



STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES
PERMIT TO DISCHARGE UNDER THE
WISCONSIN POLLUTANT DISCHARGE ELIMINATION SYSTEM

In compliance with the provisions of Chapter 283, Wisconsin Statutes, and chs. NR 151 and NR 216, Wisconsin Administrative Code, the **Menomonee River Watershed Permittees**:

(Municipalities covered under this permit are to be determined.)

are permitted to discharge storm water from

ALL PORTIONS OF THE MUNICIPAL SEPARATE STORM SEWER SYSTEMS

Owned or operated by the **Menomonee River Watershed Permittees** to waters of the state in the following watersheds:

MENOMONEE RIVER
FOX RIVER
CEDAR CREEK
KINNICKINNIC RIVER
ROOT RIVER

in accordance with the conditions set forth in this permit.

This permit takes effect on the date of signature.

This permit to discharge expires at midnight, _____.

To retain authorization to discharge after this expiration date, an application shall be filed for reissuance of this permit in accordance with the requirements of s. NR 216.09, Wis. Adm. Code, at least 180 days prior to this expiration date.

State of Wisconsin Department of Natural Resources
For the Secretary

By _____
Bryan Hartsook
Water Resources Engineer

Date of Signature

EFFECTIVE DATE/START DATE:

EXPIRATION DATE:

1 **Part I. APPLICABILITY**
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3 The Menomonee River Watershed Permittees own and operate municipal separate storm sewer systems
4 that discharge to waters of the state. Permitted discharges from municipal separate storm sewer systems
5 may consist of runoff from rain events or snow melt. Pollutants often found in municipal separate storm
6 sewer system discharges include organic materials, suspended solids, metals, nutrients, bacteria,
7 pesticides, fertilizer, and traces of toxic materials.
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9 A. PERMITTED AREA: This WPDES permit regulates municipal separate storm sewer system (MS4)
10 discharges from the following municipalities located fully or partially within the Menomonee River
11 Watershed:
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13 (Municipalities covered under this permit are yet to be determined)
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15 In this permit these municipalities are referred to as the Menomonee River Watershed Permittees. This
16 permit covers all areas within the jurisdiction of the Menomonee River Watershed Permittees, including
17 areas of the communities which do not drain into the Menomonee River watershed. This permit is issued
18 in accordance with chapter 283, Wis. Stats. and chs. NR 151 and NR 216, Wis. Adm. Code. The permit
19 requirements are intended to restore and maintain the chemical, physical, and biological integrity of
20 waters of the state through management and treatment of storm water runoff within the MS4 service area.
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22 B. THE MENOMONEE RIVER WATERSHED: The Menomonee River watershed is located within
23 the Milwaukee River Basin and covers approximately 136 square miles of urban landscape across
24 portions of Washington, Ozaukee, Waukesha, and Milwaukee Counties. The watershed is home to a
25 population of about 322,000 people. The Menomonee River originates in wetlands near the Village of
26 Germantown and the City of Mequon and runs south, southeast for about 32 miles where it meets the
27 Milwaukee and Kinnickinnic Rivers in the Milwaukee Harbor prior to flowing into Lake Michigan.
28 Sixty-four percent of the land is covered by urban uses, 17 percent is covered by agriculture, and the
29 remainder is covered by grassland, forested, or wetland areas. The watershed contains 96 total stream
30 miles and over 6,780 wetland acres.¹
31

32 Stream and wetland modification, urban and rural runoff, construction site erosion and industrial point
33 sources of pollution are the major contributors to degraded water and habitat quality within this
34 watershed. The 2008 303(d) list, which is the most recent one approved by the U.S. Environmental
35 Protection Agency, lists 11.7 miles of stream as being impaired. A water is considered impaired if a) the
36 current water quality does not meet the numeric or narrative criteria in a water quality standard or b) the
37 designated use that is described in Wisconsin Administrative Code is not achieved. A documented
38 methodology called the Wisconsin Consolidated Assessment and Listing Methodology (WisCALM)
39 describes the approach used to list waters as impaired. Table 1 shows the currently listed waters, as well
40 as those proposed for listing based on new information for the 2012 Clean Water Act reporting cycle.
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¹SEWRPC Technical Report No. 39, Water Quality Conditions and Sources of Pollution in the Greater Milwaukee Watersheds, November 2007; Wisconsin Department of Natural Resources, The State of the Milwaukee River Basin, August 2001.

