



August 19, 2016

Ms. Gina McCarthy, EPA Administrator
Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Dear Ms. McCarthy:

I want to thank the EPA in Region 5 for the time and dedication that has been spent reviewing, commenting and requesting modifications to the State of Wisconsin's phosphorus multi-discharger variance package. The state has been patiently waiting for a determination from the agency since passage of the second Legislative Act in March of 2016.

I was the Senate author of both 2015 WI Act 205 and the more comprehensive 2013 WI Act 378 establishing an innovative point-non-point source partnership. This unique program removes the liability issues for the regulated community that have been associated with adaptive management but also increases the amount of phosphorus that will be eliminated from our lakes, rivers and streams by combating the more prevalent non-point sources. It is time for the EPA to approve this win-win program for our businesses, farmers, property owners, municipalities, lakes, rivers, streams and \$19.3 billion tourism industry.

The regulatory mechanism developed for the State's phosphorus program is very permit driven and fails to recognize the vast amount of phosphorus pollution (up to 90 percent in some watersheds) that comes from non-point sources.

While innovative tools, like adaptive management, were developed in the 2010 rules to provide flexibility for the regulated community, there are still significant questions surrounding liability and enforcement when utilizing those alternatives.

To attempt to provide a more dependable point-nonpoint compromise and address the major source of phosphorus, I authored two bills to allow point sources to come into compliance with the new standards more gradually. The modified compliance schedule was in exchange for a formula payment based on the amount of phosphorus to be discharged from their point source. This fee would be deposited in an account to be utilized in nonpoint programs.

We are nearing the end of August and the 60 day review period for approval as well as the 90 day review period for denial have both come and gone. The State and the Legislature have acted repeatedly in good faith since 2009 to pass ground breaking phosphorus standards and to enter into a process which equitably represents the source of phosphorus pollution in the State.

It is my hope that the EPA will support the State's commitment to protecting our water resources while strengthening our economy and forward an approval for our multi-discharger variance request as soon as possible.

I look forward to your response in the near future.

Sincerely,

Senator Robert L. Cowles
Chair, Senate Committee on Natural Resources and Energy
2nd Senate District

cc: Mr. Robert Kaplan , Acting Administrator, EPA Region 5
Ms. Tinka Hyde, Director, Division of Water, EPA Region 5
Ms. Cathy Stepp, Secretary, Wisconsin Department of Natural Resources