



April 27, 2022

DNR Project No. BL001-2022

Mr. Jeffrey C. Agee-Aguayo
Bay Lake Regional Planning
1861 Nimitz Drive
DePere, Wisconsin 54115

Subject: Sheboygan Sewer Service Area Plan Amendment for City of Sheboygan Falls

Dear Mr. Agee-Aguayo:

We have completed our review of the City of Sheboygan Falls request for an amendment to Sheboygan Sewer Service Area to serve the Falls Meadow Subdivision, a single family residential development. The Department approves this amendment (DNR #BL001-2022).

Amendment Area

The 19.35-acre project area, located in the on southwest side of the City of Sheboygan Falls was recently annexed into the municipality and is adjacent to the 2030 SSA boundary. The land is comprised of 18.92 acres (agricultural) and 0.43 acres (natural areas (Attachment 1)).

Wastewater Treatment

The sanitary infrastructure has sufficient capacity to carry the flow from the amended area to the treatment facility, which has sufficient design capacity to serve the new subdivision. The BLRPC report states proposed sanitary sewer will be installed within rights-of-way and the installation of sewer and street will have no adverse impact on any wetlands or ESAs.

Environmentally Sensitive Resources

ESA delineations in the project area include three isolated wetlands, one of which is an open water feature in the northeast area. A certified wetland survey was conducted in 2021 (Attachment 2) and a federal exemption decision (Attachment 3) received October 2021, indicated no ACOE jurisdiction for these isolated non navigable water features. The petitioner has submitted a request for a DNR wetland exemption. The site plan (Attachment 4) shows the development plan in relation to water features. The petitioner indicates that two stormwater management ponds will be created as part of the development and will be submitted to the City of Sheboygan Falls and WDNR for review.

Areawide Coordinating Agency Amendment Review

The Bay-Lake Regional Planning Commission followed the Sewer Service Area (SSA) Boundary Amendments: Standards and Procedures language in Chapter 7 of the 2030 Sheboygan Urbanized Area Sewer Service Plan in its review of the proposed amendment.

- Bay Lake staff prepared a report for the December Public Hearing December 21, 2021.
- A public hearing was held on the proposed amendment December 21, 2021.

- Technical Advisory Committee for the 2030 Sheboygan Urbanized Area Sewer Service Plan recommended approval of the proposed amendment at its January 27, 2022, meeting.

BLRPC Recommendations for Proposed Action

The Bay-Lake Regional Planning Commission recommends approval of the Type II Amendment petition for the City of Sheboygan Falls portion of the sewer service area subject to the following conditions:

1. There shall be buffers for wetlands in the area proposed for development in accordance with any federal, state, county, or local regulations or ordinances regardless of the size of the wetland.
2. Development shall be set back from surface water in accordance with any federal, state, county, or local regulations or ordinances.
3. The City of Sheboygan Falls and the developer of the subject property implement and rigorously develop and enforce stormwater management and erosion control plans.
4. The City of Sheboygan Falls and developer enter into an agreement for the City of Sheboygan Falls to receive effluent from the development, including detailed fees and rates to be paid for this service and provisions for metering the discharge.
5. Detailed plans for the proposed private sewer discharge into the public sewer manhole need to be reviewed and approved by the consulting engineer under contract with the City of Sheboygan Falls.

Statewide AWQM Plan Amendment

These amendments are formal updates to the state's Areawide Water Quality Management Plan and the *Sheboygan Sewer Service Area Plan* and will be forwarded to the US Environmental Protection Agency to meet the requirements of the Clean Water Act of 1987 (Public Law 92-500 as amended by Public Law 95-217) and outlined in the federal regulations 40 CFR, Part 35. This review is an integrated analysis action under s. NR 150.20 (2) (a) 3, Wis. Adm. Code. By means of this review, the Department has complied with ch. NR 150, Wis. Adm. Code, and with s. 1.11, Wis. Stats. The approval of this sewer service area amendment does not constitute approval of any other local, state, or federal permit that may be required for sewer construction or associated land development activities.

Appeal Rights:

Wisconsin statutes and administrative rules establish time periods within which requests to review Department decisions must be filed. For judicial review of a decision pursuant to sections 227.52 and 227.53, Wis. Stats., a party has 30 days after the decision is mailed, or otherwise served by the Department, to file a petition with the appropriate circuit court and serve the petition on the Department. Such a petition for judicial review must name the Department of Natural Resources as the respondent.

