

DEPARTMENT OF NATURAL RESOURCES INTERGOVERNMENTAL COOPERATION AGREEMENT

IN THE MATTER OF:

An Intergovernmental Cooperation Agreement (Agreement), authorized by Wis. Stat. § 66.0301, between the City of Eau Claire and the Wisconsin Department of Natural Resources to mitigate, contain, and monitor the discharge of groundwater in and around the evaporation ponds (the Property) near the city of Eau Claire, Wisconsin well fields to protect public health and safety and minimize harmful effects of contamination from per- and polyfluoroalkyl substances (PFAS).

RECITALS SECTION

WHEREAS, the City of Eau Claire (the City) and the Department of Natural Resources (the Department), together referred to as the Parties, seek to take an emergency action to mitigate harmful effects from PFAS present in the groundwater and in certain municipal water supply wells, to protect public health and safety, and to minimize environmental impacts resulting from any necessary actions to continue operating municipal water supply wells at safe levels; and

WHEREAS, the primary exposure pathway for PFAS is through the consumption of contaminated drinking water; and

WHEREAS, the suspension of regular service for municipal wells with PFAS at unsafe levels is necessary to address the risk to human health; and

WHEREAS, the City operates a utilities division proffering municipal water service to a population of over 70,000; and

WHEREAS, the City voluntarily tested for PFAS compounds at DNR request in April 2021, which indicated the presence of PFAS at levels below recommended groundwater standards but the Parties determined further evaluation of the municipal water supply wells was necessary; and

WHEREAS, prompt proactive action was taken by the City to secure additional water samples from each municipal well in addition to the entry point as water leaves the water plant and the City expedited testing of these samples by a qualified independent laboratory to identify those City wells with PFAS detects; and

WHEREAS, the City on July 6, 2021, with the information from said testing voluntarily turned off municipal wells 8, 15, 19, and 23 due to elevated levels of PFAS with respect to the recommended groundwater standard, leaving twelve municipal wells operable; and

WHEREAS, the City has demonstrated the concern that remaining operable municipal wells may be vulnerable to PFAS contamination if the municipal wells voluntarily taken out of operations due to detection of PFAS are not adequately pumped to waste; all Parties are concerned with the PFAS groundwater plume impacting the currently operable municipal wells; and

WHEREAS, the City has proposed pumping municipal wells 8, 15, 19, and 23 to direct discharge water to an existing infiltration and evaporation ponds on the City-owned wellfields property located on Old Wells Road in Eau Claire, Wisconsin (the Property); and

WHEREAS, the Parties have discussed potential alternatives to the use of evaporation ponds such as the potential discharge to the sanitary sewer which was determined to be infeasible by the City and potential direct discharge to the Chippewa River which was determined a possible alternative but less desirable than utilization of existing ponds on the Property and adjacent to the Chippewa River; and

WHEREAS, the City on July 30, 2021, wrote a letter to the Department indicating municipal well 11 was also shut off due to elevated levels of PFAS with respect to the recommended groundwater standards; in the same letter, the City formally requested input and assistance from the Department to address this urgent issue and so the City may take emergency action to preserve the operation of remaining municipal wells;

WHEREAS, the Parties desire to understand and assess the impacts of the proposed emergency action through the installation of monitoring wells and evaluation of sampling results;

WHEREAS, the Department has authority under Wis. Admin. Code ch. 728 and Wis. Stat. ch. 292 to enter into agreements with third parties and authority under Wis. Stat. § 66.0301 to enter into intergovernmental agreements with municipalities;

THEREFORE, in consideration of, and in exchange for, the promises and mutual understandings contained in this Agreement, the City and Department agree to the following:

