BEFORE THE COURT OF ADMINISTRATIVE HEARINGS

OF THE STATE OF MINNESOTA

In the Matter of the Proposed Amendments to Rules Governing Water Quality Standards for Lake Aquatic Life and Recreation (Minnesota Rules Chapter 7050)

Revisor's ID No. R-04740
CAH Docket No. 23-9003-39503

Via WebEx
Monday, November 2, 2026

3:00 p.m. - 3:45 p.m.

BEFORE:
SUZANNE TODNEM, ADMINISTRATIVE LAW JUDGE

REPORTER:
Colleen M. Sichko, Registered Professional Reporter

APPEARANCES:

ON BEHALF OF THE MINNESOTA POLLUTION CONTROL AGENCY:

MICHELLE JANSON, Senior Associate General Counsel

WILL BOUCHARD, Research Scientist

KATIE IZZO, Rule Coordinator

(WHEREUPON, the following proceedings were duly had and entered of record, to-wit:)

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JUDGE TODNEM: Today is November 2nd, 2026, and it is 3:00 p.m. We are here for a public hearing In the Matter of the Proposed Amendment to Rules Governing Water Quality Standards for Lake Aquatic Life and Recreation. This is Minnesota Rules Chapter 7050 and this matter will be referred to as Court of Administrative Hearings Docket Number 23-9003-39503. Please pay attention to these last five numbers as they will help you navigate the e-commerce website. You should also reference this case number if you submit comments by mail or fax. Next slide.

All right. Good afternoon. My name is Suzanne Todnem and I'm an Administrative Law Judge with the Court of Administrative Hearings. First I'd like to welcome you and thank you for taking time to be here today to participate in this public rulemaking process.

The Court of Administrative Hearings is independent from the Minnesota Pollution Control Agency, as well as any groups or individuals that participate in this hearing. The role of the Court is to provide hearings that are fair to all of the participants, and the purpose of the hearing is to allow the agency to present its case to you, the

public, and for the public to share its comments with the MPCA and me. Next slide.

Rulemaking hearings like this are conducted so that members of the public can be heard as part of the rulemaking process. I am here to ensure that there is procedural fairness, to ensure that we are courteous to each other, and so that all interested parties can be heard and to draw knowledge from as many voices as possible. Your participation is important.

An underlying assumption of this process is that we rely on the wisdom of the group. Thus, we are grateful that you are here and contributing your thoughts, experience and expertise to the formation of substantive rules. Rulemaking is made better because of you. Next slide.

All right. The hearing is part of a process by which rules are adopted under the Minnesota Administrative Procedures Act. At a high level, the agency must show that it has the legal authority to adopt the rules, that it has satisfied all legal and procedural requirements to adopt the rules, and demonstrate the need and reasonableness for the proposed rules. Those are the three big issues that I am interested in reviewing as part of

this proceeding. My job is to ensure that the statutory requirements are met for the rulemaking and the rules are necessary and reasonable. Next slide.

So toward that end, after my remarks, the agency will offer its exhibits and a presentation on the proposed rule. Next you, the public, will have an opportunity to ask questions and make comments. I ask that you direct your questions and comments to me. The hearing will adjourn once all persons who wish to make a comment have had an opportunity to do so or at 6:00 p.m., whichever is earlier. Next slide.

Today's agency panel is Michelle Janson, Will Bouchard and Katie Izzo. You will hear more from them shortly. Next slide.

The agency's exhibits are available online at the address shown. I don't know if a live link can be provided to the participants in a chat perhaps.

DR. BOUCHARD: We can try that.

JUDGE TODNEM: All right, thank you. Next slide.

In addition to making oral comments here today, you may also submit written comments.

Written comments can be submitted to me electronically using the Court of Administrative Hearings eComment site, by U.S. Mail or by fax. Written comments will be accepted until 4:30 p.m. on November 23rd, 2026. Next slide.

All three methods are accepted and treated equally, but eComments is the preferred method. EComments allows the agency and others to see your comments instantaneously as they are submitted. You can also read the comments of others on this website, on the eComments website. Next slide.

All right. If you do want to comment at today's hearing, and I encourage you to do so, if you are participating using WebEx online, you can select the chat button and send a chat message with your first and last name to the panel. This indicates you wish to speak. The moderator will then use names in the chat to call on you to speak when it is your turn.

