



## Office of the Mayor

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Mr. Jim Baumann (WT/3)  
Wisconsin Department of Natural Resources  
P.O. Box 7921  
Madison, WI 53707-7921

### RE: Comments on proposed revisions to NR 102 and NR 217

Dear Mr. Baumann:

City staff have reviewed the proposed revisions to NR 102 and NR 217 and we believe they will have a significant negative impact on both the City and our residents. While the City of Madison is a strong supporter of environmental responsibility, we believe that all municipalities including Madison and our constituents will be disproportionately impacted by the implementation of these rules as crafted.

There can be no question that the current proposal will increase costs both to the City of Madison and its residents directly, via increased regulation on the discharge of Phosphorous from our permitted municipal separate storm sewer system (MS4), but also due to the secondary impacts from the implementation of these new requirements on our regional sewage treatment plant and the passing of those costs on to their customers.

While implementation of the phosphorous rules to MS4's has not been fully vetted there can be no doubt that there will be increased costs above those already being incurred under NR-151 and the proposed revisions to that code (which we have also provided comment on separately). Putting those as yet to be determined stormwater costs aside, and looking at only the indirect costs to our residents via increased sewerage treatment costs it is estimated that our residents can expect an increase in costs of \$40.00 per customer. This may on the surface appear to be "minor" cost, but consider it as a percentage increase of 16.3% over current costs. This increase would be in addition to any costs the City is forced to add to annual sewerage rates.

The increase in costs could be justified and supported if there was an expectation of change to the water quality of the receiving waters. However, for the Madison chain of lakes and water bodies throughout the state the expectation of a meaningful change in water quality is not expected. As Department staff is well aware, currently the majority of phosphorus reaching lakes and streams comes from agricultural non-point sources.

The Department has acknowledged this and has proposed rules to control agricultural runoff under a separate rule making effort for NR 151. However, given the incremental nature of the agricultural changes proposed in NR-151, the strong opposition to them by the agricultural sector, and the fact that even if implemented the controls are not required without State cost

sharing dollars (the prospect of which is unlikely), it would seem that the costs to implement this environmental program fall not to those primarily responsible for the problem but to the groups which are the most easy to regulate given existing permits through the Department.

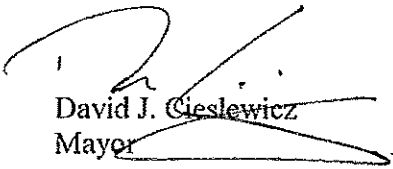
Without effective agricultural non-point source control measures, point source dischargers such the City of Madison MS4 and MMSD will likely make significant expenditures to comply with proposed revisions to NR 151, NR 102 and NR 217 with little likelihood that meaningful water quality improvements will be achieved.

Development of a comprehensive and integrated regulatory approach that addresses all sources of phosphorus is critical if the goal is to achieve real improvements in water quality. We encourage DNR to work with MS4s, sewerage treatment plant operators, and agriculture to:

- Adopt the pending NR 151 controls on agricultural runoff (proposed under a separate rule making effort). Implementation should be required regardless of state cost sharing ability.
- Adopt an adaptive management approach in NR 217 that includes establishment of interim numeric limits as part of a phased implementation strategy.
- Develop a framework that supports watershed based trading between sewer treatment plants and agriculture, and incorporate trading language in NR 217. Trading could provide opportunities to achieve desired phosphorus reductions in a more cost effective manner, and provide other funding options for agriculture as state funding is not expected.
- Develop total maximum daily loads (TMDLs) where appropriate and enforcement means for all groups covered by those TMDLs.
- Adopt a watershed based permitting approach.
- Develop and implement a comprehensive water quality monitoring program to evaluate the effectiveness of phosphorus control strategies.

Thank you for the opportunity to provide comments both on the proposed rule making effort and on an overall phosphorus management strategy.

Sincerely,



David J. Cieslewicz  
Mayor

DJC/cjp

cc: Governor Jim Doyle  
Curt Witynski, League of Wisconsin Municipalities  
Alder Mark Clear, Madison Common Council President

Rob Phillips, City of Madison Engineer  
Annie Early  
Bill McClenahan