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Table 1. Menomonee River Watershed – Waterway Impairments

Waterway Name	Segment Length (miles)	Location Description <i>MS4(s)</i>	Pollutant of Concern	Impairment +	Listing Date
Goldendale Creek	3.5	STH 41 to confluence with Menomonee River <i>Village of Germantown</i>	Fecal Coliform	+	Proposed 2010
Honey Creek	8.96	43 rd St. north of Edgerton Ave to confluence with Menomonee River <i>Cities of Greenfield, West Allis, Milwaukee, and Wauwatosa</i>	Fecal Coliform	+	Proposed 2010
	8.96		Total Phosphorus	●	Proposed 2012
Little Menomonee Creek	3.9	Highland Road south to confluence with Little Menomonee River north of Donges Bay Rd <i>City of Mequon</i>	Fecal Coliform	+	Proposed 2010
Little Menomonee River	9	STH 167 south to confluence with Menomonee River at CTH EE <i>City of Milwaukee</i>	Total Phosphorus	●	Proposed 2012
	9		Creosote	△	1998
	9		Fecal Coliform	+	Proposed 2010
Menomonee River	2.67	35 th St. east to confluence with Milwaukee River <i>City of Milwaukee</i>	Total Phosphorus	▲	1998
	2.67		PCBs	■	1998
	2.67		Fecal Coliform	+	Proposed 2010
	2.67		E. coli	+	1998
	2.67		Unspecified Metals	△	1998
	3.61	72 nd St from confluence with Honey Creek to 35 th St. <i>Cities of Wauwatosa and Milwaukee</i>	Fecal Coliform	+	Proposed 2010
Milwaukee River	2.9	North Avenue Dam to confluence with Kinnickinnic River <i>City of Milwaukee</i>	Total Phosphorus	▲	1998
	2.9		E. coli	+	1998
	2.9		Unspecified Metals	■	1998
	2.9		PCBs	■	1998
Underwood Creek	2.84	Bluemound Rd and UPS pedestrian bridge to confluence with Menomonee River south of North Ave. <i>City of Wauwatosa</i>	Fecal Coliform	+	Proposed 2010
	2.84		Total Phosphorus	●	Proposed 2012
	5.7	Calhoun Rd to UPS pedestrian path/bridge at confluence with South Branch of Underwood Creek <i>City of Brookfield and Village of Elm Grove</i>	Fecal Coliform	+	Proposed 2010
	5.7		Unknown Pollutant*	●	Proposed 2012
South Branch of Underwood Creek	1	Underwood Creek Pkwy to confluence with Underwood Creek at UPS pedestrian path/bridge <i>Cities of West Allis and Brookfield</i>	Total Phosphorus	●	Proposed 2012

(Table 1 Continued)

