To: Sylvester, Susan - DNR[Susan.Sylvester@wisconsin.gov]
Cc: Jason.Knutson@wisconsin.gov[Jason.Knutson@wisconsin.gov]; Adrian.Stocks@wisconsin.gov[Adrian.Stocks@wisconsin.gov]; Robin.Nyffeler@wisconsin.gov[Robin.Nyffeler@wisconsin.gov]; MaryAnne.Lowndes@wisconsin.gov[MaryAnne.Lowndes@wisconsin.gov]; Jane.Landretti@wisconsin.gov[Jane.Landretti@wisconsin.gov]; Jim.Bertolacini@wisconsin.gov[Jim.Bertolacini@wisconsin.gov]; Barton.chapman@wisconsin.gov[Barton.chapman@wisconsin.gov]; Cheryl.Heilman@wisconsin.gov[Cheryl.Heilman@wisconsin.gov]; White, Quintin[white.quintin@epa.gov]
Bcc: Wester, Barbara[wester.barbara@epa.gov]; Stillman, Sarah[Stillman.Sarah@epa.gov]; Bell, Brian[bell.brianc@epa.gov]; Compton, Mark[compton.mark@epa.gov]; Pelka, Amy E.[Mucha.Amy@epa.gov]; Ireland, Scott[ireland.scott@epa.gov]; Hewitt, Jason[Hewitt.Jason@epa.gov]; Colletti, John[colletti.john@epa.gov]; Pepin, Rob[pepin.robert@epa.gov]; Prichard, Gary[prichard.gary@epa.gov]
From: Pierard, Kevin
Sent: Thur 6/2/2016 4:24:49 PM
Subject: Agenda for our June 14 LAR call
WI LAR STATUS 05 2016.pdf

Susan - Below is a detailed agenda for our call on June 14. I look forward to discussing the progress you are making in the required revisions to your program to assure consistency with federal statutory and regulatory requirements and addressing allegations in Midwest Environmental Advocates petition to withdraw Wisconsin's NPDES program. I included as cc's those that I know of at DNR that are working on the LAR, if I missed anyone please forward the message to them.

1. Overall progress toward resolution of the 75 issues identified by EPA in 2011. EPA will discuss its draft Legal Authority Review (LAR) status tracking (attached) and seek input from DNR to assure accuracy prior to posting. We anticipate posting this tracking matrix to EPA's petition website by June 30.

2. Storm water ELGs. EPA will be requesting written assurance that these ELGs, as well as others, can be implemented by Wisconsin's program and the mechanism that will be used to do so absent Wisconsin's explicit adoption of these ELGs. If additional concerns remain we will consider modifying the LAR to explicitly track this item as an additional issue.

3. Judicial Review (Item 5) – Although the Attorney General's statement of January 19, 2012 suggested that Wisconsin has authority equivalent to the federal requirement which allows any interested party to seek judicial review, the Wisconsin Court of Appeals issued a decision in 2014 that was inconsistent with the AGs statement and no action was taken by the State of Wisconsin to appeal this decision. The AGs statement is no longer sufficient to address this shortcoming in Wisconsin's authority. We need to understand how Wisconsin proposes to address this issue and the timeline for doing so (see also item 5 below).

4. Confirm that items 53, 57, and 67 will be addressed through rulemaking and the schedule for this rule package.

5. AG Statement – In light of the negative treatment accorded the AG's opinion on the matter of judicial review (recounted in MEA's Petition at 53-56), EPA anticipates revisiting the issues covered in the AG statement to better understand whether the existing or an updated AG statement remains a viable path for resolution of issues. We will briefly discuss our concerns and consider input from DNR.

6. Petition to Withdraw – We will provide an update of our Petition review process and intent to provide public availability of records on EPA's website.

7. Wisconsin's rule revision process – We will discuss DNR's description of this process, including timelines and Wisconsin's ability to revise rules within one year and to make statutory changes within two years for actions necessary to conform to federal rule updates. We are interested in any EPA assistance that may be needed. EPA will ask for written materials that describe WDNR's and Wisconsin's processes going forward.

If you have any questions in advance of our call please let me know.