

1997-98 SESSION  
COMMITTEE HEARING  
RECORDS

Committee Name:

Joint Committee for  
Review of  
Administrative Rules  
  
(JCR-AR)

Sample:

- Record of Comm. Proceedings
- 97hr\_AC-EdR\_RCP\_pt01a
- 97hr\_AC-EdR\_RCP\_pt01b
- 97hr\_AC-EdR\_RCP\_pt02

- Appointments ... Appt
- 
- Clearinghouse Rules ... CRule
- 97hr\_JCR-AR\_CRule\_98-157
- Committee Hearings ... CH
- 
- Committee Reports ... CR
- 
- Executive Sessions ... ES
- 
- Hearing Records ... HR
- 
- Miscellaneous ... Misc
- 
- Record of Comm. Proceedings ... RCP
-

98-157 - PSC 187 - SELLER MAINS -  
EXTENSION / COST RECOVERY

WISCONSIN LEGISLATIVE COUNCIL STAFF

LCRC  
FORM 2

***RULES CLEARINGHOUSE***

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**CLEARINGHOUSE REPORT TO AGENCY**

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[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

**CLEARINGHOUSE RULE 98-157**

AN ORDER to create chapter PSC 187, relating to sewer main extension and cost recovery.

Submitted by **PUBLIC SERVICE COMMISSION**

10-20-98      RECEIVED BY LEGISLATIVE COUNCIL.  
11-13-98      REPORT SENT TO AGENCY.

RS:MCP;jal;kjf

**LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT**

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached      YES       NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached      YES       NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached      YES       NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS  
[s. 227.15 (2) (e)]

Comment Attached      YES       NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached      YES       NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL  
REGULATIONS [s. 227.15 (2) (g)]

Comment Attached      YES       NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

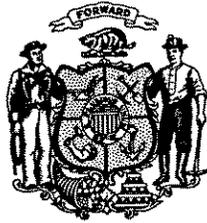
Comment Attached      YES       NO

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## CLEARINGHOUSE RULE 98-157

### Comments

**[NOTE: All citations to "Manual" in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated September 1998.]**

#### 1. Statutory Authority

a. Section PSC 187.01 provides that the rule applies to a sewerage project for which the developer "is paying or has paid." This provision is the same as the language in the statute. However, the first sentence of the statute establishes a procedure for a municipality to recoup "some or all" of the costs for an extension. The rule should clarify whether the second sentence of the statute applies only if the developer is paying or has paid the entire cost of the extension, or whether the statute applies if the developer is paying or has paid part or all of the cost of the extension.

b. The definition of "sewerage project" in s. PSC 187.02 and the first sentence of s. PSC 187.03 refer to commercial development. However, the second sentence of s. 66.076 (1) (b), Stats., refers only to a sewerage project serving a subdivision. Does the rule extend the requirement to make payments to a developer of a commercial property, and is that supported by statutory authority? In relation to this comment, note that the definition of "developer" in s. PSC 187.02 applies only to a person who constructs or creates a subdivision, not a commercial development. Another way to state the problem is that a subdivision may include a commercial development, but not all commercial developments are subdivisions under s. 66.076 (1) (b), Stats.

c. The third sentence of s. PSC 187.03 provides that the requirement to make payments to a developer does not apply to a combined water and sewer utility under s. 66.077, Stats. This exception is not provided in the statute, and the statute does not give the PSC specific authority to make this exception. What is the authority for this provision?

d. The last sentence of s. 66.076 (1) (b), Stats., requires that the method for payment “be based on the benefits accruing to the property that connects an extension into the sewerage project.” On its face, the formula in s. PSC 187.05 (3) (a) relates entirely to the proportion between the length and diameter of the sewer lateral or sewer main extension to the length and diameter of the developer’s original sewer extension. The formula does not expressly relate, as required by the statute, to the *benefits* of the subsequent extension.

## 2. Form, Style and Placement in Administrative Code

- a. The introductory paragraph to s. PSC 187.02 should be replaced by “In this chapter:”.
- b. The definitions in s. PSC 187.02 should be preceded by subsection numbers, begin with capital letters and conclude with periods.
- c. In general, definitions of “person” are unnecessary in rules, unless there is a reason to modify the definition in s. 990.01 (26), Stats. See s. 227.27 (1), Stats.
- d. In s. PSC 189.03, the phrase “This rule” should be replaced by the phrase “This chapter.”
- e. The last paragraph of s. PSC 187.05 (3) (a) should be a separate lettered paragraph.
- f. The title to s. PSC 187.05 (3) (b) does not relate to the contents of that paragraph.

