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DEPARTMENT OF NATURAL RESOURCES
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Ms. Tera Fong, Director, Water Division
U.S. EPA Region 5
77 West Jackson Blvd., W-15J
Chicago, IL 60604

Subject: Request for Approval of a Variance from Water Quality Standards for Mercury
Receiving Stream: Lower Fox River (Fox River-Frontal Green Bay Watershed, Lower Fox
Basin) in Brown County
Permittee: Georgia-Pacific Consumer Operations LLC - WPDES Permit No. 0001848-09-0

Dear Ms. Fong:

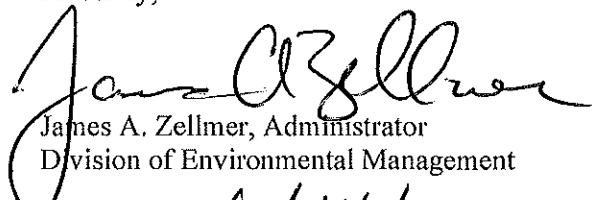
In accordance with s. 283.15, Wis. Stats., and 40 CFR 131, the Wisconsin Department of Natural Resources (hereafter Department) requests U.S. EPA, Region 5 to approve a water quality standards variance for the above-referenced discharge. The water quality criterion for which the permittee is seeking a variance is contained in ch. NR 105, Wis. Adm. Code.

To assist your staff during their review, relevant background information pertaining to this variance is attached to this letter. The draft permit and variance were publicly noticed on November 14, 2022 and April 19, 2023. A hearing for the variance was held on January 3, 2023. The comment period has now ended. No public comments were received relating to the proposed variance.

The Department is committed to working with the permittee during the term of this variance to find a solution that will lead toward full compliance with the applicable water quality standard. Conditions on the variance, which are included in the WPDES permit, specify actions to be taken by the permittee and timetables for those actions. If the variance is approved by EPA, the Department will include the variance limitation and related conditions in the final WPDES permit.

The Department appreciates your consideration of this request. Should you have further questions regarding this matter, please contact Amanda Perdsock at Amanda.Perdsock@wisconsin.gov or (608) 982-7718.

Sincerely,


James A. Zellmer, Administrator
Division of Environmental Management
DATED: 6/14/23

Attachment
e-cc Tim Elkins – EPA Region 5

BACKGROUND INFORMATION REGARDING WATER QUALITY STANDARDS VARIANCE

Receiving Stream and Classification: **Lower Fox River, Warm Water Sport Fishery**

Criterion: **1.3 ng/L wildlife criterion, ch. NR 105 Wis. Adm. Code**

Water Quality Based Effluent Limit: **1.3 ng/L as a monthly average**

Existing Permit Limit: **5.73 ng/L as a daily maximum**

Permit Limit Based on Proposed Variance: **3.3 ng/L as a daily maximum**

Duration of Variance: **Five years - from the effective date of permit reissuance through the proposed permit expiration date of 06/30/2028.**

Department Rationale for Approving Variance:

Section NR 106.145, Wis. Adm. Code, outlines findings that justify expediting mercury variances. The Department intended that this provision be generally applicable to municipal and industrial dischargers, which produce large volumes of effluent with already extremely low mercury concentrations. More specifically:

- a) The Department considers treating these large volumes to produce effluent that reliably meets the water quality-based effluent limit to be prohibitively expensive. See Section VIII of the Facility Specific Standard Variance Data Sheet for clarification.
- b) At the time of promulgation of s. NR 106.145, Wis. Adm. Code, in October 2002, data on mercury concentrations in wastewater effluents were generally not available. However, after the promulgation of EPA Method 1631, and beginning in 2005, the permittee began generating low-level mercury data on samples of its effluent, showing that although the facility is properly operated and maintained, the WQBELs are not being consistently achieved. The facility will continue to collect low-level mercury data to help locate sources of mercury and implement their PMP.
- c) Appropriate mercury source reduction activities are environmentally preferable to wastewater treatment technology in many cases because wastewater treatment for mercury produces a sludge or other resultant wastewater stream that can be as much or more of an environmental liability than the untreated effluent.

The Department concludes that the applicant has met the requirements of Subchapter III of ch. NR 106, Wis. Adm. Code, and s. 283.15, Wis. Stats. The Department further concludes that requiring the applicant to meet the water quality standard for mercury at this time would result in substantial and widespread adverse social and economic impacts. The Department therefore proposes to grant the variance for mercury.

Conditions to be Included in WPDES Permit: **See Attached Draft Permit being sent to EPA in Electronic Format**

Attachments:

Facility Specific Standard Variance Data Sheet
Certification from DNR Chief Legal Counsel