

Glen Geurts

From: Glen Geurts <Glen.Geurts@hvmsd.org>
Sent: Thursday, October 15, 2015 11:55 AM
To: 'David Casper'; 'BRUCE SIEBERS'; Kaukauna - Sundelius, John (Sundelius@Kaukauna-wi.org); pathennessey@yahoo.com; 'kcoffey238@gmail.com'
Subject: FW: Permit Renewal / Issuance

Gentlemen, as requested I am forwarding each of the three DNR personnel responses to my comments relative to District permit renewal and TMDL limits proposed.
Glen

From: Corbett, Mark K - DNR [<mailto:Mark.Corbett@wisconsin.gov>]
Sent: Thursday, September 10, 2015 8:54 AM
To: Glen Geurts; Sachs, Richard P - DNR
Subject: RE: Permit Renewal / Issuance

Hi Glen –
These are some good points.

We'll discuss this internally.

Mark

From: Glen Geurts [<mailto:glen.geurts@hvmsd.org>]
Sent: Wednesday, September 09, 2015 10:48 AM
To: Sachs, Richard P - DNR; Corbett, Mark K - DNR
Subject: Permit Renewal / Issuance

Mark and Dick:

The Heart of the Valley Metropolitan Sewerage District is concerned with the adverse impacts the proposed TMDL limits could have on the District. With these concerns, it is felt that the non-point sources in both the lower Fox River and Upper Fox and Upper Wolf Rivers watershed basins should be required to bear a greater portion of the TMDL required reductions.

The Heart of the Valley requests that the WDNR extend the term of the Districts present NPDES Permit to such a time as the Department has finished all TMDL assessment work on the Upper Fox and Wolf Rivers, and lakes systems. The extension period to run until all work is completed, including the formulation, and review/approval, of all allocation limitations for all point and non-point dischargers to all of these systems. Also, until any legal challenges to the proposed allocation limits to any, and all, point and non-point discharges to any part of the Fox/Wolf system have been resolved. And that the Adaptive Management and Water Quality Trading programs be fully implementable with credit levels established and guidance and approval procedures in place.

Thank you for your consideration of these requests.

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Sent: Thursday, October 15, 2015 11:57 AM
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Subject: FW: Permit Renewal / Issuance

[Comment 3](#)

From: Marquardt, Keith A - DNR [mailto:KeithA.Marquardt@wisconsin.gov]
Sent: Thursday, September 17, 2015 9:23 AM
To: Glen Geurts
Cc: Sachs, Richard P - DNR; Corbett, Mark K - DNR; O'Connor, Kelley S - DNR; Fleming, Kari L - DNR; Kirsch, Kevin J - DNR
Subject: RE: Permit Renewal / Issuance

Good morning Glen:

Thank you for your email. I don't have a lot to add since Dick did a nice job with his reply. Also, I did chat with Kevin Kirsch, WDNR, Statewide TMDL Coordinator, on this subject and have provided his comments below.

From Kevin:

First, I would point out to Glen that in the absence of the TMDL that Heart of the Valley will get the criterion as a WQBEL per NR 217.13. The TMDL allocation provides for a less stringent limit.

Richard does a great job explaining the Lower Fox and Upper Fox TMDL; except, and this is pretty nuanced about the TMDL, if the Lower Fox TMDL is updated due to changes in Lake Winnebago the wasteload allocations for the Lower Fox may increase. It is too early to tell but several factors are in play and until the analysis is done we cannot be sure of how these factors interact:

(1) It is possible that Lake Winnebago may have a lower load coming out than assumed as a boundary condition for the Lower Fox but we will not know until we are done. The Upper Fox TMDL will set allocations for the lake to be at criteria and the boundary condition for the Lower Fox TMDL did not necessarily have the Lake at criteria because the criteria was in flux during most of the TMDL development.

(2) If the Lower Fox TMDL is revisited, the allocations will likely be assigned using a proportional allocation method. This could raise or lower allocations for dischargers.

It is unlikely that the allocation for Heart of the Valley will change significantly but it could go up or down. In either case, TMDL allocations will be higher than the WQBEL coming out of NR 217.13 and that is the message I would convey.