## 4. Adequacy of References to Related Statutes, Rules and Forms

- a. As a general matter, vague references to other requirements are inappropriate. The reference to the “assessment statutes” in s. PSC 187.05 (1) should be replaced, if possible, by a specific reference to those statutes.
- b. The cross-referenced definition of “subdivision” should provide that the term “has the meaning given under s. 236.02 (12), Stats.” To assist the reader, a note with the statutory text may be desirable.

## 5. Clarity, Grammar, Punctuation and Use of Plain Language

- a. The phrase “business park, mall, plant,” in the definition of “commercial development” in s. PSC 187.02 is unnecessary. The phrase “building or other facility or location” is sufficient to encompass all of those types of facilities.
- b. The term “plant” is used in the definition of “developer contribution” in s. PSC 187.02. The meaning of this term, and how it is contributed by the developer, is not obvious. Should it be defined?
- c. The definition of “sewer service lateral” in s. PSC 187.02 refers to a “customer’s” building. It is not clear who, in this provision, is a customer. Does this refer to the developer or

to the person who later connects a lateral or main sewer into the sewer main for which the developer paid?

d. The first sentence of s. PSC 187.03 refers to a connection into a "sewer main" for which there is a developer contribution. However, the statute refers to a "sewer project" for which there is a developer contribution. Is there any reason for this difference?

e. The last sentence of s. PSC 187.03 states that the rule does not limit sewerage service charges or other means of collecting costs. It is not clear why this provision is necessary, because nothing in the rule appears in any way to limit service charges or cost collection. The rule applies entirely to the relationship between the developer and a person who subsequently connects to the sewer main for which there has been a developer contribution.

f. The last sentence of s. PSC 187.03 uses the phrase "governing bodies." Is there any reason for using this term, when "municipality" is used in s. 66.076, Stats.?

g. The term "municipality" is used in ss. PSC 187.04 and 187.05 but is not defined in the rule. Should this term be defined? It has a specific statutory definition in s. 66.076 (1m), Stats.

h. Section PSC 187.04 provides that the "municipality in which a sewerage project is located" must inform the person who wishes to connect into a sewer main of the requirements of the rule. Should the municipality in which the sewerage project is located be required to provide this notice when the sewerage project is under the jurisdiction of another entity, such as a metropolitan sewerage district?

i. Section PSC 187.04 requires the notice to be given to a person "who wishes to connect into a sewer main." This could apparently apply to any sewer main, and should perhaps be limited to only a sewer main *in the sewerage project*.

j. The term "customer" is used in s. PSC 187.05 (1), but it is not clear what this term means.

k. Section PSC 187.05 (3) (intro.) provides a limit that is within three years "of" the date of completion. This reference is ambiguous because it could apply either before or after the date of completion. "After" should be substituted, if that is the intent.

l. In the formula, several matters of clarity should be noted:

(1) As noted in the comments on statutory authority, the rule should clearly specify whether the formula applies to sewerage projects which are only partly paid for by the developer. If this is the case, the rule should clarify that the "cost of the original sewerage project paid" is the *portion* of the project cost paid by the developer.

(2) The cost calculation refers to the cost "paid by" the developer. However, the rule applies to payments that the developer has made or will make in the future. This calculation should clearly state whether it relates to the entire

cost of the original sewerage project for which the developer is committed to make a payment, or whether it applies only to the payments made by the developer.

- (3) The rule appears to be based on an assumption that the developer pays for a single sewerage project. Is the formula sufficiently flexible to address situations in which a subdivision, and a sewerage project, may be completed in stages?

m. The last paragraph of s. PSC 187.05 (3) (a) refers to a "redistribution" of the cost of the original project. It is unclear what is meant by this provision. Does this mean that the calculations previously made under the formula are recalculated, with new reimbursement payments determined for all parties, when additional connections are made to the sewer main paid for by the developer? Is the three-year limit applicable to this redistribution?

n. Section PSC 187.05 (3) (b) is impossible to understand. What is "sewer infrastructure," the cost of which is excluded? What property is used to determine the ratio of front footage? What is the point of commencement for measuring the overall length of the extension up to the development? How does this payment relate to the three-year limit? Is this payment in addition to the amount provided by formula in the previous paragraph?

