

**02/13/18 WDNR meeting regarding Little Suamico Sanitary District's Water Quality Trading Plan (dated December 5, 2017) and Permit Reissuance with Cedar Corp and Little Suamico Sanitary District  
Lake Michigan conference room, WDNR Green Bay office**

**Attendees:**

**Little Suamico Sanitary District No. 1 (Little Suamico):** Dan Herzberg, Chad Fischer and Darrel Pagel

**Cedar Corporation (Cedar Corp):** George Thompson and Dave Sauer

**Wisconsin Department of Natural Resources (WDNR):** Nicole Krueger, wastewater compliance engineer; Kelley O'Connor, wastewater supervisor; Pat Oldenburg by phone, regional WQT Coordinator for west central; Dick Sachs, permit drafter; Amy Garbe, statewide WQT Coordinator; Keith Marquardt, regional WQT Coordinator; Tammie Paoli, fisheries biologist, southern Oconto County and Green Bay waters; Andrea Gruen (Crystal Von Holdt excused), water regulations; Andrew Hudak, water resources; and Jean Romback-Bartels, NER Secretary's Director

WQT means water quality trading

**Agenda**

- Introductions/Background
- WDNR review comments & San Dst questions regarding WQT Plan
- Biological, Water Regulations, Fisheries input on proposal
- Statewide implementation of WQT
- WPDES permit schedule/timing
- Next Steps

**Meeting Notes**

**1) Introductions/Background:** All attendees introduced themselves. Keith handed out: a meeting agenda; WDNR concurrence letter for Final Facilities Plan Report (4<sup>th</sup> Year Report); and October 20, 2017 meeting notes. Keith reviewed handouts and project background by way of project chronology (on page 2 of agenda) and noted that the project chronology was not inclusive.

Cedar Corp request that the subject order change from Agenda, which is noted as follows.

**2) Statewide implementation of water quality trading (WQT):** Keith explained that all the WDNR WQT coordinators attend meetings biweekly to discuss policy and projects to ensure that the WDNR is consistent with implementation of WQT on a statewide basis. WDNR staff from each region review each other's WQT projects for consistency. Amy and Pat reviewed Keith's comments to the Little Suamico 12/05/17 proposed WQT Plan and found them consistent with their thoughts. Amy explained the 2 WDNR Guidance for WQT. Amy compared and contrasted the documents and offered that one is better for consultants with experience with WPDES permits.

Question: Dan of Little Suamico and Dave of Cedar Corp inquire as to whether the WDNR WQT Notice of Intent (NOI) is approved. Amy indicates that the NOI is just what it states “a notification to WDNR that Little Suamico intends to pursue water quality trading as their compliance option” and that there is therefore nothing to approve. The NOI is a communication tool. Little Suamico would like the WDNR to acknowledge that the NOI was received by WDNR. Keith will follow-up regarding the submitted NOI and explains that WDNR did receive an NOI. Keith indicates that he will send, probably by email, Little Suamico confirmation that WDNR did receive a NOI.

**3) WPDES permit schedule/timing:** Timing with respect to water quality trading and WPDES permit was discussed. Amy explains that if facilities elect to pursue WQT that the WQT Plan is due as/or with their 4<sup>th</sup> Year Report or at a minimum with the 6 month permit application (which was due 04/04/2017). WDNR allowed Little Suamico to submit with 6 month application because Little Suamico received an early version of the phosphorus compliance schedule which caused some confusion for Little Suamico. WDNR noted that the proposed WQT Plan was submitted (08/30/17) one month prior to permit expiration rather than with the permit application.

Discussion regarding expired permit (the Little Suamico WPDES permit expired September 30, 2017), and need for a WDNR approved WQT Plan in order to re-issue the WPDES permit. Upon WDNR approval of the WQT Plan, the permit reissuance process can be initiated. Little Suamico has until September 30, 2019 to generate water quality trading credits to meet the water quality based effluent limit (WQBEL) in accordance with a WDNR approved WQT Plan. WDNR WQT Guidance states that for WQT, the entire compliance schedule cannot exceed seven years from the date the permit was first modified or reissued to include total phosphorus water quality based effluent limits (WQBELs).