At this time, as Dick pointed out, the Lower Fox TMDL has been approved by EPA and therefore WDNR is implementing. If you wish, please review the TMDL Report document, and specifically, for example the agricultural % phosphorus reductions – if my memory is correct many subwatersheds have an approx. 80% reduction of P from agriculture. Also, in most subwatersheds, the urban stormwater reductions for P are listed as 40% reduction, in which an additional 20% reduction is not accounted for in the TMDL Report; so

municipalities are facing an approx. 60% reduction. Each sector whether agriculture, stormwater or point source has it's challenges. I think DNR recognized that implementation would be difficult, and worked hard to provide other options, such as adaptive management, trading, and potentially the multi-discharger variance options.

Glen, I did add you (replaced Mark Surwillo) to the Lower Fox email distribution list. I try my best to keep the Lower Fox stakeholders apprised of the Upper Fox and Wolf TMDL development – they are invited to UFW stakeholder meetings. Currently, the EPA contractor (CADMUS) is calibrating the watershed model. Once the watershed model is complete, the output from that model feed the lake/s model. We are hoping to have a stakeholder meeting around the end of this year or early next year to review, discuss and receive public comment on the 2 model's data and results.

I am in the office this morning – some of this is technical, so please call with questions.
Thank you again!

Keith

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Visit our survey at <http://dnr.wi.gov/customersurvey> to evaluate how I did.

Keith Marquardt

Phone: (920) 303-5435

KeithA.Marquardt@Wisconsin.gov

From: Sachs, Richard P - DNR

Sent: Wednesday, September 09, 2015 4:04 PM

To: Glen Geurts

Cc: Corbett, Mark K - DNR; Marquardt, Keith A - DNR; O'Connor, Kelley S - DNR; Fleming, Kari L - DNR

Subject: RE: Permit Renewal / Issuance

Glen,

Since you directed this message to me, and because our TMDL Coordinator, Keith Marquardt, is out of the office until next week, I'll attempt to respond to a few of your comments as best I can in order to provide you a response in a timely manner. I expect that Keith may more to say about them when he returns.

First, significant reduction in loading is required of nonpoint sources in the Lower Fox TMDL. You can review that document on our web site at: <http://dnr.wi.gov/water/projectDetail.aspx?key=16084305> With EPA's approval of the Lower Fox TMDL in 2012, those nonpoint source Load Allocations (LAs) and the point source Wasteload Allocations (WLAs) are not subject to change – unless the TMDL is re-opened. Since the Lower Fox TMDL has gone through the public review phase and been approved by EPA, Wisconsin DNR is now required by EPA to implement that TMDL. Any legal challenges to the Lower Fox TMDL's LAs and/or WLAs would need to be directed to EPA.

Second, the Lower Fox TMDL is not directly linked to the Upper Fox TMDL (under development). The Lower Fox TMDL was developed with certain assumptions about loading reductions from Lake Winnebago to the Lower Fox that would occur from implementation of a TMDL in the Upper Fox. As long as those assumptions are reasonable and attainable, the projections regarding loading reductions necessary to achieve the Lower Fox TMDL's goals should remain valid. On the other hand, if the assumed reduction in loading from Lake Winnebago to the Lower Fox cannot be attained through the Upper Fox TMDL, then the Lower Fox TMDL may need to be re-opened – to further reduce LAs and/or WLAs in order to meet water quality goals. And, based upon the initial work on the Upper Fox TMDL, it seems doubtful that the loading from Lake Winnebago to the Lower Fox – as a result of implementation of the Upper Fox TMDL – will be significantly less than assumed in the Lower Fox TMDL (which might then result in increasing the LAs and WLAs in the Lower Fox). Regardless, the possibility that the Lower Fox TMDL may need to be adjusted in the future to accommodate the Upper

Fox TMDL is not a sufficient reason to delay implementation of the Lower Fox TMDL. Doing so would unnecessarily delay realization of improved water quality in the Lower Fox.

Third, we have guidance in place for both Adaptive Management and Water Quality Trading – and have issued permits containing both practices. As we gain more experience with those practices we will hone our guidance and procedures. But those practices need to be operational in order to gain that experience – it can't happen if a moratorium is placed upon them.

As you obviously have interest in the Upper Fox TMDL, I'll ask Keith to inform you how you can keep apprised of the development of that TMDL – especially concerning public review.

Sincerely,

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Dick Sachs

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From: Glen Geurts [<mailto:glen.geurts@hvmsd.org>]
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Mark and Dick:

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Thank you for your consideration of these requests.

Glen Geurts

District Director
Heart of the Valley – MSD
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Kaukauna, WI 54130
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