o. Several other questions relate to how this rule might apply in situations that are not expressly addressed under the rule:

- (1) The rule does not provide for direct oversight or management of the reimbursement process by the municipality or the PSC. Is this process entirely a matter of negotiation between the original developer and the person making the subsequent connection, or will there be a process for the PSC or the municipality to act as an intermediary?
- (2) Is it clear how disputes regarding reimbursements will be resolved?
- (3) As drafted, it appears that individual property owners, including individual home owners, who subsequently connect to a sewer main paid for by a developer will be required to make reimbursement payments to the developer. Will the procedures in the rule and the formula be adequate if a substantial number of individual property owners are required to make reimbursements to a developer?
- (4) If the rule is clarified so that reimbursement applies to a developer who pays part of the cost of a sewer main extension, how will the rule apply to a developer who expands a subdivision and subsequently is required to pay an additional amount of the cost of the sewer main extension?

**DATE MAILED**

OCTOBER 16, 1998

**BEFORE THE  
PUBLIC SERVICE COMMISSION OF WISCONSIN**

Rules for Sewer Main Extension Cost Recovery

1-AC-173

**ORDER ADOPTING EMERGENCY RULES  
AND  
NOTICE OF RULEMAKING HEARING AND REQUEST FOR COMMENTS**

Comments Due:

**January 14, 1999 – Noon**

FAX Due Date:

**January 13, 1999 – Noon**

Address Comments To:

**Lynda L. Dorr**

**Secretary to the Commission**

Public Service Commission

P.O. Box 7854

Madison, WI 53707-7854

Fax: (608) 266-3957

To create Wis. Admin. Code ch. PSC 187 Sewer Main Extension: Cost Recovery.

**ANALYSIS PREPARED BY THE  
PUBLIC SERVICE COMMISSION OF WISCONSIN**

Pursuant to the legislature's instruction in Wis. Stat. §. 66.076(1)(b), as created by 1997 Wisconsin Act 213, and section 5 of that Act, the Public Service Commission is submitting to the Legislative Council for review – and at the same time adopting as emergency rules -- the following administrative rules establishing standards for the compensation of subdivision developers when a person outside the subdivision seeks to connect to a sewer system constructed by the developer. A hearing for January 8, 1999, is also being scheduled on these proposed rules. The rules set forth standards in the following areas:

PSC 187.01. Purpose. Provides the statutory authority for and purpose of the rules.

PSC 187.02. Definitions. Defines a number of key terms contained in this chapter: "developer," "developer contribution," "person," "sewerage project," "sewer main," "sewer service lateral," and "subdivision."

PSC 187.03. Application of the rules. Specifies those persons to whom the rules apply – "any person who connects a sewer service lateral or main extension into a sewer main for which there has been a developer contribution, and whose property is outside of the subdivision or commercial development of the developer who made the developer's contribution."

PSC 187.04. Notice. Requires the municipality in which a sewerage project is located to inform a person who wishes to connect of the requirements of this chapter, i.e., that the developer who constructed the project must be paid.

PSC 187.05. Determining refund fees. Sets forth the formula for calculating the cost to be paid by a person seeking to connect to a developer-financed sewerage project within three years of the original construction.

### **RULE AND STATUTORY AUTHORITY**

Pursuant to authority vested in the Public Service Commission by Wis. Stat. §§ 66.076(1)(b), 227.11(2) and 227.24, and 1997 Wisconsin Act 213, section 5, and interpreting those provisions, the Public Service Commission proposes to adopt as final rules – and does adopt as emergency rules – Wis. Admin. Code ch. PSC 187 as follows:

SECTION 1: Chapter PSC 187 is adopted as contained in the attached Appendix.

### **FISCAL ESTIMATE AND INITIAL REGULATORY FLEXIBILITY ANALYSIS**

There will be minimal adverse fiscal impact of these proposed rules on state or local units of government. In an effort to minimize the impact of the rules on small businesses, as defined in Wis. Stat. § 227.114(1)(a), the Commission has met with and received input from a number of municipalities, as well as their professional associations, and the Wisconsin Builders Association. These persons and groups indicate that there should be no unusual burdens on small business other than the burden of the legislation itself. The rules seek to minimize the burden on all parties by imposing a three-year limitation period on the obligation to pay a developer for the costs of a sewerage project to which a person seeks to connect. Additional input on this issue is invited by correspondence or by appearance at the rulemaking hearing noticed below.