To request a contested case hearing pursuant to section 227.42, Wis. Stats., a party has 30 days after the decision is mailed, or otherwise served by the Department, to serve a petition for hearing on the Secretary of

the Department of Natural Resources. All requests for contested case hearings must be made in accordance with section NR 2.05(5), Wis. Adm. Code, and served on the Secretary in accordance with section NR 2.03, Wis. Adm. Code. The filing of a request for a contested case hearing does not extend the 30-day period for filing a petition for judicial review.

Sincerely,

A handwritten signature in black ink, appearing to read "Tim Asplund". The signature is fluid and cursive, with a long horizontal stroke at the end.

Timothy R. Asplund
Monitoring Section Chief
Bureau of Water Quality
Division of Environmental Management

ecc:

Lisa Helmuth – Water Resources Management Specialist, DNR
Craig Helker -- South District Water Quality Biologist, DNR
Andy Hudak – Eastern District Water Resources Supervisor, DNR
Heidi Marquez-Schmidt – Eastern District Wastewater Supervisor, DNR







Please transmit this decision to:

Joe Holzwart, P.E., Donohue & Associates
Mayor Randy Meyer, City of Sheboygan Falls
Shad Tenpas, Administrator, City of Sheboygan Falls
Alyssa Walford, Clerk-Treasurer, City of Sheboygan Falls
2030 Sheboygan Urbanized Area Sewer Service Plan Technical Advisory Committee Members

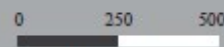
Attachment 1 amendment area map



Environmentally Sensitive Areas (ESAs)
Falls Meadow Subdivision

-  Surface Water with a 75 Foot Setback
-  Wetlands (>2 acres) with a 50 Foot Setback
-  Site Location*
*Location is approximate
-  100-Year Floodplain
-  Sewer Service Area Boundary
-  Municipal Boundary

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BAY LAKE
 Regional Planning Commission | Since 1972

Sources: NRCS, 2004; FEMA, 2009; WDNR, 2019; NAIP Imagery, 2015; Sheboygan County, 2022; Bay-Lake RPC, 2022.

Disclaimer: This map is neither a legally recorded map nor a survey and is not intended to be used as one. This drawing is a compilation of records, information, and data used for reference purposes only. Bay-Lake RPC is not responsible for any inaccuracies herein contained.

City & Town of
 Sheboygan Falls,
 Sheboygan County, WI

Attachment 2. (Excerpts from) Certified Wetland Delineation Report July 2021



Conclusion

This report is limited to the identification and delineation of wetlands within the Study Area. Other regulated environmental resources that result in land use restrictions may be present within the Study Area that were not evaluated by Evergreen (e.g. navigable waterways, floodplains, cultural resources, and threatened or endangered species).

Wetlands

Investigation of the area determined that wetlands exist as shown on the attached figures and Wetland Delineation Map.

Table 1. Summary of Wetlands Identified within the Study Area

Wetland ID	Wetland Description	Cowardin Classification	*Surface Water Connections	*NR151 Protective Area	Acreage On-site
Wetland 1	Wet Meadow Infested with cattail	PEM1Bf	Isolated	Less susceptible, 10-30 feet	14,736 sf 0.338 acres
Wetland 2	Wet Meadow Infested with reed canary grass and cattail	PEM1Bf	Isolated	Less susceptible, 10-30 feet	4,783 sf 0.110 acres
Wetland 3	Wet Meadow	PEM1Bf	Isolated	Less susceptible, 10-30 feet	17,943 sf 0.412 acres
*Classification based on Evergreen's professional opinion. Jurisdictional authority of wetland and waterway protective areas under NR 151 lies with the WDNR. Local zoning authorities may have additional restrictions. USACE has authority for determining federal jurisdiction of wetlands and waterways.					0.860 ac

The wetlands identified for this report may be subject to federal regulation under the jurisdiction of the U.S. Army Corps of Engineers, state regulation under the jurisdiction of Wisconsin DNR, and local jurisdiction under Sheboygan County, and the City of Sheboygan Falls.

Exemptions

Wisconsin Act 183 provides exemptions to permitting requirements for artificial and certain nonfederal wetlands. "Artificial wetland" is defined as a landscape feature where hydrophytic vegetation may be present as a result of human modification to the landscape or hydrology and for which the department has no definitive evidence showing a prior wetland or stream history that existed before August 1, 1991, but does not include any of the following:

- a. A wetland that serves as a fish spawning area or a passage to a fish spawning area.
- b. A wetland created as a result of a mitigation requirement under sub. (3r).

Artificial exemptions apply to projects everywhere in the state for most purposes.

Nonfederal wetlands are defined as wetlands that are not subject to federal jurisdiction. Nonfederal



exemptions apply to projects in urban areas with wetland impacts up to 1-acre per parcel. An urban area is defined as an incorporated area; an area within ½ mile of an incorporated area; or an area served by a sewerage system. Exemptions for nonfederal wetlands also apply to projects in rural areas with wetland impacts up to three (3) acres per parcel. Exemptions in rural areas only apply to structures with an agricultural purpose such as buildings, roads, and driveways.

