November 18, 2015

United States Environmental Protection Agency
Tinka Hyde, Director, Water Division
Region 5
77 West Jackson Blvd.
Chicago, IL 60604-3590
ATTN: WN-16J

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 stymy 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.

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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,

Ronald H. Martin	Ronald H. Martin	32 years
Signature	Name (printed)	Number of years of DNR service

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

November ____, 2015

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Signed,

David Brum (David Brum) 33

Signature Name (printed) Number of years of DNR service

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

November 14, 2015

RECEIVED

NOV 18 2015

NPDES PROGRAMS BRANCH
EPA, REGION 5

United States Environmental Protection Agency
Tinka Hyde, Director, Water Division
Region 5
77 West Jackson Blvd.
Chicago, IL 60604-3590
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Signed,

Charles M. Pils CHARLES M. PILS – 33 YEARS OF SERVICE

Signature Name (printed) Number of years of DNR service

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

November 23, 2015

United States Environmental Protection Agency
Tinka Hyde, Director, Water Division
Region 5
77 West Jackson Blvd.
Chicago, IL 60604-3590
ATTN: WN-16J

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Signed,

Emmet Judzewicz	EMMET JUDZEWICZ	1982-83, 1995-2001	8 years
Signature	Name (printed)	Number of years of DNR service	

BUREAU OF ENDANGERED RESOURCES

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

December 4, 2015

United States Environmental Protection Agency
Tinka Hyde, Director, Water Division
Region 5
77 West Jackson Blvd.
Chicago, IL 60604-3590
ATTN: WN-16J

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Signed,

Signature	Name (printed)	Number of years of DNR service
Anthony D. Earl	A.S. EARL	5 as Secy.; many others on advisory Boards —

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

January 12, 2016

Received JS
JAN 2 0 2016

United States Environmental Protection Agency
Tinka Hyde, Director, Water Division
Region 5
77 West Jackson Blvd.
Chicago, IL 60604-3590
ATTN: WN-16J

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Signed,

	FRANK SCHULTZ	40 yrs.
Signature 01/12/16	Name (printed)	Number of years of DNR service

March 25, 2016

U.S. EPA, Region 5
Roger Kaplan, Acting Regional Administrator
and Trinka Hyde or current Acting Director, Water Division
77 West Jackson Blvd.
Chicago, IL 60604-3590

ATTN: Docket # WN-16J

Dear Mr. Kaplan,

On October 20, 2015, sixteen Wisconsin residents petitioned the EPA to require corrective action to Wisconsin's Clean Water Act (CWA) deficiencies.

According to information that I recently received from a retired water resource professional, the Wisconsin Department of Natural Resources (W-DNR), in response to this citizen's petition, has stated that all 75 technical shortcomings in the Wisconsin Pollutant Discharge Elimination System (W-PDES) have been or soon would be resolved.

According to the information I recently received, it may not be true that all of these shortcomings have been addressed by the state of Wisconsin. This being the case, the EPA should *not* allow unsupported assertions that the problems have been resolved, and the EPA *should* fully support the 16 Citizen Petitioners with a timely response to their request for action.

As a concerned citizen, I am requesting a complete investigation of the W-DNR Clean Water Act deficiencies, as well as an enforceable timeline for correcting the deficiencies. Additionally, the EPA should hold a public hearing on this issue in response to the citizen's petition for action.

Please note that information I have currently received describes glaring deficiencies in the W-DNR:

