



Doug Hedrick, Mayor
CITY OF GREENDALE

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Jane Wittke
OKI Regional Council of Government
720 East Pete Rose Way, Suite 420
Cincinnati, Ohio 45202

RE: Dearborn County Water Quality Management Plan

Dear Ms. Wittke:

The City of Greendale respectfully submits these comments and feedback on the draft Water Quality Management Plan for Dearborn County (the "Draft Plan"). In short, for the reasons stated herein, the Draft Plan should be revised by focusing on proper treatment of wastewater using existing treatment capacity so as to avoid duplication, waste of resources, and proliferation of small package plants that would result from the Draft Plan as written. The Draft Plan should be revised to maximize the use of existing treatment capacity in the County.

1. **A Facility Planning Area should avoid duplication of effort and costs.** Page

5-1 of the Draft Plan states:

A key aspect of "208" planning is to identify areas in which the feasibility of public wastewater treatment alternatives can be investigated, called facility planning areas or FPAs, and to designate management agencies or DMAs for each FPA. The intent has been that while more than one agency (multiple DMAs) might be designated to provide sewage collection within an FPA, only one agency or DMA would be designated to provide wastewater treatment within an FPA. This approach helps to avoid duplication of effort and its associated costs.

Greendale agrees with this purpose and with the distinction between collection and treatment.

2. **There is already sufficient treatment capacity in the County to treat the anticipated wastewater flow.** There are six wastewater treatment plants serving the public in Dearborn County: Moores Hill, Dillsboro, South Dearborn Regional Sewer District (“SDRSD”), LMH, Highridge, and St. Leon. These six public plants collectively have nearly enough treatment capacity available today to treat all of the wastewater that would be generated by the entirety of the 20-year planning horizon covered by the Draft Plan. Table 5-1 shows total existing design capacity = 7.79 MGD and total 20-year projected flow = 9.1676 MGD. Some of these plants (LMH, St. Leon, Moores Hill and High Ridge) are assumed to be expanded under the Draft Plan during the 20-year period (each of them has projected 20-year capacity from its assigned Facility Planning Area (“FPA”) exceeding design capacity). It does not matter to the City of Greendale who owns the collection systems which might be installed in the areas presently designated “Rural Dearborn County.” Indeed, as noted in the Draft Plan, more than one designated management agency (“DMA”) can be designated this area. The lawful service areas of many of the potential DMAs overlap in these unserved areas. In essence, it is open territory. Regardless of who collects it, however, all of the wastewater generated by Rural Dearborn County should flow for treatment to one of those six plants. If another governmental entity besides the owners of those plants wishes to install and own the collection systems, there already exist mechanisms under Indiana law to negotiate treatment agreements, interlocal cooperation agreements, or otherwise to make those arrangements. As the Draft Plan notes, Dearborn County Regional Sewer District (“DCRSD”) already has done so for much of what it serves. There is no need to redraw maps which are intended to define wastewater treatment in order to assign collection areas.

3. **The Draft Plan wastes available treatment plant capacity and creates duplication of effort and costs.** The Draft Plan, by designating large segments of unincorporated Dearborn County to DCRSD for treatment, does exactly the opposite of what it states the purpose of “208” planning is (quoted above). DCRSD is the one entity that, as shown by Table 5-1, has no existing profile because it has no treatment capacity other than the very small Highridge plant. DCRSD’s projected 2030 demand from areas other than Highridge, however, is 2.2448 MGD. Accordingly, the Draft Plan would place DCRSD in a capacity deficiency position. In contrast, SDRSD has an existing capacity of 6.0 MGD and a 2030 projected need of only 4.3900 MGD. This plant, by itself, has sufficient reserve capacity today to treat nearly all of the projected 20-year capacity deficiency of the DCRSD. So while DCRSD has a planning capacity deficiency of over 2.0 MGD, SDRSD would have excess capacity exceeding 1.6 MGD. Assigning this area to DCRSD for treatment (as opposed to collection, the distinction made in the stated purpose) leads precisely to the “duplication of effort and its associated costs” that “208” planning is intended to avoid.