Please do not enter any comments or questions in the chat, as they are not part of the record and will not be answered or read into the hearing record. Just have your first and last name to let us know you wish to speak. If you have a

question about how to participate or if you're running into technical difficulties, you can surely use the chat for that, but no comments or questions about the rule that you would like part of the record should be addressed in the chat function.

For people attending by telephone, you can press *3 to indicate you want to speak and you will be placed in the queue. When it is your turn to speak, please be sure to state and then spell your name for the record. Next slide.

So when it is your turn to speak, if you are participating by video, you may turn your camera on and begin your comment after stating and spelling your name. If there are a lot of commenters, I just ask that you please limit your initial comments to about five minutes so that we can hear from as many members of the public as possible and hear as many different perspectives as possible. As time allows, you may rejoin the queue if you wish to make additional comments. Next slide.

So, again, in addition to oral comments at this public hearing, you may also submit written comments by eComments, U.S. Mail or by fax. Next slide.

Again, when it is your turn to speak, please state and spell your first and last names and if you are commenting on behalf of an organization, please identify the full name of the organization in addition to any acronyms, if any. Please be sure to speak slowly, clearly and loudly. Next slide.

This hearing is being recorded through the court reporter. The court reporter's transcript is the only official record of the hearing. Of course, the official record will include your comments and will be used by me when citing to the hearing as necessary. Next slide.

So posthearing comments, they will be accepted through November 23rd, 2026, at 4:30 p.m. This is allowed under Minnesota Statute Section 14.15, subdivision 1. The Judge may keep the hearing record open for up to 20 days following the public hearing, which I have so chosen to do. So, again, written comments will be accepted until 4:30 p.m. on November 23rd. Next slide.

Following the posthearing comment period, there will be a rebuttal comment period. This is a five-day period and will close at 4:30 p.m. on December 2nd, 2026. Just a reminder that rebuttal comments are in response to comments

already made and do not include new topics. Next slide.

After the rebuttal comment period closes, I will then have approximately 30 days to issue my Order. I will prepare a report that contains my conclusion about whether the agency has met its statutory burdens in this matter, specifically whether the agency has documented its authority to enact the rules, whether the agency has fulfilled all of the required procedures, and whether the agency has demonstrated the need and reasonableness of each portion of the proposed rules.

My report will be published on the Court of Administrative Hearings website on the day that it is issued. Again, my report will be issued in approximately 30 days after the close of the rebuttal comment period unless an extension becomes necessary. Next slide.

As a reminder, any lobbyist participating in this rulemaking process must be registered with the Campaign Finance and Public Disclosure Board.

And with that, I will turn it over to the agency's distinguished panel.

MS. JANSON: Thank you, Your Honor. My name is Michelle Janson, spelled M-i-c-h-e-l-l-e J-a-n-s-o-n. I use she/her pronouns. I am Senior Associate General Counsel with the Minnesota Pollution Control Agency, referred to as MPCA, address at 520 Lafayette Road North, Saint Paul, Minnesota 55155. I am appearing in this rule proceeding on behalf of the MPCA. As you stated, the MPCA is proposing amendments to rules governing water quality standards, specifically for lakes aquatic life and recreation.

First I would like to introduce the MPCA staff here today who will be making a presentation about the proposed rule amendments and are available to respond to questions as needed. Dr. Will Bouchard is a research scientist in the Water Quality Standards Unit of the MPCA's Environmental Analysis and Outcomes Division. Dr. Bouchard is the lead scientist for the proposed rules. After introduction of the hearing exhibits, Dr. Bouchard will make a presentation on the proposed rule amendments.

Katie Izzo is the MPCA rule coordinator for this rulemaking hearing. Ms. Izzo manages the administrative procedures aspects of the rule and is

the point of contact for process-related questions.

Before the presentation, I would like to submit into the hearing record the hearing exhibits. These exhibits are posted on the agency's website. The purpose of these documents is to document MPCA's legal authority to adopt the proposed rule, demonstrate that the agency has fulfilled all relevant legal and procedural requirements for promulgating the rule, and demonstrate that each portion of the proposed rule is needed and reasonable. Next slide.

Now I will review the exhibits as they relate to one of the three purposes I just mentioned. There is an index of the exhibits at the front of the hearing exhibits.

The exhibits that document the MPCA's legal authority include Exhibit C, which contains the text of the proposed rule amendments.

Exhibit D contains the Statement of Need and Reasonableness, also called a SONAR, that was published with the rule. The SONAR documents the agency's statutory authority to adopt the proposed rule. Next slide.

