

**CLEAN WATER ACTION COUNCIL OF NORTHEASTERN WISCONSIN •
MIDWEST ENVIRONMENTAL ADVOCATES • NATIONAL WILDLIFE FEDERATION**

**For immediate release
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Community-based Groups Fight For Clean Water in Circuit Court

Green Bay, WI --- Yesterday, local and national environmental and conservation groups filed a petition for Judicial Review in Brown County Circuit Court. The case is related to their earlier legal challenge of a state permit that allows the Fort James Operating Company, Broadway Mill (owned by Georgia-Pacific, now Koch Industries) to discharge pollution into the Fox River.

"We're seeking to clarify our public rights and hold the Wisconsin Department of Natural Resources (DNR) to the letter of the law," stated Rebecca Katers, Executive Director of the Clean Water Action Council of N.E. Wisconsin. "We believe the DNR has overstepped its authority in limiting our rights to challenge serious water pollution in our communities."

"We also believe the DNR is not implementing federal water quality standards, as required by law," Katers added.

The main issues in the Circuit Court case are:

- 1) Whether a member of the general public needs to provide extensive written or oral comments during a short public comment period in order to preserve the right to later challenge the permit before an administrative law judge;
- 2) Whether the DNR needs to comply with federal law when issuing these federally-approved water pollution permits;
- 3) Whether our state regulations for mercury and phosphorus fail to meet federal standards.

Last October, the Clean Water Action Council and National Wildlife Federation filed a petition calling for a hearing before a state administrative law judge in order to challenge a state permit allowing Fort James Operating Company to nearly double the amount of phosphorus it sends into the lower Fox River and Green Bay. The permit also allows the company to violate federal limits on toxic mercury discharges, with only a monitoring requirement.

The Clean Water Action Council is being represented by Midwest Environmental Advocates, a non-profit environmental law center. The National Wildlife Federation is being represented by its own attorney, Neil Kagan, senior counsel with the Federation.

"The DNR has not done the required analysis to determine whether Fort James' increased discharge of phosphorus will cause or contribute to the already severe water quality problems in the lower Fox River and Green Bay," said Andrew Hanson, attorney with Midwest Environmental Advocates.

"Fort James' mill had been releasing 15, 549 pounds of phosphorus a year into the river, and the DNR approved a release of an *additional* 10,000 pounds," added Hanson.

As a comparison, the City of Madison discharges approximately 3,700 pounds per year of phosphorus into the Lake Mendota watershed through stormwater runoff. And one manure spill into Lake Mendota in the spring of 2005 added 2,400 pounds of phosphorus to the lake. This means that the DNR is allowing one mill of Fort James to dump almost 7 times more phosphorus per year than the entire City of Madison releases via stormwater to the Lake Mendota watershed. Likewise, this one mill is adding the phosphorus equivalent of more than 10 manure spills of the size experienced by Lake Mendota.

The lower Fox River and Green Bay suffer from severe algae blooms that give the water a "pea green soup" appearance. Algae blooms are caused, in large part, by the fertilizing effect of high phosphorus concentrations in the water. Both the lower Fox River and Green Bay have been officially listed by the DNR as "impaired" by phosphorus on the DNR's biannual list of state waters needing clean-up. This impairment degrades the value of the lower Fox River and Green Bay for boating, swimming, fishing, wading, and can harm habitat for fish and waterfowl.

In addition to phosphorus, Fort James has detected mercury levels in its discharge that are not safe for people or wildlife. However, rather than imposing limits now, the DNR has allowed Fort James to continue to simply monitor its wastewater discharge for mercury.

Mercury is a potent neurotoxin that has been linked to serious brain injury, particularly in unborn and young children. Mercury accumulates in the muscle tissue of fish, and therefore accumulates in people who consume those fish. Unlike PCBs, trimming away the fat will not reduce mercury levels in a fillet. The DNR has officially listed both the lower Fox River and Green Bay as "impaired" by mercury.

According to Neil Kagan, Senior Counsel for the National Wildlife Federation, "The 1972 federal Clean Water Act's clear intent was to require fishable, swimmable waters, but Wisconsin's issuance of this permit undermines that goal. The Fox River and Bay are not truly fishable, because most of the fish are unfit to eat, partly due to mercury contamination."

"How much longer will we have to face dirty water? Adding another 10,000 pounds of phosphorus and continued mercury pollution every year is a step in the wrong direction," stated Katers. "We're simply asking the DNR to impose limits in Fort James' permit that will prevent the river and bay from becoming even more polluted than they already are."

The Petitioners in this legal filing are Curt Andersen, John Hermanson, Christine Fossen Rades, Rebecca Leighton Katers, Thomas Sydow, Clean Water Action Council of Northeastern Wisconsin, and National Wildlife Federation.

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