



Waukesha County Environmental Action League Protecting Waukesha County's Natural Resources since 1978 *E-Newsletter Summer 2020*

“The one thing we need more than hope is action. Once we start to work, hope is everywhere.” Thunberg

Reflections on Earth Day at 50

Rose Reinders

Earth Day at 50 has come and gone. Instead of marching in the streets showing solidarity for the ideals of Environmental issues of Climate Change and environmental justice, marches are for racial equality.



gg58041420 GeoGraph.com

On this Earth Day 50, April 22, 2020, we were not getting together but rather social

distancing, avoiding group events, etc. We were staying away from all community involvement and all that community offers. Luckily, with the help of technology, many virtual meetings were set up to voice opinions on our concerns and issues. But even if we can't march for the environment

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or meet in community settings, the Earth Day message is still as loud and clear as it was in 1970. The same message... that all humans should be dedicated to preserving wild and urban environments on this planet called Earth.

Likely climate change impacts to Waukesha County Wisconsin Excerpted from “Wisconsin’s Changing Climate: Impacts and Adaptation” 2011 (published by the Wisconsin Initiative on Climate Change Impacts)

<https://wicci.wisc.edu/>

Nancy Gloe

The warming Wisconsin has experienced to date is consistent with the global trend. The past three decades have been Earth's warmest since reliable surface temperature records began to be kept in 1850, with a global average increase of about 1.5 degrees Fahrenheit over that period.

Climate change affects water resources, natural habitats, agriculture, coastal regions, society and the built environment. Wisconsin climate experts and the latest models have projected:

- Wisconsin's warming trend will not only continue, but the rate of warming will increase considerably by the middle of this century. The decades ahead are likely to bring changes much more profound than those seen so far.
 - By 2050 statewide annual average temperatures are likely to warm by 6-7 degrees. Temperature increases are projected to be greatest in winter, with earlier springs, beyond current conditions.

Nighttime temperatures are expected to increase more than daytime temperatures.

- In summer, southern Wisconsin could see three or more weeks of temperatures over 90 degrees. Peak temperatures will reach 110-112°F. Similarly, the number of winter nights below zero degrees is projected to decrease significantly.
- While future precipitation patterns are more difficult to discern, the state is likely to continue its trend toward more precipitation overall.
 - Both the frequency and magnitude of heavy rainfall events has been increasing in Wisconsin (see attachment 1). Large storm events are more likely in spring and fall.
 - Statewide, the amount of precipitation that falls as rain, rather than snow, is projected to increase significantly and freezing rain is more likely to occur.
 - A shift to more rainfall in winter and spring will increase runoff when the ground is frozen or plant cover is reduced or absent, means sediment and nutrient loading to lakes and streams will also increase.
 - More runoff from projected heavy seasonal rainfalls will also increase sediment and nutrient inputs to lakes and wetlands, leading to more blue-green algae blooms in lakes (a health risk to humans and pets) and loss of diversity in wetlands.
 - There will also be less soil moisture which will impact amphibians.
 - The warming climate will benefit species such as grey squirrels, white tailed deer, European starlings and Canada geese. There will be more



nuisance wildlife and fewer desirable species.

- Wetter conditions will also increase mosquito and tick activity leading to greater risk of zoonotic disease.
- New or more severe public health challenges will arise as heat waves become more frequent and climate conditions boost air pollutants such as smog and particulate matter.
 - In the Chicago area, occurrences of ground-level ozone exceeding current air quality standards are expected to increase from the present average of about two days per summer to about 17 days per summers by the end of the century. Ground-level ozone problems from Milwaukee can be expected to extend to eastern Waukesha County. Ozone can have serious health impacts such as damage to lung tissue and worsening conditions such as asthma and chronic lung disease. Ozone is particularly risky for children because they often spend considerable amounts of time in outdoor activities where they are likely to inhale air pollutants and to breathe them more deeply into their lungs.
 - Particulate pollution aggravates asthma and increases respiratory and heart disease. Unlike smog, which is worse in hot months because of its dependence on sunlight and high temperatures, particle pollution can reach unsafe concentrations at any time of year. Milwaukee, Racine and Waukesha counties currently do not meet National Ambient Air Quality Standards for fine particle pollution.

If Wisconsin faces climate conditions more favorable to the formation of particle pollution, such as warmer winters coupled with increased water vapor in the air, the combination will likely result in an increase in concentrations of particulate matter.

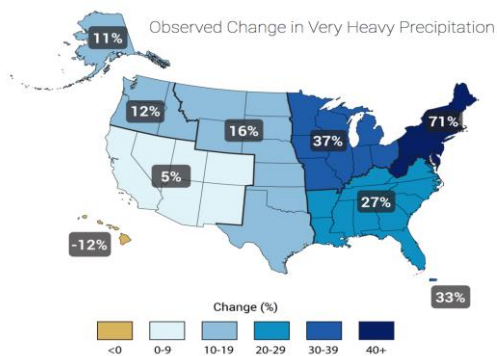
- Respiratory and heart disease already costs a substantial amount of lost time to work and school and increased hospitalization. This will worsen.
- Pollen production is increasing as well.

