


Municipal Environmental Group Wastewater Division

Regulatory Update

All The News That Fits

July/August 2009

MEMBER NEWS

- **STEERING COMMITTEE MEETING.** The next Steering Committee Meeting will be held September 9, 2009, in Stevens Point at the Holiday Inn. All members are welcome and encouraged to attend. There are many important issues facing the municipal wastewater community that we will be discussing at that time. Attendees receive 2 CEU credits and a free lunch, plus the opportunity to discuss matters of current interest to the wastewater community.

LEGISLATIVE ACTIVITY

- **APPOINTMENT OF DNR SECRETARY.** Bill AB 138 was introduced in the Legislature in March to return the responsibility of the appointment of the Secretary of the DNR back to the Natural Resources Board. In 1995, this responsibility was given to the governor. While Governor Doyle originally supported the move, he has since reversed his position. A public hearing was held on July 28, 2009, with lots of groups weighing in on the issue. We have stayed out of this fight, but we will let you know as it progresses.

- **PHOSPHORUS BILL.** Bill AB 281 was introduced in the Legislature at the end of May to reduce the allowed amount of phosphorus in certain cleaning products. Similar to the fertilizer phosphorus bill, this is unlikely to have much of an effect, but we have testified in support of it as a step toward

reducing phosphorus loading. The Bill has since passed the Assembly and is now sitting in the Senate Committee on Environment.

- **MERCURY BILL.** Assembly Bill 299 was introduced on June 2, 2009, as a means of limiting the sale and use of mercury-containing products. It also prohibits schools from buying and using mercury-containing chemicals and instruments. We testified in support of this bill at a public hearing held on July 29, 2009, as a way to reduce potential influent flow of mercury into POTWs.

REGULATORY DEVELOPMENTS

- **CLEAN WATER FUNDS.** Towards the end of July, DNR issued its Clean Water Capital Grants as supplemented by the American Recovery & Reinvestment Act (ARRA) of 2009. The state share of the federal program is \$105,948,300. All of the funds received under the ARRA, minus a small portion for program administration, will be used to provide principal forgiveness for 50% of eligible project costs. The priority was based on regular Clean Water Act funding. Several communities have inquired about the fairness of that methodology and that is something we may want to discuss at our September Steering Committee meeting.

- **THERMAL STANDARDS.** As previously reported, even though the revised thermal rule was approved at the May Natural Resources Board meeting on May 27, 2009, there are some additional changes requested by Midwest Environmental Advocates and EPA. A meeting to discuss those changes is scheduled for September 2, 2009. We will have a full report at the Steering Committee meeting.

- **PHOSPHORUS WATER QUALITY STANDARDS.** The last phosphorus advisory committee meeting was held on June 30, 2009. An initial draft of the rules had been sent to advisory committee members prior to the meeting, so the majority of the meeting was spent discussing the proposed language. Comments on the draft rule were accepted for about two weeks after the meeting. Our comments focused on the need for increased time periods, both in establishing the rule, and in establishing compliance schedules. We also continue to support streamlined variances as well as the use of a TMDL instead of a WQBEL, where a TMDL is available. Subsequent to the meeting we also responded to the claim of Midwest Environmental Advocates that cited algae blooms in lakes as a reason to impose additional regulations on point sources.

As discussed below in the trading section, we have opened the lines of communication with the agricultural groups in hopes of coming to some consensus on how trading can be a viable tool for achieving compliance with this rule. We are also continuing to work with other point source dischargers on a coordinated strategy to address the challenges for this rule.

The next meeting of the group was set for August 18, 2009. Based on that meeting, we will have a better idea of the time frame for the rule and potential impacts. We are asking members hold off on political contacts until we have a better sense of the substance and timing of the rule package. This will be a key point for discussion at our Steering Committee meeting.

- **TRADING ISSUES.** As part of our efforts on phosphorus and TMDLs, we have continued to look at options for trading. We continue to work on this with other POTWs, though it appears the environmental groups have lost interest in negotiating this potentially valuable tool. We had a meeting on the trading concept with representatives of some of the key agricultural groups, who seemed receptive. They will be presenting the general concept to their constituents to determine if this is an avenue worth pursuing.

- **TMDLS FOR THE ROCK RIVER.** Additional data gathering is currently taking place in preparation for penning the TMDL draft document. A small group met to discuss the TMDL technical approach document on May 21, 2009. The two major topics of discussion included load

analysis and allocation methods. The DNR is expecting to have allocations tentatively set by the end of June, with a draft allocation report to go first to the small advisory group and then, after potential revisions, to a larger public meeting in August. DNR is hoping to publish a draft TMDL in October.

- **TMDL FOR THE FOX RIVER.** Technical meetings also continue as the Fox River TMDL process moves forward. MEG is working with Green Bay MET to monitor the developments of the TMDL. Formal public hearings are expected later this year, with complete TMDLs expected in February 2010.

- **NONPOINT AND STORMWATER.** We continue to work with the League and the DNR to modify NR 151 to provide for greater flexibility in meeting the developed area performance standards. We have a follow up meeting with DNR to discuss cost impacts on September 3, 2009.

Revised rule NR 528 was approved at the June Natural Resources Board meeting. NR 528 provides a process for sediment removal from stormwater detention structures. Please contact us if you have any questions about the impact of this rule.

- **MERCURY GREEN TIER CHARTER.** The second group of the Mercury Green Tier Charter has 11 members, including Beaver Dam, Hudson, Jefferson, Portage, Prairie du Chien, River Falls, Stevens Point, Stoughton, Waupun, Whiting, and Wisconsin Dells-Lake Delton. The initial organizational meeting was held on July 14, 2009, in Stevens Point. Randy Case from the DNR went through the steps necessary to complete the Pollutant Minimization Plans (PMPs). Member communities have until the end of September to submit their PMPs. The next group meeting will be January 12, 2010, to discuss how the implementation of the PMPs is progressing and to address any questions on writing the annual progress report, which is due February 15, 2010. A make-up meeting will be held August 5, 2009, in Madison for those the communities who were unable to attend the July 14 meeting.

- **OTHER PENDING RULES.** There is nothing new to report on SSO, 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:

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