State of Wisconsin
DEPARTMENT OF NATURAL RESOURCES
101 S. Webster Street
Box 7921
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Scott Walker, Governor
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WISCONSIN
DEPT. OF NATURAL RESOURCES

Ms. Tinka Hyde, Director, Water Division
U.S. EPA, Region 5
77 W. Jackson Boulevard
Chicago, IL 60604

Subject: Request for Approval of a Variance from Water Quality Standards for Chloride
Receiving Stream: Waubeesee Lake Drainage Canal, which joins the Wind lake Drainage Canal, to the SE Fox (IL) River
Permittee: Norway TN Sanitary District 1, WPDES WI-0031470-07-0

Dear Ms. Hyde:

In accordance with s. 283.15 of the Wisconsin Statutes and Title 40, Part 131 of the Code of Federal Regulations, the Department requests U.S. EPA, Region 5 to approve a water quality standards variance for the above-referenced discharge. The water quality criterion for which the permittee is seeking a variance is contained in chapter NR 105, Wisconsin Administrative Code.

To assist your staff during their review, relevant background information pertaining to this variance is attached to this letter. The draft permit and variance were public noticed on November 14, 2014 and public re-noticed on December 29, 2014. The comment period has now ended. Two sets of comments were received from the Applicant – one during the first public notice period, and the other, during the re-public notice period. Please see the Notice of Final Determination for Comments and Department's response.

We are committed to working with the permittee during the term of this variance to find a solution that will lead to full compliance with the applicable water quality standard. Conditions on the variance, which are included in the WPDES permit, specify actions to be taken by the permittee and timetables for those actions. If the variance is approved by EPA, the Department will include the variance limitation and related conditions in the final WPDES permit.

We appreciate your consideration of this request. Should you have further questions regarding this matter, please contact Timothy Thompson at (414) 263-8525.

Sincerely,

Russell A. Rasmussen, Administrator
Water Division
DATED: 2/13/15

Attachment
ecc: Tim Thompson, SER Milwaukee
David Pfeiffer, EPA Region 5

BACKGROUND INFORMATION REGARDING WATER QUALITY STANDARDS VARIANCE

Receiving Stream and Classification: Waubeesee Lake Drainage Canal, which joins the Wind lake Drainage Canal, to the SE Fox (IL) River, Warm Water Sport Fish.
Criterion: 395 mg/l chronic toxicity criterion in ch. NR 105, Wis. Adm. Code

Water Quality Based Effluent Limit: 395 mg/l

Permit Limit Based on Proposed Variance: Interim Limit: 680 mg/L; Target Value: 600 mg/L

Duration of Variance: From the effective date of the permit reissuance through the end of the permit term. The draft permit has an expiration date of March 31, 2020.

Department Rationale for Approving Variance:
S. NR 106.83(2), Wis. Adm. Code, outlines findings that justify expediting variances chloride. More specifically:

a) The Department considers treating these large volumes to produce effluent that reliably meets the water quality-based effluent limit to be prohibitively expensive. See Section VII of the Facility Specific Standard Variance Data Sheet for clarification.
b) End-of-pipe wastewater treatment technology for chloride produces concentrated brine that can be as much or more of a liability than the untreated effluent. Since the concentrated brine cannot be further treated, the only recourse for the disposal of the brine is transfer to another community, which is often not feasible.
c) Appropriate chloride source reduction activities are preferable environmentally to effluent end-of-pipe treatment in most cases, since the end product of treatment (production of a concentrated brine) does not remove the load of chloride from the environment.
d) For some dischargers, attaining the water quality-based effluent limit for chloride may cause substantial and widespread adverse social and economic impacts in the area where the discharge is located.

The Department concludes that the applicant has met the requirements of Subchapter VII of ch. NR 106, Wis. Adm. Code, and s. 283.15, Wis. Stats. The Department further concludes that requiring the applicant to meet the water quality standard for chloride at this time would result in substantial and widespread adverse social and economic impacts. The Department therefore proposes to grant the variance for chloride.

Conditions to be Included in WPDES Permit: **See Draft Permit being sent to EPA in Electronic Format.**

Attachments:
Facility Specific Standard Variance Data Sheet
Certification from DNR Chief Legal Counsel

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Ms. Tinka Hyde, Director, Water Division
U.S. EPA, Region 5
77 W. Jackson
Chicago, IL 60604

Subject: Certification Statement for Approval of a Variance to Water Quality Standards
Norway TN Sanitary District 1, Racine County. Permit Number: WI-0031470-07-0

Dear Ms. Hyde:

The Wisconsin Department of Natural Resources has made a final decision under Wis. Stat. s. 283.15 (4) to approve a variance to the water quality standard for chloride at the above-named facility. This decision is subject to judicial review pursuant to Wis. Stat. ss. 283.15(4)(d) and 227.52. Although the Department has issued a final decision on the chloride variance, including the permit terms and conditions of the variance, the Department recognizes that the chloride variance and related permit conditions may not be included in the final reissued WPDES permit until EPA has approved the variance.

Pursuant to §§ 40 CFR Part 131.21 and 131.6, the Department must submit a certification statement to EPA for each variance approved in the state. The statement must certify that the variance to a water quality standard was approved in accordance with state law.

Accordingly, I hereby certify that the chloride variance for Norway TN Sanitary District 1, Racine County was reviewed and approved by Department staff in accordance with procedures in subchapter VII of chapter NR 106, Wis. Adm. Code. The application for this variance was submitted on September 18, 2014 and the Department public noticed its intent to reissue the permit and grant the chloride variance on November 14, 2014 in accordance with Wis. Stats. §§ 283.15(3) and 283.39.

If you have any questions regarding the variance approval, please contact Timothy Thompson at (414)263-8525.

Sincerely,

Robert M. Fleck for

Timothy A. Andryk
Chief Legal Counsel

DATED IN MADISON: 2/16/15.