### **EFFECTIVE DATE**

The emergency rules being adopted will become effective upon publication in the official state newspaper, as provided in Wis. Stat. § 227.24(1)(c). The rules will become effective as final rules on the first day of the month following publication in the Wisconsin Administrative Register, as provided in Wis. Stat. § 227.22.

### **STATEMENT OF EMERGENCY**

In section 5(1)(b) of 1997 Wisconsin Act 213, the legislature specifically exempted the commission from the finding of emergency required by Wis. Stat. § 227.24.

## ENVIRONMENTAL ANALYSIS

This is a Type III action under s. PSC 4.10(3), Wis. Adm. Code. No unusual circumstances suggesting the likelihood of significant environmental consequences have come to the Commission's attention. Neither an environmental impact statement under Wis. Stat. § 1.11, nor an environmental assessment is required.

## ORDER OF ADOPTION OF EMERGENCY RULES

Pursuant to authority vested in the Public Service Commission by Wis. Stat. §§ 66.076(1)(b), 227.11(2), and section 5(1)(b) of 1997 Wisconsin Act 213, the Commission adopts Wis. Admin. Code ch. PSC 187 on an emergency basis. These emergency rules shall take effect upon publication in the official state newspaper, pursuant to Wis. Stat. § 227.24(1)(c).

## NOTICE OF HEARING

NOTICE IS HEREBY GIVEN that the Public Service Commission will hold public hearing with respect to these proposed rules on January 8, 1999 at 9:00 a.m., in the Amnicon Falls Hearing Room (Room 1300) at the Public Service Commission Building, 610 North Whitney Way, Madison, WI.

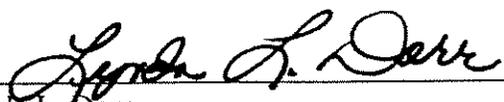
NOTICE IS FURTHER GIVEN that the building at 610 North Whitney Way is accessible to people in wheelchairs through the main floor entrance (lobby) on the Whitney Way side of the building. Any person with a disability who needs additional accommodations should contact Richard Teslaw at (608) 267-9766.

NOTICE IS FURTHER GIVEN that the Commission requests comments on this application. Any party that desires to file comments should submit **an original and 15 copies** addressed as noted above. Comments are due at the Commission no later than **noon on January 14, 1999**. Comments filed by fax are due no later than noon on January 13, 1999. Fax filing cover sheets must state "**Official Filing**" and the number of pages (limit 20 pages). All correspondence should reference docket number 1-AC-173. File by one mode only.

Questions regarding the hearing may be directed to Mr. Thomas J. McDonald at (608) 266-7236.

Dated at Madison, Wisconsin, October 15, 1998

By the Commission:

  
\_\_\_\_\_  
Lynda L. Dorr  
Secretary to the Commission

## Appendix

### Chapter PSC 187

#### SEWER MAIN EXTENSION: COST RECOVERY

PSC 187.01 Purpose  
PSC 187.02 Definitions  
PSC 187.03 Application

PSC 187.04 Notice  
PSC 187.05 Determining Refund Fees

**PSC 187.01 Purpose.** The purpose of this chapter is to carry out the legislative directive in s. 66.076(1)(b), Stats.—to adopt rules setting forth the method of determining payment to a developer by a person connecting an extension into a sewerage project for which the developer is paying or has paid.

**PSC 187.02 Definitions.** The following terms as used in this chapter mean: (a) “commercial development” means a building, business park, mall, plant, or other facility or location where business, commerce, or manufacturing is transacted;

- (b) “developer” is a person who constructs or creates a subdivision;
- (c) “developer contribution” is plant or capital contributed by a developer to a sewerage project;
- (d) “person” means an individual, group, association, partnership, company, or corporation;
- (e) “sewer main” means sewer pipe installed to transport sewage from the sewer service lateral to the wastewater collection system or wastewater treatment plant;
- (f) “sewer service lateral” means the pipe installed from a customer’s building to the sewer main;
- (g) “sewerage project” means that portion of a sewer main which has been financed by a developer contribution and which connects the remainder of the municipal sewerage system and the developer’s subdivision or commercial development. It also includes any pumping facilities located within the development which have the capacity to serve outside the development.
- (h) “subdivision” has the meaning of s. 236.02(12), Stats.

