



Date: August 18, 2022
To: Minnesota Pollution Control Agency (MPCA)
From: Neighborhood Concerned Citizens Group (NCCG)
Regarding: Comments to the Water Gremlin Draft Major Permit

The Neighborhood Concerned Citizens Group (NCCG) appreciates the opportunity to provide comments on the Draft Major Permit for Water Gremlin. As you know, this has been a long road for NCCG and for the area residents affected by Water Gremlin's decades of pollution.

When we found out about the extreme (and well documented) decades of TCE pollution in March of 2019, the White Bear Area community was shell-shocked. We took swift and strong action, and we fast became citizen-experts in matters of regulation.

In the several months following the March 2019 notification, we learned even more about Water Gremlin's shoddy environmental and business practices, including serious hazardous waste violations, mishandling of lead, improper use of pollution control equipment, including the venting of emissions into the building slab, onsite fires, and so much more. The issues were so frequent and so significant, it demonstrated to the community that Water Gremlin had (and may still have) a company culture that prioritized 'get it done' over corporate responsibility to employee safety, the health of the neighbors and the environment. The community has looked forward to the amendment of Water Gremlin's air permit, as we have long waited for Water Gremlin to be properly regulated.

As you are aware, as MPCA and the Minnesota Department of Health (MDH) dug more into what was going on at Water Gremlin and learned about the scope of the problems there, the permit target date was moved numerous times from the originally proposed date of Fall 2019 to July of 2022, when the draft permit was finally released.

NCCG appreciates the years of hard investigative work by the MPCA and MDH to uncover the scope of the problems at Water Gremlin.

NCCG also applauds the strong compliance and monitoring requirements and significant improvements in the requirements for pollution control equipment—specifically improved operation and maintenance requirements and improved conditions to replace control equipment in the draft permit. These requirements are appropriate for a company with a long history of noncompliance and will provide a much better foundation for strong enforcement moving forward.

We are also very pleased to see that this permit is one that expires after 5 years, which will give the MPCA and the public the chance to assess whether the permit has been successful in curbing the problems at Water Gremlin. This renewal requirement will also give the public an opportunity to provide input on the next iteration of the permit.

As a community, we remain concerned over the exposure we've had to toxic and carcinogenic chemicals. As we review the details of this new air permit, we look for pretty simple things — protection for citizens, accountability, and provisions that will incent true culture change at Water Gremlin. Essentially, we look for preventative measures that will not allow Water Gremlin to continue business practices that show complete disregard for human health, for our environment and for the welfare of the workers at the plant.

Following are comments that are specific to areas of the permit.

Limits on Major Pollutants of Concern

The major pollutants of concern outlined in the permit include t-DCE, 1, 2-dichlorethylene, Lead, Particulate Matter, and Particulate Matter with aerodynamic dissonate less than 10 micrometers (PM10) and, Particulate Matter with aerodynamic dissonate less than 2.5 micrometer (PM2.5) and Nitrogen Oxide.

We are glad to see that emissions limits and operating requirements were established based on site-specific analysis of air impacts (air modeling and air toxics assessment) and taking into consideration current ambient monitoring data.

1. The limit on t-DCE set forth in the draft permit must be maintained.

The permit contains an enforceable limit of 32.6 tons per year (tpy) on t-DCE emissions. This will allow the ambient concentration of t-DCE to remain below the 2020 Risk Assessment Advice (RAA) chronic inhalation health benchmark of 20 $\mu\text{g}/\text{m}^3$. The RAA was developed by the Minnesota Department of Health (MDH). In a letter from Water Gremlin distributed at the MPCA Public Meeting regarding the Water Gremlin Air Permit, Water Gremlin indicated that it has requested higher limits of t-DCE during the first 5 years of the permit:

“In the course of our permit review and discussions with the MPCA, we have requested a slightly higher allowance of the usage in the short term for our coating process than what is proposed in the current draft of the permit to facilitate our firm commitment to move to UV coating and less total emissions over the life of the permit. Our requested limit allows for emissions that are well below even the most conservative assumptions and unconventional risk evaluation done by the Minnesota Department of Health and most importantly, far below the US Environmental Protection Agency’s risk limit used at sites around the country.”

Water Gremlin’s request is premised on its position that the RAA resulted in a benchmark that is too low and that should not be applied to Water Gremlin. Water Gremlin contends that its limit should be based on a much higher *sub-chronic* exposure benchmark based on a study completed by the United States Environmental Protection Agency. In fact, Water Gremlin contends that the benchmark should be 420 $\mu\text{g}/\text{m}^3$ rather than 20 $\mu\text{g}/\text{m}^3$. Water Gremlin contends that it should be able to expose this community, which has already been exposed to decades of pollution by Water Gremlin, to an ambient level of t-DCE in the air that is 21 times higher than that set by the MDH. NCCG is adamantly opposed to increasing t-DCE limits, even in the short-term. **Strict limits on t-DCE from day one must be a top priority.**

While there should be no explanation needed for NCCG’s position, Water Gremlin (a mis-user of lead, a serial hazardous waste polluter, a permit violator, a past excessive emitter of TCE and a current emitter of t-DCE) is nestled in the heart of a residential community and surrounded by homes. Additionally, the

site is managed by the MPCA Superfund program staff, demonstrating the seriousness and complexity of the environmental issues at the site.

The White Bear community is concerned that exposure to t-DCE in excess of the health-protective levels set by the MDH could compound any health impacts that have resulted from decades-long excessive exposure to TCE from the plant.

