

**Legal Basis for Approving the Proposed  
City of Verona ‘Southwest USA’ amendment  
Based on Compliance with the**

**Department of Natural Resources**

**“Chapter NR 121—  
Areawide Water Quality Management Plans”**

- 121.01 Purpose
- 121.02 Applicability
- 121.03 Definitions
- 121.04 Structure of the State Water Quality Management Plan
- 121.05 Content of Areawide Water Quality Management Plans
- 121.06 Designation of Areawide Water Quality Planning Areas and Agencies
- 121.07 Procedures for Approval of Areawide Water Quality Management Plans and Plan Revisions for Designated Areas of the State
- 121.08 Procedures for Adoption and Revision of Areawide Water Quality Management Plans for Non-Designated Areas of the State’
- 121.09 Statewide Water Quality Advisory Committee.

The proposed ‘Southwest USA Amendment’, as proposed by the City of Verona, complies with all sections of the Department of Natural Resources [Chapter NR-121](#)—as follows:

**121.01**      **Purpose**

- Establishes a water pollution control planning process.
- Verona’s proposed ‘Southwest USA Amendment’ is consistent with Section 121.01 of NR-121.

No part of the Verona ‘Southwest USA Amendment’ proposal is at odds with, in conflict with, or inconsistent with Section 121.01—Purpose.

Comments: The City of Verona is completely supportive of Wisconsin’s areawide water quality planning process, as provided in Section 121.01.

Dane County has an adopted ‘Areawide Water Quality Plan’ entitled “[Dane County Water Quality Plan](#).” It was adopted in 2004 and the City of Verona is completely supportive of its findings and recommendations.

**Please see the separate document entitled “[Legal Basis for Approving the Proposed City of Verona ‘Southwest USA’ Amendment Based on Compliance with Dane County’s ‘Dane County Water Quality Plan’ as Adopted in 2004](#)” for a complete summary of how the ‘Southwest USA Amendment’ proposal is consistent with the findings and recommendations of the adopted “Dane County Water Quality Plan”.**

**121.02**      **Applicability**

- Establishes where the water pollution control planning process is applicable.
- Verona’s proposed ‘Southwest USA Amendment’ is consistent with Section 121.02 of NR-121.

No part of the Verona ‘Southwest USA Amendment’ proposal is at odds with, in conflict with, or inconsistent with Section 121.02—Applicability.

Comments: Dane County is a ‘designated areawide water quality planning area’ as defined in 121.06.

CARPC is the designated areawide water quality planning agency for Dane County.

The City of Verona believes that Chapter NR 121 is applicable to CARPC as the areawide water quality planning agency for Dane County, and the City of Verona acknowledges the role CARPC plays in implementing NR 121.

### 121.03

#### **Definitions**

- Establishes definitions for the water pollution control planning process.
- Verona’s proposed ‘Southwest USA Amendment’ is consistent with Section 121.03 of NR-121.

No part of the Verona ‘Southwest USA Amendment’ proposal is at odds with, in conflict with, or inconsistent with Section 121.03—Definitions.

Comments: The City of Verona agrees with the definitions of NR 121 as provided in Section 121.03.

### 121.04

#### **Structure of the State Water Quality Management Plan**

- Provides the required structure for Water Quality Management Plans.
- Verona’s proposed ‘Southwest USA Amendment’ is consistent with Section 121.04 of NR-121.

No part of the Verona ‘Southwest USA Amendment’ proposal is at odds with, in conflict with, or inconsistent with Section 121.04—Structure of State Water Quality Management Plan.

