State of Wisconsin
Department of Natural Resources

2022 Water Condition Lists Summary of Public Comments and the WDNR's Responses

A public comment period on the draft 2022 Water Condition lists was held from August 16 – October 1, 2021. A total of 17 entities commented on specific listings, the listing process, and issues of concern. An additional public comment period specifically on listings being moved onto the Restoration Waters List (Category 4, covered by a TMDL) was held from November 29, 2021 – December 7, 2022. No entities commented.

The following is a summary of comments and the Wisconsin Department of Natural Resources (WDNR) responses indicating any changes to the draft 2022 Water Condition Lists. This attachment is submitted to the EPA for their review of the 2022 Impaired Waters List. After the EPA has reviewed the list and this supporting documentation, additional changes may be made to ensure compliance with federal requirements.

This summary contains:

Acknowledgements: Responding to public comments requires teamwork from a large number of WDNR employees. Special thanks to Marcia Willhite, Robin Nyffeler, Sean Strom, Heidi Bunk, Rachel Sabre, Patrick Oldenburg, Ted Johnson, Amy Garbe.

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Public Notice for the August 16 – October 1, 2020 Public Comment Period

FOR IMMEDIATE RELEASE: 2021-08-16
Contact: Ashley Beranek, DNR Surface Water Quality Assessments Coordinator
Ashley.Beranek@wisconsin.gov or 608-267-9603

DNR SEEKING PUBLIC COMMENT ON UPDATED WATER CONDITION LISTS

MADISON, Wis. – The Wisconsin Department of Natural Resources (DNR) today announced that more than 80% of Wisconsin's lakes and rivers recently assessed are healthy, continuing a trend of improved surface water quality across the state.

Every two years, Sections 303(d) and 305(b) of the Clean Water Act (CWA) require states to publish a list of all waters not meeting water quality standards and an overall report on surface water quality status of all waters in the state.

Although the majority of waterbodies are in good condition and have been placed on the Healthy Waters List, 92 new waterbodies or segments are now classified as impaired.

"Placing waters on the Impaired Waters List means they require a restoration plan to improve aquatic habitat, recreation opportunities or fish consumption. While these waters are labeled 'impaired,' the majority are still usable; just follow local water quality alerts and posted signs," said Ashley Beranek, DNR Surface Water Quality Assessment Coordinator.

A total of 115 new pollutant listings are proposed; a waterbody can have multiple pollutant listings and some of the new listings are on waters already identified as impaired. The majority of new pollutant listings are for phosphorus and bacteria. This is the first assessment cycle to use the new *E. coli* bacteria criteria recently approved by the Wisconsin legislature.

Of the 115 new listings, 11 will be placed directly on the Restoration Waters List because they are covered by an existing restoration plan in the form of Total Maximum Daily Loads (TMDLs). The listings are being added to the Milwaukee River Basin TMDL, Upper Fox-Wolf Basins TMDL and Wisconsin River Basin TMDL. The department is also seeking public comment on these TMDL additions.

Simultaneously, 22 listings will be removed, half of which are for phosphorus and sediment. The 2022 draft Impaired Waters List contains 1,526 listings. The draft Restoration Waters List contains 577 listings.

The department is asking for public comments regarding the new listings and TMDL additions. Provide written comments by Oct. 1 to:

Department of Natural Resources
c/o Ashley Beranek, Water Quality
P.O. Box 7921 Madison, WI 53707
DNRWYWaterbodyAssessments@wisconsin.gov

The water condition lists are submitted to the U.S. Environmental Protection Agency every even-numbered year in accordance with the Clean Water Act. The department follows standard procedures to assess waterbodies against water quality standards. The 2022 lists and other materials can be found on the DNR's website.

[https://dnr.wisconsin.gov/newsroom/release/48546]

Public Notice for the November 29, 2021 – January 7, 2022 Public Comment Period

FOR IMMEDIATE RELEASE: 2021-11-29
Contact: Ashley Beranek, DNR Surface Water Quality Assessments Coordinator
Ashley.Beranek@wisconsin.gov or 608-267-9603

DNR SEEKS PUBLIC COMMENT ON UPDATED WATER CONDITION LISTS

MADISON, Wis. – The Wisconsin Department of Natural Resources (DNR) is seeking public comment on revised water condition lists included in the draft 2022 Impaired Waters List.

Updates include moving 48 waterbody pollutant listings from the draft 2022 Impaired Waters list to the Restoration Waters list by adding them to the following three Total Maximum Daily Load (TMDL) plans: Milwaukee River Basin, Upper Fox-Wolf Basins and Wisconsin River Basin. By moving the 48 listings to the Restoration Waters List, they will no longer require a TMDL.

Pollutant listings placed on the Restoration Waters list have fulfilled a Clean Water Act requirement of having a TMDL for identified pollutants. Application of the TMDLs' pollution limits over time is intended to reduce pollutant load and its negative impacts on the waterbody.

The three TMDL plans will be sent to the U.S. Environmental Protection Agency (EPA) for approval prior to submittal. The TMDL appendices and list of waters can be found on the DNR's website.

The DNR sought public comment on the draft 2022 lists in fall 2021. During this process, the 48 waterbody pollutant listings were determined to be part of the Restoration Waters list.

Impaired waters are those that do not meet water quality standards and may not support fishing, swimming, recreating or public health and welfare. In Wisconsin, impaired waters are largely addressed through a TMDL analysis. A TMDL is the amount of a pollutant a waterbody can receive and still meet water quality standards. While some waters may be restored through alternative projects such as watershed restoration plans, many issues are addressed through TMDLs.

The department follows standard procedures to assess waterbodies against water quality standards and submits water condition lists to the EPA every even-numbered year as required by the federal Clean Water Act.

The public is encouraged to submit comments regarding the 48 waterbody pollutant TMDL additions by Jan. 7, 2022 to:

Department of Natural Resources
C/O Ashley Beranek, Water Quality
P.O. Box 7921
Madison, WI 53707
DNRWYWaterbodyAssessments@wisconsin.gov

More information about water quality and impaired waters is available on the DNR's website.