Waterway Name	Segment Length (miles)	Location Description <i>MS4(s)</i>	Pollutant of Concern	Impairment ⁺	Listing Date
West Branch Menomonee River	2.45	STH 41 Hubertus Rd to confluence with Goldendale Creek <i>Village of Germantown</i>	Fecal Coliform	+	Proposed 2010
Butler Ditch	2.9	East of CTH YY and north of STH 190 south and east to confluence with Menomonee River south of CTH VV <i>City of Brookfield and Village of Menomonee Falls</i>	Fecal Coliform	+	Proposed 2010
Lilly Creek	4.7	East of CTH YY and north of STH 190 north and east to confluence with Menomonee River north of STH 175 <i>City of Brookfield and Village of Menomonee Falls</i>	Fecal Coliform	+	Proposed 2010
Nor-X-Way Channel	4.9	North of STH 167 south to confluence with Menomonee River south of STH 41 <i>City of Mequon and Villages of Germantown and Menomonee Falls</i>	Fecal Coliform	+	Proposed 2010
Willow Creek	2.8	South of CTH Q north to confluence with Menomonee River south of STH 41 <i>Villages of Menomonee Falls and Germantown</i>	Fecal Coliform	+	Proposed 2010
<p>+ Key: Recreational Restrictions – Pathogens (+); Degraded Biological Community (●); Low DO (▲); Contaminated Fish Tissue or Sediment (■); Chronic Aquatic Toxicity (△)</p> <p>*Federal regulations, specifically 40 CFR section 130.7(b)(1), provide that water bodies included on State section 303(d) lists are those water bodies for which pollution controls required by local, State, or Federal authority are not stringent enough to meet water quality standards applicable to such waters. In addition, 40 CFR section 130.7(b)(4) requires States to identify, in each section 303(d) list submitted to EPA, the "pollutants causing or expected to cause violations of the applicable water quality standards." These regulatory provisions apply even if the cause of the impairment or source of the pollutant cannot be identified at the time of listing. Therefore, water bodies that are biologically impaired by an unknown cause or source are included on the Wisconsin's section 303(d) lists. WDNR anticipates that the unknown pollutant will be identified when a Total Maximum Daily Load (TMDL) study is initiated. Supplemental data collected during a TMDL study should assist in identifying the impairing pollutant so that the TMDL can be established.</p>					

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2 In addition to pollutant stressors, many streams in this watershed have been concrete-lined, or
 3 straightened to convey floodwaters off the land faster. Lined streams provide almost no habitat and also
 4 degrade conditions in unlined downstream stream sections by creating highly erosive flow velocities
 5 during wet weather conditions and excessively warm water during low flow conditions. Constructed
 6 u-shaped channels can also contribute to flooding problems, as there is typically no floodplain to
 7 accommodate flows during extreme weather conditions. About 14.5 miles of streams in the watershed are
 8 concrete-lined or enclosed.

1 C. WATERSHED-BASED PERMIT STRUCTURE: This permit is a multi-party watershed-based
2 permit, meaning the Menomonee River Watershed Permittees, while being individually responsible for
3 satisfying the permit conditions within their respective MS4 service areas, will also have the option of
4 collaborating on WATERSHED PROJECTS designed to target specific stakeholders, pollutants, and/or
5 geographic areas or land uses to meet the needs and characteristics of the Menomonee River watershed.
6 The Department will deem a municipality in compliance with any number of permit conditions identified
7 under Parts II and III of this permit for active participation in a watershed project dependent on the scope
8 of work, projected goals, and successful completion of the project. The process for proposing watershed
9 projects is identified under Part IV of the permit.

10
11 Implementation of the GROUP CONDITIONS under Section II will be on a watershed-based scale while
12 implementation of the INDIVIDUAL CONDITIONS under Section III will be primarily on a
13 municipality-based scale. Should a municipality elect not to participate in the planning, implementation,
14 and evaluation of a joint watershed project, then it will be responsible for compliance with the individual
15 conditions under Part III and completion of an individual watershed project under Part IV. A
16 municipality meeting a group condition will be in compliance with the permit even if implementation
17 does not directly address discharges from the municipal separate storm sewer systems for which the
18 municipality is the owner or operator.

19
20 D. AUTHORIZED DISCHARGES: This permit authorizes storm water point source discharges to
21 waters of the state from the municipal separate storm sewer systems in the permitted areas. This permit
22 also authorizes the discharge of storm water commingled with flows contributed by process wastewater,
23 non-process wastewater, and storm water associated with industrial activity, provided the discharges are
24 regulated by other WPDES permits or are discharges which are not considered illicit discharges.

25
26 E. WATER QUALITY STANDARDS

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28 1. This permit specifies the conditions under which storm water may be discharged to waters of the
29 state for the purpose of achieving water quality standards contained in chs. NR 102 through 105
30 and NR 140, Wis. Adm. Code. For the term of this permit, compliance with water quality standards
31 will be addressed by adherence to general narrative-type storm water discharge limitations and
32 implementation of storm water management programs and practices.

