



January 12, 2009

Board of Directors  
Devils Lake Water Improvement District

Dear Board Members:

Last night, our City Council reviewed my recommendation concerning a septic inspection program for those properties bordering the lake. At the meeting, I asked them to table any action until such time that the DLWID and City were on the same page. They agreed only to table it until after your next meeting. It is therefore scheduled for further discussion by the Council on February 8<sup>th</sup>. I hope that the program will either live or die that night.

I sincerely hope that prior to that time, you have an opportunity to closely study my memo of January 6, 2010, and the various attachments. In addition, I want to clear up a few issues.

First off, I think it is important to stress that the only requirement that I have proposed is one inspection in the five year period. Any other action is a matter for the County to address. I might suggest that you invite the County representatives to attend your meeting, or have staff or a work group meet with them in advance or your next meeting. I believe it is important for you to hear from the County first-hand, rather than my translation. I believe you will find that the County will be patient, and will work with the residents to find economical and effective solutions. I reiterate that the City will have no requirement that any system be upgraded.

Secondly, and I believe this is the crux of our difference, the City has no effective enforcement method for properties outside the City except water shut-off. I assume that for properties inside the City, failure to have an inspection would result in a citation into municipal court, and ultimately a fine, or series of fines until the inspection is complete.

I know of no incentive we could offer to cause those with dysfunctional systems to get an inspection. One suggestion I heard was to charge more for water for those that don't get the inspection. By law, our fees must bear a reasonable relationship to our cost, or they are an illegal tax. I therefore don't see any real opportunity here. I am guessing it would take a charge of something like \$100 or more a month to be any real incentive for those with dysfunctional systems, and we simply can't justify a fee of that magnitude.

I also point out that the City does not have a lot of staff resources available for a septic program. So any alternative must be efficient for us to administer.

While I understand your reluctance to endorse a water shut-off for non-compliance, unless I am missing an alternative, this is really our only option that would be effective. I ask you to keep in mind that under current law, property owners must maintain a functional system. If they are complying with that, the only implication for them would be the cost of an inspection.

At your Board meeting I was asked about an exception for those with minimal water use. I said I was open to that. In reviewing the accounts, I see ten that use less than 100 cubic feet in their peak month. Assuming that occurred each year, I could certainly recommend exempting them. We could consider a higher amount e.g. 26 accounts use less than 200 cubic feet in the peak month.

There are a number of issues for which I am sure the Council would be willing to favorably consider your recommendation. These include, but are not limited to:

- which properties would be inspected each year. (By lottery, area, amount of water used, age of the system, etc.)
- as indicated previously, exemptions for low water use.
- a temporary deferral for those properties selected for first year inspections due to financial hardship, or some type of financial assistance.

I believe that we are at a critical point with this issue, and our respective positions and actions will determine the course over the years ahead. I ask your most serious and favorable consideration of this issue. I am forwarding to you the most recent letter of support from the Salmon Drift Creek Watershed Council. I will be out of town from January 19<sup>th</sup> to the 30<sup>th</sup>. Please get me any questions you have before or after that time. Thank you!

Sincerely,



David A. Hawker, City Manager