In summary, climate change related hazards will increasingly damage property, disrupt business operations, interrupt services, cause an increase in human illness and disease, cause polluted runoff to lakes and streams during storms and alter natural habitats and cause species loss.

Wisconsin's Changing Climate publication suggests many ways we can adapt to these changes and add resilience to our natural and built environment. Adaptation, however, is not a substitute for mitigation which aims to reduce the rate at which greenhouse gasses enter the atmosphere.

Attachment 1

The National Climate Assessment reports that heavy precipitation events increased by 37% in the upper Midwest from 1958 to 2012.



Mobile Gasification Project Operating in Butler

Charlene Lemoine

In the late spring of 2019, WEAL learned a mobile gasification unit was operating in Butler at the site of JDog Junk Removal & Hauling business (12733 West Arden Place) and immediately began a search using the [WI DNR Air Permit Search Tool](#).

Locating information should have been straightforward with the exact street address or even just plugging in Butler, but all attempts were unproductive. WEAL then contacted the search tool administrator who was unable to find the project, and an air management supervisor responsible for Waukesha County who was not familiar with the project. After more than two months of phone calls, WEAL was finally connected with an Air Management Engineer in the Fitchburg office who had knowledge of the project. The same mobile unit was previously located in Ixonia and operated under a 12-month Research & Testing exemption in 2017. WEAL learned [Conversion Energy Systems](#) (CES) located in Chicago, owned the mobile unit and began testing in Butler in 2018 under a second Wisconsin 12-month R&T

exemption. WEAL questioned why it was so difficult to get information and learned the DNR used the address of the company holding the exemption, and not where a project was physically located, as the location. A Chicago address made it impossible to do a locational search. After learning the project had been in Ixonia, WEAL performed a search with plugging in Ixonia and information on that exemption was easily located. WEAL addressed the practice of using an out-of-state address as the location in our public comments submitted to the DNR on 10/23/2019. (See Public Comment Info Section below.)

This was WEAL's first involvement with an R&T exemption and learned this type of exemption is addressed under NR 406.04(l)(i). WEAL found the requirements to be vague and do not stipulate how many exemptions a company can request. We also learned companies are required to keep records but DNR is not mandated to request the documents or perform periodic onsite inspections.

Public Comment Info

After a R&T exemption application is submitted and reviewed by the DNR, a public notice is posted in the **WI State Journal** and begins a 10-day public comment period. Since WEAL alerted several WI environmental groups early on, and our collective research was being shared, when the public notice was posted on 10/17/2020 we were prepared to submit comments.

Public comments were submitted from WEAL, Sierra Club's John Muir Chapter, Citizens for Safe Water Around Badger, Incinerator Free Brown County and Clean Water Action Council of Northeast WI.

The Ixonia and first Butler R&T exemptions did not generate any comments and approvals were granted within 3 weeks of public comment closure. The second (2019) Butler R&T exemption was ultimately approved by the DNR with operational conditions on 3/31/2020, more than 5 months after public comments closed.

Although WEAL's comments deal with a number of technical issues, there were issues related to errors and questionable statements that were included. For example, WEAL noticed an obvious error on the 2018 R&T exemption application that was repeated on the 2019 exemption application. Both applications

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involved the mobile gasification unit CES refers to as "Alvin" at the Butler site. CES typed Clark County on the 2018 application instead of Waukesha County and Waukesha was printed in ink below Clark. The second, 2019 application also had Clark County typed on the application. In an email to CES, the DNR also questioned Clark County since the street address was located in Waukesha County. CES replied: "Apparently, there are two Butlers in Wisconsin." Needless to say, "Alvin" appears to be the only CES mobile unit and

by the time the second application was submitted the unit had been operating in Waukesha County's Butler for more than 10 months. The DNR required CES to submit a corrected application listing Waukesha County.

To view info on the mobile gasification unit in Butler go to: [WI DNR Air](#)

[Permit Search](#) --- Use **Conversion Energy Systems** or **FID number 399117070**, then Click on the **Permits & Permit Application Tab** and Select - **19-POY-128-EXM** for the present (2020) 12-month R&T exemption documents. All public comments and the DNR response to comments can be viewed along with the DNR operational conditions, WEAL's post approval questions with DNR answers, and correspondence between the DNR and CES. With a significant increase in single-use plastics planned over the next decade, and [2017 Wisconsin Act 284](#) exempting gasification from solid waste facility regulations, WI could once again see large scale gasification projects being proposed in our state. Although the Butler project is limited to 30 tons of shredded or pelletized plastics during a 12-month period, it sets a precedent. It is not the quantity of materials; it is the fact this mobile gasification unit has been approved three times for R&T exemptions. The CES website states the company is a leader in

advanced thermal conversion technologies and with DNR application fees totaling only \$3750.00 (\$1250.00 per year) CES can market mobile or full-scale projects as receiving DNR approval and being “tested” for three consecutive years in WI.