**PSC 187.03 Application.** This chapter applies to any person who connects a sewer service lateral or sewer main extension into a sewer main for which there has been a developer contribution, and whose property is outside of the subdivision or commercial development of the developer who made the developer’s contribution. A person making a sewer service lateral connection to or sewer main extension from a previously installed sewer main extension for which a developer is paying or has paid shall pay to the developer a fee as defined under s. PSC 187.05. This rule does not apply to a combined water and sewer utility under s. 66.077, Stats. This rule does not apply to limit any sewerage service charges or other means of collecting costs of providing wastewater treatment service as

permitted under s. 66.076, Stats., by governing bodies owning wastewater facilities or portions thereof for which no developer contribution has been made.

**PSC 187.04 Notice.** The municipality in which a sewerage project is located for which a developer is paying or has paid shall inform a person who wishes to connect into a sewer main of the requirements of this chapter.

**PSC 187.05 Determining Refund Fees. (1)** Where the cost of the sewer main extension is to be collected through special assessment by the municipality against the abutting property, the procedures set forth under the assessment statutes shall apply, and no additional customer contribution for the cost of the sewer main extension will be required and no refund will be made to the developer.

**(2)** When a new sewer service lateral or sewer main is extended from an existing sewer main, which was not financed by developer contributions, the new sewer service lateral or sewer main extension shall not be subject to this chapter.

**(3)** Where the developer is paying, or has paid, all or part of the cost of a sewer main extension, part of the contribution may be refundable. If a person whose property is outside of the development connects via a sewer service lateral or sewer main extension to a developer-financed sewer main within three years of the date of completion of the developer's sewer main installation, the person shall pay to the developer the following:

**(a) Sewer Main Extension:** The developer shall be refunded a percentage of the costs of the original sewerage project calculated using the Diameter Squared, Length of Sewer Main method, where

$$\text{Refund (\$)} = C \times P$$

C = the cost of the original sewerage project paid by the developer (\$)

$P = [L_2 \times (D_2)^2] \div [L_1 \times (D_1)^2]$ ; when  $P \geq 0.50$ , set  $P = 0.50$  (i.e. *P may never be greater than 0.50 in calculating the refund*)

$L_1$  = Lineal feet of sewer main installed with the original sewerage project

$D_1$  = Diameter in inches of sewer main  $L_1$

$L_2$  = Lineal feet of sewer main installed with new sewer main extension

$D_2$  = Diameter in inches of sewer main  $L_2$

Note: Where multiple sewer main diameters are involved, calculating "P" requires summing the individual products of each length of sewer main multiplied by its respective diameter squared.

As additional sewer main extensions are made, the cost of the original sewerage project shall be redistributed on the basis of proportionality by expanding the Diameter Squared, Length of Sewer Main Method. Reimbursement to the original developer shall never exceed 50% of the original sewerage project cost. No refunds will be made for sewer main extensions that do not directly connect to the sewer mains serving the original development.

(b) Sewer Service Lateral Connection: A percentage of the costs of the original sewerage project that lies outside of the actual subdivision or commercial development shall be refunded to the developer. These costs exclude sewer infrastructure within the development. The percentage refunded shall be equal to the ratio of the front footage of the property abutting the sewer main to four times the overall length of the extension up to the development. This amount will be refunded to the original developer.

TJM:bhh:w:\water\mcdonald\PSC 187

Public Comment List  
Proposed Sewer Main Extension Cost Recovery Rules – 1997 Wis. Act 213  
Docket 1-AC-173  
Division of Water, Compliance and Consumer Affairs  
October 12, 1998

ISSUE	AMOUNT	DESCRIPTION
Administration of rule		<p><u>Public:</u> Rule is unnecessary. It would be best to let municipalities and utilities continue their current practice.</p> <p><u>Wisconsin Builders Association:</u> Most efficient way to address this rule is to let municipalities or utilities manage it as they now do.</p> <p><u>Staff:</u> The purpose of this chapter is to carry out the legislative directive in Wis. Stat. § 66.076(1)(b), to adopt rules setting forth the method of determining payment to a developer by a person connecting an extension into a sewerage project for which the developer is paying or has paid.</p>
Effective date		<p><u>Public:</u> Staff proposal does not include a provision for retroactive refunds of amounts overcharged prior to May 1, 1999. The new rule should not apply to projects that have already been planned.</p> <p><u>Staff:</u> The emergency rule is effective upon publication after November 1, 1998. All construction on projects started after the effective date will be subject to the new rule.</p>
187.05 Complex formula		<p><u>Public:</u> The formula for refund is more complex than necessary. Suggest using residential equivalent units, area wide capacity per acre, or benefit charge based on potential number of future connections.</p> <p><u>Staff:</u> No change. The rule balances the provision of an equitable refund determination with administrative simplicity including reasonable record keeping.</p>

