

AGREEMENT CALLS FOR SIGNIFICANTLY HIGHER TREATMENT STANDARDS AT WAUCONDA WASTE WATER TREATMENT PLANT

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WAUCONDA & LAKE BARRINGTON, IL – A voluntary Intergovernmental Agreement (IGA) which calls for the Village of Wauconda to operate its wastewater treatment plant (WWTP) under rigorous new environmental guidelines which exceed existing state and federal standards imposed by the Illinois Environmental Protection Agency (IEPA) in Wauconda's recently amended National Pollution Discharge Elimination System (NPDES) permit was ratified today as the Villages of Wauconda and Lake Barrington, along with Cuba Township, executed documents formalizing the accord. The agreement was developed in concert leading environmental organizations, including the Sierra Club, the Prairie Rivers Network, and the Environmental Law & Policy Center.

Overview

"This agreement will result in one of the most advanced wastewater treatment plants in Illinois. It provides for the monitoring of more pollutants than any other wastewater treatment plant in the state. Moreover, the monitoring required by this agreement will give us real data on the quality of the area's aquifer and we will make that data available to the public," said Lake Barrington Trustee Kevin Richardson, who helped spearhead the negotiations leading to the agreement.

Wauconda Mayor James Eschenbauch said, "We found that the basis of our permitted design for the expanded wastewater treatment plant could, with some modification, accommodate most of the desired enhancements and achieve the objective of environmental monitoring within the parameters agreed to by the respective governmental and environmental groups. We hope that Wauconda's expanded plant will serve as a model for environmental sensitivity for other new or expanded wastewater treatment plants in Illinois, if not throughout the nation."

The accord also settles litigation between the parties concerning the Illinois Environmental Protection Agency's (IEPA) decision last August to issue an amended National Pollution Discharge Elimination System (NPDES) permit to Wauconda authorizing the expansion of Wauconda's existing wastewater treatment plant (WWTP). The litigation, which was brought by Lake Barrington, Cuba Township, the Sierra Club, and the Prairie Rivers Network, was filed with the Illinois Pollution Control Board (IPCB) in late September. The IPCB has responsibility for hearing appeals on contested IEPA permit decisions.

The settlement agreement between Wauconda, Lake Barrington and Cuba Township takes the form of an Intergovernmental Agreement, which is authorized under state law. A second – and equally enforceable litigation settlement agreement – includes the Sierra Club and the Prairie Rivers Network and provides these key environmental groups with court-enforceable rights comparable to those provided by the IGA for the Village of Lake Barrington and Cuba Township.

"From the beginning, our objective has been to protect the health of our citizens and our environment. We had two ways of achieving this objective and we pursued them both. The first was litigation before the Pollution Control Board, which we have pursued vigorously. The second avenue was to negotiate an enforceable agreement with Wauconda that achieves our objective. This agreement accomplishes our objective and is something we can be very proud of," said Lake Barrington Trustee Jean Vonder Haar, who was also a key participant in the negotiations.

Cuba Township Supervisor David Nelson said, "We are confident that this agreement provides for far more protection to the health and environment of our community than the original Wauconda permit and I commend both Wauconda and the environmental groups for their effort in working with Lake Barrington and Cuba Township in crafting this agreement."

This sentiment was echoed by Tom Gooch, Cuba Township Highway Commissioner and another key member of the Cuba Township leadership who was closely involved in the negotiations. Gooch said, "Cuba Township has a long history of working to protect and preserve our environment, particularly with regard to water quality. This agreement provides us with a much better result than we had with the original IEPA permit issued to Wauconda."

The Agreement Framework

Overall, the agreement between Wauconda, Lake Barrington and Cuba Township contains three primary components and is detailed through and by a number of implementing subsections of the agreement. The three major parts of the agreement include:

- Higher treatment standards. A strong set of provisions which call for treatment standards substantially higher than Wauconda's current NPDES permit requires. These higher treatment standards will be incorporated into the NPDES Permit at the next permit renewal, which is November 30, 2005.
- Enhancements to the Fiddle Creek wetlands. The IGA provides a framework for the parties to work together on improvements which will enhance the quality, character and functionality of the wetlands which are part of the Fiddle Creek ecosystem as a way of protecting both the Fox River and downstream ecosystems and communities as funding is secured from the federal or state government or other sources.
- Non-impact safeguards. In addition to higher treatment standards, there are a number of safeguards in the agreement which assure that the expansion will not have an adverse impact upon downstream neighbors, including those in Lake Barrington and Cuba Township.