Gasification does not contribute to a circular economy because resources are destroyed. For the present exemption, the DNR approved gasifying specific shredded and pelletized plastics. One of the pelletized plastics is polyethylene terephthalate (PET). The DNR acknowledged WEAL’s concerns with diverting pelletized PET because this pelletized plastic is ready to be made into plastic bottles, other types of containers and clothing and being diverted for gasification sets another serious precedent. Gasification is not the answer to single-use plastics. Gasification creates air emissions, produces ash or slag that requires landfilling, demands a tremendous amount of energy to operate and full-scale projects are prohibitively expensive.

To learn more about gasification checkout WEAL’s [Facts on Gasification](#) document, located on the WEAL website. This document offers information on failed gasification projects across the globe and information on three full-scale projects that were proposed, but never constructed in WI.

Plan to Exhume the Boundary Road Superfund Site Moves Forward

Charlene Lemoine

The DNR is expected to release a Feasibility Report (FR) for public comments on Waste Management’s plan to exhume the Boundary Road Superfund Site and another expansion at the Orchard Ridge Landfill in Menomonee Falls later this summer.

Waste Management received DNR

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approval for a nearly 45-acre Eastern Expansion of Orchard Ridge in 2018. However, in 2017, during local negotiations for the Eastern Expansion, the Village of Menomonee Falls and Waukesha County also approved a future Orchard Ridge expansion that would include exhuming the

Boundary Road Superfund Site and burying the contents within the Orchard Ridge Landfill. Host community compensation, paid by Waste Management, was also increased in the agreement.

WEAL submitted comments to the DNR on the Orchard Ridge Eastern

Expansion on 1/26/2018 and addressed concerns with local approvals for exhuming the Superfund Site prior to a plan, or any information, being submitted to the DNR. The Feasibility Report on the latest expansion is called the Orchard Ridge Eastern Expansion Southern Unit and includes exhuming the Superfund Site in the expansion plan. WEAL plans to review the FR, submit comments to the DNR and update our members in future newsletter articles.

To learn more about the Orchard Ridge Landfill and the Boundary Road Superfund Site you can view articles in WEAL newsletters from April 2018 to May 2019.

Is Progress Toward Zero Waste Even Possible in the Time of Covid? Reusables CAN be used safely: Over 115 health experts fire back at the plastic industry

Nina Schrank

June 23, 2020, UPSTREAM

Originally published on Greenpeace --*Edited*

While the world is rightly preoccupied with tackling COVID-19, oil companies and the plastics industry are pushing to produce more single-use plastic

than ever. What do we need to know about plastic in the age of COVID-19?

The oil and plastics industries want you to think that consumers are safer when food, drinks and other products are wrapped in plastic. But health experts around the world agree that reusables can be used safely during the COVID-19 pandemic.

Nearly 120 scientists, academics, and doctors from 18 countries signed [onto a statement](#) today reassuring retailers and consumers that reusable systems can be utilized safely during the pandemic by employing basic hygiene. The experts note that household disinfectants have been proven effective at disinfecting hard surfaces, such as reusable cups and containers.

There are many reasons why plastic is the material of choice for personal protective equipment (PPE) and in healthcare settings. But there's a big difference between PPE and packaging for food and other goods. Even so, the oil and plastics industry have been peddling misinformation in the media and to politicians attempting to make single-use plastic acceptable again.

There's nothing particularly sanitary about plastic packaging

Unless you are talking about sterile products for medical use, there is nothing intrinsically sanitary about plastic. Pathogenic bacteria and viruses will all lurk there just as happily as anywhere else. They can sit on the product inside the plastic or on the plastic itself. There is nothing magically sanitary about plastic. In fact, a [study](#) from the New England Medical Journal indicates that COVID-19 can survive on plastic surfaces for two to three days, and on cardboard for 24 hours.

You're very unlikely to catch COVID-19 from food or packaging

COVID-19 is most commonly passed from person-to-person contact. As the U.S. Center for Disease Control and Prevention tells us, [it's very unlikely that you can catch Covid-19 from food and its packaging.](#)

Grocers and supermarkets must follow strict hygiene rules when handling produce, so washing food in running water and/or cooking it thoroughly is enough to make it safe. Whether you buy your fruit and vegetables and other foods loose or

wrapped in plastic, you should always [wash thoroughly before consumption.](#)

As lockdowns were being implemented around the world, many cafes and coffee house chains began refusing to accept reusable cups to protect staff and customers. However, today's statement endorses that **washing**

reusable cups in soap and hot water or more ideally in a dishwasher is enough to destroy any trace of the virus. You can also [ask for your coffee to be made in the café's metal or ceramic cups](#) and then pour it into your own reusable cup.

