

---

VERIFIED PETITION FOR THE ESTABLISHMENT  
OF A TOWN SANITARY DISTRICT

---

TO: Town Board of Town of Merrimac  
c/o Town Clerk of Town of Merrimac  
S6911 State Highway 113  
P.O. Box 115  
Merrimac, WI 53561

Pursuant to section 60.71 of the Wisconsin Statutes, the United States Army (“Army”) and the United States Department of Agriculture (“USDA”) (collectively herein, “Petitioner”) hereby petition the Town of Merrimac to establish a sanitary district to supply public water to portions of the Towns of Merrimac, Sumpter and Prairie du Sac. In support of its petition, Petitioner states as follows:

1. The Badger Army Ammunition Plant (“BAAP”), located in south central, Wisconsin within Sumpter and Merrimac Townships in Sauk County, was constructed in 1942 to produce smokeless gun powder and solid rocket propellant as munitions components for World War II. As a result of production and waste disposal practices that were common at the time, soil and groundwater at the BAAP were impacted.

2. Numerous site investigations and remedial actions have been conducted at the BAAP. Groundwater investigation and remediation activities began in 1980 and continue today.

3. In December, 2011, the United States Department of the Army (“Army”) presented to the Wisconsin Department of Natural Resources (“WDNR”) a report titled

“Revised Alternative Feasibility Study—Groundwater Remedial Strategy—Badger Army Ammunition Plant” (the “Revised Alternative Feasibility Study”). The Revised Alternative Feasibility Study presented alternatives aimed at achieving the objective of protecting human health by preventing exposure to contaminated groundwater from BAAP, restoring groundwater to the extent practicable, and minimizing the impact of the contaminant plumes on the environment. A true and correct copy of the Revised Alternative Feasibility Study is attached hereto as Exhibit A.

4. On February 2, 2012, the Army submitted to the WDNR a “Revised Alternative Feasibility Study—Groundwater Remedial Strategy” letter, submitting corrections to the Revised Alternative Feasibility Study. A true and correct copy of the letter is attached hereto as Exhibit B.

5. By letter dated February 13, 2012, the WDNR notified the Army that it had made a “Preliminary Determination of Feasibility” for an alternative groundwater remedy. The remedy includes installation of a public water supply system that would serve potentially affected well owners down-gradient of the BAAP facility. A copy of the Preliminary Determination of Feasibility was enclosed with the letter. Attached hereto as Exhibit C is a true and correct copy of the February 13, 2012 letter and Preliminary Determination of Feasibility.

6. The WDNR accepted public comments relating to the WDNR’s Preliminary Determination of Feasibility during a 57-day period. The WDNR issued a

response to the public comments, a true and correct copy of which is attached hereto as Exhibit D.

7. By letter dated June 28, 2012, the WDNR informed the Army that it had made a determination of the final remedy for the groundwater contamination located on and emanating from the BAAP. The WDNR determined that the selected remedy was Alternative 3, described in the Revised Alternative Feasibility Study. The final remedy includes the installation of a public water supply system. A true and correct copy of the WDNR's June 28, 2012 "Final Determination of Feasibility for an Alternative Groundwater Remedial Strategy at and Near the Badger Army Ammunition Plant" ("WDNR Final Determination of Feasibility") is attached hereto as Exhibit E.

8. Installation of a public water system can be accomplished through the creation of a sanitary district.

9. Accordingly, Petitioner hereby requests that the Town of Merrimac Town Board establish a sanitary district to facilitate the installation of a public water system.

10. A legal description of the boundaries of the proposed town sanitary district is attached as Exhibit F.

11. The approximate area and boundaries for the proposed sanitary district are depicted on a map which is attached hereto as Exhibit G.

12. The Merrimac Town Board has authority to create the proposed sanitary district. Of the three towns that will be included in the district, the Town of Merrimac contains the largest portion of the equalized full value of taxable property within the

proposed district. Accordingly, pursuant to Wis. Stat. § 60.71(1)(b), the Town Board of the Town of Merrimac has exclusive jurisdiction to establish the proposed town sanitary district.

13. Petitioner owns at least 51% of the land within the limits of the territory proposed to be organized into a town sanitary district. Accordingly, pursuant to Wis. Stat. § 60.71(2), the Petitioner is a proper party to petition for the establishment of a sanitary district.

14. The proposed name of the Town sanitary district is “The Town of Merrimac Sanitary District No. 1.”

15. The necessity for a town sanitary district is set forth in detail in the December, 2011 Report (Exhibit A), the Army’s February 2, 2012 “Revised Alternative Feasibility Study—Groundwater Remedial Strategy” letter (Exhibit B), and the WDNR Final Determination of Feasibility (Exhibit E). The discussion of the necessity of a public water supply which is included in those Exhibits is incorporated herein by reference.

16. The public interest, health, safety, convenience or welfare will be promoted by the establishment of the town sanitary district and the property to be included will be benefitted by the proposed district.