The agency has legal authority to promulgate and revise water quality rules and water

quality standards under Minnesota Statute 115.03, subdivision 1 and Minnesota Statute 115.44. If you could go back one side?

The SONAR in Exhibit D also demonstrates that each portion of the proposed rule is needed and reasonable. The SONAR includes both a general description of why the proposed rule is needed and reasonable and a detailed description of why each rule part is needed and reasonable.

Exhibit D-1 contains the SONAR exhibits.

Several other exhibits demonstrate that the agency has fulfilled all relevant legal and procedural requirements. These include Exhibit A, the initial request for comments that initiated the formal rulemaking process.

Exhibit C, the Revisor's approval of the proposed rule.

Exhibit E, the certificate verifying submission of the SONAR to the Legislative Reference Library.

Exhibit F-1, the Notice of Hearing as mailed to nonemail recipients from the SONAR's required notice and additional notice plan list.

Exhibit F-2, the Notice of Hearing as

published in the "State Register" on August 24th, 2026.

Exhibit G, the Certificate of Mailing the Notice of Hearing and Certificate of Accuracy of the mailing list.

Exhibit G-1, the GovDelivery bulletin with recipient count.

Exhibit H, the Certificate of Additional Notice.

Exhibit I-1, copies of comments on the proposed rule that were received by the MPCA during the prehearing comment period.

Exhibit I-2, the agency's responses to comments received.

Exhibit K, other documents or evidence to show MPCA's compliance with applicable regulations in adopting this rule.

Exhibit K-1a, the letter to Minnesota Management and Budget and MMB's approval of the agency's fiscal analysis of the impact of the rule.

And Exhibit K-1b, MMB's response.

Exhibit K-2, Certificates of Notices to legislators and the Legislative Coordinating Commission.

At this time, the MPCA will also

introduce Exhibit L, which is now added to the hearing record materials. This exhibit is a copy of the slides from the presentation MPCA will be making at the hearing.

Your Honor, I request that you receive Exhibits A through L into the record.

JUDGE TODNEM: Thank you. They are received into the record.

MS. JANSON: Thank you, Your Honor. Now Dr. Bouchard will make a presentation outlining the proposed rule amendments and summarizing the need for and reasonableness of the proposed rule. The presentation will take approximately 25 minutes.

DR. BOUCHARD: Thank you very much. Judge Todnem, my name is Will Bouchard, W-i-l-l B-o-u-c-h-a-r-d. I'm the lead scientist on this rule and I'm going to give a quick overview of what's included within this proposal.

First I'm going to talk a little bit about water quality standards and how these rules fit into the rules, then I'll get into the individual rule topics, and then I will provide a summary of comments that we've received thus far and discuss some additional proposed revisions to the rule language as a result of these comments.

Let's start with water quality standards. When we talk about water quality standards, there's three main elements and each one essentially asks a question. The first is what and who are we protecting? These are the uses, beneficial uses or designated uses. They are things like drinking water, aquatic life, recreation.

The second element is what conditions are protective or the standards? These are the actual, you know, numbers that we use to protect those uses.

And then, finally, there's antidegradation, and this is how we maintain high water quality. I'm not going to talk about antidegradation because these rule amendments do not affect antidegradation rules, but I will touch a little bit more on uses and standards.

In Minnesota there are seven beneficial uses. This rule only affects one of these, but even though we're only talking about one out of seven, it is an important beneficial use. It includes aquatic life, which protects fish, insects, mussels and plants that are found in our lakes, streams and wetlands. It also protects recreation, things like swimming, boating, fishing and other uses. So there

are a number of beneficial uses within Class 2 that are highly valued.

This rule makes some changes to beneficial uses, first by actually changing the designated use or the beneficial use assigned to certain waters. It also changes the framework within Class 2. There are subclasses within Class 2 and this rule refines and modifies those subclasses to a degree.

The other element that's affected by these rules are the standards and, like I said, these are the conditions that we need to support or maintain in order to protect the beneficial uses I was just discussing, and these are what we often think about when you hear the word "standards" or "water quality standards," the numbers that we use to protect them, so for example, 5 milligrams per liter of dissolved oxygen as a daily minimum to protect aquatic life. If we can maintain at a minimum at least 5 milligrams per liter, we expect the aquatic life to be protected in those lakes or streams or wetlands -- well, the 5 milligrams per liter is specific to lakes and streams.