1. Elimination of the W-Natural Resources Board appointed DNR Secretary has introduced politcal influence in decisions affecting natural resources (mid-1990s).
2. Elimination of the Public Intervenor's Office reduces citizens' ability to challenge government decisions (also mid-1990s).
3. Currently, there appears to be an anti-science bias in the W-DNR. There have been drastic budget and staffing cuts (60 science-oriented positions were eliminated in the last budget cycle); DNR staff cannot make public comment on science issues (such as climate change); and science professionals are apparently now excluded from W-DNR negotiating sessions with permit seekers.
4. It's reasonable to believe that Clean Water Act non-compliance will continue and worsen if the State continues to reduce the authority of W-DNR professional staff to make science-based decisions.
5. The W-DNR has historically made decisions by carefully weighing social, economic, and environmental impacts with focus on the common good. It appears as though that kind of decision-making has been dispensed with in a bias largely in favor of private business interests.
6. Political appointees in the W-DNR have been given final permitting authority. This abrogates the science-and-legal-based information from W-DNR staff.
7. Water is no longer considered a resource that should be carefully managed for the common good, but a commodity. Evidence of this is recent state legislative action intended to reduce

state oversight over public water supply and removing the permitting process from high capacity wells, while overuse of high cap wells can potentially negatively effect groundwater and other well water sources, and so needs ongoing regulation.

In summation, I urge your EPA office to consider the undue political influence that now appears to shape decisions related to water resources in Wisconsin. Undue political influence will erode the protection of water supplies in Wisconsin and allow degradation of this vitally important resource.

I urge you to not accept the assurances of the current management of W-DNR that they have corrected WPDES deficiencies. I would urge you also to seek the opinions of knowledgeable water professionals in the state of Wisconsin who are able to speak freely without political coercion. This may include retired W-DNR officials who could testify about the erosion of science-based decision-making at the W-DNR, and other water resource professionals who may choose to bring comment to EPA public hearing in the state.

Your kind and timely attention to the Citizen's Petition for Action and your review of the W-PDES program is the only viable option we currently have to ensure Wisconsin's compliance with the Clean Water Act. To reiterate, despite assurances to the contrary, there is every reason to believe that the state of Wisconsin is NOT complaint with the EPA in possibly 75 noted areas of compliance, and there is probable reason to believe that compliance may well NOT be forthcoming.

I would deeply appreciate you responding in timely and conscientious ways to the Citizen's Petition from Wisconsin. In the event that other serious immediate matters (such as the Flint MI water crisis) keep you from doing so, **in no case should Docket # WN-16J be considered finalized, nor be closed without further complete investigation.**

Yours very sincerely,

Thomas Gearing

Thomas Gearing
N8501 East Snow Creek Rd.
Merrillan, WI

cc:
US Senator Tammy Baldwin
Jean Brody (Sen. Baldwin's regional representative for southern Wisconsin)
Gina McCarthy, Administrator US EPA

March 25, 2016

U.S. EPA, Region 5
Roger Kaplan, Acting Regional Administrator
and Trinka Hyde or current Acting Director, Water Division
77 West Jackson Blvd.
Chicago, IL 60604-3590

ATTN: Docket # WN-16J

Dear Mr. Kaplan,

On October 20, 2015, sixteen Wisconsin residents petitioned the EPA to require corrective action to Wisconsin's Clean Water Act (CWA) deficiencies.

According to information that I recently received from a retired water resource professional, the Wisconsin Department of Natural Resources (W-DNR), in response to this citizen's petition, has stated that all 75 technical shortcomings in the Wisconsin Pollutant Discharge Elimination System (W-PDES) have been or soon would be resolved.

According to the information I recently received, it may not be true that all of these shortcomings have been addressed by the state of Wisconsin. This being the case, the EPA should *not* allow unsupported assertions that the problems have been resolved, and the EPA *should* fully support the 16 Citizen Petitioners with a timely response to their request for action.

As a concerned citizen, I am requesting a complete investigation of the W-DNR Clean Water Act deficiencies, as well as an enforceable timeline for correcting the deficiencies. Additionally, the EPA should hold a public hearing on this issue in response to the citizen's petition for action.

