized in a format similar to the following form required of New York State public water suppliers:

<http://www.dec.state.ny.us/website/dcs/permits/olpermits/program.pdf>

Pg 3:

States that New Berlin's wastewater collection system allows for only normal infiltration - inflow (I/I) but in the body of Mr. Schultz's letter it indicates a 45% addition (4.83/3.33) to the wastewater stream.

Pg 4-5, last paragraph of item iii:

The last few sentences are confusing and do not appear to be substantiated by supporting information.

Pg 9, item d:

The statement of no significant impacts is unsupported by any data in the document and does not address potential cumulative impacts to Lake Michigan water levels, shoreline, other users, water-dependent natural resources, etc.

Pg. 9, item d.1:

The statement in the second sentence, "...a few other communities that do not {underlined for attention} currently serve..." is confusing.

Pg 9, item d.4:

This is essentially a benefit to public system users and should not be considered a significant impact to the resource.

Pg 9, item e:

The recommended economically feasible measures include no evidence that they will be implemented after the application is approved and no oversight/accountability mechanisms are described to ensure implementation and evaluate effectiveness.

Pg 10, item f:

The statement provides no evidence that the applicant is aware of, or familiar with the full range of applicable state and national regulations, laws, agreements, or treaties. The application would benefit from a table or matrix listing all of the requirements applicable to this water withdrawal, describing how they apply or do not apply, and how the proposed project complies with those that are applicable.

Thank you for the opportunity to review New Berlin's proposal. If you should have any questions, please feel free to contact me at (518) 402-8099.

Sincerely,



Michael Holt, P.E.
Environmental Engineer II
Quantity Management Section

cc: S. Allen
F. Nuffer
K. Markussen
M. Sanza
M. Klotz
NYSDEC Region 9 - D. Zelazny