Public Comment List  
 Proposed Sewer Main Extension Cost Recovery Rules – 1997 Wis. Act 213  
 Docket 1-AC-173  
 Division of Water, Compliance and Consumer Affairs  
 October 12, 1998

ISSUE	AMOUNT	DESCRIPTION
187.05 Additional factors in formula requested		<p><u>Public:</u> Consider distance along with time as an additional limiting factor.</p> <p><u>Staff:</u> No change. A distance factor would add unnecessary complexity. Changed time to make a connection from 5 years to 3 years. This will limit and simplify rule application.</p>
Local policies		<p><u>Public:</u> Many municipalities have similar local policies that will be changed by this rule.</p> <p><u>Staff:</u> No change; the statute and rule control.</p>
Municipal concerns over developer		<p><u>Public:</u></p> <ol style="list-style-type: none"> <li>1. Who will oversee the determination of the cost of installation of the infrastructure?</li> <li>2. How can developers fairly assess each other without being held to even the same standards as municipalities? (e.g., low bid, publicly bid, wage rates, and public hearing for assessments.)</li> <li>3. Who will assure that a developer does not shift costs such as mobilization for multiple utility installation?</li> <li>4. Will a developer be allowed to recoup 100% of the infrastructure cost of a sanitary sewer improvement?</li> <li>5. What is municipalities' liability due to its involvement?</li> </ol> <p><u>Staff:</u></p> <ol style="list-style-type: none"> <li>1. This rule involves the developer and new sewer extension applicant. The municipality is only required to notify the applicant of the requirements of the rules.</li> <li>2. This is a question relating to the statute, which is already in effect.</li> <li>3. If parties fail to reach agreement, the court is the forum for dispute resolution.</li> </ol>

Public Comment List  
Proposed Sewer Main Extension Cost Recovery Rules – 1997 Wis. Act 213  
Docket 1-AC-173  
Division of Water, Compliance and Consumer Affairs  
October 12, 1998

ISSUE	AMOUNT	DESCRIPTION
		<p>4. No. Under the proposed rules, 100% recovery could not happen. However, if you assume the developer recovers his cost from land sales of property, then perhaps the developer recoups 100%.</p> <p>5. The municipality's involvement is limited under the rule to providing a notice to the person wishing to connect into a sewer main of the requirements of the rules.</p>
Municipal liability concern		<p><u>Public:</u> What is the municipalities' liability due to their involvement?</p> <p><u>Staff:</u> Municipalities' liability limited to notice only.</p>
Developers should be allowed to recover costs related to the basic requirements.		<p><u>Public:</u> DNR requires the installation of a minimum of 8-inch diameter sanitary sewers. Developers should not be allowed to recover costs related to the 8-inch.</p> <p><u>Staff:</u> No change. Under this statute developers are allowed the opportunity for a recovery of a portion of their contribution on a main of any size.</p>
Subdivision development agreements		<p><u>Public:</u> Since sewer costs assessed by special assessment are exempt, subdivision development agreements between the developer and governing body should also be exempt.</p> <p><u>Staff:</u> The new law is clear and allows for recovery if the developer makes a contribution.</p>
187.02		<p><u>Public:</u> Definition needed for the term "developer contribution". Other language needs to be slightly revised.</p> <p><u>Staff:</u> Agree. Changes made.</p>

Public Comment List  
Proposed Sewer Main Extension Cost Recovery Rules – 1997 Wis. Act 213  
Docket 1-AC-173  
Division of Water, Compliance and Consumer Affairs  
October 12, 1998

ISSUE	AMOUNT	DESCRIPTION
187.03		<p><u>Public:</u> Language in this section could be improved.</p> <p><u>Staff:</u> Agree. This section was rewritten to incorporate attorney's suggested language.</p>
187.04		<p><u>Public:</u> Language needs to be changed to make the developer and not the municipality responsible for notifying affected property owners who may wish to connect in the future.</p> <p><u>Staff:</u> No change. Current language is most practical.</p>

TJM:bhh:W:\mcdonald\sewer issue points 1.doc