Please note that information I have currently received describes glaring deficiencies in the W-DNR:

1. Elimination of the W-Natural Resources Board appointed DNR Secretary has introduced politcal influence in decisions affecting natural resources (mid-1990s).
2. Elimination of the Public Intervenor's Office reduces citizens' ability to challenge government decisions (also mid-1990s).
3. Currently, there appears to be an anti-science bias in the W-DNR. There have been drastic budget and staffing cuts (60 science-oriented positions were eliminated in the last budget cycle); DNR staff cannot make public comment on science issues (such as climate change); and science professionals are apparently now excluded from W-DNR negotiating sessions with permit seekers.
4. It's reasonable to believe that Clean Water Act non-compliance will continue and worsen if the State continues to reduce the authority of W-DNR professional staff to make science-based decisions.
5. The W-DNR has historically made decisions by carefully weighing social, economic, and environmental impacts with focus on the common good. It appears as though that kind of decision-making has been dispensed with in a bias largely in favor of private business interests.
6. Political appointees in the W-DNR have been given final permitting authority. This abrogates the science-and-legal-based information from W-DNR staff.
7. Water is no longer considered a resource that should be carefully managed for the common good, but a commodity. Evidence of this is recent state legislative action intended to reduce

state oversight over public water supply and removing the permitting process from high capacity wells, while overuse of high cap wells can potentially negatively effect groundwater and other well water sources, and so needs ongoing regulation.

In summation, I urge your EPA office to consider the undue political influence that now appears to shape decisions related to water resources in Wisconsin. Undue political influence will erode the protection of water supplies in Wisconsin and allow degradation of this vitally important resource.

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Yours very sincerely,

Denise Gearing
N8501 East Snow Creek Rd.
Merrillan, WI 54754

Denise Gearing

cc:
US Senator Tammy Baldwin
Jean Brody (Sen. Baldwin's regional representative for southern Wisconsin)
Gina McCarthy, Administrator US EPA

April 5, 2016

U.S. EPA, Region 5
Roger Kaplan, Acting Regional Administrator
Trinka Hyde or current Acting Director, Water Division
77 West Jackson Blvd.
Chicago, IL 60604-3590

ATTN: Docket # WN-16J

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Yours very sincerely,

Heidi Tuff

Heidi Tuff
N7365 S. Sechlerville Rd
Hixton, WI 54635

120 First St.
Lodi WI 53555
March 11, 2016

RECEIVED

APR 4 2016

NPDES PROGRAMS BRANCH
EPA, REGION 5

Tinka Hyde, Director, Water Division
Attn: Docket # WN-16J
EPA Region 5
77 W. Jackson St.
Chicago IL 60604-3590

Dear Director Hyde,

The National Pollutant Discharge Elimination System delegates to states, the authority to regulate water quality. It is my understanding that our state program is not in compliance with minimum Clean Water Act laws and rules. We have a record of extensive deficiencies that are not being corrected.

You have received a Citizen Petition for Corrective Action on this situation. Please hold a public hearing soon in response to their request. Water quality in our state is in grave danger. Since the state is not enforcing the Clean Water Act, the EPA should withdraw its delegation of authority to the state, and exercise the EPA's authority and responsibility to protect our water.

Sincerely,

Joann Crowley Beers

Joann Crowley Beers

cc: Jean Brody, regional representative for Tammy Baldwin

April 27, 2016

RECEIVED

MAY 02 2016

NPDES PROGRAMS BRANCH
EPA, REGION 5

United States Environmental Protection Agency
Region 5
Barbara Wester and John Colletti
77 West Jackson Blvd.
Chicago, IL 60604-3590
RE: WN-16J

Attorney Wester and Mr. Colletti:

I write to you as one of the 16 Wisconsin residents who filed a Petition for Corrective Action (Petition) with the U.S. Environmental Protection Agency (EPA) in October 2015. I became a Petitioner in part because after taking numerous stewardship actions at both the local and state level, I felt it was essential to ask the EPA to exercise its authority under the Clean Water Act and require our state Department of Natural Resources (WDNR) to resolve problems with Wisconsin's water pollution permitting program.