These rules make some changes to existing standards. It also proposes a new standard

which I'll talk about in a moment. The standards can be statewide, region-specific, habitat type-specific or site-specific, and the reason for that is because there's a lot of diversity in the habitats of Minnesota and, when reasonable, we assign different standards to different water body types in different parts of the state in order to account for natural variability, and that's a lot of what this rule does is refine our standards in order to apply appropriate standards.

So what's included with this is the addition of additional protections to important and sensitive lakes. It refines the beneficial uses and their associated standards so it is a better fit with aquatic resources in Minnesota and, ultimately, what this means is that we can ensure that appropriate standards are applied and what that does is it leads to better management outcomes for the protection of aquatic life and recreation.

Within this rule there are three main topics. The first is development of separate eutrophication standards for northern polymictic or shallow lakes. Currently in the north region we make no distinction between these two lake types and they are naturally different and it's reasonable to

assign certain standards for these two lake types.

It includes protections for nontrout cold water fishes in lakes. We do protect lakes that are managed for trout, but there are other cold water fish species which are not currently protected by these standards. These fish are sensitive to things like eutrophication and temperature, so these rules would update that.

And then, finally, tiered aquatic life uses for lakes. This would codify the biological criteria and the methods that we're currently using for monitoring and assessing lakes and would also adopt goals for high quality lakes. The rule also includes additional housekeeping changes to Minnesota Rule 7050.

So there's a long history at the MPCA of being a leader in development of eutrophication and biological standards. This work goes back many decades. In particular, when we look at our eutrophication standards, it goes back more than three decades. Some important milestones would be development of lake eutrophication standards in 2008 and then the adoption of river eutrophication standards in 2015. This rule largely only affects lake eutrophication standards and they have been on

the books for nearly 20 years now and, as a result of that experience of implementing that, the MPCA, along with its partners, have determined that there are some modifications that need to be made to these eutrophication standards to update them.

Likewise, with biological standards there's a long history. We adopted, importantly, tiered aquatic life uses and biocriteria for streams in 2017. This rule would adopt the same for lakes.

Let's talk about that first topic, northern polymictic lake eutrophication standards. First I want to start off with some definitions. We are changing some terms that we use in rule. The terms that they are going to be replacing are dimictic lakes and polymictic lakes. Currently, dimictic lakes are referred to as lakes in rule. Polymictic lakes are referred to as shallow lakes in rule. In order to use more scientifically-specific terminology, we are going to replace that language with dimictic and polymictic.

Just to give a quick definition of these two, dimictic lakes are lakes that mix twice a year in the spring and the fall and they stratify during the summer and winter, and that has some important implications for how things like

eutrophication affect these lakes. Polymictic lakes, they frequently mix during the ice-free period and, again, that impacts how eutrophication affects them. So it's reasonable that we assign separate targets in order to protect these two lake types.

This table shows Minnesota's lake eutrophication standards. It includes total phosphorus, Chlorophyll-a and Secchi depths. In order for a lake to be considered impaired, it needs to exceed both the nutrient, which is total phosphorus, and one or both of the response for chlorophyll-a and Secchi depths.

You will notice that there are a number of different standards within this table. There are standards between cold water lakes, Class 2A; warm water lakes, Class 2B and D; different standards between the North, Central and Southern Regions. In the Central and South Regions there are also distinctions between dimictic and polymictic lakes. All of these different values, these standards are applied to address natural differences between these lake types across the state.

Of course, within the North Region, in those warm water lakes, we make no distinction

currently between dimictic and polymictic lakes. There's many dimictic and polymictic lakes within that region. When the standards were adopted in 2008, we simply didn't have sufficient data to separate them, but now we have the data to make that determination and assign new standards.

So these are the proposed chlorphyll-a criteria for these lakes. Right now the yellow highlighted row at the top is our current standard of 9 micrograms per liter. If you look on the bottom row, the new value -- and I'm not going to go into detail about how these thresholds or criteria were developed; that's in the technical support documentation. The new value for the dimictic lakes is 9, so the existing number is sufficient to protect these lakes. However, if you look at the rows in the middle for the polymictic lakes, the most sensitive indicators were macrophytes, or plants, and fish. In order to protect those uses within -- or those indicators within those lakes, we need to maintain a chlorophyll-a of 18 or lower. So the current standard of 9 is not appropriate and it's reasonable to assign 18 to these lake types.