4. **The Draft Plan will lead to a proliferation of package treatment plants.** The only meaning of a FPA (now that grant programs administered by the EPA have essentially terminated) is the federal prohibition against issuance of new NPDES Permits which would be inconsistent with a FPA. 33 U.S.C. § 1288(e). For instance, IDEM is prohibited by federal law from issuing an NPDES Permit to an entity that would collect wastewater in the territory currently designated as SDRSD. The FPA does not prohibit installation of collection systems across FPA boundaries, and the FPA does not create (nor could it create) exclusive service territories. DCRSD presently has the capability to install collection systems throughout its territorial boundaries. What it may not do, however, is build a new wastewater treatment plant

which is inconsistent with the approved FPA. Given that everyone agrees Dearborn County already has enough treatment plant capacity to handle nearly all wastewater flow to be generated in rural Dearborn County, the only purpose to be served by amending the FPA is to facilitate the proliferation of small package treatment plants throughout rural Dearborn County. That purpose is inconsistent with the Clean Water Act, the mission of OKI, and the public health and safety in Dearborn County.

5. **The FPA could not lawfully be approved by EPA.** This modification to the FPA could not be approved by the Administrator of the Environmental Protection Agency. Pursuant to 33 U.S.C. § 1288(c)(2), the Administrator of EPA must ultimately approve any FPA for it to be effective, and the Administrator may approve the FPA unless “he finds that the designated management agency (or agencies) does not have adequate authority . . .

(A) to carry out appropriate portions of an areawide waste water treatment management plan . . .

(B) to manage effectively waste treatment works and related facilities serving such area . . .

(C) directly or by contract, to design and construct new works, and operate or maintain new and existing works . . .

(I) to accept for treatment industrial wastes.

The proposed FPA modification would grant large portions of unincorporated Dearborn County to an entity which owns and operates one small package wastewater treatment plant, which is not capable of serving the vast majority of the territory to be designated DCRSD. DCRSD will not have adequate authority to carry out its portion of the plan, to manage works, to design and construct new works, or to accept industrial waste. Unquestionably, this plan could not be approved by the Administrator of the EPA.

6. **OKI needs to consider economic, social and environmental impacts.** FPAs were first developed to protect public investments in waste water treatment plants through the Construction Grants Program Under Title II of the Clean Water Act. The FPA assigned a 20-year service area to a waste water treatment project. 40 C.F.R. § 130.6(b)(c)(6) required that the FPA evaluate the “economic, social and environmental impacts” of the FPA. FPA’s were also required to be consistent with State Water Quality Management Plans. If OKI still wants to incorporate FPA’s into its Water Quality Management Plan, then it should consider the “economic, social and environmental impacts” of the revised FPA. OKI has not done so, and if it did, it would change the FPA under consideration.

7. **The FPA fails to consider alternatives to new construction.** OKI is updating the Dearborn County Water Quality Management Plan pursuant to a contract grant from IDEM using Clean Water Act Section 205(j) [33 U.S.C. § 1285(j)] Water Quality Planning Grant funds. Such funds must be used to “identify [] most cost effective and locally acceptable facility and non-point measures to meet and maintain water quality standards.” 33 U.S.C. § 1285(j)(2)(A). Additionally the funds should be used to:

determin[e] those publicly owned treatment works which should be constructed with assistance under this subchapter, in which areas and in what sequence, taking into account the relative degree of effluent reduction attained, the relative contributions to water quality of other point or nonpoint sources, *and the consideration of alternatives to such construction*, and implementing [the CWA’s continuing planning process].

33 U.S.C. § 1285(j)(2)(D)(emphasis added). As noted previously, the currently proposed FPA will lead to proliferation of newly constructed package plants and will ignore the alternative to such construction, which is to use the existing treatment capacity which is available.

8. **The FPA is inconsistent with other aspects of the Clean Water Act.** Water Quality Management Plans under 33 U.S.C. § 1288 have requirements in addition to those specified by the Section 205 grants. A Water Quality Management Plan must include the “identification of the measures necessary to carry out the plan (including financing), the period of time necessary to carry out the plan, the costs of carrying out the plan within such time, and the economic, social, and environmental impact of carrying out the plan within such time.” 33 U.S.C. § 1288(b)(2)(E). Furthermore, Section 208 Water Quality Management Plans must be “consistent with applicable basin plans and such area wide waste treatment management plans” in order to be approved by the Governor or the Governor’s designee (IDEM). *See* 33 U.S.C. § 1288(b)(3).

For the reasons stated herein, the City of Greendale urges the Draft Water Quality Management Plan be rejected as written. The Draft Plan should first be revised by modifying the FPA so as to maximize the use of available existing treatment capacity.

Sincerely,

A handwritten signature in black ink, appearing to read "Doug Hedrick", written in a cursive style.

Mayor Doug Hedrick
City of Greendale, Indiana