[https://dnr.wisconsin.gov/newsroom/release/51576]

List of Commenters

Name	Organization	Topic	Details (link to Response)
Gary Gruenisen	Citizen, Dane Co.	Information Request	Recreation
Maria Powell	Midwest Environmental Justice Organization (MEJO)	Information Request	Fish Tissue Data
Pat Stevens	Wisconsin Paper Council	Information Request, Listing Process	Fish Tissue Data; PFOS Listings Based on Fish Consumption Advisories; Unknown Pollutant Listings
Craig Summerfield	Wisconsin Manufacturers & Commerce (WMC)		
WJ Hughes	Citizen	Listing Process	Listing Notification
Susan Weisser	Citizen, Kewaunee Co.	Listing Process	Healthy Waters Calculation
John McKinven	Citizen	Specific Water	Barr Creek (WBIC 50200)
Patrick Clark	Wells Fargo Advisors	Specific Water	Beaver Dam Lake (WBIC 835100)
Larry Meyer	Lake Comus Protection and Rehabilitation District	Specific Water	Comus Lake (WBIC 794200) and tributaries
Kevin Armstrong	Chair, Lake Comus Protection and Rehabilitation District		
Stephanie Prellwitz	Green Lake Association	Specific Water	Green Lake (WBIC 146100)
Bob Kalhagen	Citizen	Specific Water	Lake Waubesa (WBIC 803700)
Adam Bauer	Citizen	Specific Water	Silver Birch Lake (WBIC 2054600)
Timm Speerschneider	On behalf of Flambeau Mining Company	Specific Water	Stream C, tributary to the Flambeau River (WBIC 4000013)
Amanda J. Alvis	AquAeTer, Inc.	Permits	Permits
Matt Giese	Midwest Chemical & Equipment, Inc	Agriculture	Agriculture and Invasives
Richard Swanson	Citizen, Kewaunee Co.	Agriculture	Agriculture Management
Julianne Socha	Environmental Protection Agency (EPA)	EPA Comments	EPA Comments

Wisconsin DNR Responses to Comments

Comments are quoted when under four paragraphs and summarized if longer. Full comments can be found in the Public Comments on 2022 Draft Water Condition Lists document.

Information Requests

Several commenters requested data or specific information; the following is a table summarizing those requests and WDNR's response.

Name	Organization	Request	WDNR Response
Gary Gruenisen	Citizen, Dane Co.	"I just want to know where to swim and fish."	Consult the WDNR's Lake Search website to search by lakes that have certain types of fish and public beaches and the WDNR's Where To Fish website.
Maria Powell	Midwest Environmental Justice Organization (MEJO)	Fish tissue data behind the Lake Mendota PCB listing removal.	WDNR Fisheries Toxicologist, Sean Strom, provided data.
Craig Summerfield	Wisconsin Manufacturers & Commerce (WMC)	Fish tissue data related to all PFOS	

Listing Process

Healthy Waters Calculation

"Noted that a recent report of impaired waters and healthy waters has been produced under DNR auspices. A recent news report regarding this report(Door County Daily News.com 8/l9/21) alludes to the fact that you state healthy waters in Door and Kewaunee Counties outweigh those that are polluted. How did you come up with that assessment? In Kewaunee Co, ALL our major streams, creeks, rivers, etc are and have been on the impaired list for many years and none have been removed to "healthy" status at the moment. The article stated that you mention problems with phosphorus. How about the nitrates?" **(Citizen in Kewaunee County)**

> **Response**: You are correct, many of the major waterways in Kewaunee County are on the Impaired Waters List. In the 2014 assessment cycle WDNR started identifying waters that were not known to be impaired based on one or more measures (Healthy Waters List). These healthy waters may have issues we do not know about yet, including nitrogen. Currently we don't list waters for nitrogen or nitrate because we have no criteria, but we do know based on long-term trend monitoring across the state that nitrogen levels in surface waters are rising. Creation of nitrogen criteria was ranked as one of the top priorities during our Triennial Standards Review process (https://dnr.wisconsin.gov/topic/SurfaceWater/TSR.html).

Even though we do not have criteria, the Northeast Lakeshore TMDL currently in development includes analysis of nitrogen, which will help inform restoration work (https://dnr.wisconsin.gov/topic/TMDLs/NELakeshore.html).

When the number of Assessment Units (AUs) on each of the lists is compared, there are more waters (AUs) on the Healthy Waters List. This aligns with what we see across the state.

Listing Notification

"Can you tell me how a community is normally notified of water impairment? I see water ways on the list that are actively used for activities such as fishing, swimming etc which is worrisome. Additionally where is the data on private wells that are contaminated? Hoping this is available so other community members are made aware of the possibility their well could be affected in the near future. It's great to hear that 80% of the assessed rivers & lakes are healthy but for the private land owner who is stuck with a bad well due to contamination flowing from other sources, that 80% doesn't offer much solace." **(Citizen)**

Response: When updates are made to the Impaired Waters List the public is notified via a WDNR News Release and a GovDelivery message. The GovDelivery message goes to a list of people who requested updates on water quality standards and assessments. WDNR currently does not have a system to alert specific village/town/city staff or community members, unless they are on the GovDelivery list. There has been media coverage each time a new list was released including articles in the Wisconsin State Journal, Milwaukee Journal Sentinel, and on Wisconsin Public Radio.

The impaired waters list covers surface waters not groundwater. A WDNR private well specialist would be able to help you with questions about contamination in your area; a list of specialists can be found on the Private Well Supply Specialist page. Local well information can be viewed on the University of Wisconsin – Stevens Point Wisconsin Well Water Quality Viewer.