Key Implementing Provisions

- Higher Treatment Standards
 - Pretreatment Monitoring Required. A key part of assuring that the discharge coming from the Wauconda WWTP has no adverse impact upon Lake Barrington and Cuba Township residents or the environment is to assure that Wauconda's industrial dischargers are regulated under a formal industrial pretreatment program. The IGA formally commits Wauconda to maintain and operate a pretreatment program (at its own expense on a non-contingent funding basis) that is consistent with what larger communities are required to do under federal and state law. This is an important improvement called for by the IGA in that the U.S. Environmental Protection Agency had previously exempted Wauconda from having to maintain and operate such a program.
 - Restrictive CBOD5 and SS Loading Limits To Be Maintained in Phases I and II. Carbonaceous Biochemical Oxygen Demand (CBOD5) and suspended solids (SS) are the pollutants primarily associated with municipal wastewater treatment discharges. They represent a cross-section of household and commercial wastes. For example, garbage disposal waste is a high source of CBOD5 and SS. Sanitary waste from residential, commercial, educational and institutional sources is another frequent source.

At a technical level, CBOD5 is a measure of the organic matter present, both in solid and dissolved forms, which, when consumed by microorganisms, depress the dissolved oxygen levels in the receiving streams. [NOTE: the degradation process is the process through which living organisms absorb and extract energy from food sources (CBOD5).] Suspended solids discharged can accumulate in the bottom of a receiving stream and reduce the clarity of the water. Limits on both CBOD5 and SS are critical to maintaining stream health (and, correspondingly, wetlands health and drinking water quality as both relate to streams which may recharge aquifers beneath such waterways). When CBOD5 levels are too high, the dissolved oxygen in streams and waterways is depleted and fish and other aquatic organisms suffocate.

The IGA calls for Wauconda to install, maintain and operate (at its own expense and on a non-contingent funding basis) such equipment and improvements as are necessary to provide for no increase in the loading limits on Fiddle Creek from the previous permit (117 lbs/day for CBOD5, and 140 lbs/day for suspended solids, based on annual averages). In essence, there will be no net increase in the key pollutants discharged as a result of the Wauconda plant expansions, even though the volume will increase over time from 1.4 to 2.4 million gallons per day. Consequently, the agreement will require a reduction in CBOD5 and SS concentrations as loading limits will be held constant while the wastewater volume is increased.

In addition, Wauconda will accept the 1 mg/L phosphorus level (based on a monthly average) included in the NPDES permit currently being appealed. As part of the IGA, Wauconda shall accept this permit limit at NPDES permit renewal for both Phase I and Phase II. Echoing these terms in the IGA strengthens oversight and enforcement capabilities over this issue by both the parties to the agreement and the environmental groups involved in the negotiations.

- Aeration for Dissolved Oxygen Required. Aeration to increase Dissolved Oxygen levels is important in supporting a high quality aquatic community, including fish and the aquatic insects they consume as food. This is particularly important in Wauconda's case as some of the dissolved oxygen in the wastewater is consumed by aerobic bacteria in the long effluent pipeline to Fiddle Creek. Given this, Wauconda has committed in the IGA to design for and accept the NPDES permit limit approval for sufficient aeration capabilities to maintain 6 mg/L dissolved oxygen in the effluent where it enters Fiddle Creek. Under the IGA, Wauconda shall install these capabilities as part of Phase I (at its own expense on a non-contingent funding basis).
- Disinfection Required. Fecal coliform is an indicator bacteria associated with waste from mammals and is indicative of a variety of potential pathogens. Responding to public concerns over the presence of fecal coliform in its effluent, Wauconda last year voluntarily agreed to pay for, create, and operate (at its own expense on a non-contingent basis) a disinfection program to assure that the treatment plant effluent is not a source of bacterial contamination in Fiddle Creek.

