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Wisconsin Department of Natural Resources
Permits Section – WQ/3
PO Box 7921
Madison, WI 53707-7921

Submitted via email to DNRphosphorus@wisconsin.gov

Re: League of Wisconsin Municipalities Comments on the Phosphorus Multi-Discharger Variance

DNR WPDES Permitting Team,

The League of Wisconsin Municipalities (League) appreciates the opportunity to submit written comments strongly in support of the Phosphorus Multi-Discharger Variance (MDV). We ask that the Wisconsin Department of Natural Resources (DNR) proceed with submitting a request to the U.S. Environmental Protection Agency (EPA) requesting reauthorization of the MDV.

Wisconsin's cities and villages are leaders in environmental protection. Employees from the more than 600 municipal wastewater treatment facilities (WWTFs) that hold Wisconsin Pollution Discharge Elimination System (WPDES) permits are some of the state's most committed water quality professionals. While our members understand the need to protect the environment from excess phosphorus overloads, there is also a necessity to ensure that goal is balanced with technological and economic feasibility. Considering this balance is especially important as DNR estimates have shown that less than one-fifth of all phosphorus loading is due to point source dischargers.

The MDV is one important option to help municipalities find more economical ways to comply with ratcheted WPDES effluent reduction requirements over multiple permitting cycles while ensuring regional water quality sees continued improvement. In the DNR's draft *Evaluation of Nonpoint Source Phosphorus Reductions Achieved Under Wisconsin's Multi-discharger Phosphorus Variance* report from February 2025, the 811 unique best management practices installed with MDV funding has kept 58,123 pounds of nonpoint pollution from entering Wisconsin's waters. This represents a 20% greater reduction than if those facilities had installed treatment to meet effluent limits. Additionally, the cumulative impact of those practices guaranteed to remain on the landscape raises the avoided nonpoint pollution to 176,585 pounds.

Municipalities throughout the state, but primarily those in more economically disadvantaged areas have chosen alternative compliance measures for WPDES compliance. Not only does this include the municipal WWTFs that have chosen the MDV for permit compliance, but this also includes municipal WWTFs that have pursued the less common, yet still critically important options of party-to-party water

quality trades, adaptive management, individual variances, and the newest option, third-party water quality trades. By a sizable margin, WPDES permit holders have selected the MDV for compliance when capital upgrades are presently infeasible and an exceedance of new effluent limits is found. This includes the 130 municipal WWTFs that have previously or are currently utilizing the MDV.

To ensure improvements to the environment without substantial impediments to the operations of municipal WWTFs or significant rate increases for residents, we need every tool in the toolbox available to Wisconsin's cities and villages for alternative permit compliance measures. The MDV is a particularly effective option as it provides a more standardized and uniform method for seeking the permit variance, helping to reduce municipal staff time and compliance costs. This streamlined and consistent process also reduces the burden on DNR staff permitting functions. Backlogs of WPDES permits for municipalities and others can occur without the MDV at least in part due to the increasing complexity of individual permits with more individualized compliance options.

The Wisconsin Department of Administration's *Economic Impacts of Wisconsin's Phosphorus Regulations: An Updated Determination* report from December 2024 further builds on the evidence that the phosphorus MDV is an effective and important tool to continue controlling municipal costs. Absent the reauthorization of the MDV, more than $900 million in projected capital expenditures will be seen, a figure which could rise above $1 billion with financing costs included. Approximately 72% of these capital costs will be incurred by municipalities. This extensive capital project need will cause substantial increases to sewerage ratepayers in communities throughout the state. Even those municipalities not presently utilizing the MDV may experience the impacts if reauthorization is not granted due to the projected loss of 1,341 jobs and $209.9 million in gross state product.

In summary, the phosphorus MDV has been found to be exceedingly effective at improving water quality while providing the time necessary for municipal WWTFs to undergo phased facility upgrades that will be needed to comply with the stringent 2010 phosphorus effluent limitations. The League strongly supports the DNR's statements in draft *Multi-discharger Variance Justification* from February 2025 that state "complying with phosphorus water quality-based effluent limitations will cause a substantial and widespread impact to the state and cannot be met for at least another 10 years in an economically viable way" and "(t)herefore, the Department believes a second 10-year MDV timeline is justified." We request that these determinations are not amended prior to the submittal of the MDV Package to the EPA.

Once again, the League of Wisconsin Municipalities appreciates the opportunity to submit comments in strong support of the reauthorization of the Phosphorus Multi-Discharger Variance. We hope to see the final MDV Package submitted to the EPA reflect ~~the~~ DNR and DOA's findings briefly highlighted above. Please do not hesitate to reach out with any questions or requests for clarification.

Sincerely,

Toni Herkert

Toni Herkert
Government Affairs Director
League of Wisconsin Municipalities