PFOS Listings Based on Fish Consumption Advisories

"In addition, not all waterbodies with PFOS fish advisories were included on the impaired waters list. Wisconsin's 2021 "Choose Wisely" Guide lists PFOS fish advisories for both Lake Superior and Silver Creek. This raises the question of what threshold or criteria DNR is using to determine what waterbodies are included on the Impaired Waters list."

"To be clear, unlike many other listings on the 303(d) list where there are water quality criteria in place, there is no water quality criterion for PFOS that has been implemented in Wisconsin. Simply relying on fish consumption advisory guidance issued by the DNR and DHS is not a lawful substitute for the required ch. 227 rulemaking process."

"WPC and WMC request the following changes to the 2022 draft impaired waters list: The removal of the aforementioned waterbodies - Biron Flowage, Petenwell Lake, Lake Monona, Starkweather Creek, and W. Br. Starkweather Creek – that were listed due to PFOS fish consumption advisories, as this is an unlawful use of these advisories."

(Patrick Stevens, Vice President of Wisconsin Paper Council, and Craig Summerfield, Director of Wisconsin Manufacturers & Commerce)

Response: The 303(d) list is a prioritized list of surface waters in the state that do not meet applicable "water quality standards". Water quality standards include "numeric criteria, narrative criteria, waterbody uses, and antidegradation requirements" (40 CFR 130.7(b)(3)). A surface water can be listed if it doesn't meet a designated use such as public health, including consumption of fish, even if all numeric criteria are being met. This prioritized list is prepared by Department technical staff and is developed based on an assessment of water quality data collected throughout the state.

The department respectfully disagrees that the use of fish consumption advisories is inappropriate or unlawful. Restrictions on consumption of fish taken from specified waterbodies is demonstration of an impairment of the public health and welfare use in those waterbodies. In developing lists of impaired waters (i.e., the 303(d) list), states are required to make use of all available information to assess attainment of designated uses. Fish consumption advisories fall into the category of "available information".

Some of the Fish Consumption Advisories (FCAs) for PFOS were released to the public after January 2021, when the draft 2022 list was first created. All of those PFOS FCAs were based on data from 2019 – 2020 data, within the assessment date range, so they were added to the final draft 2022 Impaired Waters List (Table 3).

Table 3. New listings based on recent Fish Consumption Advisories for PFOS in Dane and Monroe Counties.

County	WBIC	Waterbody Name	AU ID	EPA ID	Water Type	Length/ Size	Pollutant	Impairment Indicator	Status[1]
Dane	802600	Lake Kegonsa	11643	WI10027603	LAKE	3201 acres	PFOS	PFOS Contaminated Fish Tissue	Addition
Dane	803400	Mud Lake	18251	WI10006241	LAKE	185 acres	PFOS	PFOS Contaminated Fish Tissue	Proposed for List
Dane	803700	Lake Waubesa	11661	WI10001452	LAKE	2075 acres	PFOS	PFOS Contaminated Fish Tissue	Addition
Dane	804000	Upper Mud Lake	18256	WI10006244	LAKE	218 acres	PFOS	PFOS Contaminated Fish Tissue	Proposed for List
Dane	804700	Wingra Creek	11666	WI10001456	RIVER	1 mile	PFOS	PFOS Contaminated Fish Tissue	Addition
Dane	804700	Wingra Creek	5533632	WI10033422	RIVER	1 mile	PFOS	PFOS Contaminated Fish Tissue	Proposed for List
Monroe	1660500	Silver Creek	949202	WI10010407	RIVER	8 miles	PFOS	PFOS Contaminated Fish Tissue	Proposed for List
Monroe	1660500	Silver Creek	1180470	WI1180470	RIVER	2 miles	PFOS	PFOS Contaminated Fish Tissue	Proposed for List
Douglas	2751220	Lake Superior	892439	WI10008955	GREAT LAKES SHORELINE	186 miles	PFOS	PFOS Contaminated Fish Tissue	Addition

[1] 'Proposed for List' means the water is new to the Impaired Waters list; 'Addition' means there are other pollutant listings for that waterbody.

Unknown Pollutant Listings

"WPC and WMC request the following changes to the 2022 draft impaired waters list: The removal of the stretch of the Wisconsin River listed due to an "unknown" pollutant. It is impossible to know if a TMDL will be effective if the pollutant is unknown. The Department should also cite its explicit statutory authority for listing a water body as "impaired" if the pollutant cannot even be identified." **(Patrick Stevens, Vice President of Wisconsin Paper Council, and Craig Summerfield, Director of Wisconsin Manufacturers & Commerce)**

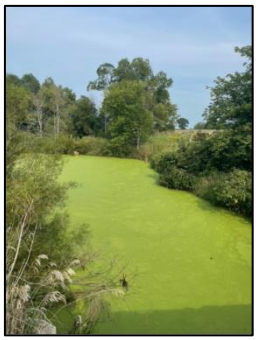
Response: This suggestion is not consistent with federal regulations for impairment listings (40 CFR 130.7). Pollutants aren't always responsible for impairments. Other causes such as presence of invasive species or physical features may cause impairments of narrative criteria, designated uses or other numeric criteria such as dissolved oxygen. Furthermore, a TMDL is not always required to address a waterbody impairment. Restoration activities (e.g removal of invasive species, dredging activites, etc.) can and should be implemented when a pollutant is not identified as a contributing cause of an impairment.

Staff review the biological, physical and pollutant specific data that have been collected and assess whether a surface water is achieving its designated use and/or applicable numeric or narrative criteria which are promulgated in chapters NR 102 and 105. Some of the listed surface waters require preparation of a TMDL and every state is required to identify and prioritize those impaired waters needing a TMDL pursuant to 40 CFR 130.7. Sometimes, however, the biological impairment is clearly present but the stressor that is causing the impairment is not clear. EPA recommendation and department practice has been to classify these waterbodies as impaired but "pollutant unknown". As a practical matter, because the approach taken to develop a TMDL requires a numeric target (typically a water quality standard), the department would not pursue TMDL development until it had confirmed that the stressor was an identifiable pollutant.