Although t-DCE is reportedly less toxic than TCE and is considered one of the easiest replacements for TCE, fact-based research by the community indicates many concerns with t-DCE; including:

- t-DCE is similar in chemical structure to TCE
- t-DCE is a less studied chemical
- It is additionally notable that the Minnesota Technical Assistance Program (MNTap) has suggested in presentations and conversations that t-DCE is a less-preferred TCE alternative compared to other potential substitutes.

We believe that as t-DCE is studied more over time, it is possible more conservative values for t-DCE will be developed.

Furthermore, from 2002 through 2018, the years outlined in the 2019 Stipulation agreement, Water Gremlin emitted 1079.24 tons of TCE. During that 17-year period, its air permit capped its legal usage at 161.5 tons (9.5 tons per year). That means, if Water Gremlin had to “pay back” the community for their exceedances of TCE, they would have already used up their allowance for 113 years and would not be able to emit any VOC until the year 2115.

Finally, the cost of these violations has been great to taxpayers, to neighbors and to State Agencies financially and in many other ways.

The MDH proposed limit is based on sound science and is protective of human health. Our community has already been exposed to decades of highly excessive pollution by Water Gremlin and is thus at a higher risk when considering the impact of continued exposure to volatile organic compounds.¹

¹ Please note that on p. 219, section 5.111.2, there is a reference to TCE limitations. The way we are understanding the context, we believe that “TCE” should be “t-DCE.”

Community Notification of Exceedances & Consequences

1. The community should be notified in a timely matter that there has been a violation.

Residents in the White Bear Lake area have many anecdotal examples of health impacts that have been resolved when community members might close their windows or take other protective action in the moment. And, we have anecdotal accounts of community members experiencing health issues that have been attributed by their doctors to environmental pollution, like what has been seen by dry-cleaning workers exposed to TCE. Thus, having immediate non-compliance notification is particularly important for community members to allow them to take action to protect their personal health in the moment.

2. There must be swift, clearly defined consequences that are appropriate to Water Gremlin, a known serial offender.

MPCA penalty calculations take past non-compliance into account, and we would expect that any continued non-compliance by Water Gremlin be met with a penalty or other consequence that is meaningful to the company. Given the history of this company's conduct, public input on such a penalty may be appropriate.

Pollution Control Equipment

We have seen multiple examples throughout Water Gremlin's history of malfunctioning and nonfunctioning pollution control equipment. There are many requirements in the permit for Water Gremlin to calibrate, monitor and maintain their equipment. That is great.

1. The community needs assurance that proper maintenance and operation of pollution control equipment is actually happening. Lack of properly functioning pollution control equipment is one of the primary reasons we are here today. We need to see provisions in the permit that assure the community that pollution control equipment is being maintained and operated appropriately, and that it is functioning appropriately, beyond the requirements of self-reporting.

Monitoring Requirements and the potential 2-year Sunset Clause

Throughout the permit we see numerous reporting requirements. Everything from the certification that the pollution monitors are properly calibrated to extensive documenting and reporting on all areas of the operation. This is what the community has been asking for, and we appreciate it greatly.

1. Monitoring should be required for the duration of the permit, not just two years.

It appears that Water Gremlin can discontinue much of this extensive reporting after 2 years of solid production and after meeting certain criteria. While this might be appropriate for another company without Water Gremlin's history, this company has shown a substantial lack of compliance as demonstrated by, among other actions:

- Two stipulation agreements,
- Two administrative orders,
- Multiple shutdowns to protect human health and the environment, and
- Being labeled a "public health nuisance" by Ramsey County Judge Castro.

In addition, the situation was so egregious that two rare undertakings occurred:

- A detailed and rare Office of the Legislative Auditor (OLA) report and

- A rare Public Health Assessment, completed to provide some details on what this community has been exposed to.

Finally, after three and a half years of waiting for the permit, we still see and hear things that suggest that Water Gremlin is waiting for the community (and the MPCA) leave it alone so that it can go back to its old ways.

2. It's crucial that the MPCA continues to carefully monitor all of the required reporting by Water Gremlin.

To ensure that appropriate MPCA resources are assigned, Water Gremlin needs to fund ongoing monitoring and compliance work made necessary by its historic lack of compliance.

Community Meeting Requirements

NCCG greatly appreciates this special and meaningful addition to the permit. It signifies how well the community's fact-based concerns have been heard. Over the past three and a half years, we have been waiting and wanting Water Gremlin to reach out to the community in a meaningful way, but most of their communications have been centered on denying wrong-doing or shifting blame.

Regarding the Community Meeting, we have the following specific comments:

1. **There needs to be a defined start date for community meetings.**
2. **There needs to be a defined set of expectations regarding community notice and communication.**
3. **We need assurances that what Water Gremlin shares with the community is accurate.** Our community asks that MPCA be present at the meetings. We want content and the agenda reviewed *prior* to presentation to this community to ensure accuracy. The last thing we need is more "spin" from Water Gremlin.

This community will count upon MPCA to make sure these factors are addressed – therefore ensuring the community meetings are as meaningful as MPCA intends them to be.

In Conclusion

This has been a long and difficult journey for the White Bear Area community. The issuance of this permit is a major milestone. Our hope is that Water Gremlin, a company that has been a serial violator for decades, take action that adheres to this permit. And, our hope is that the culture at Water Gremlin changes to ensure safety of employees, community and environment.

Regardless, our community will continue to stay involved so that we know the permit is being robustly enforced.

Respectfully Submitted,
NCCG Board Members: Kelly Tapkan, Sheri Smith, and Leigh Thiel