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Justin Watkins
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VIA WEB PORTAL

Re: Interagency fish kill response guidance document and protocol

Minnesota Trout Unlimited (MNTU) is submitting the following public comments to the draft interagency fish kill response guidance document and protocol required by Minn. Stat. § 103G.2165. MNTU and its several thousand members are concerned about protecting, restoring, and sustaining coldwater fisheries and their watersheds across Minnesota. Given the exceptional coldwater fisheries in southeast Minnesota, our members are particularly concerned over the frequency of fish kills occurring there.

MNTU has identified several improvements that should be made in the final guidance document and protocol to ensure timely investigation and better public disclosure of lessons to be learned from fish kill. Although the draft Guidance & Protocol is a good effort overall, and one we support, we believe the priority focus of the agencies should be concrete actions to address the factors already known to contribute to the fish kills that have occurred in southeast Minnesota over the past decade.

The following additions and revisions should be made to the final guidance document and protocol to ensure that investigations occur without delay so that useable information is obtained that will prevent more fish kills:

1. Qualified contractors are needed “on call” for weeknights, weekends, and holidays. The draft on page 7 notes the agencies lack on-call staff during these times and that this will cause delays in response. It also notes contractors could be used yet does not call for this. These times represent 75% of the hours in a year! The draft must be revised to include the use of on-call emergency contractors trained and equipped for rapid response whenever agency staff are unavailable. A qualified contractor (or contractors) should be engaged and on a retainer so that it will respond at a moment’s notice. This type of contracted service already exists for some toxic spills. It should be set up for toxic fish kills as well.

2. Stakeholders should be able to request an After Action Review. The draft on page 17 describes a process for the agencies to critique the response to a fish kill to identify and address

future needs and modifications to improve the response plan. Only one of the agencies can request an AAR. Stakeholders should also be able to request this type of Review. And stakeholders should be able to easily obtain the results of these Reviews.

3. The DNR should be free to report its recommendations and prevention measures whether or not a unified interagency report is drafted. The draft on page 16 says individual agency reporting is typically sufficient but the interagency team may decide to prepare a unified report. Decision criteria are vague. Any agency should be able to request a unified report. The DNR should be free to report its recommendations and prevention measures even if its conclusions are not shared by the other agencies. Appendix C: Fish Kill communications guidance should be changed to specifically state that once the agencies complete their investigations the DNR is free to report its recommendations and prevention measures.

4. More detailed response procedures are needed for the karst region of Minnesota. The draft contains a one size fits all set of procedures for all areas of the state. Given the porous and fractured bedrock, the close connection between surface and groundwater, the steep terrain, and frequency of human caused fish kills here, the guidance should be further reviewed and revised with an eye to ensuring a more rapid and thorough response to southeast Minnesota fish kills.

5. MPCA should be the lead agency for fish kills in southeast MN, until investigation determines a cause warranting DNR be the lead. Time is of the essence in investigating fish kill. All the major fish kills did or would have fallen to MPCA to lead or co-lead. The guidance and protocol should designate the MPCA as the initial lead agency for investigations fish kills in southeast Minnesota, until such time as the investigation results indicate that a “natural” cause is involved.

6. Milestones needed. The current draft lacks timetables or milestones for all the various steps and procedures, including interagency coordination. We agree with the goal of “ascertaining the cause of the fish kill in 24-48 hours”, but this is not attainable without clear timetables and milestones.

These are just the major areas for improvement of the draft from the standpoint of fisheries protection. There are also important points relating to the human health aspects of these fish kill events. Our comments on these aspects are included in joint comments with MCEA and other partners.

Thank you for your thoughtful consideration of our comments.

Sincerely,

/s/ John P. Lenczewski