



Date: March 1, 2023

To: Minnesota Pollution Control Agency (MPCA)

From: Neighborhood Concerned Citizens Group (NCCG)

Regarding: Comments to the Water Gremlin Version 2 Draft Major Permit

NCCG advocates for the communities of White Bear Township, Gem Lake and White Bear Lake. From the beginning, our priorities have been clearly stated and they remain the same today:

- 1) Understand what happened to our communities.
- 2) Ensure our communities are protected for the future.
- 3) Achieve accountability for the harm that has been done.

NCCG was established in March 2019 as we were learning about the years of extreme pollution our community was exposed to at the hands of Water Gremlin¹. We do not have environmental or community activist backgrounds; we are everyday White Bear area citizens who realized our community had been greatly harmed and our community voice was missing from the conversation. If we wanted to see change, we needed to drive that change. Visit www.wbanccg.org to learn more about NCCG, all that we have learned over the years and to find various third-party resources on this subject.

We thank the MPCA, the Minnesota Department of Health (MDH) and our local, state and county elected officials, including the Governor and Attorney General, for the countless meetings and work that continues to be done to bring Water Gremlin into compliance and to have them properly regulated.

As we review the February 2023 draft permit and technical support document, we have concluded our original comments dated August 18, 2022, are still germane. We have attached this document in the appendix as we don't need to restate all that is there.

This set of comments focuses on the permit requirements that we find most crucial that have been maintained from the initial draft to this draft and specific items relevant to the revised permit. We also have provided an executive summary discussing other items that we detailed in the August 18, 2022 NCCG response to the first draft permit.

- 1) **We believe that it is crucial that these features of the initial permit, which have been carried through to the current draft, be maintained:**
 - a. The protective limit on t-DCE as set forth in both drafts of the permit remain in place.
 - b. Ambient air monitoring must continue due to demonstrated lack of reliability associated with Water Gremlin's record keeping.
 - c. Water Gremlin must be accountable to the Community and should be required to meet regularly with the Community.
- 2) **Real-time public reporting of exposure is critical.** We continue to ask for real-time notifications of possible excessive pollution events and we also ask for proactive reporting on the website to be continued on Water Gremlin emissions.

¹ See stipulation agreements and administrative orders outlined in the Draft Permit and Technical Support Document. Also see the Minnesota Pollution Control Agency Regulation and Oversight of Water Gremlin, Office of Legislative Auditor Special Review, February 2021. Review extensive investigative reporting of the Water Gremlin issue by Jennifer Mayerle with WCCO, CBS.

- a. We understand that pursuant to the Minnesota Data Practices Act, Minn. Stat. Ch. 13, the MPCA does not automatically and proactively share instances of excessive emissions that are under investigation, even if those exceedances are potentially harmful to nearby citizens. As the MPCA notes in its response to comments, section 13.39, provides that the MPCA can disclose such information if it “determines that the access will aid the law enforcement process, promote public health or safety or dispel widespread rumor or unrest.”² Given the adverse health effects that many residents have reported and believe to be related to Water Gremlin and given the substantial concern in the community related to Water Gremlin’s operations, we believe that an exception is warranted here for any Water Gremlin exceedances.

Our ask: While this ask is outside of the scope of this permit, remember the extreme pollution this community has been exposed to for decades at the hands of Water Gremlin. In the event of future issues, consider any emission exceedances in this area as a special case-by-case issue and notify citizens preemptively, allowing them to take precautions as needed. (For example, in the past, when neighbors did get the notification and have taken steps such as shutting windows or reducing time outside, several noticed immediate improvements in breathing and skin irritations.)

- b. We understand that information on Water Gremlin’s emissions can be requested at <https://www.pca.state.mn.us/about-mpca/information-requests>.³

This is a challenging online system to navigate. Additionally, based on experience, unless we elevate the request to a senior MPCA or MDH leader, it takes months and rounds of follow-up to receive a response. We understand (and believe) this is due to a backlog of requests and staff shortages.

Our ask: The MPCA should continue to maintain the air monitoring website⁴ for Water Gremlin. Additionally, the MPCA should begin to include information collected on particulate matter to show how actual emissions of PM compare to permitted totals.

Having this information easily available enables the White Bear community to better be protected and ensures accountability on the part of the MPCA and on Water Gremlin.

² MPCA response to NCCG comment on page 1130 of Water Gremlin Technical Support Document, Feb 2023

³ Page 1130 of Water Gremlin Technical Support Document, Feb 2023

⁴ As of 2/28/2023, the Water Gremlin air monitoring website can be found at:

<https://public.tableau.com/app/profile/mpca.data.services/viz/WaterGremlinairmonitoringresults/tDCEairmonitoringresults>.

3) Water Gremlin should be required to maintain records for 10 years, rather than 5.

- a. In its report, the Office of the Legislative Auditor (OLA)⁵ outlines serious issues resulting from, in part, decades of poor record keeping by Water Gremlin. As the agency was investigating what the community had been exposed to, they were searching for records that would not have been retained as part of a 5-year data retention policy.

Our ask: Because of the egregious violations and lack of concern over the health of citizens in our area, lack of concern for workers at the plant, and lack of concern to our environment in general, we believe the Water Gremlin situation deserves the highest possible level of regulation, including how long they ought to be required to maintain accurate records. We suggest a 10-year retention requirement.