Comments: The proposed ‘Southwest USA Amendment’—is proposed to be an amendment to the areawide water quality management plan for Dane County (aka the ‘Dane County Water Quality Plan’ ...). **As such, it was prepared following all of the items outlined in Section 121.04, as follows:**

- 121.04 (2) (c) (1): The ‘Dane County Water Quality Plan’ was utilized in the preparation of the proposed ‘Southwest USA Amendment’;
- 121.04 (2) (c) (2): Topical studies were utilized—including a comprehensive study of the area surrounding the proposed ‘Southwest USA Amendment’ area. This study was entitled the ‘Badger Mill Creek-Sugar River Area’ study and was conducted by Montgomery Associates. The results of this comprehensive study are summarized in the 2008 report entitled “Resource Assessment and Development Analysis for the Upper Sugar River and Badger Mill Creek Southwest of the City of Verona” and this report is available on line and at Verona City Hall.

Additional studies were also utilized in the preparation of this proposed amendment to the Dane County Water Quality Plan—as outlined in the document “Badger Mill Creek-Sugar River Area Study Outline”, which is provided as ‘Attachment 3’ in the final application submitted by the City of Verona for the proposed ‘Southwest USA Amendment’.

- 121.04 (2) (c) (3): Intergovernmental cooperation in the preparation of this proposed amendment to the Dane County Water Quality Plan has been exemplary—and included long-term, comprehensive participation from staff from: The Department of Natural Resources; Dane County; the Capital Area Regional Planning Commission; the Town of Verona; and the Madison Metropolitan Sanitary Sewer District.
- 121.04 (2) (c) (4): Plan implementation mechanisms and requirements listed in this section—including a) effluent limitations and waste load allocations required to meet water quality standards and b) best management practices for nonpoint sources of water pollution were incorporated into this proposed amendment to the ‘Dane County Water Quality Plan’ for the proposed ‘Southwest USA Amendment’.
- 121.04 (2) (c) (5): Procedures for plan revision will be satisfied for this proposed ‘Southwest USA Amendment’ by CARPC.
- 121.04 (2) (c) (6): Public participation in the creation of this proposed amendment to the ‘Dane County Water Quality Plan’ has been exemplary. The City of Verona utilized multiple community open houses and forums to engage the public—both property owners and a diverse list of identified ‘stakeholders’—in the planning process.

## 121.05

### **Content of Areawide Water Quality Management Plans**

- Provides the required content of Area Wide Water Quality Management Plans.
- Verona’s proposed ‘Southwest USA Amendment’ is consistent with Section 121.05 of NR-121.

No part of the Verona ‘Southwest USA Amendment’ proposal is at odds with, in conflict with, or inconsistent with Section 121.05—Content of Areawide Water Quality Management Plans.

Comments: As a proposed amendment to the ‘Dane County Water Quality Plan’, the proposed ‘Southwest USA Amendment’ complies with all of the requirements included in this Section 121.05, including:

- Planning Area Boundaries: The planning area for the Badger Mill Creek-Sugar River Area Study were defined early in the process for planning in this area;
- Water Quality Assessment: The City of Verona utilized both existing and new water quality assessment data for the preparation of this proposal. Complete information about what assessment data was utilized can be found in the “Resource Assessment and Development Analysis for the Upper Sugar River and Badger Mill Creek Southwest of the City of Verona”;

- Inventories and Forecasts: The City of Verona utilized both existing and new (created) inventories and forecasts for the preparation of this proposal. Many of these inventories and forecasts were provided to the City of Verona by the Capital Area Regional Planning Commission. Complete information about what inventories and forecasts were utilized can be found in the “Resource Assessment and Development Analysis for the Upper Sugar River and Badger Mill Creek Southwest of the City of Verona”;
- Water Quality Standards: The City of Verona utilized water quality standards from Dane County, CARPC and the DNR in the preparation of this proposed amendment to the Dane County Water Quality Plan;
- Total Maximum Daily Loads: Not relevant; no TMDLs have been established for the Upper Sugar River or Badger Mill Creek in the amendment area;
- Waste Load Allocations: The City of Verona utilized waste load allocations from Dane County, CARPC, and the DNR in the preparation of this proposed amendment to the Dane County Water Quality Plan;
- Nonindustrial Wastewater Treatment and Collection Systems Plan: The City of Verona has an adopted ‘Wastewater Master Plan’ that was utilized in the preparation of this proposed amendment to the Dane County Water Quality Plan, and this ‘Wastewater Master Plan’ was provided to the staff at CARPC for their use in reviewing this proposed amendment to the Dane County Water Quality Plan;