To address this comment, the department explored with EPA what options exist for listing these "pollutant unknown" impairments while making it clear that the TMDL development would only occur when the pollutant was known. Unfortunately, no flexibility was offered to use a different category, a different classification, etc. So, at this time, the department will address this comment by adding a note explaining that waters listed with "pollutant unknown" as a potential cause would not be prioritized for TMDL development until further work has been done to confirm that the stressor is an identifiable pollutant.

Specific Waters

Barr Creek (WBIC 50200)



"I was stunned to read that Barr Creek here in Oostburg is in your "healthy" category. Please see the attached photo of solid algae coverage no doubt the result of runoff. Please review." (**Citizen**)

Response: Thank you for this additional information on Barr Creek! We currently have this creek listed as Heathy with a subcategory of '2C', which means that we only have a small amount of evidence for the healthy determination. Your information will be added to our assessment.

Beaver Dam Lake (WBIC 835100)

"Keep Beaver Dam lake on impaired list and potentially add a category of lakes (impoundments) that are completely dead. This impoundment is completely dead. A couple summer fish and waterfowl die offs. I have found dead mallards, teal, wood ducks, geese, pelicans and egret's this summer on BD. The DNR so cleverly keeps this news out of the local news and keeps the big lie alive. Huge algae blooms of freakish white, blue and red algae blooms appeared all summer this year and does in most. For god's sake remove the dam and let nature fix this eye sore. Why are their humans waterskiing, swimming and just being near the water? Dogs have died this summer after swimming in the deadly waters. Amazing how incompetent our DNR and local health officials are on this issue. Tired of your pathetic leadership and lack of using science." (**Citizen**)

Response: The Beaver Dam Lake Total Maximum Daily Load (TMDL) plan was approved by the EPA in 2018, which moved this listing to the Restoration Waters List. The lake was reevaluated with new phosphorus and algae data and the impairments were confirmed.

Biologically this lake is not 'dead' as evidenced by abundant populations of largemouth bass, northern pike, bigmouth buffalo, channel catfish, white suckers, and crappie among other fish species. The lake has pollution issues but it has not reached the level of a 'dead zone' situation (lack of oxygen kills most life).

The recent fish and duck kills were investigated and reported in the media; the fish kills were due to a virus that specifically impacts carp, koi, and goldfish (KHV, Koi Herpes Virus). There were several ducks found dead by Crystal Lake this year and it was determined they died from botulism (https://wkow.com/2021/08/19/dnr-determine-cause-for-multiple-dead-ducks-in-crystal-lake-park/), an issue that seems to be reoccurring in the area as there is a 2012 article about dead water fowl on Beaver Dam Lake due to botulism (https://www.wiscnews.com/bdc/news/local/botulism-confirmed-as-cause-of-duck-die-off/article_8329cd58-0107-11e2-bf5f-001a4bcf887a.html). If you're finding dead birds along the lake shore please report them to: DNRCustomerServWeb@wisconsin.gov.

Comus Lake (WBIC 794200) and tributaries

Water quality data including phosphorus were collected in 2019 and 2020 on Comus Lake (WBIC 794200), Turtle Creek (WBIC 790300), an Unnamed Tributary to Turtle Creek (WBIC 794300), and Jackson Creek (WBIC 793800). There were only 5 of the needed 6 samples for Comus Lake evaluation, but phosphorus levels were so high it would be helpful to the restoration effort to have this lake listed in the 2022 instead of 2024 cycle. Stream samples indicate impairment for phosphorus, but not all data were entered into SWIMS before the assessments were done in January 2021. The lake and its tributaries should be listed on the 2022 Impaired Waters List. **(Larry Meyer and Kevin Armstrong of Lake Comus Protection and Rehabilitation District)**

Response: Phosphorus data were evaluated by multiple WDNR biologists for Comus Lake and the four stream segments mentioned. Comus Lake's phosphorus levels were well above criteria (mean: 151 ug/L; TP criterion: 40 ug/L). Phosphorus levels were higher than criteria on Turtle Creek and its Unnamed Tributary, but not on Jackson Creek (Table 1). With these results three phosphorus listings were additionally proposed for the 2022 impaired waters list (Table 2).

Table 1. Phosphorus evaluation results for 2019 – 2020 data for four stream segments.

WBIC	AU ID	Station	Official Waterbody Name	TP Criteria	# Samples	Median (ug/L)	LCL (ug/L)	UCL (ug/L)	Relation to Criteria
790300	18241	10052470	Turtle Creek	75	11	258	175	298	**Clearly Exceeds**
794300	6854137	10044913	Unnamed	75	11	162	152	220	**Clearly Exceeds**
793800	11619	10039765	Jackson Creek	75	10	85	57	91	May Exceed
793800	11619	10014361	Jackson Creek	75	11	84	45	94	May Exceed

Table 2. New listings based on available phosphorus data in Lake Comus watershed.

WBIC	AU ID	EPA ID	Official Waterbody Name	Proposed Pollutant	Proposed Impairment	Listing Category
790300	18241	WI10006231	Turtle Creek	Total Phosphorus	Unknown	5P
794300	6854137	WI10039841	Unnamed	Total Phosphorus	Unknown	5P
794200	11620	WI10001424	Lake Comus	Total Phosphorus	Eutrophication, Excess Algal Growth	5A

Green Lake (WBIC 146100)

"[A]chieving a 46% reduction in phosphorus (to meet our water quality criteria of 15 ug/L) would still leave Green Lake impaired for its metalimnetic oxygen minima. This demonstrates that a single impairment listing is insufficient; not listing Green Lake as impaired for *both* low dissolved oxygen and phosphorus is an incomplete portrayal of our water quality challenges. Therefore, we strongly urge the WDNR to add Green Lake to the 2022 Draft Impaired Waters and Restoration Waters Lists as 303(d)-listed for phosphorus with the impairment specification as pollutant unknown (or whichever impairment specification the WDNR supports)." **(Stephanie Prellwitz of Green Lake Association)**

Response: While phosphorus is not the only factor in the metalimnetic oxygen minima, it is part of the issue; for that reason, the link between phosphorus and low dissolved oxygen (DO) will remain. Based on the 2021 Diagnostic & Feasibility study you cited a reduction in phosphorus will improve DO concentrations. Removing the phosphorus listing is not contingent on DO meeting criteria. When phosphorus levels are low enough for delisting the DO impairment will be reevaluated.

