



Municipal Environmental Group Wastewater Division

Regulatory Update

All The News That Fits

February 2010

MEMBER NEWS

• **STEERING COMMITTEE MEETING.** The next Steering Committee meeting is scheduled to be held on TUESDAY, May 18, 2010, in Stevens Point, at the Holiday Inn. Please note the change in date, which is due to a conflict with the CSWEA state convention. All members are always welcome at the Steering Committee meetings and encouraged to attend. Attendees will receive 2 CEU credits and a free lunch, plus the opportunity to discuss current matters of interest to the wastewater community.

• **GOVERNMENT AFFAIRS.** The annual Government Affairs Seminar has been set for February 23, 2010. The keynote speaker will be Jim Hanlon, the director of the Office of Wastewater Management for the U.S. EPA. Other topics include phosphorus, TMDLs, effluent trading and stimulus funds.

• **DIGGER'S HOTLINE INFORMATION.** MEG member John MacKinnon (Plymouth) is also a member of the board of director's for Diggers Hotline and wanted to make sure MEG members were aware of available information and meetings related to this important service. A series of Utility Damage Prevention meetings are being held around the state from now until April 7, where the revised version of the "Excavator's Guide to Diggers Hotline" will be distributed. You should have received an invitation to the meetings in the mail, but if you've misplaced it, go to <http://www.diggershotline.com/Meeting10.html> for

information on where and when the meetings are being held and to register. A copy of an incident form that is being developed for abuses of the system will also be discussed. If you can't attend a meeting and would like a copy of the guide, contact Chad Krueger, the Public Relations Manager for Diggers Hotline, at 262-785-5300, ext. 5324, or at ckrueger@diggershotline.com.

LEGISLATIVE ACTIVITY

• **MERCURY BILL.** AB 299 was introduced as a means of limiting the sale and use of mercury-containing products. It was tabled on September. 22, 2009, and no further action has been taken at this time. MEG supports this bill.

• **MUNICIPAL UTILITY COLLECTION RESTRICTION BILL.** AB 404 would eliminate the ability of municipal utilities to place unpaid utility fees from rental units on the property tax bill of the owner of the property. No action has been taken on the bill since January. MEG opposes this bill.

REGULATORY DEVELOPMENTS

• **PHOSPHORUS WATER QUALITY STANDARDS.**

60-Day Notice. Midwest Environmental Advocates (MEA) filed a 60-day notice of its intent to sue the EPA to

promulgate water quality standards for phosphorus and nitrogen on November 23, 2009. The 60 days were up on January 22, 2010, and as of yet, we have not heard of any further action from either MEA or the EPA. Based on our last discussions with the DNR, we presume that the EPA is working on a consent order that will give the DNR until the end of 2010 to promulgate water quality standards or it will do so.

State Standards. As previously noted, we are continuing to advance the concept of a watershed approach with the DNR. The DNR has indicated that it is considering our comments and will be sending a draft rule to the Natural Resources Board in March for public hearings in May and June. As a follow up to our discussions at the January Steering Committee meeting, we are exploring a public information plan for the public hearings.

Cost Estimates. Strand has produced updated cost estimates that confirm that statewide the total present worth cost for implementation of the phosphorus rule is between \$1.2 and \$1.7 billion dollars. When Strand compared its projected costs with costs for facilities that did a site specific analysis which looked at more than simply the unit costs of the treatment plant and O&M, the cost increased by a factor of 1.7 to 1.9 times. In other words, if those cost ratios were applied statewide, it would nearly double the estimated cost.

- **TMDL FOR THE FOX RIVER.** We are still expecting that a TMDL will be out for public hearings in early spring.

- **TMDL FOR THE ROCK RIVER.** The Rock River TMDL has been on hold but it now appears that public meetings on the allocation report will be held in early spring.

- **TRADING ISSUES.** We continue to work with the DNR, and environmental groups on a trading protocol.

- **NONPOINT AND STORMWATER.** We are in the midst of public hearings on revisions to NR 151. Written comments on the proposed rule are due March 12, 2010. We have an updated fact sheet of talking points on the website. **It is important for us to actively support the agricultural provisions of that rule, so that there is at least some ability to address those sources through TMDLs or trading.** The remaining public hearings are as follows:

- Feb. 2 – Waukesha
- Feb. 10 – Madison
- Feb. 11 – Wausau
- Feb. 25 – Platteville
- Mar. 8 – Ashland (2 p.m. start)

If you attend, please let us know so we can answer any

questions you have. If you go keep in mind two points that the media has been confusing:

1. NR 151 does not impose any phosphorus requirements on POTWs. That will be coming in the next rule that sets water quality standards for point sources later this spring. NR 151 only imposes P standards on the agricultural side.

2. NR 151 also addresses municipal stormwater requirements for TSS, but is mostly helpful. The main changes have been developed through the League and provide greater flexibility on reaching the 40% goal for TSS reduction. The DNR has, on its own, added a limitation on in-line ponds which the League will be opposing.

- **THERMAL STANDARDS.** The DNR's revised rule language went before the Natural Resources Board at their meeting on January 27, 2010, and was approved unanimously. It included the changes we requested to reduce the burden of gathering thermal information. However, we appeared at the meeting to express MEG's dissatisfaction with having to undertake any monitoring when the EPA has admitted there is no documented problem with thermal impacts from POTWs.

- **SSO AND NR 110.** A rule package was released in early January touted as a "housekeeping" package that made a number of changes to NR 110 and some other wastewater rules. However, the City of Superior noted some concerns that went beyond housekeeping in the NR 110 sections. MEG will be submitting comments on February 5, 2010 requesting that certain provisions be removed so they can receive additional review.

- **MERCURY GREEN TIER:** The Mercury Green Tier Charter is looking to start up the third and final group. The membership window is through the end of March. The primary goal of the Charter is to help municipalities meet the mercury standard and develop a Pollutant Minimization Plan (PMP) in a flexible and efficient manner. The major benefits of joining the program are the DNR's one-on-one guidance with implementation of the PMP and the collaborative efforts of working on the PMP with your peers. If you have any other questions or are ready to sign onto the Charter, contact Julie Baldwin at our office.

- **OTHER PENDING RULES.** There is nothing new to report on bacteria standards or biosolids. We will let you know as soon as there are updates on these issues.

For more information on any of these topics, please call Paul Kent or Julie Baldwin at Anderson & Kent at (608)246-8500 or e-mail:

*Paul at pkent@andersonkent.com or
Julie at jbaldwin@andersonkent.com*