

May 2012

Minnesota Pollution Control Agency

Watershed Division

Public Notice of Availability of draft Lac qui Parle Yellow Bank Bacteria, Turbidity, and Low Dissolved Oxygen TMDL Assessment Report and Request for Comment

Public Comment Period Begins: May 29, 2012

Public Comment Period Ends: June 27, 2012

The Minnesota Pollution Control Agency (MPCA) is requesting comments on the draft report for the Lac qui Parle Yellow Bank Bacteria, Turbidity, and Low Dissolved Oxygen TMDL Assessment Report. This report addresses eight reaches in the Lac qui Parle watershed and three reaches within the Yellow Bank watershed. The draft Total Maximum Daily Load (TMDL) report is available on the MPCA website at <http://www.pca.state.mn.us/0agxa04>.

Comments on the draft report should be addressed to the MPCA contact person listed below and must be received by the MPCA by 4:30 p.m. on June 27, 2012. The MPCA will review all comments received, determine possible revision to the draft TMDL report and prepare written responses to the comments. The MPCA will then submit the report to the U. S. Environmental Protection Agency (EPA) for approval.

The Lac qui Parle River watershed and the Yellow Bank River watershed are located in southwest and west central Minnesota respectively with portions of their watersheds located in South Dakota. The Lac qui Parle River watershed encompasses 702,122 acres with 69.7 percent or 489,294 acres in Minnesota. The Yellow Bank River watershed encompasses 282,044 acres with 13.4 percent or 37,923 acres in Minnesota. This TMDL addresses 11 reaches that have an excess of bacteria, seven reaches with an excess of turbidity, and one reach with low dissolved oxygen. These reaches were listed between 1994 and 2010.

Agency Contact Person. Written comments and requests for more information should be directed to:

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TTY users may call the MPCA teletypewriter at 651-282-5332 or 800-657-3864.

Preliminary Determination on the draft TMDL Report: The MPCA Commissioner has made the preliminary determination to submit this TMDL report to the EPA for final approval. A draft TMDL report and fact sheet are available for review at the MPCA office at the address listed above and on the MPCA website at: <http://www.pca.state.mn.us/0agxa04>.

Suggested changes will be considered before the TMDL report is sent to the EPA for approval.

Written Comments: You may submit written comments on the conditions of the draft TMDL report or on the Commissioner's preliminary determination. Written comments must include the following:

1. A statement of your interest in the draft TMDL report;
2. A statement of the action you wish the MPCA to take, including specific references to sections of the draft TMDL that you believe should be changed; and
3. The reasons supporting your position, stated with sufficient specificity as to allow the Commissioner to investigate the merits of your position.

Petition for Public Information Meeting: You may request that the MPCA Commissioner hold a public information meeting. A public information meeting is an informal meeting the MPCA may hold to solicit public comment and statements on matters pertaining to the TMDL study and process, and to help clarify and resolve issues.

A petition requesting a public information meeting must include the following information:

1. A statement identifying the matter of concern;
2. The information required under items 1 through 3 of "Written Comments", identified above;
3. A statement of the reason the MPCA should hold a public information meeting; and
4. The issues that you would like the MPCA to address at the public information meeting.

Petition for Contested Case Hearing: A petition for a contested case hearing may be submitted. A contested case hearing is a formal evidentiary hearing before an administrative law judge. In accordance with Minn. R. 7000.1900, the MPCA will grant a petition to hold a contested case hearing if it finds that: (1) there is a material issue of fact in dispute concerning the application or draft TMDL report; (2) the MPCA has the jurisdiction to make a determination on the disputed material issue of fact; and (3) there is a reasonable basis underlying the disputed

material issue of fact or facts such that the holding of the contested case hearing would allow the introduction of information that would aid the MPCA in resolving the disputed facts in making a final decision on the draft TMDL report. A material issue of fact means a fact question, as distinguished from a policy question, whose resolution could have a direct bearing on a final MPCA decision.

A petition for a contested case hearing must include the following information:

1. A statement of reasons or proposed findings supporting the MPCA decision to hold a contested case hearing according to the criteria in Minn. R. 7000.1900, as discussed above; and
2. A statement of the issues proposed to be addressed by a contested case hearing and the specific relief requested or resolution of the matter.

In addition and to the extent known, a petition for a contested case hearing should also include the following information:

1. A proposed list of prospective witnesses to be called, including experts, with a brief description of proposed testimony or summary of evidence to be presented at a contested case hearing;
2. A proposed list of publications, references, or studies to be introduced and relied upon at a contested case hearing; and
3. An estimate of time required for you to present the matter at a contested case hearing.

MPCA Citizens' Board Decision: You may also submit a petition to the Commissioner requesting that the MPCA Citizens' Board consider the TMDL report approval. To be considered timely, the petition must be received by the MPCA by 4:30 p.m. on June 27, 2012, the date the public comment period ends as identified on page 1 of this notice. According to Minn. Stat. § 116.02, subd 6(4), the decision whether to submit the TMDL report and, if so, under what terms will be presented to the Board for decision if:

(1) the Commissioner grants the petition requesting the matter be presented to the Board; (2) one or more Board members request to hear the matter the time the Commissioner makes a final decision on the TMDL report; or (3) a timely request for a contested case hearing is pending. You may participate in the activities of the MPCA Board as provided in Minn. R. 7000.0650. The written comments, requests, and petitions submitted on or before the last day of the public comment period will be considered in the final decision on the TMDL report. If the MPCA does not receive written comments, requests, or petitions during the public comment period, the MPCA staff, as authorized by the Board, will make the final decision on the draft TMDL report.