



Date: January 13, 2012

To:

- Bruce Sylvester, Planning and Development Director – City of Verona; 111 Lincoln Street; Verona, WI 53593
- Jon H. Hochkammer, Mayor – City of Verona; 111 Lincoln Street; Verona, WI 53593
- Robert Montgomery, Montgomery Associates Resource Solutions; 119 S Main St; Cottage Grove, WI 53537
- Kami Lynch, Clerk – City of Verona; 111 Lincoln Street; Verona, WI 53593
- Town of Verona – 335 North Nine Mound Road; Verona, WI 53593
- Larry Palm, Chairperson - Capital Area Regional Planning Commission; 210 Martin Luther King Jr. Blvd., Room 362; Madison, WI 53703
- Kamran Mesbah, Deputy Director – Capital Area Regional Planning Commission; 210 Martin Luther King Jr. Blvd., Room 362; Madison, WI 53703
- Joe Parisi, County Executive – City County Building, Rm 421; 210 Martin Luther King Jr. Blvd; Madison, WI 53703
- Gary Werner – CRANES, Inc.; P.O. Box 3413; Madison, WI 53704
- Stefi Harris – WDC/SGE; 3427 County Road P; Mount Horeb, WI 53572
- Steve Verburg, Senior Reporter – Wisconsin State Journal; 1901 Fish Hatchery Road; Madison, WI 53708
- Jim Ferolie – Verona Press; 133 Enterprise Drive; PO Box 930427; Verona, WI 53593

From: Lynn Singletary – Wisconsin Department of Natural Resources

Subject: Notice of Public Information Hearing

The Department of Natural Resources is currently in the process of issuing the enclosed notice. It should be published in the Wisconsin State Journal on Tuesday, January 17, 2012. The Department has also prepared a related supplemental document that would be provided to the public upon request. Copies of both of these documents are also being directly sent to all of the affected or interested parties listed on this memo.

For questions regarding the hearing, please contact Lynn Singletary at (608) 267-7610.

1. The first part of the document is a list of names and addresses of the members of the committee.

2. The second part of the document is a list of names and addresses of the members of the committee.

**SUPPLEMENT TO THE  
JANUARY 17, 2012 NOTICE OF PUBLIC HEARING  
ON THE INTENT OF THE WISCONSIN DEPARTMENT OF NATURAL RESOURCES  
TO AMEND THE DANE COUNTY  
AREAWIDE WATER QUALITY MANAGEMENT PLAN**



**PREVIOUS REVIEW ACTIONS:**

The City of Verona made a request to amend their urban sewer service area (USA) to the Dane County Community Analysis and Planning Division (CAPD) in the spring of 2005. The USA amendment was approved by CAPD and the Wisconsin Department of Natural Resources (WDNR) in August of 2005. The approval decision was suspended in September 2005 because of concerns from then Dane County Executive, Kathleen Falk. WDNR lifted the suspension in October 2005 pending collaboration with representatives from the City of Verona, Town of Verona, Dane County Land and Water Resources Department, Madison Metropolitan Sewerage District (MMSD), WDNR, and the Capital Area Regional Planning Commission (CARPC), which replaced CAPD in May 2007, to assess the possibility of any future development in the vicinity of the Badger Mill Creek and Sugar River.

Montgomery Associates Resource Solutions (MARS) performed an extensive study ("Montgomery Study") of 1702 acres on the southwest margin of the current urban service area for the City of Verona to develop recommendations for urban development standards and environmental corridor boundaries that would provide protection to the identified water resource features of the study area. In the summer of 2009, the Southwest USA Amendment prepared by MARS and the City of Verona, and consistent with findings of the Montgomery Study, was submitted to CARPC for approval. In August of 2009, CARPC requested a delay on a decision until their Technical Advisory Committee (TAC) could review volume control standards. The City agreed with this delay but stipulated that the TAC complete their review within six months. CARPC also requested that the WDNR review the Montgomery Study to ensure that the report satisfied concerns about water quality and surface water protection.

In April 2010, CARPC staff's technical analysis recommended approval of the amendment; the commission was prepared to vote on a decision, but CARPC bylaws require that an amendment pass with a supermajority vote (8 of the 13 members voting "yes"); the proposed amendment was not considered. When a supermajority decision fails to receive eight or more "aye" votes due to insufficient attendance, the motion must be placed on the agenda for the next meeting. At the May 2010 Commission meeting, sufficient members were present for a decision, but the motion received only six "aye" votes and was denied by the Commission.