Lake Waubesa (WBIC 803700)

"I have fished lakes Monona and Waubesa for many years. I have read all the information on the health effect PFOS and PFAS can possible cause when eating fish from our local lakes and streams all the way down to the Rock river. I am curious why there are no signs posted on lake Waubesa.

There is one sign posted on Monona Bay warning on fish consumption. Babcock County Park is a popular camping and fishing area for out of state tourists. Many local fisherman also utilize the Babcock boat landing at The East end of lake Waubesa. I'm sure some of them may not have information on the current health hazards on eating fish from this lake. Since the contamination levels are just as bad in lake Waubesa, isn't it prudent to have information on the possible health hazards posted here as well?

Also, the daily bag limit on panfish is 25 fish per day. The advisory on eating fish is one meal per week. What does one meal per week consist of. I have not seen any information or guideline as to what one meal per week is. Is one meal 6 ounces of un-cooked meat per week, or maybe it is 8 ounces of un-cooked meat per week. Do fisherman possibly think 25 fish is one meal per week. I'm sure that is way over the suggested amount." **(Citizen)**

Response: Signage for county parks is not handled by the DNR, but this question was forwarded on to Dane County staff who are reviewing the need for a fish consumption advisory sign. One meal is a serving, which is based on body weight. For an adult the amount is about 6 – 8 oz.

Silver Birch Lake (WBIC 2054600)

"I have recreated on Silver Birch Lake my whole life. Fishing has gradually deteriorated over the last 15 years. I know the dnr did a water study on the lake and it was deemed a highly Eutrophic lake. I did some research and Silver Birch appears on the impaired waters list. It has a 5A designation and described with high phosphorus. My question is on the impaired waters list it says 5A means bad conditions exist, but more research needs to be done before action. Is there anything I can do to get the ball rolling on some action on this? It would be great if you could give me a response." **(Citizen)**

Response: Category 5A indicates the lake is impaired and a pollutant load reduction plan has not yet been made. Restoration actions can and often do take place before a plan is in place. Some farming best management practices have been implemented in the watershed including conservation tillage, nutrient/pest management planning, and critical area planting. Pepin County recently released its 2021 – 2030 Land & Water Resource Management Plan, which includes discussion of Silver Birch Lake on page 30: "The natural resource concerns with Silver Birch Lake are very difficult to address because only a small amount of land (less than 1000 acres) drains directly into the lake. The major contributor to this lake is the Chippewa River when it floods, which makes management extremely difficult.".

Stream C, tributary to the Flambeau River (WBIC 4000013)

"We are providing the following brief written comments on behalf of Flambeau Mining Company ("FMC") regarding Stream C, Rusk County, Wisconsin. As you may know, Stream C lies entirely within FMC property. FMC objects to the proposed addition of the upper reach of Stream C to the listing."

"Further, FMC objects to the change in Source Category (now referred to as Pollutant Source in the draft 2022 listing) as there are no new data or circumstances which support a change from the initial designation in 2012."

(Timm Speerschneider on behalf of Flambeau Mining Company)

Response: In 2021, the DNR streams biologist familiar with the area confirmed that a defined stream channel exists north of Copper Park Lane. A sampling point on this upper stream channel showed aquatic toxicity due to zinc and copper levels, which resulted in this segment being added to the 2022 Impaired Waters List.

WDNR has identified the source of zinc and copper as ‘Unknown’ for this stream since first listing in 2012 because water sampling was not done prior to mining activity and this area has known mineral deposits. Identifying the source of pollutants as being a ‘Point Source’ in the 2022 draft Impaired Waters List was an error. The identified source in the final draft 2022 Impaired Waters List is ‘Unknown’.

Permits

“If a site discharges to a water that is not listed as impaired, but that water connects to an impaired water further downstream, would that upstream segment be held to impaired water sampling criteria or just the discharge to the impaired stream?” **(Citizen)**

Response: Downstream impacts are considered while setting effluent discharge limits, but it will ultimately depend on the situation, the limits associated with the immediate receiving stream, and if they are determined to be protective of the downstream waterbody. Just because there is an impaired waterbody downstream, doesn’t necessarily mean limits are set equal to the criteria of the downstream waterbody.

Agriculture

Agriculture and Invasives

“In my opinion there are 2 major issues that are related to water quality in our streams, rivers and bays. 1) Increase of hydraulic loading due to installation of agricultural drain tile. This allow the water to flow faster to the tributaries and rivers. It increases the flow and reduces the duration. 2) Stream bank erosion caused by invasive species. Approximately 30 years ago there was an effective campaign to remove livestock from stream banks. The unintended consequence was the invasive species including phragmites, willow and buckthorn took over the stream banks creating a dense monoculture which choked out the native, deep rooted indigenous plants and trees. These invasives have a shallow root system that succumb to water when the rivers crest during peak flows. In short, the debris from these invasives gets washed away. This debris creates obstructions (dams) in which water is routed around the dam and causes a great deal of erosion.” **(Citizen)**

Response: These are both important issues for surface water quality in Wisconsin. Best Management Practices (BMPs) during watershed protection or restoration efforts can help mitigate the negative impacts of invasive species and drain tiles. Your comment has been forwarded to appropriate program staff for review.