We've also developed total phosphorus and Secchi depth criteria for models. Again, I

won't go into the details for this. It's documented in our technical support documents. But when we add the total phosphorus and the Secchi depth, we have that full suite of eutrophication standards for the dimictic and polymictic lakes. The green highlighted rows are the proposed standards.

Let's talk about cold water lake standards now. Again, going back to our table of lake eutrophication standards, there are cold water lake standards, Class 2A. They are there specifically to protect lake trout and stream trout. They are more stringent than the standards applied to warm water lakes because these fish species tend to be more sensitive. There are other cold water fish species in this lake -- or in Minnesota that are native, Cisco and Lake Whitefish. In many cases lakes that harbor these fish species are permanently protected by Minnesota's warm water lake standards. So this indicates that we have a gap in the protections for these sensitive fish species.

A little bit about why these fish are so sensitive. They need cooler water and more oxygenated water than many of the warm water fish species we find in the state. I described how -- and they are usually found in dimictic lakes, and I

described how dimictic lakes mix in the spring and the fall.

Basically, when those lakes mix in the spring, that brings cool oxygenated water down to the bottom of the lake and then it stratifies, and that oxygen is basically the only oxygen available to the organisms living in that deep part of the lake, the hypolimnion, for the rest of the summer because oxygen diffuses so slowly through water. As the summer goes on, the fish, the invertebrates, the microbes that are living in that part of the lake are using that oxygen and it becomes depleted and, basically, you have a zone of low oxygen move up from the bottom of the lake. So these fish need to move up higher to get away from that low oxygen.

At the same time, as summer goes on, the surface of that lake is warming and they need to go deeper. So these fish can get squeezed into this zone in the middle of the lake where it's cool enough and where there's enough oxygen. If that oxygen is depleted too much or the lake warms too much, these fish get squeezed and we can have fishkills. If we have enough fishkills, these fish will be extricated from these lakes.

So that's what these standards seek to

accomplish, to protect these fish species. There's a new parameter called TDO3. It's an oxythermal habitat standard that takes into account both temperature and oxygen and, if a lake can meet that standard, then it should be able to support those fish species. It also includes the eutrophication standards, total phosphorus, chlorophyll-a and Secchi depth, and that's because productivity has an impact on that oxygen level within the lake. You increase the productivity of the lake, you increase oxygen depletion in that lake. So we need to maintain lower productivity within these lakes in order to support these fish species.

In addition to these new standards and revisions to standards, there are use designations proposed in this rule. We've done a statewide review of lakes in this state to identify which lakes support cold water fish species and which fish species are protected -- or occur within those lakes and, as a result, we have 411 new Class 2A designations. There are 207 lakes that are permanently designated as 2A, and we are confirming the fish species that occur in those lakes. We have 88 lakes that are currently classified as 2A for cold water, but we are changing which species are

protected within those lakes. For the most part, we are adding Cisco or Lake Whitefish to those lakes.

We have two lakes that are currently designated for warm water and currently protected for lake trout. Based on review of these lakes, the lake trout use is not an existing use, so we propose to remove those. And then we have 23 lakes that are currently designated as 2A for the protection of cold water fish. Again, based on review, cold water is not an existing use and is proposed to be removed.

So this is what the new lake eutrophication standards look like together with that TDO3 criteria. We have added new lake types, Lake Whitefish and Cisco. We've also added that warm water polymictic standard. There's TDO3 standards for the cold water fish classes and then those yellow highlights indicate existing standards in which we are making some modifications based on new models.

Okay. The last of the three topics are the tiered aquatic life uses for lakes. So this would adopt a tiered aquatic life uses framework for lakes which is similar to the framework that we currently use for streams. It would codify our fish

sampling methods, our data analysis methods and biological criteria which we currently use now to assess lake biology, so it will make this information more transparent. It adds an exceptional use tier to protect high-quality lakes and it also designates 36 exceptional use lakes. The inclusion of these 36 lakes is to provide stakeholders with a model for how we would make these determinations and the type of data that goes into these use designations.

As far as how these operate, if you look at the way we currently monitor and assess fish in lakes in Minnesota, we have a general use goal, which is essentially a one-size-fits-all goal. Either the fish score above or below that line, either they are good or they are poor. What this rule would do is add an additional option, because there's a lot of space above that general use goal. There's a big range of biological condition and there's some really high-quality special lakes in this state that deserve additional protection.