The same goes for fabric grocery bags. A number of U.S. [states banned reusable grocery bags.](#) Washing your bags will remove viruses and pathogenic bacteria. Or load your grocery purchases loose into a cart and then transfer to your own reusable bags as you put them into your vehicle.

Oil companies and the plastic industry are exploiting the crisis

In the midst of the Covid-19 crisis, petrochemical companies are using the

pandemic to whip up fear to [stem the tide of protest against plastic products](#). A [new research paper by Greenpeace USA](#) has found links between the people supplying and fronting misleading articles on plastics and plastic manufacturers or oil companies.

As the world strives to wean itself off fossil fuels, some of the biggest oil companies in the world – Shell, BP, Saudi Aramco, and Exxon – are [investing billions into plastics](#) as the key to their future.

The plastics and petrochemicals industry are attempting to exploit the world's Covid-19 response by casting their own services as “essential,” lobbying governments for massive bailouts and weaker environmental regulations.

When the European plastics industry called on the European Commission to lift an EU-wide ban on some single-use plastic

items on the grounds of “public safety,” the Commission’s Vice President [responded](#), “I really did not appreciate people writing to me and using the need for personal protective equipment as a reason not to have a ban on single-use plastics – there’s really no relationship.”

→ The plastics and petrochemicals industry are attempting to exploit the world’s Covid-19 response by casting their own services as “essential,” lobbying governments for massive bailouts and weaker environmental regulations.

Plastic is still disastrous for the environment and low-income communities

In the past few years, we’ve seen people all over the world turn away from single-use plastic in droves with bans on plastic bags, straws, cutlery and more.

But sadly, plastic pollution is still a crisis with enormous global impacts, especially in [low income communities and communities of color](#). The entire lifecycle of plastic is dangerous — from the extraction of the oil used to make it, to its disposal.

In addition to the billions of tons of

plastics entering the sea every year, the production of plastics and, in many places, [the burning of it](#), are fueling climate change. Throughout its lifecycle, it’s estimated that by 2050 plastic production from oil [could be responsible for up to 12% of the Earth’s remaining total carbon budget](#) (the amount of emissions our climate can reasonably take). That’s the equivalent of 615 coal-fired power plants; plastic is far from being clean and sanitary for the planet.

The problem isn’t going away: a study by the NGO Tearfund released this year shows four global drinks giants in six developing countries [could fill 83 football fields a day with their plastic waste](#).

In many countries, [much plastic waste is exported and then ends up in open dumpsites in countries like Malaysia](#) or is being incinerated. Local people pay the price of the health impacts that follow: [burning plastic creates respiratory problems and headaches](#).

The world should be making decisions based on the advice of medical professionals and scientists– not lobbyists for the fossil fuel and plastic industries, who have a history of doing more harm than good.

Nina Schrank is the Plastics Campaigner at Greenpeace UK.

.Water Diversion Update Waukesha attempts illegal water connection to New Berlin, forgets to notify WiDNR or the Great Lakes Council

Laurie Longtine

This article is based on public records obtained by and a letter of comment written by Steve Edlund, resident and Birddogger of Boondoggles of the City of Waukesha. Edlund made his comments to the quarterly meeting of the Great Lakes Council of Governors on June 17, 2020 and was subsequently asked to forward his full comments and supporting documents.

His letter has been excerpted here for space. Information has been updated or clarified:

June 21, 2020 marked the four-year anniversary of approval of the City of Waukesha's Diversion Application ("Waukesha" or "the City") with conditions. Waukesha got pretty much everything it wanted, except for a grossly expanded water service area outside the City's borders as far west as Genesee and as far south as Big Bend, encompassing most of the Village of Waukesha (then the Town, now the Village). The Great Lakes Council of Governors (the "Council") denied the expanded water service area, limiting the diversion to essentially the City's then-current borders and remarking that the Great Lakes Compact ("GLC") didn't allow for a request to supply future—or potentially never—water needs, especially to areas outside its boundaries governed by other entities. (See GLC, definition of *communities*.) The amount of water approved by the Council was still much greater than the amount needed to supply Waukesha's existing customers, at the time using approximately 6.8 million gallons per day (mgd), and declining. (Its currently use is under 6 mgd per day.) The Council allowed Waukesha 8.2 million gallons per day, for "full build out" within its borders, so Waukesha has plenty of water for its needs, plus an emergency supply, plus "build out" and that still likely leaves water to play with.

Since that precedent-setting approval, Waukesha has signed contracts with 1) Milwaukee and 2) New Berlin that demonstrate its contempt of the Great Lakes Council of Governors' Final Decision and the Great Lakes Compact itself.

Though Waukesha got nearly everything it wanted, it dug back into its bag of dirty tricks to try an end-around to the Final Decision on the water service area and prohibition on providing water to another public entity.

Final Decision

of the Great Lakes Council:
<https://www.glscompactcouncil.org/media/s/e4dx3qi/waukesha-final-decision-of-compact-council-6-21-16.pdf> II Findings, sections 5a and 5b.