Agriculture Management

[Some spelling updated for clarity] “I live in Kewaunee county and was thankful that the State of Wisconsin made some changes with the rule NR151...you identified 13 counties with unique geology issues and made changes. This was a huge step forward for all of the counties...especially Kewaunee....my county has over 100,000 cows and they produce in ONE-DAY what 2,000,0002,500,000 people will. All this manure then needs to be spread onto and into the fields of Kewaunee. We are in our mess not because of the animals...they have done nothing wrong...the problem is with their...OWNERS..! I have some suggestions that would really help....1. No spreading of liquid manure on any fields with less than 20 feet of soil to bedrock or groundwater whichever comes first. 2. Increase all setback to 50 feet on waterways...creeks...streams...lakes...etc. and 500 feet from private wells. 3. Limit the amount of liquid manure on fields with 20+ feet of soil to 3000 gallons per acre/per year. Spreading their manure over more and safer acres would really help. 4. Put in place the Well Monitoring systems that the Supreme Court just approved...my county has 16

CAFO's...use the TOOLS given to you. 5. Get signed land contracts from renters and have the field tested BEFORE it gets into the NMP's. 6. Get real time reporting on all HIGH CAPACITY WELLS...until we really know how much water is used it becomes difficult to come up with solid numbers for their NMP's. Farmers created this pollution issue when they brought millions of gallons of clean fresh water into their barns...and...farmers can fix it. 7. Stop spreading of liquid manure on fields with DRAIN TILES in them...with liquid manure these tiles are just sewer pipes moving the problem off the field and into our water systems...STOP THIS PRACTICE. These are just a few suggestion...the ones I believe could quickly make a HUGE difference." **(Citizen in Kewaunee County)**

Response: These recommendations could help with agricultural pollution and have been forwarded to appropriate program staff for review.

EPA Comments

In order to address comment 1 parts a – d, a second comment period was done. The materials for this comment period clarified the waters and parameters being added to three TMDL plans. A subset of waters were overlooked during the second comment period; these waters were left as Category 5 and put in Appendix F of the 2022 Water Quality Report to Congress.

"2. Please review Wisconsin's information in ATTAINS for the 2022 cycle to confirm that Organization IR Category entries under Use Attainment are consistent with EPA IR Category for each designated use and consistent with the Organization IR Category and EPA IR Category for the Assessment Unit."

Response: For the two examples given (in full comments), the discrepancies were due to issues noted in EPA's comments 1 and 3; these were resolved prior to submittal. There was an additional set of AUs where the Use Attainment 'Fully Supporting' caused EPA's automated system to consider the water a Category 2, but the water was marked as Category 3 by WDNR. This set of waters was updated to correctly indicate either Category 3 or Category 2.

"3. WI10024761, Selner Park Beach (City of Kewaunee), Lake Michigan, is included on the WI 2022 Draft IR, Listing Removals worksheet to delist E. coli, however, the 2022 Public Comment ATTAINS does not include a delisting reason or a delisting comment. Please add both to ATTAINS.

The 2022 Public Comment ATTAINS for this assessment unit also includes the comment "TMDL=813". EPA could not find a TMDL associated with this assessment unit. Please explain this comment."

Response: The delisting information was somehow missed in the initial submittal to ATTAINS; this has been updated. The comment "TMDL=813" is from an old numbering system for impairment listings. This has been removed from ATTAINS.

"4. WI10008643, Unnamed (local water name is Deer Creek), is included on the WI 2022 Draft IR, Listings Removals worksheet to delete the pollutant Elevated Water Temperature. The WI 2020 IR included temperature as an observed effect, temperature was not included as part of the approved 2020 category 5. Please clarify whether temperature should be deleted in the 2022 cycle."

Response: The WDNR's WATERS database contained a listing for Temperature as a Pollutant/Cause, in addition to an Observed Effect. In EPA's ATTAINS database the Temperature listing was an observed effect in the 2020 cycle, as a result there is no need to delist temperature. This has been corrected in the ATTAINS database.

“5. WI10005887, Trout Brook, was included in WI 2020 IR Category 5 as not meeting criteria for fecal coliform and not supporting recreation use. This assessment unit has been retired in ATTAINS and is not included on the WI 2022 Draft IR. During our call on September 27, 2021, you indicated that this assessment unit was resegmented into two new assessment units in order to remove the portion of this assessment unit that is a Tribal water. Please explain the resegmentation and the current listing status of the two new assessment units so EPA can confirm with the information in ATTAINS.”

Response: The 2020 Trout Brook AU, length 3.25 miles, was segmented because part of the brook is on Tribal lands. WDNR continues to work on the AU edit module so that this information is automatically ported over the ATTAINS. However, it appears the original AU is not connected to the new AU in ATTAINS. Here are the two new AUs that replace WI10005887. The second AU is not in ATTAINS because it is within tribal lands.

ATTAINS ID	Total Size	Jurisdiction	Category	Use	Cause	OE
WI9119859	2.64 Miles	STATE	5A	REC	FECAL COLIFORM	PATHOGENS
WI9119856	0.61 Miles	TRIBAL	2B	--	--	--

“6. Please explain why WI10001479 for total phosphorus is changing categories from 4A to 5.”

“As mentioned above, TSS was also included in Category 4A in the WI 2020 IR. The 2022 Public Comment ATTAINS continues to show TSS in Category 4A with the associated action 41145. The two implementation related actions are no longer associated with TSS. EPA reviewed the assessment units and parameters associated with the Action 41145, Rock River TMDL, and did not find TSS or total phosphorus. Please confirm that TSS, and if appropriate total phosphorus, for WI10001479, Dorn Creek, are included in the Rock River TMDL.”

Response: The 2020 update of adding TP to TMDL Action 41145 was in error. The Rock River TMDL was approved in 2011, but the Dorn Creek TP listing was made in the 2016 cycle. The TSS listing was created in the 2002 cycle and was included in the Rock River TMDL. The final report, Table 1, shows the impaired waters included in the TMDL and has matching information for this segment of Dorn Creek. The following is the entry for Dorn Creek.