The IGA echoes Wauconda's receipt of this permit condition in the appealed permit, and that they will accept this condition going forward. Wauconda has been disinfecting its effluent since the fourth quarter 2003, in compliance with the state effluent standards.

- Nitrate Removal/No Net Increase. Nitrates are formed in the wastewater treatment process and result from the degradation of proteins and urea. Like phosphorus, nitrogen can stimulate the growth of algae and invasive plant species in the wetlands, which ultimately crowd out native plant species and change the character and functioning of wetlands. Moreover, nitrates

are among the most common pollutants found in private drinking water wells. This is particularly important for infants receiving drinking water from the private water supplies.

Presently, there is no specific state or federal mandate for wastewater treatment plants to remove nitrates. However, the IGA addresses this important issue (viewed particularly so by leading environmental groups) by requiring Wauconda (at its own expense on a non-contingent basis) to design nitrate removal capabilities for its treatment plant such that there will be no net increase in nitrates from the plant.

The Phase II expansion of the treatment plant to 2.4 MGD design average flow by Wauconda shall include nitrate removal capabilities, provided that Wauconda receives grant funding through state, federal or other sources for the design, equipment and facilities necessary to achieve such nitrate removal. The IGA states that Wauconda shall have the nitrogen removal facilities operational no later than when Phase II operation commences or by January 1, 2007, whichever is earlier (contingent upon grant funding for the necessary equipment).

- Enhancements to the Wetlands

- Wetlands Restoration. Wauconda, Lake Barrington, and Cuba Township agree to work together in securing grant funds to enhance flow restoration in the Slocum Drainage Ditch and Fiddle Creek and to provide funds for planning, restoration and natural resource management of the Fiddle Creek wetland complex. Guidance for this effort will be sought from environmental organizations such as Citizens for Conservation and the Sierra Club.

- Non-Impact Safeguards

- Establish Monitoring Wells and Perform Groundwater and Effluent Testing. The IGA helps create one of the most advanced wastewater treatment plants in Illinois by requiring a state-of-the-art program to monitor and test **for more pollutants than any other wastewater treatment plant in Illinois, including the full list of priority pollutants and the evolving list of endocrine disruptors** (e.g., pharmaceutical drugs which enter the environment through inclusion in human waste). Equally important, these new monitoring wells will provide real data on the aquifer quality that will be made available to local, state and federal environmental officials as well as private organizations and citizens.

Under the IGA, Wauconda, Lake Barrington, and Cuba Township agree that, within the next year following the execution of the Agreement, they shall jointly locate, install, operate, and maintain (at Wauconda's expense and on a non-contingent basis) four (4) monitoring wells at mutually agreed upon locations.

The IGA states that Wauconda shall (at its own expense on a non-contingent basis) test its treatment plant effluent quarterly for one year, followed by quarterly sampling of the monitoring wells in the second year for those pollutants detected in the plant effluent. Thereafter, annual testing of the treatment plant effluent and monitoring wells will be conducted. This provides important information to downstream communities. Further, the IGA provides that Lake Barrington can also conduct its own analytical tests on the monitoring wells.

- Copies of Reports to be provided to Lake Barrington. The IGA requires Wauconda to provide Lake Barrington with copies of its discharge monitoring reports along with any other reports required to be filed by Wauconda with any county, state or federal agency relating to the WWTP, its operation, and NPDES permit Number IL0020109. Lake Barrington intends to

routinely release all such reports to relevant state and county agencies, key environmental organizations, and the public.

- Injunction Remedies Available to Enforce the Agreement. The substantial oversight authority provided to Lake Barrington, Cuba Township and the environmental organizations involved in the IGA negotiations is backed up with injunctive remedies set forth in the agreement which allow Lake Barrington and Cuba Township to enforce the terms of the IGA through the courts (e.g., through the power that a court has to enter mandatory orders for compliance by the parties of and to an agreement).

Summary

The Intergovernmental Agreement between Wauconda, Lake Barrington, Cuba Township, the Sierra Club and the Prairie Rivers Network sets wastewater treatment plant standards for Wauconda's WWTP which far exceed current state and federal requirements recently imposed in Wauconda's amended NPDES permit for expansion. As such, the IGA assures that Wauconda's WWTP will operate under some of the most rigorous and exacting standards in the state.