Subsequently, at the request of the City of Verona, WDNR reviewed the CARPC amendment decision. DNR also reviewed the Montgomery Report and recommendations for county-wide volume control standards developed by the Dane County Technical Stormwater Advisory Committee. In August 2011, WDNR sent the amendment back to CARPC indicating that the stormwater report provided an appropriate analysis of impacts and that as presented, the amendment appeared to conform with state standards for stormwater controls at both the state and local level. The WDNR made clear that through the Water Quality Management Planning Program, the State could not deny the application of standards more stringent than statewide stormwater standards but would require an enforcement mechanism at the local level. Dane County would have to create an enforcement mechanism to ensure compliance for these more stringent standards for volume control. At the time, the Dane County Land and Water Board had adopted a 90% volume control standard and WDNR believed this to be sufficient to implement

the proposed amendment at the local level. Therefore, the proposal was sent back to CARPC for reconsideration under the state's Water Quality Management Planning contract; the state believed that there was no basis for denial of the proposal based on statewide water quality standards.

In October 2011, CARPC reconsidered the southwest USA amendment but a supermajority was not achieved and commission member absences caused the vote to be tabled until November 2011. In November, a final decision on the amendment was again forced to be postponed. After the November 2011 CARPC Public Meeting, the City of Verona believing CARPC's inactivity to be an effective denial of the proposal, sent a letter to WDNR asking for state consideration of the proposed amendment. In December 2011, CARPC officially denied the southwest USA amendment by a vote of 7 to 6.

The current amendment request is specifically described in the notice of public hearing and is located as shown in **Map 1**.

#### **BASIS OF REVIEW AND PRELIMINARY DETERMINATION:**

In accordance with s. 283.83, Wis. Stats., and ch. NR 121, Wis. Adm. Code, CAPRC is a planning agency that WDNR has contracted with to make technical recommendations to WDNR with regard to Areawide Water Quality Management Planning in Dane County, including establishing sewer service areas associated with wastewater treatment facilities.

The WDNR and CARPC have established standard procedures for the review and approval process for Areawide Water Quality Management Plan Urban Service Area amendments. This process consists of CARPC working directly with applicants and district DNR staff to develop amendment proposals.

CARPC's Technical Advisory Committee provides a detailed technical report to its commission, which then provides a policy recommendation to WDNR for administrative decision. Because CARPC is not a designated agency, WDNR primarily acts upon the recommendations of the technical report. The commission action, in the absence of agency designation, provides an integrating function with local ordinances and review procedures, including the FUDA process and other local land use plans. CARPC then sends the amendment proposal package to WDNR with a complete decision record including the applicant's request and supporting information, a summary of Commission meetings and public hearing proceedings, the CARPC Resolution, and a CARPC Staff Analysis Report. The Staff Analysis Report includes a detailed description of how all applicable review criteria have been addressed. Upon review of the CARPC submittal, the WDNR issues a decision letter to CARPC articulating its administration action: approving or denying the proposed amendment to the Dane County Water Quality Management Plan, or possibly taking an alternative action.

The WDNR's August 2011 decision to request CARPC's reconsideration of the USA amendment was based on a review of the decision record associated with the CARPC decision of May 2010. At that time, the WDNR concurred with the conclusions of the CARPC Staff Analysis Report that the proposed amendment, with certain conditions for mitigation of effects, would adequately protect water quality and habitat in the Sugar River and Badger Mill Creek. Conditions for mitigation include maintaining 90% stay-on volume for runoff control for both residential and nonresidential development, setting a 75-foot, or greater in some areas, set-back distance from the Badger Mill Creek and Sugar River, and developing and implementing a restoration plan for the intermittent tributary to Badger Mill Creek.

Because Badger Mill Creek and the Sugar River are important local natural resources, and because of certain site-specific conditions, enhanced protection measures are considered desirable for protection of water quality. As part of the previous CARPC reviews, the City of Verona was requested to provide enhanced protection measures. A site-specific stormwater management plan was included with the City of Verona's summer 2009 amendment request. This plan included control measures that, in some aspects, exceeded the applicable state requirements of ch. NR 151 of the Wis. Adm. Code and Chapter 14 of the Dane County Ordinances. The site-specific stormwater management plan has been revised to propose infiltration of 90% of the pre-development infiltration volume for all land uses.