So we have lakes that meet that exceptional use goal and the use for review basically is a determination that that water meets or did meet that use on or after November 28th,

1975, which is the Clean Water Act existing use date. If we can demonstrate that that use was met and it's an existing use, then that would be the new use. If that lake is degraded down below that line and those fish start performing poorly, then it would become impaired and need to be restored above that line. Without that exceptional use goal, it would still be above the general use and wouldn't necessarily trigger anything.

So the focus here is on protection and getting -- making sure we focus on protecting some of these really high-quality lakes in the state and keeping them there because, ultimately, it's going to be more cost-effective to protect them, maintain that high water quality than try to restore them once that's lost.

The general use goal works the same way. If the fish community is degraded below that line, it becomes impaired and then it needs to be restored. However, if, over time, the fish community begins to meet the exceptional use, hopefully the result of work that's done to improve water quality, that would become the new use because we've demonstrated that that exceptional use is attainable because it is currently maintained.

There are some other housekeeping revisions within this rule. This includes updating incorporation by reference links in Minnesota Rule 7050. We want to make sure those are accurate. It would incorporate lake use designations by reference in Minnesota Rule 7050.0470. This is the framework that we currently use for streams. It would not change the process for making any changes to use designations, so it would still require a rulemaking. It corrects errors to some river eutrophication standards, and these additional revisions would clarify the extent of site-specific eutrophication standards for some Mississippi River reaches.

As part of the prehearing comment period, we received a number of comments. Some of these comments expressed support for the rule amendments. There were comments that requested clarification and additional information on the proposed rules, and the MPCA is providing responses -- providing that information in Exhibit I-2. There were some additional concerns expressed that are not responded to in Exhibit I-2. We will respond to those in full as part of the posthearing comment period.

Some of those comments -- and I'm listing them here. The bold and underlines are my additions just to call out some of the main themes within the comments. There was a comment to strengthen protections for lakes through the implementation of macroinvertebrate assessments, by additional oversight of herbicide treatments and to work toward ongoing management toward lake improvements.

There was comment on lake standards, that lake standards need to address natural differences and variability in aquatic resources and assign reasonable and attainable goals and that the uniqueness of these habitats require involvement of local experts.

There was a request to ensure that lake classifications and use designation decisions are transparent and reviewable, a comment that flood damage reduction and multipurpose water management projects must remain feasible, and there was a comment expressing concerns that the proposed cold water lake standards are only minimally protective.

As a part of these -- as part of these comments, the MPCA has determined it's appropriate to make some additional changes to the proposed

rules. There was a comment expressing confusion around the "shallow lake" term. In this rule we are replacing the "shallow lake" term with "polymictic lake." We had retained this definition because they are largely synonymous, but we agree that it probably creates some confusion, so we propose to remove that language.

In addition, a commenter pointed out some transcription errors in the rule language in 7050.0222, subpart 3d and 4d, and we propose to make those corrections.

So that is the presentation that I have. I thank you for your attention. I will hand it back to Michelle Janson.

MS. JANSON: Thank you. This is Michelle Janson speaking. That concludes the MPCA's presentation. MPCA has nothing further, Your Honor.

JUDGE TODNEM: All right. Thank you, Ms. Janson and Dr. Bouchard. That was a helpful presentation. Next slide.

All right, now it's time to hear from the public and, again, I want to encourage you to comment. As a reminder, please state and spell your name and, if you are commenting on behalf of an organization, please be sure to identify the

organization. Next slide.

So, again, if you would like to comment, please send your name, first and last name in a chat message to the panel or, if you are participating by telephone, please select *3. I again want to encourage the public to use this opportunity to ask questions or to make your comments here on the record. Again, I do ask that you direct the questions to me and then I can field them out to the agency panel as appropriate.

Ms. Izzo, are there any comments or individuals wishing to comment?

MS. IZZO: We are looking at the list now, Your Honor. It looks like Cooper T. Silburn. Give us just a moment and we'll make sure Cooper is made a panelist.

You should be able to unmute yourself now.

MR. SILBURN: Hi. Can you hear me okay?

JUDGE TODNEM: Yes, we can.

MR. SILBURN: Okay. Let's see here. Thank you, Your Honor. My name is Cooper Silburn, that's C-o-o-p-e-r S-i-l-b-u-r-n, and I'm an attorney from Flaherty & Hood. I'm here on behalf

of MESERB. MESERB is a joint powers organization of more than 60 cities and sanitary districts that operate waste water treatment facilities. We appreciate the agency's work on these proposed rules. I have a few comments and questions to add for consideration.