For background, I've worked as an aquatic ecologist for 40+ years including the last ten as a private environmental consultant and licensed Professional Hydrologist. I began my federally funded WDNR career in the mid 1970's (1976-2006) surveying rivers across Wisconsin to document water pollution from industries and municipalities. Significant stretches of the Wisconsin River and Lower Fox River were devoid of fish and water pollution was beyond the imagination of most people today due to the smothering growths of filamentous bacteria (*Sphaerotilus natans*) and fungi. By the early 1980's, implementation of the Clean Water Act had rehabilitated many rivers and streams across the state. And the Lower Wisconsin River was restored and later became the centerpiece for the Lower Wisconsin State Riverway.

Unfortunately, over the past decade the unfettered expansion of CAFOs across the state coupled with a state government that is no longer committed to protecting water resources nor interested to enforcing the Clean Water Act has undermined previous environmental successes. The state's failure to adopt the USEPA and USGS recommended total nitrogen standard for surface waters and failure to enforce the drinking water standard for nitrates is threatening human health and degrading water quality across the state. For example, previous pristine oxbow lakes along the Lower Wisconsin River, classified as ERW, are now highly degraded based on recent research findings. (I can provide the data and reports on request.) CAFO management plans focus on crop production with no link to water quality standards. Nitrate concentrations often exceed 30 mg/l in groundwater that dominates the hydrology of Lower Wisconsin State Riverway cutoff channel oxbow spring lakes. These ERW lakes are now choked with free floating plants and contain excessive concentrations of ammonia and nitrate, coupled with periods of hypoxia. This is just one example of water pollution and Clean Water Act violations that I've investigated over the past decade.

As our representative, Midwest Environmental Advocates (MEA) has provided Petitioners with your investigation protocol as well as MEA's responsive comments. I'm concerned because similar Petitions that have been filed in other states have commonly taken years to resolve. That timeline is unacceptable, particularly because both the DNR and EPA have been aware of 75 problems and/or questions with Wisconsin's water pollution permitting program since at least 2011.

I appreciate that the EPA plans to have investigative meetings with WDNR in fiscal year 2016. However, I have already waited for too long for resolution of water quality issues that impact me on a daily basis. I am therefore writing to you to support MEA's concerns about your preliminary investigation and to share with you some of my personal story as detailed below. A thorough history of my reasons for participating in the Petition is also available on MEA's 'Defending our Water' website at http://midwestadvocates.org/citizen-voices-matter/overview/doug-jones/in/defending-our-water

Thank you for your consideration of my letter as well as the preliminary investigation comments submitted by MEA.

Sincerely,

Daniel W Marshall

cc: Tressie Kamp, Midwest Environmental Advocates
US Senator Tammy Baldwin
US Rep. Mark Pocan
Senator Jon Erpenbach
Representative Sondy Pope

May 23, 2016

RECEIVED

JUN 01 2016

NPDES PROGRAMS BRANCH
EPA, REGION 5

United States Environmental Protection Agency
Region 5
Barbara Wester and John Colletti
77 West Jackson Blvd.
Chicago, IL 60604-3590
RE: WN-16J

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As our representative, Midwest Environmental Advocates (MEA) has provided Petitioners with your investigation protocol as well as MEA's responsive comments. I'm concerned because similar Petitions that have been filed in other states have commonly taken years to resolve. That timeline is unacceptable, particularly because both the DNR and EPA have been aware of 75 problems and/or questions with Wisconsin's water pollution permitting program since at least 2011. Furthermore, our precious resources are further compromised with every additional day of non-compliance.