Little Suamico/Cedar Corp asks for conditional approval of WQT Plan.

WDNR replies that WDNR will approve the WQT Plan when the December 14, 2017 WDNR review comments are addressed.

The WDNR considers facilities either in compliance or noncompliance. The WDNR has the authority to: approve WQT Plans that will result in compliance with permit requirements; issue permits based upon WQT Plans that generate credits needed to comply with water quality-based limits; and initiate enforcement action when permittees are not in compliance with permit requirements. The WDNR does not have the authority to take any actions that may lead a permittee to be in noncompliance with any requirements. Thus, the WDNR does not have the authority to conditionally approve a WQT Plan that may not result in a permittee to be in compliance with permit requirements. That would be the case if a WQT Plan does not generate the necessary credits at the time they are needed in order for the permittee to be in compliance with permit requirements. Therefore, the WDNR cannot grant conditional approval of a WQT Plan that may not result in the permittee’s complete compliance with permit requirements.

#### **4) Cedar Corp questions regarding the WDNR 12/14/2017 review comments on 12/05/2017 WQT**

**Plan:** actual WDNR review comments from WDNR 12/14/2017 Email and meeting discussion includes:

##### **Section 2**

***Item 3. WQT Plan indicates “anticipated quantities” in text; please provide actual quantities in WQT Plan.***

Cedar Corp questions actual quantities. WDNR explains the need for site specific plan details and the need for additional documentation regarding the historic and current state of the eroding banks (e.g. number of bank height measurements, who conducted the assessment, etc.) along with photographs of the proposed restoration sites. WDNR will not accept book values or averages rates. Additional soil samples will need to be taken to better quantify the credits generated by the projects. Those samples should be representative of the eroding soil. If the soil profile varies along the streambank, soil samples should be collected at different soil profiles along the eroding bank and tested for phosphorus concentration to obtain more realistic profile of phosphorus. Samples should be collected prior to plan finalization to allow an accurate assessment of the available credits.

***Item 4. WQT Plan indicates projects generating credits will have a 2:1 trade ratio with habitat adjustment; however, the WQT Plan does not include any justification nor plans/specs for habitat restoration work; in addition, please note that based on your proposed habitat plans and specifications the WDNR will determine if resulting habitat adjustment will be applied to the trade ratio.***

WDNR replies that without plans and specs for habitat work that a 3:1 trade ratio should be utilized in the WQT Plan. Keith explains that WDNR permitting, fisheries and water resources staff will not only be providing input on the Chapter 30 permit/s required for the proposed projects, but that these staff will also be providing input as to whether a lower trade ratio (for example, 2:1) can be utilized – WDNR staff determines the appropriate trade ratio to be used based on submitted documentation, construction plans and specs. WDNR will evaluate quantity and quality of habitat work proposed.

##### **Section 5**

***Item 12. Please provide additional documentation regarding the historic and current state of the eroding banks (e.g. number of bank height measurements, who conducted the assessment, etc.) along with photographs of the proposed restoration sites. Please also indicate on the corresponding maps in Appendix C the start and end of each project, and corresponding length in feet of each project. WDNR will not accept book values or averages rates.***

Cedar Corp indicates that they do not have specific plans but that Oconto County LCD will be providing construction plans and specs. WDNR explains that if Little Suamico wants to pursue water quality trading that project specifics are needed at this time to proceed. WDNR explains the specificity necessary.

***Item 14. For calculating the amount of total phosphorus in soil samples, please use the Bray analysis results (contained in Appendix D) and convert to pounds.***

Cedar Corp questions total phosphorus versus Bray 1 phosphorus analysis. Keith will look into. Subsequent to 02/13/2018 meeting, Keith contacted UW Madison Soil Science Dept. Little Suamico should use the column labeled as “P nitric/peroxide %” in lab report contained in Appendix D of proposed WQT Plan for estimating phosphorus concentrations in soil samples collected from streambanks.