Waukesha – Milwaukee Water Purchase Agreement

On Nov. 30, 2017, Waukesha notified the Great Lakes Council of its wish to change water suppliers from Oak Creek to Milwaukee. Waukesha failed to include with that notification the Water Purchase Agreement with the City of Milwaukee ("Milwaukee"). In the Water Purchase Agreement, Section IV, E, Water Service Area, lays out a procedure to expand the Water Service Area that would allow an increase of up to 1704 acres of undeveloped land.

The Final Decision clearly states that any increases or changes to the water service area must meet one of these three criteria: 1) land must be incorporated and within city boundaries as of May 18, 2016, 2) land outside city boundaries but is already being served by the Waukesha Water Utility, or 3) land that is within boundaries but is a Town of Waukesha "island".

Waukesha did not then and has not now identified the location of the 1704 acres, explained how the oddly precise number of 1704 was determined, described its purpose or connection to the approved water service area, or calculated the water quantity/volume required at full build out for the 1704 acres.

Waukesha has not located the 1704 acres on a map, which would prove whether the area is in or out of the approved water service area.

Nor has Waukesha divulged the terms of a revised agreement with Milwaukee, promising the PSC that it would be completed in April 2020. Requests by the PSC for the updated Agreement have gone

unanswered. The PSC asks **again** for the Agreement—or whatever the current draft is—in a July 15, 2020 letter to Waukesha Water Utility diversion engineers Greeley and Hansen.

The Final Decision grants Waukesha a water volume of 8.2 million gallons per day [mgd]—it had originally demanded 10.1 mgd—for a “full build out” of currently undeveloped lands within the dialed-back water service area boundary. The Council is operating under the assumption that 8.2 mgd will cover the redundancy necessary, as well as full build out supply.

A 1704-acre mystery remains unsolved . . . and . . . What’s in that agreement?

http://apps.psc.wi.gov/vs2015/ERF_view/viewdoc.aspx?docid=353067

Waukesha - New Berlin Intergovernmental Agreement

The second agreement was inked three months ago when Waukesha entered into an Intergovernmental Agreement with the City of New Berlin (“New Berlin”) to Waukesha’s east. New Berlin is a straddling community, meaning an increase in the amount of water diverted requires only the approval of WiDNR, not the Great Lakes Council.

Waukesha originally planned to route its diversion water supply and return lines through New Berlin, causing major disruptions. Waukesha proposed construction of two 8.5 million-gallon aboveground storage tanks for installation in Minooka Park (a County Park) in New Berlin. Not surprisingly, citizens who didn’t want their parkland replaced by unsightly storage tanks that would not benefit them or their city at all vehemently opposed the plan. New Berlin’s Plan Commissioners rejected the plan. Waukesha immediately filed suit to overturn the decision. The lawsuit is currently pending; however, the warring parties seem to have come to an agreement whose details haven’t been

divulged yet to the public who will be paying for it all. The Intergovernmental Agreement includes an intriguing item that New Berlin will pay Waukesha \$2 million over three years, but doesn’t state what the \$2 million is for. The PSC has noted this lapse and asked for a clarification on July 15.

Waukesha then found a location for the storage tanks within its own borders and submitted a Construction Application to the Wisconsin Public Service Commission (PSC) for the relocated tanks, a pumping station, a one million-gallon elevated storage tank, and additional pipelines and a ‘T’ connection that would allow for Waukesha to provide water to New Berlin, well outside Waukesha’s approved water service area. The PSC granted conditional approval of Waukesha’s water supply line construction authorization despite the lawsuit over the tank location, the lack of details in the accounting of the permit application and the violations of the terms and conditions in the Council’s Final Decision. The PSC also raises several questions about this in its July 15 letter.

Intergovernmental Agreement, Item 17: Waukesha calls the ‘T’ connection a “redundancy” connection. However, the diversion is an expensive construction project paid for by Waukesha ratepayers allegedly to help **Waukesha** with its self-claimed radium and supply problems. New Berlin, if it needs additional water supply volume, must apply for increases to WiDNR under the terms of its own Straddling Community Exception to the Ban on Diversions in the GLC.

Waukesha never informed WiDNR, its Great Lakes diversion managing entity in Wisconsin, of its intention to install this ‘T’ connection. WiDNR was alerted to the ‘T’ connection only via Steve Edlund’s reading about the connection in the Journal Sentinel and requesting a signed copy of the PSC application from the City of Waukesha. He then shared it with WiDNR. On April 1, 2020, WiDNR responded to Edlund’s

inquiry about the ‘T’ connection saying only that they weren’t aware of it and would look into it.

http://apps.psc.wi.gov/vs2015/ERF_view/viewdoc.aspx?docid=390530

Subsequently, WiDNR confirmed in writing: “*You are correct that the Compact Council Diversion approval does not allow Waukesha to serve diverted water outside of the Compact Council defined diversion area.*” So far, so good. Then: “*However, with the correct approvals and metering, the City of Milwaukee may be able to sell the City of New Berlin water via this pipeline.*”

This last sentence is very concerning as it seems to outline a path for Waukesha to 1) sell water to another community (one already getting a diversion, BTW) and 2) to provide water outside its approved water service area, in direct defiance of the Council’s Conditions of Approval. The Final Decision states: *The Applicant’s public water supply system is the only public water provider to be served by the Diversion.* (II Findings, 5a.)