I appreciate that the EPA plans to have investigative meetings with WDNR in fiscal year 2016. However, I have already waited for too long for resolution of water quality issues that impact me on a daily basis. I am therefore writing to you to support MEA's concerns about your preliminary investigation and to share with you some of my personal story as detailed below. A thorough history of my reasons for participating in the Petition is also available on MEA's 'Defending our Water' website at http://midwestadvocates.org/citizen-voices-matter/overview/doug-jones/in/defending-our-water

Language in Wis. Stat. 227.10(2m) is a particular concern of mine as a WDNR retiree. This language places significant limits on the agency's ability to assure protection of water quality and aquatic habitat through the Wisconsin Pollutant Discharge Elimination System (WPDES) permit program. In 2011 Wisconsin Act 21 narrowed the scope of a state administrative agency's authority to interpret implement state statutes and regulations by providing that: "No agency may implement or enforce any standard, requirement, or threshold, including as a term or condition of any license issued by the agency, unless that standard, requirement, or threshold is explicitly required or explicitly permitted by statute or by a rule that has been promulgated in accordance with this subchapter."

My concerns are based on 20+ years in environmental regulatory programs. In my work, I learned early on that each regulatory action occurs in a unique setting where factors like the scope and detail of a project, and the condition of the existing soils, air, and water resources are critical to tailoring a permit or approval that meets legal standards (i.e. the CWA) and are consistent with the Public Interest in the waters of our state. In my experience, reliance on specific language in statutes and/or administrative code does not adequately address the conditions of each and every permit action. DNR in the past has

routinely developed program guidance to fill in the gaps when statutes or code did not address unique conditions. Program Guidance along with best professional judgement allowed a reasonable degree of flexibility. Program Guidance emerged from a rigorous process that was science based involving a range of disciplines (i.e. law, biology, and engineering).

With Sec. 227.10(2m) permits are issued with the authority of the legislature rather than legal standards that are the basis of the WPDES program. In your investigation, I urge Region 5 to make it known to WDNR that this statute must be altered to allow WDNR the flexibility that is necessary to issue WPDES permits that are in full compliance with the CWA.

Thank you for your consideration of my letter as well as the preliminary investigation comments submitted by MEA.

Sincerely,

Ron Grasshoff
N1691 Fjord Road
Prairie Du Sac, WI 53578

---

cc: Tressie Kamp, Midwest Environmental Advocates
Jean Brody Regional Representative – Senator Tammy Baldwin
30 W. Mifflin Street, Suite 700 Madison, WI 53703

Courte Oreilles Lakes Association, Inc.
P.O. Box 702 . Hayward, WI 54843-0702

The Following Letter Is Presented Jointly By:

COLA
Courte Oreilles Lakes Association
Kris Sivertson, President

LAC COURTE OREILLES TRIBAL GOVERNING BOARD
Pride of the Ojibwe
Mic Isham, LCO Tribal Chairman

May 26, 2016

Robert Kaplan
Acting Regional Administrator for EPA Region 5
77 West Jackson Blvd.Chicago, IL 60604-3507

Mr. Kaplan,

Congratulations on your appointment as the Acting Administrator for U.S. Environmental Protection Agency (EPA) Region 5. The Courte Oreilles Lakes Association (COLA) is writing to you in support of Midwest Environmental Advocates' (MEA) Petition for Correction Action (PCA) filed with the EPA on October 20, 2015. This support is in response to water degradation issues on Lac Courte Oreilles (LCO), resulting from increasing and unchecked levels of phosphorus entering LCO, the Wisconsin Department of Natural Resources' (WDNR) withdrawal of attention to LCO in the Section 303(d) impaired water process, and now refusal by the WDNR to adequately acknowledge or act on the problem or its sources according to state statutes.

COLA was established in 1995 as a non-profit organization to represent its membership, currently 400-plus property owners, in the effort to restore and protect the water quality of LCO. At 5,039 acres, LCO is the fifth largest natural lake in the state of Wisconsin as well as one of only 97 designated Outstanding Resource Waters, with important antidegradation protections under Wisconsin state law. LCO is also a rare two-story cold-water fishery and one of only five lakes in the state to support both cisco and lake whitefish, a unique fresh water ecology that helped grow what has historically been trophy-sized musky and walleye in LCO.