## **Section 6**

***Item 19. At a minimum, monthly inspections of practices will be required – please revise WQT Plan to reflect. The monthly inspections with photo/digital images collected and necessary corrective actions shall be submitted in an annual report.***

Cedar Corp questions monthly inspections. WDNR responds that monthly inspections are necessary and that Little Suamico will be required to certify that conservation practices are installed and functioning as designed in their Discharge Monitoring Reports (DMRs) on a monthly basis. WDNR explains that the monthly inspections can be conducted by Little Suamico, County, landowner with photo documentation, and then certified in DMR. Necessary corrections should address any deficiencies noted during the inspections asap. An annual report will also be required. An annual report will document the monthly inspections and the annual inspections to be conducted by an experienced individual familiar with the conservation practices installed (for example, county LCD staff, PE etc. for streambank stabilization).

### **5) Biological, Water Regulations, Fisheries input on proposed WQT Plan**

WDNR express concerns with the proposed streambank stabilization project/s. Specifically, the WDNR has concerns regarding: the apparent lack of a comprehensive or multiple practice approach to streambank restoration [ie. use of only one method (rock riprap)] to address possible erosion along the Little Suamico River (to date, the erosion has not been adequately quantified for the sites); the selected option of rock riprap itself; and the amount of time necessary to plan, design, collaborate, and permit a project of this magnitude.

WDNR indicates that if Little Suamico wants to be successful with their proposal they need to work with WDNR to develop a better plan. WDNR offers (as on October 20, 2017 meeting) the appropriate WDNR staff to meet and/or assist in planning the project.

Question: Cedar Corp ask how long it takes to obtain WDNR Chapter 30 permit? WDNR replies that it depends on the type of permit (individual permit, general permit); which depends on the waterbody and proposed project. In general, 90 days to review and approve a complete application.

### **6) Next Steps**

WDNR ask Little Suamico what do they need from WDNR to be successful with project?

Little Suamico indicates that based on new knowledge learned at meeting, Little Suamico may like to proceed in a different direction than water quality trading. Little Suamico ask what are the compliance options for Little Suamico?

WDNR noted that the Final Facilities Compliance Plan (or 4 Year Report) submitted on September 27, 2016 indicated that Little Suamico was to pursue WQT in conjunction with chemical feed addition. The WQT Plan submitted on August 30, 2017 then indicated that only water quality trading would be pursued for phosphorus compliance. WDNR indicates that chemical addition in conjunction with water quality trading is an option and asks why this option was not pursued. WDNR indicates that a facilities upgrade is an option. WDNR ask whether Little Suamico considered the Multi Discharger Variance (MDV). Cedar Corp/Little Suamico indicates that they are not eligible for MDV due to a relatively high median household income (MHI) for the sanitary district. WDNR indicates that WDNR may review MDV eligibility for Little Suamico.

Subsequent to the February 13, 2018 meeting, WDNR did review cost analysis submitted by Cedar Corp on behalf of Little Suamico as part of the 4<sup>th</sup> Year report. The cost of tertiary filtration may result in increased user rates to \$1056/year. WDNR believes that the median household income (MHI) of Little Suamico may be less than \$100,000, and as such, Little Suamico may be eligible for the MDV. Additional information including timelines, costs, MHI and interim effluent etc. will need to be further evaluated to determine if the MDV is a feasible option for Little Suamico.

#### Meeting Summary

- WDNR needs project specifics “upfront” (ie. now) in order for WDNR to review and subsequently approve the WQT Plan.
- WPDES permit is expired. WDNR cannot reissue permit without an approved WQT Plan. Little Suamico is behind with submittals and not timely.
- The projects identified/specified in the approved WQT Plan must be implemented and Little Suamico meet final effluent limits by September 30, 2019.
- WDNR stresses the need for Little Suamico to start asap and to communicate often no matter the compliance option.

Next Steps: Little Suamico indicates they need to the contact Oconto County Land Conservation Department; and that Oconto County LCD is to develop proposal/s for streambank restoration then meet with WDNR water resources, fisheries, and water regulations staff at the site/s.

Subsequent to February 13, 2018 meeting, WDNR identifies a Great Lakes Restoration Initiative grant opportunity for restoration projects, specifically habitat restoration in the Great Lakes region. If Little Suamico is interested, grant application and associated information is available at: [Detailed description and requirements can be found at http://www.grants.gov/, funding number NOAA-NMFS-HCPO-2018-2005487](#) .