Waterbody	Description	Counties	Waters ID	Pollutants	Impairments	Current Use	Designated Use	Supporting Designated Use
Dorn Creek	Mile 1 – 6.46	Dane	11694	Sediment/TSS	Elevated Water Temperature	LFF-Not Supporting	Default FAL	NR102 Classification

Note there is no ATTAINS AU ID in this table; the IDs have changed over time but are not necessarily linked to the new IDs. The location and listing information for WI10001479 match exactly what is in the Rock River TMDL; the WDNR ID (WATERS ID) for this AU, matches the table above. A copy of the Rock River TMDL can be accessed here: https://dnr.wisconsin.gov/topic/TMDLs/RockRiver/index.html.

"9. EPA reviewed information available in the WI 2022 Draft IR available at https://dnr.wisconsin.gov/topic/SurfaceWater/ConditionLists.html, information available in the 2022 Public Comment ATTAINS, as well as comparing the aforementioned to the WI 2020 IR. Table 2 below identifies either inconsistencies or comments related to listings for specific assessment units. Please provide clarification for the assessment units and their associated listings included in Table 2."

Assessment Unit ID	Assessment Unit Name	Parameter Name	Use Name	WI 2020 IR	WI 2022 Draft IR, Impaired Waters List	2022 Public Comment ATTAINS	EPA Comment	WDNR Response
WI6901968	Pecatonica River	Total Phosphorus (TP)	Fish & Aquatic Life (FAL)	Assessment unit (AU)/parameter not included.	AU/parameter included, not included in Additions worksheet.	AU/parameter not included.	WI 2022 Draft IR identifies year first listed as 2012. This AU is not found in AU module in ATTAINS. Please clarify if this is a new listing in the 2022 cycle.	This AU should not be included. The miles overlapped with WI6901966.
WI9123346	Porcupine Creek	TP	FAL	AU/parameter not included.	AU/parameter included, not included in Additions worksheet.	AU/parameter included.	WI 2022 Draft IR identifies year first listed as 2018. ATTAINS AU module indicates that a modification to this AU was made. Please provide further clarification to identify changes made to this listing between 2020 and 2022.	A fisheries classification was done on this stream. AU WI10004273 was incorrectly split – the ID should have been retired but was not. This AU is the headwater portion of the stream which is not Class II Trout waters like the rest.
WI10038903	Trempealeau River	TP	FAL	AU/parameter not included.	AU/parameter included, not included in Additions worksheet.	AU/parameter not included.	WI 2022 Draft IR identifies year first listed as 2018. ATTAINS AU module indicates this AU was split. Please provide further clarification to identify change made to this listing between 2020 and 2022.	This segment was split into WI8105984 and WI8106051. It shouldn't have been included on the 2022 excel spreadsheet.
WI10004359	Big Moon Lake	TP	Recreation (Rec) & FAL	AU/parameter included for both uses.	AU/parameter listed only for FAL use.	AU/parameter included for both uses.	Please confirm whether TP and REC should be included in the 2022 cycle.	2022 Public Comment ATTAINS is correct.
WI10005039	Bone Lake	TP	Rec & FAL	AU/parameter included for both uses.	AU/parameter listed only for FAL use.	AU/parameter included for both uses.	Please confirm whether TP and REC should be included in the 2022 cycle.	2022 Public Comment ATTAINS is correct.

Assessment Unit ID	Assessment Unit Name	Parameter Name	Use Name	WI 2020 IR	WI 2022 Draft IR, Impaired Waters List	2022 Public Comment ATTAINS	EPA Comment	WDNR Response
WI10006014	Chippewa River	Polychlorinated Biphenyls (PCB)	Fish Consumption (FC) & FAL	AU/parameter included for both uses.	AU/parameter listed only for FC use.	AU/parameter included for both uses.	Please confirm whether PCB and FAL should be included in the 2022 cycle.	2022 Public Comment ATTAINS is correct.
WI10008884	Chippewa River	PCB	FC & FAL	AU/parameter included for both uses.	AU/parameter listed only for FC use.	AU/parameter included for both uses.	Please confirm whether PCB and FAL should be included in the 2022 cycle.	2022 Public Comment ATTAINS is correct.
WI10008488	Columbus Mill Pond	PCB	FC & FAL	AU/parameter included only for FAL.	AU/parameter listed only for FC.	AU/parameter included only for FAL.	FC use in ATTAINS is in Category (Cat) 3. Please confirm whether FC use has been assessment for this parameter. Please confirm whether this AU/parameter for FAL should have been included on the WI 2022 DRAFT IR.	2022 Public Comment ATTAINS is correct.
WI10006666	Coon Fork Flowage	TP	Rec & FAL	AU/parameter included for both uses.	AU/parameter listed only for Rec use.	AU/parameter included for both uses.	Please confirm whether TP and FAL should be included in the 2022 cycle.	2022 Public Comment ATTAINS is correct.
WI10004500	Deep Lake	TP	Rec & FAL	AU/parameter included for both uses.	AU/parameter listed only for FAL use.	AU/parameter included for both uses.	Please confirm whether TP and REC should be included in the 2022 cycle.	2022 Public Comment ATTAINS is correct.
WI10004681	Eau Claire Lake	TP	Rec & FAL	AU/parameter included for both uses.	AU/parameter listed only for Rec use.	AU/parameter included for both uses.	Please confirm whether TP and FAL should be included in the 2022 cycle.	2022 Public Comment ATTAINS is correct.
WI10000133	Gass Lake	TP	Rec & FAL	AU/parameter included for both uses.	AU/parameter listed only for Rec use.	AU/parameter included for both uses.	Please confirm whether TP and FAL should be included in the 2022 cycle.	2022 Public Comment ATTAINS is correct.
WI10007625	Kentuck Lake	TP	Rec & FAL	AU/parameter included for both uses.	AU/parameter listed only for FAL use.	AU/parameter included for both uses.	Please confirm whether TP and REC should be included in the 2022 cycle.	2022 Public Comment ATTAINS is correct.
WI10003528	Lac Sault Dore	TP	Rec & FAL	AU/parameter included for both uses.	AU/parameter listed only for FAL use.	AU/parameter included for both uses.	Please confirm whether TP and REC should be included in the 2022 cycle.	2022 Public Comment ATTAINS is correct.
WI10009847	Leota Lake	TP	Rec & FAL	AU/parameter included for both uses.	AU/parameter listed only for Rec use.	AU/parameter included for both uses.	Please confirm whether TP and FAL should be included in the 2022 cycle.	2022 Public Comment ATTAINS is correct.
WI10005131	Long Trade Lake	TP	Rec & FAL	AU/parameter included for both uses.	AU/parameter listed only for Rec use.	AU/parameter included for both uses.	Please confirm whether TP and FAL should be included in the 2022 cycle.	2022 Public Comment ATTAINS is correct.

