



DEDICATED TO A STRONG GREATER MINNESOTA

March 27, 2020

VIA EMAIL

International Joint Commission
U.S. Section
1717 H Street Northwest, Suite 835
Washington, DC 20006

RE: Comments on the International Red River Board's recommended nutrient concentration objectives and load targets for the Red River of the North

Dear Commissioners:

I am writing on behalf of the Coalition of Greater Minnesota Cities ("CGMC"), an organization of more than 100 cities located across Minnesota, to express our concerns with the International Red River Board's ("IRRB") proposed total phosphorus ("TP") and total nitrogen ("TN") concentration objectives and the TN load target for the Red River of the North.

Our member cities play an important stewardship role in protecting water through their wastewater and stormwater treatment systems. A number of our member cities are located within the Red River's drainage basin and hold National Pollutant Discharge Elimination System ("NPDES") permits that allow them to discharge into the basin. These members are directly impacted by the IRRB's recommendations.

In addition, our members across Minnesota have a vested interest in the outcome of these proceedings due to the precedent these load targets and concentration objectives may set. As explained below, we have two primary concerns. The first is that the recommendations directly contradict the Minnesota Pollution Control Agency's ("MPCA") own finding that TN reduction is not necessary to protect the Red River from eutrophication. Second, the IRRB failed to engage the local stakeholders—municipalities—who would be among most affected by these recommendations.

Regulating TN Is Unnecessary to Protect the Red River

Our primary concern is that the IRRB's recommended concentration objective and load target for TN are more restrictive than necessary to protect the Red River from eutrophication. Minnesota's adopted and EPA-approved River Eutrophication Standards ("RES") that are applicable to the Red River do not currently regulate for TN.¹ The MPCA has previously determined, based on years of scientific study, that TN reduction is *not* necessary to protect Minnesota's rivers—including the

¹ Minnesota's River Eutrophication Standards do not regulate TN in Minnesota rivers, including the Red River. See Minn. R. 7050.0222.



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Red River—from eutrophication. For example, MPCA’s Statement of Need and Reasonableness for the RES states the following with respect to the need to regulate for TN:

As for total nitrogen, the MPCA conducted various statistical test[s] to determine if Minnesota-specific data suggested the need for TN standards to protect against river eutrophication. Such a need was not identified by MPCA and the Agency focused on TP as the stressor leading to river eutrophication since TP is the primary nutrient that limits the growth of excessive amounts of suspended algae (chlorophyll-a) in Minnesota rivers and streams.²

Our cities are at the forefront of water protection, but their financial resources are not limitless. Therefore, it is essential that water regulations be grounded in science and tailored to maximize investment. Regulation of TN would likely require municipalities to make expensive facility upgrades. We are concerned that requiring costly investments that are unnecessary to manage eutrophication will divert resources that could be used to address more significant water quality issues. Moreover, if the IJC establishes targets or objectives for TN in the Red River, this could prompt the MPCA to develop TN regulations for other rivers in Minnesota. Statewide regulation of TN for the purpose of reducing eutrophication would ultimately require expensive facility upgrades and place unnecessary financial strain on municipalities without significant positive impacts on water quality.

IRRB Failed to Engage Local Communities

We are also concerned that the IRRB failed to engage local government stakeholders early in the water quality objective development process. It is our understanding that the IRRB’s effort to develop the proposed water quality objectives was primarily driven by representatives of state and federal agencies from the U.S. and Canada without any explicit representation from municipal wastewater treatment professionals or other municipal representatives.

We appreciate the IJC’s efforts to hold the public hearing requested by the cities and the IRRB’s efforts to allow their input; however, cities should have been formally included in the IRRB’s process from the beginning. In order for the implementation of any changes to regulations or other recommendations to be successful, the impacted communities must be included and consulted in the formulation of said regulations and recommendations. This was not the case in the IRRB’s process, and as demonstrated in these comments (as well as in the comments of other cities and municipal groups), the result is flawed.

² Statement of Need and Reasonableness, Eutrophication Standards for Streams, Rivers, Lake Pepin, and Navigational Pools, Book 2, Minnesota Pollution Control Agency, 103, *available at* <https://www.pca.state.mn.us/sites/default/files/wq-rule4-06f.pdf> (emphasis added).



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Given the significant concerns identified herein, as well as those raised by other cities and municipal groups, and the potential economic consequences for municipalities and their ratepayers, we believe that it is unreasonable for the IJC to accept the IRRB's proposed concentration objectives for phosphorus and nitrogen and the load target for nitrogen at this time.

We appreciate the opportunity to submit comments and for your consideration. If you have any questions or concerns regarding the above comments, please contact me at anelson@willmarmn.gov or our representative, attorney Elizabeth Wefel, at eawefel@flaherty-hood.com or (651) 259-1924.

Sincerely,

Audrey Nelsen
President, Coalition of Greater Minnesota Cities
City Council Member, Willmar, Minn.