4) The issuance of this permit should not be subject to additional delays caused by Water Gremlin.

In reviewing the Technical Support Documents, we found it notable Water Gremlin submitted 14 iterations of the modeling results between February 28, 2021, and August 19, 2022, requiring the MPCA to invest significant time and effort on each submittal.⁶

Additionally, in many instances, the same comments were repeated and submitted in various formats resulting in a repetitive and confusing record. To alleviate some confusion the MPCA consolidated its responses to Water Gremlin's comments on categories identified below in this detailed response.⁷

Our ask: These actions by Water Gremlin make our community feel as though they are purposefully delaying proper regulation. Please ensure that this permit is issued promptly.

5) The bridging strategy protects our community during year 1.

During the February 9, 2023, community meeting, you outlined a bridging strategy for the first year of the permit. When we asked for a layman's explanation of this, we were pleased to hear this was put in place to ensure Water Gremlin did not front load their daily emissions. They will instead be regulated to not just a yearly amount, but also a daily amount. A strategy such as this was lacking from the stipulation agreement and caused the community concern as Water Gremlin greatly exceeded the estimated daily amounts but were under their total amount.

Our ask: Please maintain this bridging strategy.

6) Our 8/18/2022 response is still germane.

We see many similar elements of the first permit in this February 2023 version and we continue to applaud the strong compliance and monitoring requirements for pollution control equipment. These requirements are appropriate for a company with a long history of noncompliance and provide a much better foundation for strong enforcement moving forward.

As indicated above, most comments made previously are germane to this February 2023 version of the permit.

⁵ Minnesota Pollution Control Agency Regulation and Oversight of Water Gremlin, Office of Legislative Auditor Special Review, February 2021

⁶ Page 1070 of February 2023 Technical Support Document

⁷ Page 1060 of February 2023 Technical Support Document

Following is an executive summary of the comments made by NCCG on 8/18/2022. Please reference the Appendix for full detail and context of this executive summary.

- a. We remain pleased the permit is set to expire after 5 years.
- b. We remain concerned over the exposure we've had to toxic and carcinogenic chemicals.
 - i. We remain happy to see emissions limits and operating requirements established based on site-specific analysis.
 - ii. The limit on t-DCE set forth in the draft permit must be maintained. Review pages 7 & 8 in the Appendix for evidence on why the t-DCE limits must be maintained.
- c. Community notification, including easy access to mandated reporting, as outlined above and in the appendix, is critical.
- d. Any misstep must result in swift, clearly defined consequences that are appropriate to a known serial offender like Water Gremlin.
- e. We need assurances that the mandated maintenance and operation of pollution control equipment is actually happening.
 - i. From the community meeting on Feb 9, we understand the MPCA has a staff member focused on reviewing the compliance data. This role is critical to remain in the MPCA budget. Additionally, other review of their required reporting and maintenance must also happen.
- f. Monitoring should be required for the duration of the permit, not just two years.
 - i. We understand from your response to this ask in August of 2022 that the MPCA feels this sunset clause is necessary to incentivize a reduction in t-DCE use. Logically, the MPCA position makes sense.

However, the community have learned that two years of time is a short waiting game for Water Gremlin. There have not been meaningful culture changes in these past four years. Thus, we have no reason to trust Water Gremlin is able (willing?) to accurately report.

Our concern is that if they are able to reduce t-DCE for two years, will they continue this when there is only self-reported monitoring and no checks and balances from the environmental monitors? What will happen when nobody's watching?

- g. Continued monitoring of Water Gremlin and unannounced inspections by the MPCA and other regulatory bodies is critical.
- h. We appreciate (*though have skepticism*) the community meeting requirements
 - i. It's notable that in the Water Gremlin response outlined in the technical support documents, they made at least three comments to this one requirement. Water Gremlin stated that it is not in the realm of the MPCA to require this. *Dear Water Gremlin, we know you don't want to talk to the community. You have avoided talking to us directly for 4 years; and now you've told us three times in your comments to the July 2022 Draft Permit that you don't want to talk with us. We hear you. Do you hear us that we want you to operate with integrity?*

In Conclusion

While we hope Water Gremlin will find the answers you provided to their many comments understandable and actionable, the community has learned to expect that Water Gremlin will continue to avoid proper regulation through delayed responses and through legal action⁸.

This has been a long and difficult journey for the White Bear Area community. Over four years, many people who became experts on this issue have moved on to other roles and there are very few of the original experts involved. This leaves a big gap within the MPCA, the MDH, our elected officials, our community, and Water Gremlin. These people changes have resulted in important knowledge being lost and our community continuing to be at risk of future harm.

With each move, the baton is passed, and new people are jumping in, but this situation is complicated and matrixed, making it challenging to get up to speed. The issuance of this major permit is a significant milestone and will help to resolve the issues associated with people moving on.

Our hope is that Water Gremlin, a company that has been a serial violator for decades, takes 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

⁸ As one example of drawing out the process, see page 1079 of the February 2023 Technical Support Document outlining the delays caused due to 11 different iterations of the modeling requirements between February 28, 2021 and May 5, 2022.



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