The first is in regard to drinking water designations. We understand this rulemaking primarily concerns the Class 2 use. As we read Rule 7050.0420, Class 2A waters are also automatically classified as Class 1B, as a drinking water use, and that includes standards for nitrate and sulfate, among others. The SONAR notes that Class 1 designations are outside the scope of this rule. We might be missing something and we just hope that the agency can help us understand how many of the approximately 411 new 2A lakes would become Class 1 for the first time and how it considered whether that use fits those lakes.

Our second comment is regarding Cisco specifically. Cisco seem to account for many of the new 2A designations. The technical report does note that there are many lakes that are suitable habitat, but that do not contain Cisco, so we are interested if the agency could walk us through how it confirmed

that each of these new lakes would support Cisco specifically.

Third, regarding some impacts to waste water treatment facilities, specifically economic impacts, as we understand it, the agency estimates the probable cost of complying with the rule, and this includes costs to local governments, the SONAR notes that the modeling needed to identify affected facilities wasn't feasible. No specific costs could be determined in this regard, and we're just hoping that the agency could help us understand how it reached the conclusion that the impacts won't be large or widespread without that analysis.

And then, finally, some comments and questions regarding site-specific standards in relation to these impacts. The SONAR seems to anticipate that site-specific standards will ease impacts for many of the new uses for these lakes. In our members' experience, site-specific standards, they do take a significant amount of time and resources, so we are hoping that the agency can share how it envisions the site-specific standard process working for this rulemaking, who would lead it and whether the agency will be spearheading this development or whether that's going to be

municipalities.

We also submitted prehearing comments and we anticipate submitting posthearing comments. I would like to say thank you to the agency and thank you to Your Honor for hosting this hearing.

JUDGE TODNEM: All right. Thank you, Mr. Silburn.

I guess I will turn it to the agency if you would like to respond at this time.

MS. JANSON: Thank you, Your Honor, and thank you for your comments. The MPCA will respond in writing.

JUDGE TODNEM: Okay. Before I move on, I just want to check with the agency and ask if you have any follow-up, questions or clarifications that you have of Mr. Silburn?

MS. JANSON: Thank you, Your Honor. No, not at this time.

JUDGE TODNEM: Okay, thank you.

All right, are there any other individuals who have expressed an interest in questions or comments?

MS. IZZO: This is Katie Izzo speaking. Not that we see in the chat yet, Your Honor.

JUDGE TODNEM: All right. Again, I

want to encourage everyone to take this opportunity to ask questions or make comments about this proposed rule. You can make comments here and submit comments in writing, as Mr. Silburn indicated that they intend to do, so please consider this opportunity.

All right. It looks like everyone is attending through WebEx, so I will just again remind you to submit your first and last name in a chat message to indicate your interest in making a comment or asking a question of the agency.

Any questions or comments?

MS. IZZO: So far no one else, Your Honor.

JUDGE TODNEM: All right. Third offer, any questions or comments from members of the public?

(No response.)

JUDGE TODNEM: All right. Still hearing none, we can move on to the next slide. All right, so as a reminder, you have until 4:30 p.m. on November 23rd, 2026, to submit written comments. You can submit them using the eComments portal, by U.S. Mail or by fax, but the Court of Administrative Hearings does have to receive them by 4:30 p.m. on

November 23rd. If submitting written comments, please reference CAH Docket Number 23-9003-39503.

All right, last call, any other oral comments today?

MS. IZZO: None that we're seeing, Your Honor.

JUDGE TODNEM: All right, thank you.

All right, then, with that, I want to thank everyone again for taking time out of your busy day to attend this hearing and for -- I guess, you know, at least one, but I do appreciate the oral comments that were made today and, with that, we are adjourned. Thank you.

(Proceedings concluded at 3:45 p.m.)

STATE OF MINNESOTA)
) ss.
COUNTY OF DAKOTA )

REPORTER'S CERTIFICATE

I, Colleen M. Sichko, do hereby certify that the above and foregoing transcript, consisting of the preceding 38 pages is a correct transcript of my stenograph notes, and is a full, true and complete transcript of the proceedings to the best of my ability.

Dated November 5, 2026.

/s/Colleen M. Sichko
COLLEEN M. SICHKO
Registered Professional Reporter

*

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