It is our opinion that all three wetlands located on-site are isolated from connections to navigable waters and are Non-Waters of the United States. The wetlands may be eligible for Nonfederal Exemption from the Wisconsin DNR.

The determination of federal and nonfederal wetlands MUST be made by the USACE through an Approved Jurisdictional Determination (AJD). This report may be submitted to the USACE to assist with their determination.

Protective Areas

Wis. Adm. Code NR 151 ("NR 151") requires that a "protective area" (buffer) be determined from the Ordinary High-Water Mark (OHWM) of lakes, streams and rivers, or at the delineated boundary of wetlands. Per NR 151.12, the protective area width for "less susceptible" wetlands is determined by using 10% of the average wetland width, no less than 10 feet or more than 30 feet. "Moderately susceptible" wetlands, lakes, and perennial and intermittent streams identified on recent mapping require a protective area width of 50 feet; while "highly susceptible wetlands" are associated with outstanding or exceptional resource waters in areas of special natural resource interest and require protective area width of 75 feet. Table 1 above lists the potential wetland buffers per NR 151 for each wetland identified based on Heartland's professional opinion. Please note that jurisdictional authority on wetland and waterway protective areas under NR 151 lies with the WDNR. Local zoning authorities and regional planning organizations may have additional land use restrictions within or adjacent to wetlands.

Concurrence and Certification

If wetlands are proposed to be impacted a Section 404 Letter of Permission Authorization will need to be obtained from USACE and according to Section 281.36, Wisconsin Statutes and NR 299 and NR 103, Wisconsin Administrative Code a permit from the WDNR would be necessary.

For wetlands to be confirmed as exempt from state regulatory authority an exemption determination application must be submitted to the DNR Wetland ID Program whose staff makes the final decision.

Chad M Fradette is a WDNR Professionally Assured Wetland Delineator and WDNR concurrence is already granted for five years unless site conditions are significantly altered.

Attachment 3. USACOE Letter



Army Corp
exemption letter.pdf



DEPARTMENT OF THE ARMY
ST. PAUL DISTRICT, CORPS OF ENGINEERS
180 FIFTH STREET EAST, SUITE 700
ST. PAUL, MN 55101-1678

October 13, 2021

Regulatory File No. MVP-2021-01330-RJH

Shyann Banker
Evergreen Consultants LLC
2918 Van Hoof Road
Green Bay, Wisconsin 54313

Dear Ms. Banker:

