



## John Muir Chapter

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### **WI DNR Proposal to revise NR 102 and NR 217 Point Source Rules Recommend adoption of Board Order WT-25-08**

Before the Natural Resources Board, 06/23/2010

By Shahla M. Werner, Ph.D., Director, Sierra Club-John Muir Chapter

Thank you for accepting my comments today on behalf of the Sierra Club – John Muir Chapter. We commend the DNR and NRB’s efforts for working quickly and carefully to prepare and consider revisions to Chapters NR 102 and NR 217 relating to phosphorus water quality standards criteria. These rules have the potential to effectively address phosphorus discharges from industry and municipal wastewater treatment plants. The proposed rules complement NR 151, aimed at reducing agricultural and stormwater runoff.

Addressing both point and nonpoint runoff will make Wisconsin a nationwide leader in addressing nutrient pollution. As of 2010, 1,215 of Wisconsin’s water bodies were listed as impaired under section 303 (d) of the Clean Water Act, many due to nutrient pollution. Adopting strong nutrient standards is long overdue. It fits with DNR’s objectives of protecting the public trust, sustaining healthy fisheries and providing safe drinking and groundwater, and it is necessary in order for Wisconsin to comply with the Clean Water Act. Restricting the amount of nutrients entering Wisconsin’s waterways will reduce algae blooms on our lakes, explosions of *Cladophora* along Lake Michigan beaches, and low levels of dissolved oxygen in streams that endanger aquatic species.

What’s going on in our state mirrors challenges we face nationwide, with over 14,000 water bodies listed as impaired due to nutrient pollution. Over 10 years ago, EPA recommended that states adopt numeric nutrient water quality standards for nitrogen and phosphorus for water resources. Unfortunately, not enough progress has been made since then, as detailed in a recent report entitled, “*An urgent call to action: report of the state-EPA innovations task group*”. They describe the situation in 2008, in which unaddressed nutrient pollution caused the hypoxic zone in the Gulf of Mexico to become the second largest dead zone in the world. MSU researchers now fear that this zone will be worsened and expanded by the recent oil disaster.

Undoubtedly, there will be costs to adopting these rules. Still, failing to address this problem could cost \$1.2 billion per year in lost fishing revenues caused by lake closures, and \$2.8 billion per year in declining lakefront property values (Dodds et al. 2009\*). Moreover, flexibility in the rule allows communities to apply for variances, develop compliance schedules, and implement cost sharing options to fund efforts to reduce agricultural pollution in their watersheds if this will provide greater reductions than investing in costly wastewater treatment upgrades. Grant funds, including over \$150 million in Water Division ARRA grant funds might also be used to mitigate the financial impacts of these rules on local municipalities.

We concur with concerns raised by our coalition partners about the need for this proposal to use monthly over annual nutrient averages and to comply with legal precedent set under the *Pinto Creek* decision prohibiting new dischargers in an impaired water body in the absence of a larger plan to bring it into compliance. However, once concerns are addressed to the best extent possible, we strongly favor adopting NR 217 and NR 102. In a recent editorial published in the Milwaukee Journal Sentinel, Sierra Club’s Chapter Chair, Eric Uram stated, “*Adding discharges from treated waters to the other sources of phosphorus from streets, farms and yards is the equivalent of putting aquatic weeds, algae and bacteria on steroids.*” He went on to say, “*If we want to improve swimming, fishing and boating opportunities, we need to put this rule on the books and invest in protecting our waters as one of the key economic drivers for the state.*” That is why we urge you to adopt Board Order WT-25-08 today so that it can proceed, along with NR 151, to the state legislature for approval.

\* Dodds, W.K., W.W. Bouska, J.L. Eitzmann, T.J. Pilger, K.L. Pitts, A.J. Riley, J.T. Schloesser, and D.J. Thornbrugh. 2009. Eutrophication of U.S. freshwaters: analysis of potential economic damages. *Environmental Science and Technology* 43(1):12–19.