<https://www.gslcompactcouncil.org/media/se4dx3qi/waukesha-final-decision-of-compact-council-6-21-16.pdf>

It also casts doubt on WiDNR’s willingness to enforce the conditional approval terms of the Council’s decision and Final Approval, and calls into question WiDNR’s suitability as the managing entity on behalf of the Council in Wisconsin.

Since April 1, 2020, WiDNR had known about the proposed, illegal ‘T’ connection, but failed to notify the Council until WiDNR’s report to the Council in June indicated WiDNR support for it. No one mentioned that the sale of diverted water is prohibited specifically in the Final Decision. A member of the Council asked for Edlund’s comments and documents during the virtual meeting.

As neither Waukesha nor New Berlin informed WiDNR about the ‘T’, and

Waukesha and WiDNR failed to inform the Great Lakes Council for nearly three months, one has to wonder if the two cities cooked up an arrangement they’d hoped would fly under the radar . . . and if the \$2 million payment was in part to make that pesky lawsuit go away. More questions peppered by the PSC. Waukesha still has the legal ability under Wisconsin law to reconfigure its current well system and safely treat for radium, as it has for over 10 years, and as 50 other Wisconsin communities with exactly the same excess radium in their water supply have done over the last three decades. The cost would be tens of millions less on this monstrously expensive project. Furthermore, Waukesha’s current water supply from the deep confined aquifer—the one the City and Water Utility claimed has dropped beyond any hope of sustainability—has recovered and has been recovering since 2001. Recently, the deep aquifer exceeded its highest level since sometime between 1944 and 1973. (Records were not kept annually.)

Waukesha’s Water Diversion Application, which claimed its current deep aquifer water supply was in serious decline, was based on data ending in 2001. At the time of the 2016 Regional Body review, there was new data showing not only recovery, but ***inclining*** levels in the deep aquifer. A last-minute, CYA addendum was supplied to the Council in 2016 that claimed that deep aquifer levels would begin to decline again when Waukesha began to use more water, a non-scientific, non-supported, subjective claim. Actual data shows that the deep aquifer is proving sustainable for at least the next 50 years, maybe longer, when factoring in the

➔ As neither Waukesha nor New Berlin informed WiDNR about the ‘T’, and Waukesha and WiDNR failed to inform the Great Lakes Council for nearly three months, one has to wonder if the two cities cooked up an arrangement they’d hoped would fly under the radar . . . and if the \$2 million payment was in part to make that pesky lawsuit go away.

dramatic decreases in annual water usage.

*And then this: Three days after the **Town** of Waukesha was officially approved to be the **Village** of Waukesha on May 12, the **City** of Waukesha filed suit against the new Village. Why should the City care if the Town became a Village? There is only one possible reason: the City planned to approve all annexation requests that would put Town lands (and tax base, residents, subdivisions, retail—all development and growth) into the City. The City could then spread out its grotesque diversion costs among a broader tax base. At least for the foreseeable future, the City wouldn't have to provide water and/or sewer services to the expanded tax base, as the Council confined Waukesha's Water Service Area to its borders in 2016. By becoming a Village, the Town of Waukesha froze its borders so that annexations couldn't occur without its approval. The Town was concerned about its continually eroding tax base, and with Village status would be able to halt that erosion.*

More is to come: The PSC on July 15, 2020 delivered a letter to Greeley and Hansen in Chicago, the engineering firm hired by Waukesha to manage the project. The PSC had many questions about Waukesha's request of May 29, 2020 to reopen Docket 6240-CW-117 and make modifications to the approved project: *[We] need[s] additional information to process the request. Please provide responses within two weeks of the date of this data request. Delayed, incomplete or partial responses will delay the Utility's case.*

<https://apps.psc.wi.gov/pages/viewdoc.htm?docid=394484>

**The PSC Asks . . . Waukesha Answers?
Well, Sort of**

**The DNR Approves the T-Connection
Before the PSC Even Knows About It . . .**

After all the hullabaloo this spring over the location of two 8.5 million gallon water storage tanks that culminated with Waukesha filing a lawsuit against New Berlin, the drama continues . . .

On May 29, 2020, the City of Waukesha (COW) asked the Wisconsin Public Service Commission (PSC) for a limited reopening of the construction permit already approved by PSC, "Docket 6240-CW-117", in order to make modifications to reflect relocation of the tanks to a COW site, called the Rempke-Nike site.