Additionally, LCO is of great cultural significance to the Lac Courte Oreilles Band of Lake Superior Chippewa Indians (LCO Tribe), which has approximately 7,600 members. The Lac Courte Oreilles Reservation, consisting of 76,500 acres in northwest Wisconsin, contains important water resources, including LCO. One-third of LCO, including the outlet, is located within Reservation boundaries, with the rest of the lake located within the ceded territory. Water quality degradation resulting from excessive levels of phosphorus in any portion of LCO impacts the waters within the Reservation boundaries due to mixing occurring between the various bays and basins. The Lac Courte Oreilles Tribal Conservation Department (LCOCD) has been monitoring LCO since 1996 with routine monitoring beginning in 2002.

LCO is also of great financial importance to the economy of both the region and the state, with real estate valued at over $332 million, annual property taxes of $2.9 million, plus associated expenditures from residents and vacationers documented to be $9.8 million to $14.8 million per year.

Early in COLA's existence the board worked successfully with the WDNR. In the last few years, however, COLA has reached a series of impasses and now faces challenges in working with the WDNR to adequately address water degradation issues negatively impacting LCO. These challenges involve decreasing access to and timely responses from the WDNR that they are entrusted by the EPA to provide.

As a result, COLA has been working on initiatives to overcome these challenges and on March 20, 2016, submitted to the WDNR a Site-Specific Phosphorus Criterion (SSPC) for a phosphorus limit for LCO.

The SSPC proposal, submitted jointly by COLA and the LCO Tribe, marks the culmination of eight years of effort by both parties working together with LimnoTech, an independent water environment research and engineering firm in Oakdale, MN, that COLA engaged to provide the research, data analysis, and modeling required to produce the SSPC proposal. LimnoTech commonly assists federal and state agencies, including the WDNR, as well as regulated entities to develop plans to restore and protect lakes and streams across the country.

While MEA's Petition for Corrective Action specifically addresses the WPDES program, the common thread for LCO and other lakes in Wisconsin is the WDNR's similar neglect of the impaired waters process, another important tenet of the Clean Water Act.

COLA's approach to-date has been to address water degradation from excess phosphorus in LCO directly with the WDNR through those channels provided. Outlined below are COLA's major efforts and events to-date. These items demonstrate where the WDNR is neglecting to follow its own protocols under Wisconsin law according to its obligation to carry out the tenets of EPA's delegated program under the Clean Water Act. This neglect has left LCO at a critical tipping point because of stalled timing and related roadblocks:

1. COLA Foot the $200,000 Bill for Required TMDL Study

COLA first proposed LCO for impaired water status in 2007. Seven years and three listing cycles later, LCO's Musky Bay was finally designated as impaired in June 2014. The WDNR was then responsible for (1) conducting a Total Maximum Daily Load (TMDL) study to determine the sources of pollutant damaging the lake and then (2) establishing a pollutant reduction schedule that once implemented will protect the lake from continued damage, reverse existing damage, and protect the lake into the future.

That a bay is part of a lake would seem to be a given. But, in a surprising move, the WDNR has declared Musky Bay a separate body of water from the rest of the lake, even though a bay, by definition, only exists as part of a larger body of water. In making this declaration the WDNR has devised a way to allow much higher levels of phosphorus—40 ppb—in Musky Bay and in this way allow phosphorus from various known sources to continue to be discharged into Musky Bay unchecked. The problem remains, however, that what happens in Musky Bay happens to the lake as a whole.

The WDNR's proposed wait time of up to 13 years to even begin the TMDL study is what kept COLA moving on behalf of the lake. It raised funds to hire LimnoTech, the same independent water environment research and engineering firm that the WDNR and the U.S. EPA use.