**Note Regarding 121.05(1)(g)(2)(a-d)**: The City of Verona has become aware of some misinformation regarding this proposed USA amendment that has been placed on-line by a group called ‘Western Dane Coalition for Smart Growth and Environment’ (WDCSGE). This group has published information on-line mistakenly stating that section 121.05 (4)(c) provides a basis for denial of Verona’s proposed ‘Southwest’ USA Amendment. [In fact—the section of NR 121 that this group cites on-line is *not* 121.05(4)(c) but is actually 121.05(1)(g)(2)(c)...]. WDCSGE mistakenly states that the proposed amendment is not consistent with the following language from that section:

*“Major areas unsuitable for the installation of wastewater treatment systems because of physical or environmental constraints are to be excluded from the service area. Areas to be considered for exclusion from the sewer service area because of the potential for adverse impacts on the quality of the waters of the state from both point and non-point sources of pollution include but are not limited to wetlands, shorelands, floodways and floodplains, steep slopes, highly erodible soils and other limiting soil types, ground water recharge areas, and other such physical constraints”.*

Contrary to the statements made on-line by the ‘Western Dane Coalition for Smart Growth and Environment’, the proposed City of Verona ‘Southwest USA’ amendment does comply with the language from this section of NR 121. Specifically, the proposed USA amendment excludes from the sewer service area (through placement in environmental corridors which may *not* be served by sanitary sewers...) all of the areas specified in NR 121.05(1)(g)(2)(c), including:

- Wetlands—including buffers beyond currently required minimums (see note below...);
- Shorelands;
- Floodways;
- Floodplains;
- Steep Slopes;
- Highly erodible soils; and
- Ground water recharge areas.

In addition to placing the above-listed areas into environmental corridors—consistent with NR 121.05(1)(g)(2)(c)—the City of Verona will also put into environmental corridors buffer areas around wetlands that exceed current Dane County minimum buffer area requirements.

**The City of Verona wishes to make clear that—contrary to the misinformation provided on-line by WDCSGE—the proposed ‘Southwest USA’ amendment *does* indeed comply with all sections of NR121, including the section referenced on-line by WDCSGE.**

- Industrial Waste Treatment System Needs: The City of Verona considered industrial waste treatment system needs in the preparation of this proposed amendment to the Dane County Water Quality Plan. Because the proposed ‘Southwest USA Amendment’ does not include any lands proposed for industrial uses—no system needs were identified;
- Nonpoint Source Control Needs: The City of Verona considered nonpoint source control needs and developed specific recommendations for meeting these needs within the proposed ‘Southwest USA Amendment’ area. These recommendations are summarized in the submitted final proposal/application;
- Residual Waste Control Needs: The City of Verona considered residual waste control needs and developed specific recommendations for meeting these needs within the proposed ‘Southwest USA Amendment’ area. These recommendations are summarized in the submitted final proposal/application;
- Land Disposal Needs: The City of Verona considered land disposal needs and developed specific recommendations for meeting these needs within

the proposed ‘Southwest USA Amendment’ area. These recommendations are summarized in the submitted final proposal/application;