On July 15, 2020, the Wisconsin Public Service Commission (PSC) sent a 6-page letter of questions to the City of Waukesha's Water Utility (WWU), saying that it needed the additional information to process the request.

PSC questions to Waukesha, July 15, 2020:

<https://apps.psc.wi.gov/pages/viewdoc.htm?docid=393653>

The letter goes on to pose questions that we've all had about the diversion construction, including many—**very many**—that question the accounting and cost estimates of various aspects of the project. It reminds Waukesha to use standard accounting practices for cost estimates "separated into the appropriate PSC Uniform System of Accounts (USOA)." What other accounting practices would have been employed in this major application?

The PSC further admonishes Waukesha that "Delayed, incomplete or partial responses will delay the Utility's case." Had WiDNR only used that sentence in its communications with Waukesha during the drawn-out application process, it might have motivated Waukesha to turn in a complete application years sooner and it would not now be facing compliance deadlines, fines and \$3 million dollars of radium treatment made necessary by its lack of construction progress. The PSC forgot to include *evasive responses*.

One of the questions we have

focused on is that relating to the long-promised revised Water Service Agreement between Waukesha and the City of Milwaukee. (Detailed in the previous article) According to the PSC, Waukesha had promised to provide a draft agreement **no later than April 2020** (bold italics ours). It is now July 15, full four months after the first promised date.

Waukesha-New Berlin Intergovernmental Agreement
Italics indicate exact wording from the document.

PSCW-KAB-26: *Appendix A-6, the Water Service Agreement between the City of Waukesha and the City of Milwaukee dated December 20, 2017, is noted as No Change from Approved Docket.*

Based on a data request response in docket 3720-CW-135, the parties have been working to finalize details and anticipated a draft agreement would be ready no later than April 2020. (PSC REF#: 382849.) Provide a copy of this draft agreement. For non-answers, this one is a doozy:

Response to PSCW-KAB-26: *We are in the process of negotiating revisions to the Water Service Agreement and anticipate having a draft for submittal by August 2020. We will supplement this data request response when the draft Water Service Agreement is ready. PSC has warned Waukesha that delayed, incomplete or partial answers will delay Waukesha's case. Waukesha just delayed its own case by a minimum of five months. This next exchange is even more egregious:*

PSC Questions the 'T' Connection's Connection to the Great Lakes Compact and the Council's Final Decision

PSCW-KAB-17: *Explain how the proposed interconnection with the City of New Berlin fits into the requirements of the Great Lakes Compact. Does the Great Lakes Compact contemplate such an interconnection? Explain in light of the Compact Council's Final Decision. (PSC REF#: 359248.) (Bold italics ours)*

Response to PSCW-KAB-17: *The City of New Berlin receives City of Milwaukee water and returns it to the Lake Michigan watershed in compliance with Compact Council guidelines. Should New Berlin decide that they need to utilize the interconnection in the future, they would need to get approvals for their amended diversion allotment and permission from the City of Milwaukee. There is no plan to use the interconnection at this point. The physical interconnection includes a tee and valves, and is being put in at this time so that it is in place if New Berlin wants to*

→ The intent of the tee is to provide a redundant connection as a backup to the existing connection in the event of a failure preventing their ability to obtain water from the existing connection to the City of Milwaukee. Another evasive answer. Waukesha fails to even mention the Great Lakes Compact, the Great Lakes Council of Governors or the Final Decision of June 21, 2016 which unequivocally states: The Applicant's public water supply system is the only public water provider to be served by the Diversion. (II Findings, 5a.)

proceed with all of the required permits and approvals. Waukesha did not want their only source of drinking water to be hot tapped or connected to while in service in the future. If there was a small chance that New Berlin might want to connect down the road, it protects the integrity of the pipeline to have the tee and valves in place now rather

than tapping into the pipe in the future. There is no intent to increase the amount of water New Berlin receives from the City of Milwaukee at this time. The intent of the tee is to provide a redundant connection as a backup to the existing connection in the event of a failure preventing their ability to obtain water from the existing connection to the City of Milwaukee. Another evasive answer. Waukesha fails to even mention the Great Lakes Compact, the

Great Lakes Council of Governors or the Final Decision of June 21, 2016 which unequivocally states: *The Applicant's public water supply system is the only public water provider to be served by the Diversion.* (II Findings, 5a.) Sure, this is only to put a 'T' connection infrastructure in place, but the very attempt defies the intent of the Great Lakes Compact and the Council's final decision. Why spend \$37, 505 to put this connection in if water may never be permitted to flow through it? Don't believe for a moment that the 'T' connection will cost only \$37, 505. The principles of fuzzy accounting are often applied when forthrightness might cause inconvenient truths to be revealed.

