

November \_\_\_\_, 2015

United States Environmental Protection Agency  
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Region 5  
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Ms. Hyde and Ms. Wester:

On October 20, 2015, sixteen Wisconsin residents petitioned the EPA to require corrective action regarding Wisconsin's Clean Water Act (CWA) deficiencies. The Wisconsin Department of Natural Resources' (DNR) first public response to the Petition was a press release wherein the Department indicated that all 75 technical shortcomings in the Wisconsin Pollutant Discharge Elimination System (WPDES) Program identified by EPA in July 2011 were resolved or close to resolution. The primary focus of this letter is to implore the EPA not to allow unsupported assertions of resolution to stymie the comprehensive, prompt response to the Petition. The undersigned, retired DNR employees support the Petition and ask the EPA to consider the erosion of DNR's mission and operating procedures, in addition to the 75 technical shortcomings, as a real and ongoing threat to Wisconsin's compliance with the CWA.

Erosion of the public trust began in part in the mid-1990s with the elimination of the Natural Resources Board-appointed DNR Secretary. This elimination allowed more political influence in decisions affecting natural resources; a problem only magnified by elimination of the Public Intervener's Office that gave ordinary citizens the ability to challenge government decisions. Significant changes within the past five years exert a further synergistic effect on the 75 deficiencies listed in the EPA's 2011 letter to the DNR.

Among the most serious problems with the "new DNR" are the following:

- 1) The current DNR top management, the Governor, and the Legislature exhibit anti-science behavior including: drastic cuts in science budgets; orders to cease discussion of climate change and its effects on the environment; gag orders on DNR employees commenting on science issues (only DNR administrators may speak to the press); and exclusion of science professionals from negotiating sessions with entities seeking DNR permits or approvals. Because effective government is essential to the protection of Wisconsin's waters, CWA non-compliance will persist and worsen if the State continues to reduce the authority of DNR professional staff to make science-based decisions under the law while making deeper and deeper cuts to staff and the resources available to them.

- 2) The "Wisconsin is Open for Business" slogan clearly applies to DNR environmental permitting. Although DNR has historically balanced its decision-making using social, economic,

and environmental factors, the clear bias is now in favor of keeping business happy at the expense of CWA goals and protecting natural resources for the common good.

3) Structural reorganizations have placed much greater authority for final permit conditions in the hands of political appointees rather than DNR biologists, engineers, lawyers, and other Department experts. Bypassing scientific and legal expertise conveys to permit applicants an almost limitless potential for negotiation with DNR upper management. This potential is realized as the number of permittees increase without a corresponding increase in Department staffing or funding. Increasing pressure from DNR top managers to reduce turnover time for review of permit applications, nutrient management plans and related documentation also leads to technically and legally deficient permits.

4) The "value" of aquatic resources to the top management of the "new DNR" has nothing to do with balanced aquatic communities, the intrinsic value of the resource, or the moral obligation to manage Wisconsin's waters in the name of public interest. Water now appears to be viewed as a commodity to be sold and traded in the marketplace as evidenced by legislative proposals to ease process of approving the sale of public water supplies to private industry and a move to make high capacity wells a property right even when land is sold.

5) Environmental enforcement effort and results have declined significantly in the past five years. Inadequate permit review and enforcement unacceptably shifts the financial and technical burden of industry review to citizens. One example, also set forth in the Petition, is the exponential increase in dairy CAFOs with stagnant enforcement numbers and staffing levels.

The EPA must seriously consider the recent assault on the basic principles of the CWA by the Legislature, the Governor, and DNR political appointees when examining the need to correct deficiencies in the DNR's exercise of its CWA permitting authority. If EPA does not require a prompt and robust fix of WPDES Program deficiencies, absent rescission of the DNR's permitting authority the general quality of aquatic resources in Wisconsin will decline for the first time since the passage of the CWA in 1972. Allowing this decline would have financial implications for all Wisconsinites: prior and significant public investment in water clean-up would be mooted; water pollution would pose greater and greater threat to public health.

In conclusion, the undersigned, retired DNR employees urge the EPA not to accept the assurances of DNR top managers that the Department has corrected WPDES Program deficiencies. Whether at public meetings or through alternative forums, EPA should seek the opinions of experienced DNR professional employees for a true picture of how in the last five years the DNR has compromised its mission and compliance with the CWA. Assurances of confidentiality will be essential to avoid retaliation for their candor.

Your review of the WPDES Program is the only viable option left to exert leverage on the Wisconsin governor and Legislature to restore the once-great Wisconsin DNR and to ensure compliance with the CWA.

Signed,

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Signature

Name (printed)

Number of years of DNR service

cc: Barbara Wester and John Colletti, EPA Region V  
Cathy Stepp and Patrick Stevens, DNR