

**Statement of the
Municipal Environmental Group – Wastewater Division,
Re: Multi-Discharger Variance Hearing**

**December 9, 2015
Wisconsin Dells, Wisconsin**

The Municipal Environmental Group – Wastewater Division, is an organization of over 100 municipalities statewide who own and operate wastewater treatment plants. We were one of the principal supporters of the multi-discharger variance (MDV) enacted as 2013 Act 378 and have a long history of supporting efforts to remove phosphorus from our state's waters.

Wisconsin was a leader in establishing technology based effluent limits on phosphorus back in 1992 at 1.0 mg/L. As a result, Wisconsin municipalities have already removed approximately 90% of the phosphorus in their discharges, and many have removed upwards of 97%. It is thus not surprising that most of the phosphorus impairments in Wisconsin's waters do not come from municipal treatment plants, but from nonpoint sources.

Nevertheless, MEG has continued to support measures to further reduce phosphorus from all sources. We supported the phosphorus water quality standards and the nonpoint performance standards back in 2010. We were among the organizations who advocated for including the provisions of adaptive management into the rule. We were also a major supporter of the trading legislation 2011 Act 151. And as noted above we were a key supporter of the multi-discharger variance in 2013 Act 378. The common theme to our efforts is that we all need to help reduce phosphorus, but we need to find cost effective ways to accomplish the biggest water quality improvement for the cost.

To spend tens or hundreds of millions of dollars on municipal and industrial treatment that reduces only a small percent of the phosphorus in Wisconsin's waters is not cost effective and produces little water quality improvement. The answer to addressing phosphorus is finding mechanisms that require reasonable reductions from point sources over time and focuses resources on nonpoint programs. That is what the MDV was designed to do.

The Department of Natural Resources has done an admirable job developing guidance on the multi-discharger variance, and we commend them on their efforts. There are, however, a few areas in which we have remaining concerns as this variance now goes forward to review by the Environmental Protection Agency (EPA).

First, we continue to be concerned with the methodology used to develop screening criteria for municipal facilities. That criteria now excludes even more municipal facilities from eligibility for the multi-discharger variance. In the original documents six counties were either ineligible or required sewer charges to exceed 2% median household income (MHI). Many communities, particularly larger communities will have costs in the 1% to 2% range within those counties, are effectively eliminated from using the MDV.

The number of counties that are ineligible or require a 2% MHI has now grown to 15 counties: Brown, Calumet, Chippewa, Dane, Dunn, Eau Claire, Green, La Crosse, Lafayette, Monroe, Outagamie, St. Croix, Trempealeau, Washington, and Waukesha. Communities in these counties account for 41 facilities with a design capacity over one million gallons per day (mdg). Facilities at 1 mgd or more would generate the most income under the variance if they were otherwise eligible. The 41 facilities in these counties constitute approximately 40% of the facilities *statewide* that have design capacities of 1 mgd or more. These 15 counties also account for a total of 144 communities out of a total of 649 communities statewide, or nearly 25% of the total communities in the state.

The more facilities excluded from the MDV, the smaller the amount of dollars will be available for nonpoint source phosphorus reduction efforts. And, as we explained earlier, facilities excluded from the variance will face steep costs to attain only a minimal amount of further phosphorus reduction. The criteria adopted by DNR has already substantially undercut the value that the MDV program can provide to addressing nonpoint sources and has limited the relief intended to be provided to POTWs. As this proposal moves forward to review by the EPA we would strongly object to further limitations on eligibility that would further erode the value of this program.

We are also concerned about implementation of the “highest attainable condition” requirement with respect to more restrictive interim limits. Phosphorus is susceptible to fluctuations during rainfall events or from slight operational changes which necessitates a flexible approach to setting interim limits. While we believe that the Department is taking an approach that accounts for phosphorus variability in setting interim limits, we want to reiterate the importance maintaining such flexibility.

Finally, we urge the Department and EPA to continue to move forward quickly with respect to approval and implementation of this variance. Hundreds of municipal permittees are already “on the clock” because they have permits that require them to make a choice on compliance options within the next year or two. They need to know whether the multi-discharger variance is a viable option for them. If the only option is for those communities to build additional treatment, the window of opportunity to channel funds to nonpoint efforts will be closed. We therefore encourage prompt EPA review of

the variance that does not further constrain the communities that can participate in this effort.

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