17. The proposed improvements are generally described as follows: Two public wells will be installed east of the proposed remedy area and outside the limits of the BAAP groundwater plumes as depicted on Exhibit H. These public wells would draw

water from a deep sandstone aquifer. The proposed system would include approximately 90,000 feet of pipe and an elevated 75,000-gallon water reservoir. The water mains would be routed along Highway 78 as well as within multiple developments along the highway.

18. The Army has provided security, approved by the Town Board as required by Wis. Stat. § 60.71(3), for payment of all of the expenses connected with the proceedings if the Town Board refuses to organize the sanitary district. The Town Board's approval of the security is confirmed in Exhibit I.

**In accordance with Wis. Stat. § 60.71, Petitioner respectfully requests that the Town of Merrimac take the following actions:**

(1) schedule a public hearing to be held within 30 days after receipt of this Verified Petition, as required by Wis. Stat. § 60.71(4)(a);

(2) provide notice of the hearing, as required by Wis. Stat. § 60.71(4)(b), by publishing a class 2 notice, under ch. 985, of the hearing. The notice shall contain an announcement of the hearing and a description of the boundaries of the proposed town sanitary district;

(3) mail the notice of the hearing to the Wisconsin Department of Safety and Performance Services and the WDNR at least ten days prior to the hearing, as required by Wis. Stat. § 60.71(4)(b);

(4) conduct a public hearing on the Verified Petition within 30 days after receipt of the Verified Petition, as required by Wis. Stat. § 60.71(4)(a);

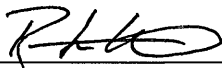
(5) within 30 days after the conclusion of the hearing, issue written findings and a decision on formation of the proposed town sanitary district, as required by Wis. Stat. § 60.71(6)(a). Petitioner respectfully requests that the Town Board determine, as part of its findings, that: (a) the proposed work is necessary; (b) public health, safety, convenience or welfare will be promoted by the establishment of the district; and (c) property to be included in the district will be benefitted by the district (*see* Wis. Stat. § 60.71(6)(b)(1)-(3));

(6) issue an order establishing the boundaries of the town sanitary district, declaring the district organized and giving the district a corporate name (*see* Wis. Stat. § 60.71(6)(c)); and

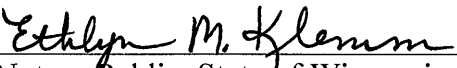
(7) file copies of the Town's order establishing the sanitary district with the WDNR and record the order with the Register of Deeds in Sauk County, Wisconsin, pursuant to Wis. Stat. § 60.71(7).

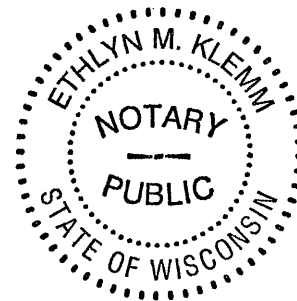
Executed this 5<sup>TH</sup> day of FEBRUARY, 2015.

UNITED STATES ARMY, Petitioner

By   
Printed Name: ROBERT M. SITTON  
Title: COMMANDER'S REPRESENTATIVE

Subscribed and sworn to before me  
this 5<sup>th</sup> day of February, 2015.

  
Notary Public, State of Wisconsin  
My commission expires: Mar. 20, 2016



USDA, as a signatory to this petition requests that the Town Board take note of the following:


- a) The Army will be the petitioner which is solely responsible for meeting all the obligations of a petitioner under State law, including, but not limited to: the financial obligation as to the cost of any resulting proceeding at the local level, and any judicial review thereof; and advocacy as necessary to prove to local decision-makers that all the properties within the proposed sanitary district will be benefitted by its creation,
- b) Capital costs for construction of a public water supply system, including costs for connections to the system, that are incurred by any sanitary district created pursuant to this petition, will be the sole responsibility of Army and will not be passed on to the customers of the sanitary district,

c) Army will subsidize operational costs of the sanitary district for the period required after its creation or until the contaminated groundwater has naturally attenuated or been treated to meet applicable drinking water standards, whichever is later. Such operational subsidies will be sufficient so that the resulting annual cost to the sanitary district's customers will be no greater than the annual operating costs of their existing private wells;

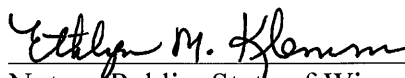
d) Notwithstanding construction of and connection to a public water supply system developed pursuant to this petition, the use of private wells for agricultural purposes by landowners within the sanitary district boundaries shall be allowed by the sanitary district.

Executed this 5<sup>th</sup> day of February, 2015.

UNITED STATES DEPARTMENT OF  
AGRICULTURE, Petitioner

By:   
Printed Name: MARK BOGGESS  
Title: Director - US DFRC

Subscribed and sworn to before me  
this 5<sup>th</sup> day of February, 2015.

  
Notary Public, State of Wisconsin  
My commission expires: Mar. 20, 2016

