

From: Beggs, Tauren R - DNR
Sent: Wednesday, October 17, 2018 9:58 AM
To: 'Kathleen McDaniel'
Cc: GravelPit
Subject: RE: water replacement option

Hi Kathleen,

As part of this process, if access is denied all three times, the DNR Project Manager is required to write a memo for the case file documenting the actions taken. I believe this memo can be provided to you and would meet the written confirmation you would be looking for.

Regards,

We are committed to service excellence.

Visit our survey at <http://dnr.wi.gov/customersurvey> to evaluate how I did.

Tauren R. Beggs

Phone: (920) 662-5178

Tauren.Beggs@wisconsin.gov

From: Kathleen McDaniel <kmcdaniel@manitowoc.org>
Sent: Monday, October 15, 2018 9:19 AM
To: Beggs, Tauren R - DNR <Tauren.Beggs@wisconsin.gov>
Cc: GravelPit <GravelPit@manitowoc.org>
Subject: RE: water replacement option

Thanks. Our Mayor has asked that we have written confirmation that our obligation is satisfied, because we don't want to be in the position of offering municipal water, having them turn it down, and then being told that even though water runs past their house, we have to do a well because they refused it.

From: Beggs, Tauren R - DNR [<mailto:Tauren.Beggs@wisconsin.gov>]
Sent: Monday, October 15, 2018 8:29 AM
To: Kathleen McDaniel
Cc: GravelPit
Subject: RE: water replacement option

If you send letters and the property owner refuses the first two times, then the DNR would send a third request. If it is refused the third time, then your obligation is complete. If they accept after DNR sends the request to them, then the municipal water would need to be provided.

We are committed to service excellence.

Visit our survey at <http://dnr.wi.gov/customersurvey> to evaluate how I did.

Tauren R. Beggs

Phone: (920) 662-5178

Tauren.Beggs@wisconsin.gov

From: Kathleen McDaniel <kmcdaniel@manitowoc.org>
Sent: Monday, October 15, 2018 8:23 AM
To: Beggs, Tauren R - DNR <Tauren.Beggs@wisconsin.gov>
Cc: GravelPit <GravelPit@manitowoc.org>
Subject: RE: water replacement option

Thank you Tauren. Your assumption is correct, because we cannot force property owners to annex in – it has to be their choice. It's my understanding that we would need to send two letters via certified mail offering municipal water, and that if the water was refused, the DNR would consider the City to have met our obligation as an RP – is that correct?

Kathleen M. McDaniel
Manitowoc City Attorney
900 Quay Street, Manitowoc, WI 54220
(920) 686-6990 | kmcdaniel@manitowoc.org

From: Beggs, Tauren R - DNR [<mailto:Tauren.Beggs@wisconsin.gov>]
Sent: Monday, October 15, 2018 8:22 AM
To: Kathleen McDaniel
Cc: GravelPit
Subject: RE: water replacement option

Hi Kathleen,

I talked to my program and the Drinking Water and Groundwater Program. It is dependent on if the property would be annexed into the City or not. For this scenario, I don't believe you are annexing in properties, you would just be providing municipal water, correct?

Environmental and Public Health Viewpoint:

From a general environmental standpoint and public health viewpoint, providing municipal water is the safer option than replacement private wells due to there being a much lower risk of the drinking water source becoming contaminated. In this specific case, it is also beneficial due to the aesthetic quality issues in some of the more recent replacement wells.

If not annexed:

Per NR 772.09(3)(a), it is required by the responsible party to evaluate remedial action options to address the exposure pathways of concern. The exposure pathway in this scenario would be the groundwater contamination that has impacted the private wells. If the City decides that providing municipal water is the most effective option and the homeowner refuses that solution, then you have met your obligation. However, the refusal will need to be documented and submitted to the DNR, so there is an official record for it as outlined below:

- It is required by the RP to do at a minimum two written requests (certified mail) to each off-site property owner in an attempt to obtain an access agreement in order to conduct the work (we have a similar process for vapor sampling and mitigation, in which we have more detailed guidance and templates to use that could be modified to fit this purpose). It is also encouraged

that you meet property owners in person before, during, and/or after the written requests have been sent as it is a generally more effective method. If the two requests are denied by the property owner, then the DNR sends one final written request (we can also meet with the property owner if needed). If denied again, then the official record of refusal is completed and documented in the DNR case file. I can provide the guidance/templates when needed. This information should be provided to the property owners up front, so they have all the information available to them to make their decision.

If the property owner, after the refusal, decides sometime in the future that he/she would like municipal water, there is no authority by the Drinking Water and Groundwater Program to enforce the responsible party to provide municipal water. I don't believe the Remediation & Redevelopment Program has the authority to enforce the responsible party to provide municipal water after they refused the first time either, BUT I would like to get this clarified to be certain.

If the property owner does refuse initially, then changes their mind in the future, they could always pursue 3rd party litigation, but the DNR would not have direct involvement with that. They could also potentially contact Department of Health Services (DHS).

If annexed:

The municipality should enforce their private well ordinance requirements, which would require the property owner to hook up to municipal water. If the property owner wanted to keep their private well, they would need to apply for a permit and get approval from the municipality to do so.

If you have any questions, please let me know.

Regards,

We are committed to service excellence.

Visit our survey at <http://dnr.wi.gov/customersurvey> to evaluate how I did.

Tauren R. Beggs

Phone: (920) 662-5178

Tauren.Beggs@wisconsin.gov

From: Kathleen McDaniel <kmcdaniel@manitowoc.org>

Sent: Friday, October 12, 2018 10:03 AM

To: Beggs, Tauren R - DNR <Tauren.Beggs@wisconsin.gov>

Cc: GravelPit <GravelPit@manitowoc.org>

Subject: water replacement option

Good morning Tauren,

We are having some internal conversations at the City about water replacement. If we were to run a water main past an impacted home, and the homeowner refuses municipal water, have we met our obligation to offer an alternative drinking water solution? In other words, if someone refuses City water, can we refuse to drill a well because we offered a solution?

Kathleen M. McDaniel

Manitowoc City Attorney
900 Quay Street, Manitowoc, WI 54220
(920) 686-6990 | kmcdaniel@manitowoc.org