AGREEMENTS SECTION

City Agreements and Obligations

1. Provide a brief design report and as-built plans and specifications of the existing absorption pond system as soon as practicable or within 90-days to the Department Wastewater Section (to jason.knutson@wisconsin.gov; trevor.moen@wisconsin.gov; and will.myers@wisconsin.gov) for plan review and approval. The design report shall include a brief description of the existing absorption pond system including size, capacity, number of cells, wastewater being treated, operation and maintenance of the system, and photos of the existing system.
2. Conduct a private well survey downgradient of the absorption pond system.
3. As soon as practicable, submit a Notice of Intent (NOI) (to jason.knutson@wisconsin.gov; trevor.moen@wisconsin.gov; and will.myers@wisconsin.gov) to apply for coverage under the Operation and Maintenance of Municipal Water Systems WPDES General Permit ("GP") for the proposed discharge of water from the wells taken offline due to PFAS concerns to the absorption pond system. The NOI shall include a map of the proposed pipeline pathway indicating any environmentally sensitive areas and historic and archeological sites and the proposed discharge location.
4. Monitor the proposed discharge to the absorption pond system for both water quantity and quality parameters, as required by the GP, and also on a biweekly frequency for PFOS and PFOA and a monthly frequency for all other PFAS compounds (EPA method 537 modified for 33 PFAS compounds).
5. As soon as practicable, propose a monitoring well network, including proposed sampling frequency. Submit the well plans and specifications to the Department of Natural Resources Wastewater Section for plan review (to jason.knutson@wisconsin.gov; trevor.moen@wisconsin.gov; and will.myers@wisconsin.gov). Continue to work through the individual WPDES permit process to cover the discharges to the absorption pond system. As part of the individual permit process, the discharges and absorption pond system will be

evaluated by the Department to determine the necessity of a groundwater monitoring and installation of a groundwater monitoring system to access compliance with groundwater quality standards.

6. Propose a plan to conduct surface water PFAS sampling and carry out the plan to determine any impacts to surface water and evaluate the capacity of the Chippewa River to attenuate any PFAS compounds likely to reach it.
7. If applicable, notify any private well owners down gradient (depending on private well survey in item 2 above).
8. After 90 days of operation of the absorption pond system, meet with the Department to discuss the operation of the existing absorption system and ability to effectively manage the groundwater discharge to the ponds and discuss the necessity of emergency GP coverage for potential alternative discharge locations of the water and including additional contingency planning.

DNR Agreements and Obligations

1. Convey coverage under the GP upon adequate progress of City meeting their obligations.
2. Review and approve proposed sampling plans and review monitoring well data.
3. Meet with the City to assess the necessity of the emergency GP coverage after 90 days of use, discuss potential alternative disposition of the water including additional contingency planning.
4. Evaluate potentially responsible parties (PRPs) and take such enforcement actions as may be warranted. The DNR shall not consider the City a PRP for voluntary cooperative actions taken by the City under this Agreement in an attempt to mitigate the effects of PFAS on the municipal water supply.

Public Records

All documents and records generated by each of the Parties per the terms of this Agreement are part of the public record and will be made available for public review per the terms of state law.

Project Contacts for Submission of Documents and Correspondence

- **Department of Natural Resources**
 - Kyle Burton, Drinking and Groundwater Program
 - (920) 360-2112 | Kyle.Burton@wisconsin.gov
 - Matt Thompson, Remediation and Redevelopment Program
 - (715) 492-2304 | MatthewA.Thompson@wisconsin.gov
 - Jason Knutson, Wastewater Program
 - (608) 267-7894 | Jason.Knutson@wisconsin.gov
- **City of Eau Claire**
 - Lane Berg, Utilities Manager
 - (715) 839-1876 | Lane.Berg@eauclairewi.gov

Permits, Approvals and Fees

The City shall obtain any necessary permits or approvals that may be required for mitigation, containment, and monitoring activities at the Property.

Subsequent Amendment

This Agreement may be amended by mutual written consent of the City and the Department. If an alternative emergency action is deemed necessary or the general permit expiration, an amendment to this IGA may be necessary.

Termination and Satisfaction

The provisions of this Agreement shall be deemed satisfied when all "agreements and obligations" identified above for both the City and the Department have been satisfied or terminated by written consent of both Parties.

The Parties, whose signatures appear below, hereby agree to the terms of this Agreement. Each person signing this Agreement represents and warrants that he or she has been duly authorized to execute and bind the respective party to the terms of this Agreement:

WISCONSIN DEPARTMENT OF NATURAL RESOURCES

DocuSigned by:

58A46D60FAE7466...
Christine Haag
Director, Remediation and Redevelopment Program

8/5/2021 | 11:57 AM CDT

Date

CITY OF EAU CLAIRE, WISCONSIN



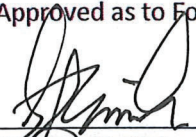
Lane Berg
Utilities Manager

8.5.21

Date



David A. Solberg
Interim City Manager

Approved as to Form:


Stephen C. Nick
City Attorney