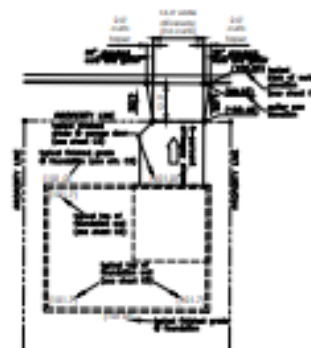
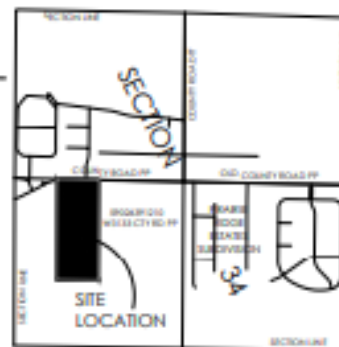
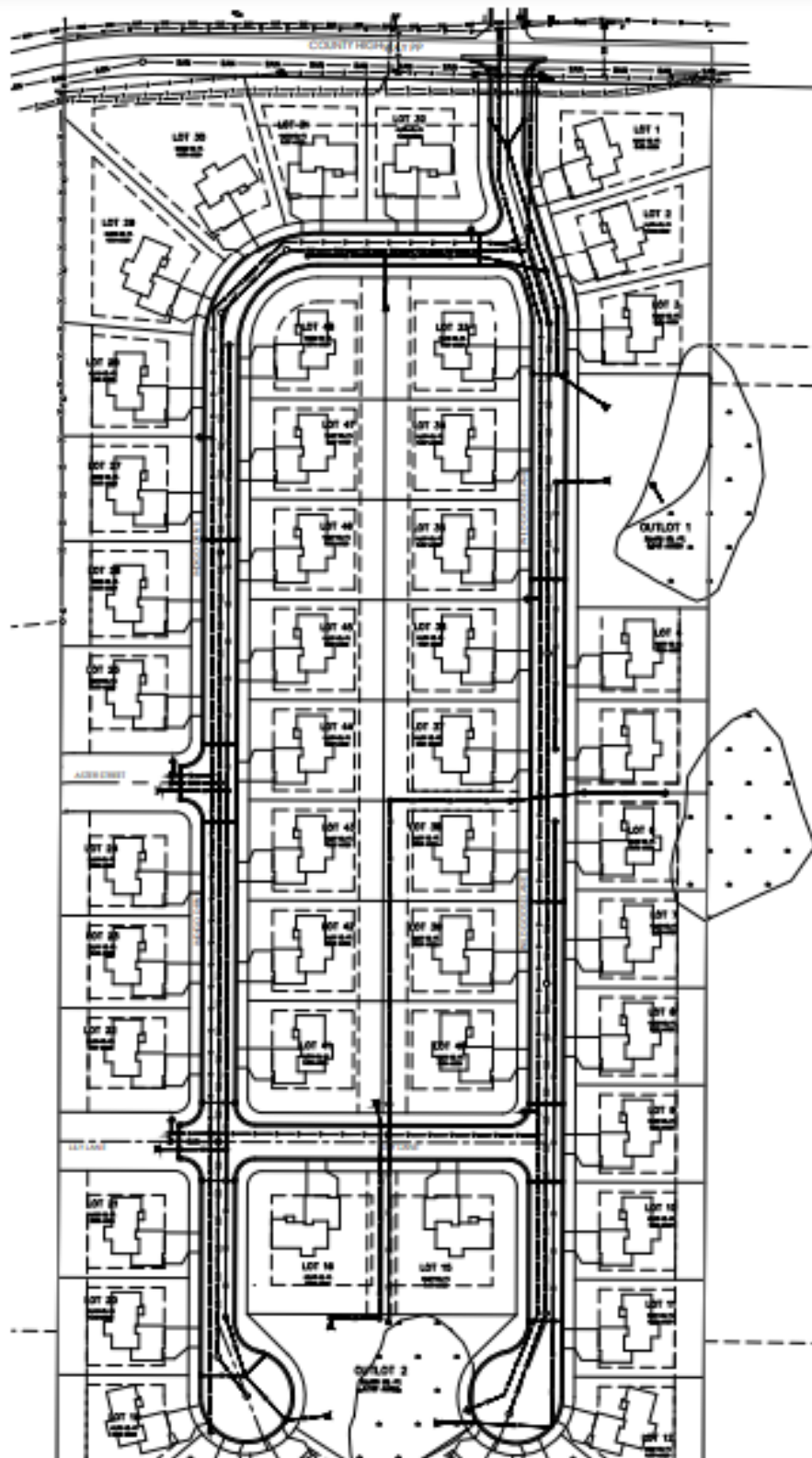
This letter is in regard to an approved jurisdictional determination for three aquatic features located off of CTH PP in the Town of Sheboygan Falls. The project site is in Section 34, Township 15 North, Range 22 East, Sheboygan County, Wisconsin. The review area for our jurisdictional determination is identified on the enclosed figures labeled MVP-2021-01330-RJH Page 2 of 2.

The review area contains no waters of the United States subject to Corps of Engineers (Corps) jurisdiction. Therefore, you are not required to obtain Department of the Army authorization to discharge dredged or fill material within this area. The rationale for this determination is provided in the enclosed Approved Jurisdictional Determination form. This determination is only valid for the review area described. You are also cautioned that the area of waters described on the enclosed Jurisdictional Determination form is approximate and is not based on a precise delineation of aquatic resources.

If you object to this approved jurisdictional determination, you may request an administrative appeal under Corps regulations at 33 CFR 331. Enclosed you will find a Notification of Appeal Process (NAP) fact sheet and Request for Appeal (RFA) form. If you request to appeal this determination, you must submit a completed RFA form to the Mississippi Valley Division Office at the address shown on the form.

In order for an RFA to be accepted by the Corps, the Corps must determine that it is complete, that it meets the criteria for appeal under 33 CFR 331.5, and that it has been received by the Division Office within 60 days of the date of the enclosed NAP. It is not necessary to submit an RFA form to the division office if you do not object to the determination in this letter.

This approved jurisdictional determination may be relied upon for five years from the date of this letter. However, the Corps reserves the right to review and revise the determination in response to changing site conditions, information that was not considered during our initial review, or off-site activities that could indirectly alter the extent of wetlands and other resources on-site. This determination may be renewed at the end of the five year period provided you submit a written request and our staff are able to verify that the limits established during the original determination are still accurate.



FALLS MEADOW SUBDIVISION
 CITY OF SHEBOYGAN FALLS
 SHEBOYGAN COUNTY, WISCONSIN

SHEET TITLE