Deadlines and Lawsuits

Laurie Longtine

In sections **KAB-21 - KAB-22**, PSC queries Waukesha about the deadlines and estimated completion dates of the two scenarios: locating the tanks in New Berlin vs. Waukesha (Rempke-Nike site). Waukesha goes to great lengths to describe in detail how various outcomes of the lawsuit it filed against New Berlin for denying the conditional use permit would delay the project, for potentially up to a year which—even if they would prevail—would put them in jeopardy of failing to meet their construction and compliance deadlines. In their own words, “there are no guarantees Waukesha would prevail.” Here's an idea, Waukesha: **You filed the lawsuit-- withdraw it. It's costing taxpayers and ratepayers more money in legal fees on a project already ballooning in costs.**

The Significance of Dates and the 'T' Connection

Laurie Longtine

Remember in the previous article that as of April 1 this year, WiDNR didn't know about the 'T' connection and said they “would look into it?” According to Waukesha's response letter to the PSC of

July 29, 2020, WiDNR has **already** approved the connection—again, without Waukesha notifying the PSC (until July 29), the public or the Great Lakes Council (**See KAB-21**)—and deprived all entities from reviewing or raising questions about it. This sin of omission ignores the PSC's legal oversight. The PSC was to have been notified within 30 days if there were significant changes to the scope, design or location of the project and would have had to approve such changes.

WiDNR Approves
Water Transmission and Main Plan,
June 18, 2020
[Link Unavailable](#)

WiDNR in the Intergovernmental Agreement between Waukesha and New Berlin noticed the 'T' connection to New Berlin. (IGA dated May 29, 2020.) WiDNR had not known either about the “30-inch by 30-inch tee at the intersection of South Calhoun and West Coffee Road,” writing to Greeley and Hansen, Waukesha's project engineers, that “This tee is not indicated in the plans and specifications provided to the public water engineering section,” referencing the engineering plans approved by PSC on March 10, 2020. DNR then asks Waukesha to “Please revise the plans to include this tee.”

Greeley and Hansen, presumably at the direction of the Waukesha Water Utility, then alters the plans approved by the PSC and provides them to DNR on June 5—without notifying the PSC. A miraculously speedy review takes place; WiDNR approves the altered plan for the 'T' connection only 13 days later on June 18.

Meanwhile, back at the PSC. .

On March 29 Waukesha requests a limited reopening of the construction permit—this is to relocate the water and chemical storage tanks, a 1 million-gallon water tower and booster pumping station on the Rempke/Nike site, telling the PSC there were NO changes to the portion of the

system **east** of Coffee and Schwartz Roads, thereby limiting the reopening request to the new site and the necessary water supply pipeline. Waukesha does not mention the 'T' connection to the PSC in this May 29 application. In fact, Waukesha asks that the section of plans east of Coffee and

→ It's obvious that the PSC knows nothing about the 'T' connection because its June 25, 2020 Order to Reopen mentions every other detail and nothing about the 'T' connection. And why would PSC question it? Waukesha has assured it that no changes are requested east of Schwartz and Coffee Roads. It looks like Waukesha's got some 'splainin' to do!

Schwartz Roads NOT be reopened as part of the limited reopening. However, the 'T' connection to the City of New Berlin is **east** of that at Coffee and Calhoun Roads.

It's obvious that the PSC knows nothing about the 'T' connection because its June 25, 2020 Order to

Reopen mentions every other detail and nothing about the 'T' connection. And why would PSC question it? Waukesha has assured it that no changes are requested east of Schwartz and Coffee Roads. From PSC's Order to reopen Docket 6240-CW-117, June 25, 2020: *"WWU is not proposing changes to approximately 8.58 miles of the WSPL from the City of Milwaukee to the intersection of Coffee Road and Schwartz Road in the City of New Berlin."*

It looks like Waukesha's got some 'splainin' to do!

Thanks for following along. The PSC's full questions and Waukesha's full responses, as well as other supporting documents are posted above and below.

PSC Final Decision,
March 10, 2020.

<https://apps.psc.wi.gov/pages/viewdoc.htm?docid=385341>

City of Waukesha (Great Water Alliance Program) Request for Limited Reopening of Docket 6240-CW-117,
May 29, 2020.

<https://apps.psc.wi.gov/pages/viewdoc.htm?docid=390501>

<https://apps.psc.wi.gov/pages/viewdoc.htm?docid=390501>

Questions from WIDNR to Greeley and Hansen, including asks about 'T' connection missing in plans.

Link unavailable.

Questions from WIDNR to Greeley and Hansen with Response from Greeley and Hansen June 5, 2020, including statement that PSC-approved plans were altered to include 'T' connection.

Link unavailable.

Letter from DNR to City of Waukesha granting construction approval, including for the 'T' connection, June 18.

Link unavailable.

PSC Order for a Limited Reopening,
June 25, 2020

<https://apps.psc.wi.gov/pages/viewdoc.htm?docid=392647>

PSC questions with Waukesha responses,
July 29, 2020:

<https://apps.psc.wi.gov/pages/viewdoc.htm?docid=394484>