



DEDICATED TO A STRONG GREATER MINNESOTA

September 1, 2023

VIA ONLINE & EMAIL

Commissioner Katrina Kessler
Minnesota Pollution Control Agency
520 Lafayette Rd N, St. Paul, MN 55155
katrina.kessler@state.mn.us

Re: Comments on the framework for developing and evaluating site-specific sulfate standards for the protection of wild rice

Dear Commissioner:

Thank you for the opportunity to comment on the MPCA's framework for developing and evaluating site-specific sulfate standards for the protection of wild rice ("framework"). The Coalition of Greater Minnesota Cities ("CGMC") is a group of more than 100 cities located outside the seven-county metropolitan area. Our cities play an essential role in protecting Minnesota's waters through their wastewater and stormwater systems.

To ensure effective protection of the environment, it is essential that the wild rice sulfate standard is firmly rooted in the best available science and considers the limited resources of the water systems impacted by the implementation of the standard. These considerations are particularly impactful to many of our members who will be affected based on the existing Clean Water Act section 303(d) impaired waters list and the state's list of waters used to produce wild rice ("WUFPOWER").

Below are our comments related to the framework published by MPCA:

1. MPCA's current standard is outdated, restrictive, and expensive.

The CGMC maintains its stance that the most effective path for addressing the wild rice sulfate standard involves revising the 10 mg/L standard through the rulemaking process, incorporating the best available science. This standard is more restrictive than necessary; the 10 mg/L standard does not even reflect the best available science, which shows that a less restrictive standard will support the health of wild rice populations in the state. In a prior rulemaking attempt, MPCA acknowledged and highlighted significant deficiencies that persist within the framework of a 10 mg/L standard. Although this rulemaking attempt was unsuccessful, the underlying defects of the outdated rule remain. MPCA should heed its own earlier findings and modernize this outdated

standard. If wastewater facilities receive limits that are not necessary to protect wild rice based on this outdated standard, it could divert limited resources that could be spent addressing other environmental concerns.

2. MPCA should either adopt a less restrictive site-specific framework throughout the state or undertake a comprehensive rule amendment.

It is our understanding that MPCA is actively working to collect data, evaluate, and develop site-specific standards for the lower pools of the Mississippi River. As indicated in the framework document, existing data indicate that a site-specific standard is appropriate and that a less restrictive sulfate concentration than 10 mg/L is protective of wild rice in these river pools. In the absence of comprehensive rule amendments, the CGMC urges consideration of site-specific standards across the entire state rather than confining this approach solely to the Mississippi River pools. This broader approach would yield more consistent and cost-effective outcomes throughout Greater Minnesota.

3. Specific Comments on MPCA's proposed framework.

The CGMC supports the proposed framework for evaluating and developing site-specific standards as necessary and reasonable but has the following specific comments and questions:

- The framework document provides a reasonable definition of what constitutes meeting the wild rice beneficial use. This definition – the continued annual long-term growth of wild rice with or without boom-bust cycles – should be the primary basis for determining the attainment of wild rice use. It is unclear how long-term trends will be evaluated year-to-year and account for fluctuations in growth. MPCA should provide more information and guidance about how long-term trends will be evaluated under the framework.
- Wild rice use could be lost due to numerous causes exclusive of sulfate concentration. Where wild rice was historically present but is now no longer present, it should not be presumed that sulfate is the cause. MPCA should develop an assessment to determine whether other factors are responsible for the absence of wild rice.
- Water quality standards for sulfate do not need to be set lower than natural background concentrations. The framework references the fact that many wild rice waters in the southern and western regions of the state have sulfate concentrations that are naturally above 10 mg/L. In situations where natural background levels of sulfate are high, MPCA should develop a site-specific standard.

Thank you for the opportunity to submit the above comments. If you have any further inquiries or wish to respond to these comments, please do not hesitate to contact Elizabeth Wefel at ewefel@flaherty-hood.com.

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Sincerely,

A handwritten signature in black ink that reads "Rick Schultz". The signature is written in a cursive style with a large, stylized "R" and "S".

Rick Schultz, Mayor of St. Joseph
President, Coalition of Greater Minnesota Cities

CC: Dana Vanderbosch, Assistant Commissioner, MPCA
Nicole Blasing, Municipal Division Director, MPCA
Suzanne Baumann, Municipal Wastewater Manager, MPCA