



WHITE EARTH RESERVATION

CHAIRMAN Michael Fairbanks **SECRETARY-TREASURER** Michael LaRoque

DISTRICT I Henry Fox **DISTRICT II** Eugene Sommers **DISTRICT III** Laura Lee Erickson

August 29, 2024

Minnesota Pollution Control Agency (MPCA)
George Schwint | Principal Feedlot Engineer
520 Lafayette Road,
St. Paul, MN 55155

Re: NPDES and SDS Feedlot Permit Revisions

Dear Mr. Schwint,

The White Earth Band of Minnesota Chippewa (White Earth Nation) appreciates the opportunity to submit formal comments on the proposed draft permits for the National Pollution Discharge Elimination System (NPDES) and the State Disposal System (SDS). White Earth Nation has reviewed several submitted public comments to the proposal, both of the MPCA's fact sheets for the SDS and NPDES permits, the draft SDS and NPDES permits, and the email response from MPCA regarding EPA's comments.

White Earth Nation is pleased the MPCA's responses to the Environmental Protection Agency (EPA)'s comments contain the commitment that MPCA will modify the NPDES permit eligibility section to include language directing applicants to the EPA instead of MPCA for concentrated animal feeding operations (CAFOs) facilities within Indian Country. White Earth Nation also applauds the MPCA for including in both draft permits, Section 1.4 on page 4 of both the SDS and NPDES draft permits, that Permittees are responsible for following tribal laws as well as federal, state and other local laws.

White Earth Nation does have some concerns regarding permittees' obligations to self-report spills, discharges, or overflows in Section 27.4 of each proposed permits that these events require the permittee to report to MPCA. What are the safeguards that permittees will report such events? What will happen if they fail to report – i.e. will MPCA penalize failures to report? White Earth Nation would like to see MPCA follow up and either require the permittee to sample the area so that the public can be made aware of any damage to the environment or have MPCA do sampling upon receipt of such reports similar to the requirements in Section 28.1 – 28.4 for discharges into waters of the state. Likewise, White Earth Nation would like to see consequences for permittees who fail to report spills, discharges, or overflows.

White Earth Nation commends MPCA for endeavoring to protect ground water and safeguarding the environment we all share. White Earth Nation applauds MPCA for requiring inspections on applications of manure, planting cover crops, assessing vulnerable ground water areas, protecting vulnerable surface waters for flood plan areas by limiting how manure can be applied, and phasing out winter applications of manure. These are great steps. However, although White Earth Nation applauds MPCA for wishing to protect our shared resources of water and the environment, White Earth Nation is concerned that many animal feedlot facilities within the state do not rise to the term of art "CAFO" triggering either SDS or NPDES permits. Thousands of facilities, more than 16,000, will continue to pose great risks to our shared resources. Not only will these facilities operate without many of the commendable best management



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practices outlined by these proposed permits, but the manure generated by these facilities and used by countless others throughout the state will be applied without the more stringent requirements of manure recipients of SDS or NPDES permitted facilities. In short, these changes do not go far enough for the stated goal of safeguarding ground water and especially vulnerable ground water areas.

A blaring concern for White Earth Nation and likely all tribal nations within the geographic area of the state of Minnesota is – what about manure receipts who are in Indian Country? What about persons who receive manure from these SDS or NPDES permitted CAFOs and they wish to transport manure to apply in Indian Country? White Earth Nation finds no such mention of this very real scenario in either the SDS draft permit and its attachments nor the fact sheet, no mention of such in the NPDES proposed permit and its attachments nor the fact sheet. This is deeply concerning. There should be at the very least some guidance for persons who wish to receive manure from such facilities and apply that manure in Indian Country.

Lastly, White Earth Nation would like to take this opportunity to remind the public and MPCA that currently White Earth Nation has a moratorium on CAFOs and animal feedlot operations (AFOs) within the boundaries of the White Earth Reservation, see https://whiteearth.com/assets/files/judicial/ordinances/SKM_C554e22120713480.pdf , or visit the White Earth Nation website at www.whiteearth.com for more information.

Sincerely,


Michael Fairbanks (Sep 3, 2024 16:03 CDT)

Michael Fairbanks

Chairman, White Earth Nation







WEN comment on MPCA changes to NPDES and SDS (final)-1

Final Audit Report

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