Equally important, the IGA agreed to by the parties represents a better alternative to the uncertainties and expense of continued litigation before the Illinois Pollution Control Board. Moreover, the agreement reflects the substantive input and collaboration of the signatory municipal entities with well-respected environmental groups which have a long history of environmental protection and advocacy. It is a win-win for the communities involved and the environment that can serve as a model to other cities, towns and villages across Illinois.

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Press Release - Intergovernmental Agreement
Between Wauconda, Lake Barrington & Cuba Township

Issue	Why Important	Where/By Whom Included	Financed By	Funding Type
Disinfection	Destroys pathogens and fecal coliform in the Wauconda effluent	Added by Wauconda in pre-permit stage	Wauconda	<u>Non-contingent</u>
Phosphorus removal	Reduces nutrient source which overstimulates growth of invasive plant species and harms native plants in wetlands	Added by IEPA in August, 2004 permit issued to and accepted by Wauconda	Wauconda	<u>Non-contingent</u>
Pretreatment program	Although exempted by USEPA from having to do so, IGA commits Wauconda to operate industrial pre-treatment program using applicable state/federal guidelines	Added by Wauconda in the pre-permit stage; requirements formalized in IGA	Wauconda	<u>Non-contingent</u>
CBOD5/Suspended Solids Loadings Limitations	Commits Wauconda to install, maintain & operate equipment necessary to provide constant loading limits on CBOD5/SS and to request & accept amendment to its NPDES permit incorporating same	Added by IGA	Wauconda	<u>Non-contingent</u>
Aeration for Dissolved Oxygen	Commits Wauconda to design and obtain NPDES permit approval for sufficient aeration capabilities to maintain 6 mg/L dissolved oxygen in effluent discharge	Added by IEPA in August, 2004 permit issued to and accepted by Wauconda	Wauconda	<u>Non-contingent</u>
Nitrate Removal - Design	Although there is no current federal/state mandate re: nitrogen, it is among the most common pollutants found in private wells; N is also a common nutrient which works to crowd out native plant species in favor of pollution-tolerant species	Added by IGA	Wauconda	<u>Non-contingent</u>
Nitrate Removal - Installation	See above	Added by IGA	State/Other	Contingent
Nitrate Removal - Ongoing Operation	See above	Added by IGA	Wauconda	<u>Non-contingent</u> (once facilities are built)
Wetlands Enhancement	Enhance quality of Fiddle Creek wetlands as a way of improving their natural functioning	Added by IGA	State/Other	Contingent
Monitoring Wells - Install	To assure maximum health and environmental protection, the IGA mandates state-of-the-art monitoring and testing for more pollutants than any other wastewater treatment plant in Illinois	Added by IGA	Wauconda	<u>Non-contingent</u>
Monitoring Wells - Ongoing Testing	See above	Added by IGA	Wauconda	<u>Non-contingent</u>
WWTP Effluent Testing	See above	Added by IGA	Wauconda	<u>Non-contingent</u>
Monitoring Well Testing (Additional testing as desired by Lake Barrington)	Provide additional independent verification of effluent testing referenced above	Added by IGA	Lake Barrington	To Be Determined
Discharge Reports	Requires Wauconda to provide Lake Barrington with discharge monitoring reports. LB intends to release all reports to environmental groups and the public	Added by IGA	Wauconda	<u>Non-contingent</u>

Press Release - Intergovernmental Agreement
 Between Wauconda, Lake Barrington & Cuba Township

Issue	Agreed To By Wauconda Pre-Permit	Permit As Issued By Illinois EPA	Intergovernmental Agreement
Disinfection	✓	✓	✓
Phosphorus removal		✓	✓
Pretreatment program		✓	✓
BOD/Suspended Solids Loadings Limitations			✓
Aeration for Dissolved Oxygen		✓	✓
Nitrate Removal - Design			✓
Nitrate Removal - Installation			✓
Nitrate Removal - Ongoing Operation			✓
Wetlands Enhancement			✓
Monitoring Wells - Install			✓
Monitoring Wells - Ongoing Testing			✓
WWTP Effluent Testing			✓
Monitoring Well Testing (Included added testing by Lake Barrington)			✓
Discharge Reports provided to environmental organizations/public			✓