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May 16, 2019

VIA EMAIL

Kristi Minahan
Wisconsin Department of Natural Resources
P.O. Box 7921
Madison, WI 53707

RE: Municipal Environmental Group – Wastewater Division Comments on Economic Impact Analysis for Water Quality Standards Rule Revisions, Board Orders WY-23-13 and WT-17-12

Dear Ms. Minahan:

We are submitting these comments to the Wisconsin Department of Natural Resources (DNR) on behalf of the Municipal Environmental Group–Wastewater Division (MEG) with respect to the Economic Impact Analyses (EIA) for two rule packages related to water quality standards revisions, Board Orders WT-17-12 and WY-23-13. MEG is an organization of approximately 100 municipalities statewide who own and operate wastewater treatment plants. We greatly appreciate the opportunity to submit comments on this EIA.

MEG has significant concerns regarding the DNR's determination of minimal economic impact relating to the establishment of the chlorophyll a criteria in Board Order WY-23-13. The establishment of these criteria could result in more restrictive phosphorus limits for a number of permittees. If a permittee discharging upstream causes or contributes to an exceedance of the chlorophyll a criteria, there is the potential that permittee will receive more restrictive phosphorus limits. This could result in significant compliance costs to the discharger, potentially including a facility upgrade. It is unclear how DNR could reach a minimal economic impact determination without a comprehensive analysis of every WPDES permit upstream of a waterbody subject to the proposed chlorophyll a criteria.

Furthermore, DNR has not provided sufficient scientific support for the development of the chlorophyll a criteria. Our understanding is that these criteria were developed based on survey

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data from perceptions of people recreating in lakes, and included data from Minnesota. To the best of our knowledge, DNR has not released the data relied upon for public review. Further, DNR has not provided an analysis as to how these criteria apply to waterbodies including rivers, impoundments, and streams.

These potential economic concerns are of particular import given that many wastewater treatment plants are already struggling with planning for compliance with phosphorus limits in light of restrictive WQBEL limits, TMDL developments, and potential antidegradation/antibacksliding concerns. The potential economic impacts of these rule packages must be considered in the context of these concerns.

Best Regards,

Stafford Rosenbaum LLP



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