Beginning in 2011 and in just three years, the TMDL study was completed and the findings used by LimnoTech to also develop the SSPC for LCO. From the beginning, the WDNR was part of the team that designed the TMDL and SSPC proposal and WDNR contributed 10K toward TMDL development

2. TMDL and SSPC Proposal to WDNR – July 14, 2014

COLA, the LCO Tribe and LimnoTech originally submitted the TMDL and SSPC proposal for 10 ppb to the WDNR in July 2014. The WDNR delayed for five months before setting up the first review meeting. COLA

finally received an official response from the WDNR in a letter last spring, dated March 3, 2015, suggesting that COLA drop the TMDL and instead develop a 9-Key Element Plan, all this after the WDNR was part of the development of the TMDL for nearly four years. The letter also requested some revisions to the SSPC proposal to address cold-water fishery habitat and the announcement that next steps would be delayed for another "two or more years." WDNR staff were instructed by program management not to communicate with COLA, saying in an email on May 15, 2015, "I have been advised that it would be best if [we] did not get involved in any discussions on this topic." The urgency now and the request for emergency rulemaking come after losing another full year in getting help for this landmark lake.

3. Revised SSPC proposal to WDNR –March 20, 2016

COLA revised the SSPC proposal to respond to all the WDNR's comments. It should also be noted that the SSPC proposal for 10 ppb standard for phosphorus would apply to LCO as whole, including all of its natural basins and bays. Again, this reflects that water in this and any lake continually mixes as one integrated aquatic system.

4. See Video: Hydrodynamic Mixing Model

www.cola-wi.org/maps

How quickly water in Musky Bay mixes with the rest of LCO is illustrated in a new Hydrodynamic Animation Video developed by LimnoTech for purposes of showing how this mixing happens and how quickly. The hydrodynamic model is a simulation based on the Environmental Fluid Dynamics Code (EFDC), a U.S. EPA supported modeling framework. This animated model shows a 50% mix of water from Musky Bay to the rest of LCO in as little as two months.

5. Request for Emergency Rulemaking—March 20, 2016

COLA has formally requested that the WDNR initiate emergency rulemaking with 60 days of receipt of the SSPC proposal. The requested action does not require the WDNR to either approve or reject the proposal. It simply requests that the WDNR follow its own protocol and initiate next steps in the rulemaking process as provided for under current Wisconsin statue and rule.

An Unregulated Industry Is Polluting LCO

Depending on the response from the WDNR to the SSPC proposal, COLA is ready to address the source of excess phosphorous entering LCO, currently unchecked by any WDNR regulations. This phosphorus enters the lake systematically and throughout the year from the three cranberry operations located on LCO.

Positive, Proactive Efforts By COLA Property Owners

COLA has also been working over the years to take personal responsibility for the health of the lake through best practices outlined by the WDNR. Following are programs COLA has implemented on LCO:

. Septic System Survey and Replacement
. Shoreland Buffer Restoration
. Aquatic Invasive Species Surveillance, Treatment and Boat Inspection Program
. Riparian Owner Impervious Surface and BMP Educational Materials and Outreach
. Watershed-Wide Outreach to other Lake Associations, the Forest Products Industry, and Agriculture Operations with BMP Educational Materials and BMP Monitoring Proposals

Again, COLA supports MEA's Petition for Corrective Action for its effort to garner attention from the EPA to the WDNR's oversight of all water degradation issues in Wisconsin. COLA respectfully calls on the EPA to thoroughly analyze these allegations related to the WPDES program and the impaired waters program and call for WDNR accountability under state and federal law.

Sincerely,

Kris Sivertson
President, COLA

Mic Isham
Chairman, Lac Courte Oreilles Band of
Lake Superior Chippewa Indians

Send Correspondance To:
3690 South Elco Road
Fall Creek, WI 54742
715-210-0818

cc: Barbara Wester, Office of Regional Counsel, U.S. EPA, Region 5
John Colletti, NPDES, U.S. EPA, Region 5
Tinka Hyde, Region 5 Water Division Director
Cathy Stepp, WDNR Secretary
Quinn Williams, WDNR, Director, Bureau of Legal Services
Cheryl Heilman, WDNR, Section Chief, Bureau of Legal Services
Patrick Stevens, WDNR, Administrator, Division of Air, Waste and R&R
Kimberlee Wright, Midwest Environmental Advocates (MEA), Executive Director