

July 25, 2003

Thomas Harpt,  
Wisconsin Department of Natural Resources  
3911 Fish Hatchery Road  
Fitchburg, WI 53711

**RE: Proposed WPDES Permit for United Wisconsin Grain Producers, LLC.**

Dear Mr. Harpt:

Thank you for providing this opportunity for public comment. The following comments are submitted by Midwest Environmental Advocates (MEA) regarding the proposed permit allowing United Wisconsin Grain Producers, LLC (Wisconsin Grain) to discharge cooling water into the North Branch of Duck Creek under the authority of the Wisconsin Pollutant Discharge Elimination System (WPDES) permit.

We are gravely concerned that the DNR has not imposed thermal monitoring requirements for the cooling effluent and effluent limits for thermal pollution. The DNR's failure to do so is a violation of the law.

The Wisconsin Grain facility is a new point source for discharging cooling water, a source of thermal pollution. The law requires monitoring requirements and effluent limits for all contaminants, including thermal discharge.

Each permit issued by the department under this section shall...specify maximum levels of discharges. Maximum levels of discharges shall be developed from the permittee's reasonably foreseeable projection of maximum frequency or maximum level of discharge resulting from production increases or process modifications during the term of the permit.<sup>1</sup>

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<sup>1</sup> Wis. Stat. §283.31 (5)

Aside from being required by law, thermal monitoring and limitations are necessary to protect water quality and water use criteria in a manner consistent with the policy and purpose of the WPDES program.<sup>2</sup> In addition, an internal DNR document acknowledges “temperature is a parameter of concern with respect to cooling water discharge” and recommends a daily maximum temperature limit of 89°F.<sup>3</sup>

DNR has classified the receiving water as a warm water sport fish community in which the ambient stream temperature shall not exceed 89°F.<sup>4</sup> The temperature of the mixing zone cannot exceed 5°F above the ambient stream temperature.<sup>5</sup> An unnatural increase in the ambient water temperature of the receiving water creates thermal pollution. Cooling water, such as that discharged by Wisconsin Grain, is a source of thermal pollution because it is primarily used for cooling purposes during the production process and is possibly contaminated with process wastewater or airborne material.<sup>6</sup> Thermal pollution has an adverse negative impact on water quality and aquatic wildlife because it increases the ambient temperature of the water which reduces the amount of dissolved oxygen.<sup>7</sup> The amount of oxygen in water affects the life it can support.<sup>8</sup> Some sport fish and aquatic organisms need water with high levels of dissolved oxygen and cannot live in warmer waters.<sup>9</sup> Thermal pollution can result in greatly reduced diversity of fish species important for the environmental health of the stream.<sup>10</sup>

The proposed permit lacks the legal requirements for thermal monitoring and numeric thermal limitations. Under the proposed permit, Wisconsin Grain will be allowed to discharge uncontrolled thermal pollution, creating adverse environmental impacts to the sensitive aquatic community located in the Duck Creek watershed. The Duck Creek watershed feeds into the Wisconsin River and supports numerous wildlife habitats and recreational opportunities.<sup>11</sup> According to the DNR’s Wisconsin Natural Heritage

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<sup>2</sup> Wis. Stat. § 283.001 (1). The purpose of the WPDES program is to:

restore and maintain the chemical, physical, and biological integrity of its waters to protect public health, safeguard fish and aquatic life and scenic and ecological values, and to enhance the domestic, municipal, recreational, industrial, agricultural, and other uses of water.

Wis. Stat. § 283.001(1).

<sup>3</sup> Memorandum from Bob Masnado, Wisconsin Department of Natural Resources (DNR), to Thomas Harpt, DNR, May 15, 2003.

<sup>4</sup> Wis. Stat. NR 102.04 (4)

<sup>5</sup> Wis. Stat. NR 104.04 (3)

<sup>6</sup> Wis. Stat. NR 200.02 (2).

<sup>7</sup> United States Environmental Protection Agency (EPA), *Water Pollution and Prevention*, , available at <http://www.epa.gov/region4/water/drinkingwater/pollution.htm> last visited on 07/16/2003.

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> Wisconsin Department of Natural Resources (DNR), *Lower Wisconsin State of the Basin Report*, 318 (2002)

Database for the Middle Wolf River Watershed, there are at least 46 species of threatened, endangered or species of special concern identified in the area or downstream of the Wisconsin Grain. The list of threatened, endangered or species of special concern includes:<sup>12</sup>

Greater Redhorse  
Amber Winged Spreadwing  
Broad Winged Skipper  
Black Meadow Hawk  
Loggerhead Shrike  
Cerulean Warbler  
Black Crowned Night Heron  
Red Shouldered Hawk  
Western Slender Glass Lizard

Weed Shiner  
Tiger Beetle  
Pirate Perch  
Banded Killfish  
Mulberry Wing  
Round Pigtoe  
Salamander Mussel  
Buckhorn  
Blanding Turtle

The addition of numeric requirements for the sampling parameters would provide the aquatic resources of Duck Creek, and members of the public who enjoy them, with another layer of protection against the thermal effluent discharges and allow the DNR and citizens to enforce the restrictions rather than depend solely on Wisconsin Grain to report process changes as required in section 2.2.6 of the proposed permit.<sup>13</sup>

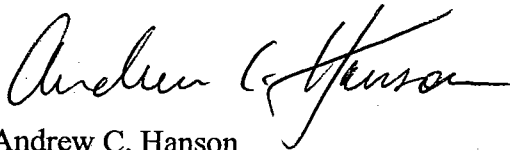
If you have any questions or comments, please contact MEA Attorney Andrew Hanson at (608) 251-5047.

Sincerely,

**MIDWEST ENVIRONMENTAL ADVOCATES, INC.**



Lance Franke  
Law Clerk



Andrew C. Hanson  
Supervising Attorney

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<sup>12</sup> DNR, Wisconsin Natural Heritage Database for Duck Creek and Rocky Run Watershed, available at <http://gomapout.dnr.state.wi.us/scripts/esrimap.dll?name=nhi&cmd=rpt&thm=watersheds&fid=1;250&prv=0> (last visited on 7/23/2003).

<sup>13</sup> WPDES Permit, 6.