- Target Abatement Dates: The City of Verona will work with CARPC, Dane County, and the DNR to establish regional (as opposed to sub-basin...) target abatement dates for the entire watershed, so that target dates will apply to all jurisdictions within the basin—including the City of Madison, Mount Horeb, and others;
- Recommended Regulatory Programs: The City of Verona has incorporated recommended regulatory programs into the proposed ‘Southwest USA Amendment’ area—as summarized in the submitted final proposal/application.
- Designated Management Agencies: The City of Verona believes it is the designated management agency for the Dane County Water Quality Plan for lands incorporated into the City. The City of Verona has a solid reputation and track-record for taking our environmental protection responsibilities seriously and in adopting and enforcing natural protection regulations within the City. At this moment—the City of Verona is vigorously pursuing the creation of a ‘Stormwater Utility’ specifically to insure a stable source of revenue for this important environmental and natural-resources protection work;
- Environmental, Social, Economic Impact: The City of Verona has considered the environmental, social, and economic impact of the proposed ‘Southwest Amendment’ through both the 3-year long ‘Badger Mill Creek-Sugar River Area Study’ and through the 2-year long ‘Comprehensive Planning’ process. Both the citizens of Verona and their elected officials have determined that the positive benefits of the proposed amendment *exceed* any potential negative environmental impacts—particularly in light of the extensive and comprehensive environmental protection measures that are planned for the ‘Southwest Amendment’ area. Social and economic impacts are expected to be positive, primarily in the form of economic growth and development, job creation, and additional diverse housing opportunities for a range of incomes.

Note regarding 121.05(2): The City of Verona has spent over \$100,000 of tax-payer funds in studying the proposed ‘Southwest USA Amendment’ area. CARPC staff have suggested several ‘additional’ research items—such as comprehensive archeological studies and complete soil boring studies—which the City has determined that financial resources are not adequate to conduct these ‘additional’ studies in advance of development. The City of Verona will, however, require that these additional studies must be conducted by end-users or developers of the lands included within the ‘Southwest USA Amendment’ area prior to granting entitlements such as zoning or platting.

**121.06**      **Designation of Areawide Water Quality Planning Areas and Agencies**

- Establishes both area wide water quality planning areas and agencies.
- Verona’s proposed ‘Southwest USA Amendment’ is consistent with Section 121.06 of NR-121.

No part of the Verona ‘Southwest USA Amendment’ proposal is at odds with, in conflict with, or inconsistent with Section 121.06—Designation of Areawide Water Quality Planning Areas and Agencies.

Comments: Section 121.06 describes how area water quality planning areas and agencies are designated.

The City of Verona understands that Dane County is a designated Water Quality Planning Area. The City of Verona recognizes the Capital Area Regional Planning Commission as the designated areawide water quality planning agency for Dane County.

**121.07**      **Procedures for Approval of Areawide Water Quality Management Plans and Plan Revisions for Designated Areas of the State**

- Establishes procedures for approving Areawide Water Quality Management Plans and Plan revisions for areas such as Dane County.
- Verona’s proposed ‘Southwest USA Amendment’ is consistent with Section 121.07 of NR-121.

No part of the Verona ‘Southwest USA Amendment’ proposal is at odds with, in conflict with, or inconsistent with Section 121.07—Procedures for Approval of Areawide Water Quality Management Plans and Plan Revisions for Designated Areas of the State.

Comments: Dane County is a ‘Designated Area of the State. The Verona ‘Southwest USA Amendment’ proposal is considered to be a *revision* to the adopted ‘Area-Wide Water Quality Management Plan’ for Dane County.

The City of Verona utilized a broad, citizen-based and participatory planning process to create this proposed amendment to the Dane County Water Quality Plan. The 3-year long ‘Badger Mill Creek-Sugar River Area’ study included 4 community open houses—these open houses were well publicized and well attended. Notices for these forums were sent directly to property owners and a list of identified stakeholders within the planning area.

Additionally, this proposed amendment to the Dane County Water Quality Plan was created as part of the City of Verona comprehensive plan—which included community forums and open houses, community surveys, and public hearings



Comments: Section 121.09 includes language for the establishment of a 'Statewide Water Quality Advisory Committee'. The City of Verona is not aware of whether or not such an advisory committee has been created yet or not. The City of Verona is supportive of such an advisory committee if it has already been established, and the City of Verona is supportive of creating such an advisory committee if it has not already been established.

The establishment of such an advisory committee is not specifically relevant to Verona's current 'Southwest USA Amendment' proposal.