

Message

From: Williams, Quinn L - DNR [Quinn.Williams@wisconsin.gov]
Sent: 6/7/2017 11:07:26 PM
To: Greenwalt, Sarah [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6c13775b8f424e90802669b87b135024-Greenwalt,]
Subject: RE: next steps for VTA discussion

You around for a quick call?

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Quinn L. Williams
Chief Legal Counsel
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Wisconsin Department of Natural Resources
(☎) phone: (608) 266-1318
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From: Greenwalt, Sarah [mailto:greenwalt.sarah@epa.gov]
Sent: Wednesday, June 07, 2017 11:50 AM
To: Williams, Quinn L - DNR
Subject: Re: next steps for VTA discussion

Thank you for this information.

Sent from my iPhone

On Jun 7, 2017, at 3:01 AM, Williams, Quinn L - DNR <Quinn.Williams@wisconsin.gov> wrote:

Hi Sarah.

See below. For our ongoing discussions.

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<image001.gif> dnr.wi.gov

<image002.gif> <image003.gif> <image004.gif> <image005.gif> <image006.gif>

From: Crass, David A (22267) [<mailto:DACrass@michaelbest.com>]

Sent: Tuesday, June 06, 2017 1:39 PM

To: Williams, Quinn L - DNR; Vebber, Lucas; Jordan K. Lamb; John Holevoet (jholevoet@WIDBA.COM); 'pzimmerman@wfbf.com' (pzimmerman@wfbf.com)

Cc: Weigel, Brian M - DNR; Heilman, Cheryl W - DNR; Aquino, Mark D - DNR; Michaud, Bernard J - DNR; Landretti, Jane R - DNR; Lowndes, MaryAnne - DNR; Voltz, Jeffrey R - DNR; Biersach, Pamela A - DNR

Subject: RE: next steps for VTA discussion

Quinn: Thank you for forwarding and I apologize my schedule has prevented me from attending the last couple of sessions. We were aware of this letter from Ms. Hyde because Pam and MaryAnne cited it to us--as well as EPA's February 19, 2016 report of the results of the third state enforcement review-- when we first met last Spring to discuss these issues as a basis for the Department's state-wide pronouncements and actions concerning VTAs and calf hutches. I'd ask you to consider the following about those EPA documents as relates to Wisconsin's position and response:

The EPA Documents concern conditions observed at 8 CAFOs in Wisconsin. We have nearly 300 Large CAFOs I believe, meaning the "sample size" was about 0.03%. It was on this sample size that Ms. Hyde's letter is based when she communicates that EPA has "concerns" about whether the effluent limitations for both the federal and state program are being met statewide. However, USEPA's February 2016 report summary simply concludes that there is the "potential for discharge" in the report entries summarized concerning manure storage, feed storage, VTA's, feed lot areas and calf hutch areas:

Category	Findings
Stacking Areas of Manure, bagged feed, used bedding and feed.	5 of 6 facilities were found to be stacking used bedding and/or feed in unsuitable areas with the potential for runoff into a waterway.
Feed Storage Areas	7 out of 8 facilities had the potential for unauthorized discharges either from no containment, improperly designed, and/or improperly managed feed storage structures.
Vegetated Treatment Areas	4 out of the 6 facilities had unauthorized discharges from the VTA.
Feed Lot Areas	2 out of the 2 had problems with inadequate or no containment for their feedlot runoff. This runoff had the potential to discharge to surface waters.
Calf Hutch Areas	3 out of 3 had problems with runoff from calf hutch areas that had the potential to discharge to surface waters.

Note with respect to VTAs the report notes “unauthorized discharges” from the production area but does not mention “...to navigable surface waters.” All other entries simply mention a “potential” to discharge. Further to that, under the “next steps” column in the summary report, USEPA writes:

WDNR is transitioning from focusing on manure and process wastewater management and storage at the production site to placing additional emphasis on management of *all wastestreams that have potential to discharge* including production area storm water runoff, feed storage areas, calf hutch area, and vegetated treatment areas.

It is ironic that USEPA would focus on areas of “potential” discharge in Wisconsin when its own effluent guideline and permitting authority only applies to Large CAFOs that have an *actual* discharge to navigable surface waters. See, *Waterkeeper Alliance, Inc. et al v. EPA*, 399 F.3d 486(2d Cir. 2005). WDNR should point out to USEPA that its permitting program is more expansive than USEPA’s, since Wisconsin Large CAFOs do not enjoy the option of self-determining that they are a “no-discharge CAFO” and hence do not need a permit and since Wisconsin’s program also requires groundwater protection. It seems to us inappropriate and a federal overreach for USEPA to suggest that a properly promulgated and incorporated technical design standard “does not ensure the required level of performance is being achieved” *statewide* when USEPA’s own reports suggest only “potential discharges” that would not themselves trigger a permitting requirement under the federal program.

Thank you.

David A. Crass
Partner
Industry Group Chair, Agribusiness, Food & Beverage

Ex. 6 michaelbest.com

Michael Best & Friedrich LLP

-----Original Message-----

From: Williams, Quinn L - DNR [<mailto:Quinn.Williams@wisconsin.gov>]

Sent: Wednesday, May 31, 2017 12:33 PM

To: Vebber, Lucas; Jordan K. Lamb; John Holevoet (jholevoet@WIDBA.COM); 'pzimmerman@wfbf.com' (pzimmerman@wfbf.com); Crass, David A (22267)

Cc: Weigel, Brian M - DNR; Heilman, Cheryl W - DNR; Aquino, Mark D - DNR; Michaud, Bernard J - DNR; Landretti, Jane R - DNR; Lowndes, MaryAnne - DNR; Voltz, Jeffrey R - DNR; Williams, Quinn L - DNR; Biersach, Pamela A - DNR

Subject: RE: next steps for VTA discussion

Hello everyone,

For those of you who may not have seen it, please see the attached letter from EPA regarding VTAs from March of 2016 that is relevant to the guidance/discussions.

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Visit our survey at <http://dnr.wi.gov/customersurvey> to evaluate how I did.

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