Assessment Unit ID	Assessment Unit Name	Parameter Name	Use Name	WI 2020 IR	WI 2022 Draft IR, Impaired Waters List	2022 Public Comment ATTAINS	EPA Comment	WDNR Response
WI10003679	Lower Park Falls Flowage	Mercury (Hg)	FC & FAL	AU/parameter included for both uses.	AU/parameter listed only for FC use.	AU/parameter included for both uses.	Please confirm whether Hg and FAL should be included in the 2022 cycle.	2022 Public Comment ATTAINS is correct.
WI10025433	Mississippi River	Hg	FC & Wildlife3	AU/parameter included for both uses.	AU/parameter listed only for wildlife use.	AU/parameter included for both uses.	Please confirm whether Hg and FC should be included in the 2022 cycle.	2022 Public Comment ATTAINS is correct.
WI10007385	Mud Lake	TP	Rec & FAL	AU/parameter included for both uses.	AU/parameter listed only for Rec use.	AU/parameter included for both uses.	Please confirm whether TP and FAL should be included in the 2022 cycle.	2022 Public Comment ATTAINS is correct.
WI10004479	Poskin Lake	TP	Rec & FAL	AU/parameter included for both uses.	AU/parameter listed only for Rec use.	AU/parameter included for both uses.	Please confirm whether TP and FAL should be included in the 2022 cycle.	2022 Public Comment ATTAINS is correct.
WI10005130	Round Lake	TP	Rec & FAL	AU/parameter included for both uses.	AU/parameter listed only for Rec use.	AU/parameter included for both uses.	Please confirm whether TP and FAL should be included in the 2022 cycle.	2022 Public Comment ATTAINS is correct.
WI10000326	Shea Lake	TP	Rec & FAL	AU/parameter included for both uses.	AU/parameter listed only for Rec use.	AU/parameter included for both uses.	Please confirm whether TP and FAL should be included in the 2022 cycle.	2022 Public Comment ATTAINS is correct.
WI10008190	Sheboygan River	PCB	FC & FAL	AU/parameter included for both uses.	AU/parameter listed only for FC.	AU/parameter included for both uses.	Please confirm whether TP and FAL should be included in the 2022 cycle.	2022 Public Comment ATTAINS is correct.
WI10008717	Spirit Lake	TP	Rec & FAL	AU/parameter included for both uses.	AU/parameter listed only for Rec use.	AU/parameter included for both uses.	Please confirm whether TP and FAL should be included in the 2022 cycle.	2022 Public Comment ATTAINS is correct.
WI10007188	Spirit River Flowage	TP	Rec & FAL	AU/parameter included for both uses.	AU/parameter listed only for Rec use.	AU/parameter included for both uses.	Please confirm whether TP and FAL should be included in the 2022 cycle.	2022 Public Comment ATTAINS is correct.
WI10001549	Tripp Lake (Trapp)	TP	Rec & FAL	AU/parameter included for both uses.	AU/parameter listed only for FAL use.	AU/parameter included for both uses.	Please confirm whether TP and REC should be included in the 2022 cycle.	2022 Public Comment ATTAINS is correct.
WI10008643	Unnamed	TP & TSS	FAL	AU/TP listed for FAL use. AU/TSS listed for FAL use.	AU/TP listed for Rec use. AU/TSS listed for FAL use.	AU/TP listed for FAL use. AU/TSS listed for FAL use.	ATTAINS has AU for Rec use in Cat 3.	2022 Public Comment ATTAINS is correct.
WI10008146	Upper Kelly Creek	TP	Rec & FAL	AU/parameter included for both uses.	AU/parameter listed only for FAL use.	AU/parameter included for both uses.	Please confirm whether TP and REC should be included in the 2022 cycle.	2022 Public Comment ATTAINS is correct.

Assessment Unit ID	Assessment Unit Name	Parameter Name	Use Name	WI 2020 IR	WI 2022 Draft IR, Impaired Waters List	2022 Public Comment ATTAINS	EPA Comment	WDNR Response
WI10006733	Ward Lake	TP	Rec & FAL	AU/parameter listed only for Rec use.	AU/parameter listed only for FAL use.	AU/parameter included for both uses.	Please confirm whether TP and Rec, as listed on WI 2020 IR, are being delisted in the 2022 cycle. Please confirm if TP and FAL, as listed on WI 2022 Draft IR, is an addition in the 2022 cycle.	The TP/FAL combination was an addition in the 2022 cycle. The TP/REC combination remains. 2022 Public Comment ATTAINS is correct.
WI10000122	Weyers Lake	TP	Rec & FAL	AU/parameter for both uses included.	AU/parameter included only for Rec use.	AU/parameter included for both uses.	Please confirm whether AU should include listing for TP and FAL.	2022 Public Comment ATTAINS is correct.
WI10005159	Wood Lake	TP	Rec & FAL	AU/parameter for both uses included.	AU/parameter included only for FAL use.	AU/parameter included for both uses.	Please confirm whether AU should include listing for TP and REC.	2022 Public Comment ATTAINS is correct.