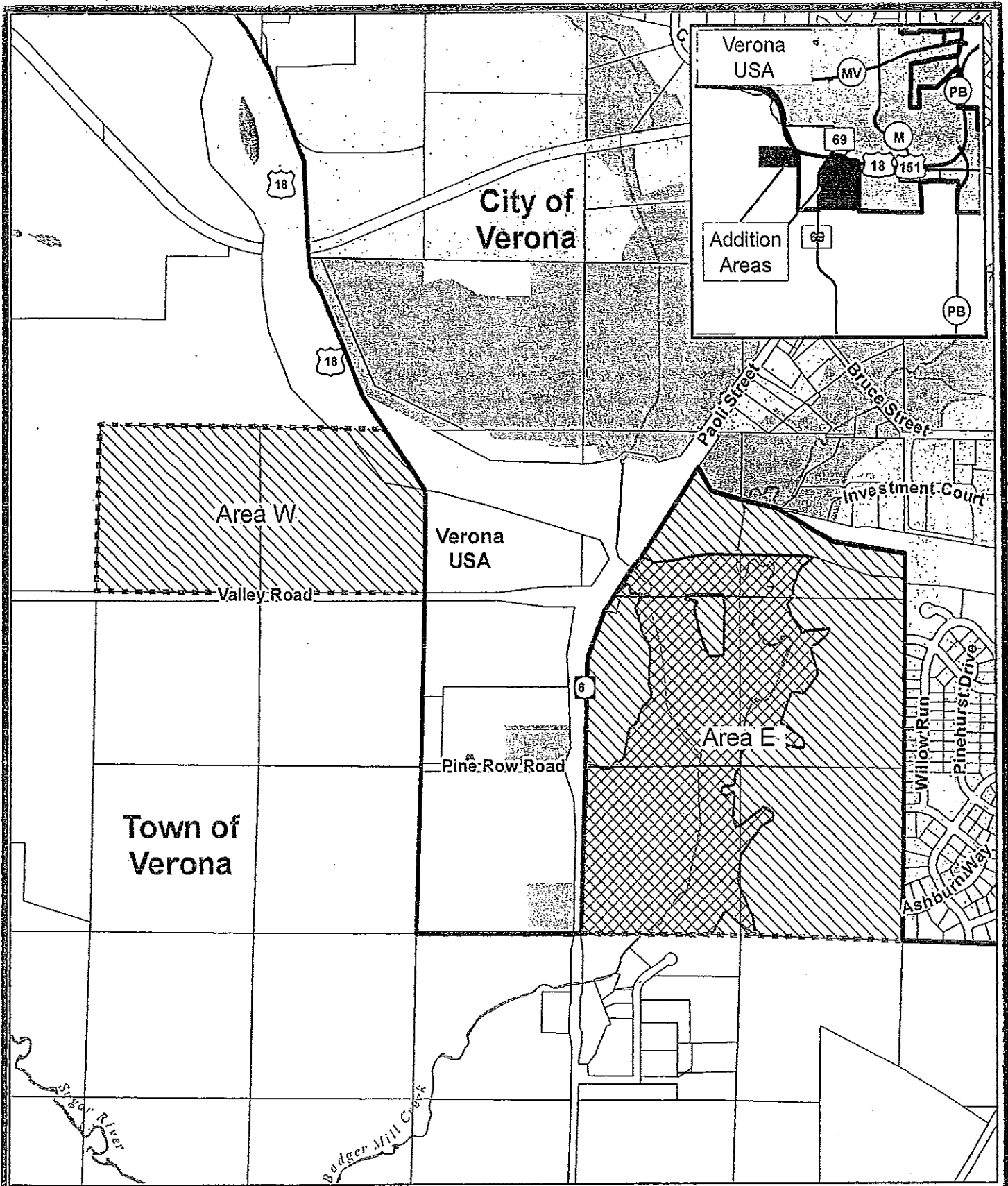
The WDNR generally concurs with the assessment of other criteria or plan aspects as described in the June 11, 2009 CARPC Agenda Cover Sheet – Executive Summary and the associated August 7, 2009 Staff Analysis Report with attachments. Specifically, the WDNR believes that if this proposed amendment follows the spirit and intent of the Dane County Water Quality Management Plan and that this amendment as designed will meet water quality requirements for Badger Mill Creek and the Sugar River.

The decision record indicates that various commissioners expressed concerns regarding the extent and reliability of stormwater or other controls to protect the water quality and ecosystem of Badger Mill Creek and the Sugar River. Commissioners indicated that the design plan did not represent control to the maximum extent practicable, and that higher water quality protection standards were warranted in this situation. WDNR is the legal authority for approval of Water Quality Management Plan amendments. In the absence of a designated planning agency for Dane County, the WDNR must act as the reviewing policy body for water quality protection under the Water Quality Management Planning Program. The WDNR has evaluated the proposed amendment, which employs standards and procedures that are consistent with applicable state regulations, and which have been promulgated with the purpose of protecting water quality and the environment, and proposes to approve the subject amendment request by the City of Verona.







#### **PUBLIC COMMENTS CONSIDERED DURING WDNR REVIEW**

All comments received by CARPC relative to the City of Verona's southwest USA amendment request to CARPC for approval have been forwarded to WDNR and have been considered in review.

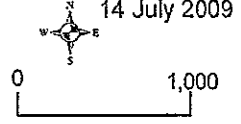
**Attachment 1 – Map of Proposed Urban Sewer Service Area Amendment**



**Map 1**  
 Amendment to the  
 Verona Urban Service  
 Area and Environmental  
 Corridors in the Town  
 of Verona

-  Service Area to be added (265 acres)
-  Proposed Environmental Corridor (84.2 acres)
-  Existing Environmental Corridor
-  Incorporated Area
-  Existing Urban Service Area Boundary
-  Proposed Urban Service Area Boundary

14 July 2009



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Prepared by staff  
 of the CARPC.