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August 14, 2017

Mary Lynn
Minnesota Pollution Control Agency
520 Lafayette Road North
St. Paul, MN 55155-4194

Dear Ms. Lynn:

I am submitting these comments on behalf of the League of Minnesota Cities (the League) in response to the Minnesota Pollution Control Agency (MPCA) Request for Comments on Possible Amendments to Rules Governing Water Quality Fees, OAH Docket # 65-9003-34479.

The League of Minnesota Cities is a membership organization dedicated to promoting excellence in local government. The League serves its more than 830 member cities through advocacy, education and training, policy development, risk management, and other services. A change in water permit fees has the potential to impact our membership statewide and is of concern to the League. We appreciate the opportunity to provide comments on behalf of those members at this early point in the process through this letter and the presentation and input opportunity provided by the MPCA on July 24, 2017.

General Comments

The citizens of Minnesota have rightfully placed a priority on the quality of Minnesota's lakes, rivers, streams, and other water. Public health, future economic development, quality of life, and the overall health of our environment are all linked to our collective success at protecting, restoring, and preserving water quality. Minnesota cities share a desire to protect the state's water resources. To that end, city impacts on water quality have been heavily regulated and permitted for many decades, with even the Municipal Separate Storm Sewer System (MS4) permit for stormwater, the newest requirement, having permit requirements in place since 2006. Minnesota cities have invested, and will continue to invest, billions of dollars of local ratepayer and taxpayer money to meet and exceed state requirements and goals to that end.

An important point, however, is that municipal wastewater and stormwater permits relate to the release of water impacted by the general public. Inputs to those systems are heavily contributed to by sources not under the control of the regulated entity. Cities must take whatever pollution is directed into their system and adequately manage it to meet wide-ranging state regulations. The source of the input is the general public and the beneficiary of successful environmental protection is also the general public. For that reason, the general fund is a far better and less regressive means

of funding state agency programmatic needs than fee increases. The League of Minnesota Cities would recommend that the administration propose and make the case for a general fund budget increase through the state budget process before resorting to administrative routes for raising revenue.

The MPCA pointed out in their July 24, 2017 presentation that municipal permit backlogs are increasing. They provide charts to show that MPCA water programs have become more numerous, and claim that pay levels are inadequate to recruit and retain quality staff and that the general fund is not as reliable a source of funding for them as forcing permit holders to pay directly. However, at earlier points in the middle of the time period being analyzed, 1990-2016, the MPCA had reduced municipal permit backlogs to negligible levels and included that information in reports to the legislature about their progress.

The agency needs to present a far more thorough assessment of exactly what work is being done with the funds they currently receive before proposing changes to permit fee rules. It should show why the backlog on permits has developed. If funds have been redirected away from permit staffing, that issue may need to be looked at as its own problem, independent of the funding source. Adding new fee revenue will not prevent backlogs if the funds are diverted from those programs or the staff complement is not meaningfully increased. Fee systems should not be proposed to be changed without first looking at the actual record of biennial budgets for this time period, all sources and levels of funding, what staff has been in place in each program, how agency benchmarks like permit backlog have changed, and specifically where money has been spent.

Specific fee comments

In reply to the list of questions posed in the Request for Comment, the League has a few somewhat general comments. More specificity in our reply would require more data from the agency and a better vision of what changes are being considered.

- Stormwater fees in the MS4 program were intentionally left as minimal due to the fact that it is a general permit, it requires extensive work by the permittee to annually adjust their permit, and those changes must be locally approved and adopted through a public process of hearings and reporting. Agency involvement is very limited. The agency has since received significant legislative funding for additional stormwater staffing from other sources. The League's position on this issue, based on current information, is that past appropriations to this program are at adequate levels and that the state need not look to make changes to stormwater permit fee rules at this time.
- Any municipal wastewater fee changes proposed should be linked directly to the staffing needed to improve permit review and assistance and to reduce permit backlogs at the agency. The general water program staff complement that exists at the agency is important, but is more appropriately financed from state and federal funding sources that are more reflective of a statewide funding source, since they work on issues vastly more broad than city permit issues.
- As the agency continues to adopt standards that cannot be reasonably implemented due to a lack of practicable technology, permittee financial capacity, or local economic hardship, the

variance process will become more essential and much more broadly applied. The state should reduce or eliminate costs, fees, and procedures related to variance applications. Creating straightforward criteria for a given variance would reduce review time and effort to allow that change.

Finally, the League would request that the state keep in mind that simply passing funding mandates down to lower levels of government is not in the best interest of improving Minnesota's state-local partnership. When the state takes money from a local utility through increased fees, it will impact the funds available to that utility to do its other work. That leaves cities forced to either delay needed upgrades and repairs, pay their own staff less competitive wages and benefits, or to increase rates on customers. Cities already struggle to recruit and retain qualified staff for their water and wastewater utilities and base rate increases on those utilities can have significant negative impacts on low income residents and local economic development opportunities. Arguing for general fund support for agency programs is difficult, but in some cases, is the appropriate answer.

Thank you again for the opportunity to comment. The League of Minnesota Cities looks forward to continuing our work with the MPCA as discussions continue on whether rules regulation water permit fees should be amended.

Sincerely,

A handwritten signature in black ink that reads "Craig A. Johnson". The signature is written in a cursive, flowing style.

Craig A. Johnson

Intergovernmental Relations Representative