33
34 2. This permit does not authorize water discharges that the Department, prior to authorization of
35 coverage under this permit, determines will cause or have reasonable potential to cause or
36 contribute to an excursion above any applicable water quality standards. Where such
37 determinations have been made prior to authorization, the Department may authorize coverage
38 under this permit where the storm water management programs required under this permit will
39 include appropriate controls and implementation procedures designed to bring the storm water
40 discharge into compliance with water quality standards.

41
42 F. WETLANDS: Each permittee's MS4 discharge to a wetland shall comply with the wetland water
43 quality standards provisions in ch. NR 103, Wis. Adm. Code.

44
45 G. ENDANGERED AND THREATENED RESOURCES: Each permittee's MS4 discharge to an
46 endangered or threatened resource shall comply with the endangered and threatened resource protection
47 requirements of s. 29.604, Wis. Stats., and ch. NR 27, Wis. Adm. Code.

48
49 H. HISTORIC PROPERTY: No permittee's MS4 discharge may affect any historic property that is
50 listed property, or on the inventory or on the list of locally designated historic places under s. 44.45, Wis.
51 Stats., unless the Department determines that the MS4 discharge will not have an adverse effect on any
52 historic property pursuant to s. 44.40 (3), Wis. Stats.

1
2 I. GENERAL STORM WATER DISCHARGE LIMITATIONS: The Menomonee River Watershed
3 Permittees may not discharge the following substances from the municipal separate storm sewer systems
4 in amounts that have an unreasonable effect on receiving water quality or aquatic life:

- 5
6 1. Solids that may settle to form putrescence or otherwise objectionable sludge deposits.
7
8 2. Oil, grease, and other floating material that form noticeable accumulations of debris, scum,
9 foam, or sheen.
10
11 3. Color or odor that is unnatural and to such a degree as to create a nuisance.
12
13 4. Toxic substances in amounts toxic to aquatic life, wildlife, or humans.
14
15 5. Nutrients conducive to the excessive growth of aquatic plants and algae to the extent that
16 such growths are detrimental to desirable forms of aquatic life, create conditions that are
17 unsightly, or are a nuisance.
18
19 6. Any other substances that may impair, or threaten to impair, beneficial uses of the receiving
20 water.

21 J. INDIVIDUAL RESPONSIBILITY: Each Menomonee River Watershed Permittee is responsible
22 for:

- 23 1. Compliance with conditions of this permit relating to discharges from those portions of the
24 municipal separate storm sewer system where the municipality is the owner or operator.
25
26 2. Storm water management program implementation, as required by this permit, on portions of
27 the municipalities that drain to the municipal separate storm sewer system where it is the
28 owner or operator, except where the Department has determined that participation in the
29 development and implementation of a watershed project on a watershed-based scale as
30 identified under Part IV of this permit is acceptable. This includes carrying out programs and
31 activities as required under Part III of this permit.
32
33 3. Working collaboratively with the other co-permittees as a member of the Menomonee River
34 Watershed Permittees to meet the Group Conditions as required under Part II of this permit.
35
36 4. Maintaining an active role in the planning, implementation, and evaluation of watershed
37 projects where the municipality has elected to participate.

38 K. SHARED RESPONSIBILITY: The Menomonee River Watershed Permittees will work together to
39 comply with the provisions of Part II of this permit. The Menomonee River Watershed Permittees'
40 implementation of one or more of the conditions of this permit may incorporate cooperative efforts with
41 other MS4 regulated permittees or efforts by other groups or organizations if the shared responsibility is
42 approved by the Department.

L. EXCLUSIONS: The following are excluded from coverage under this permit:

1. Combined Sewer and Sanitary Sewer Systems:
Discharges of water from a wastewater treatment facility, sanitary sewer or a combined
sewer system conveying both sanitary and storm water. These discharges are regulated under
s. 283.31, *Wis. Stats.*, and require a separate individual permit.

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2. **Agricultural Facilities and Practices:**
Discharges from "agricultural facilities" and "agricultural practices". "Agricultural facility" means a structure associated with an agricultural practice. "Agricultural practice" means beekeeping; commercial feedlots; dairying; egg production; floriculture; fish or fur farming; grazing; livestock raising; orchards; poultry raising; raising of grain, grass, mint and seed crops; raising of fruits, nuts and berries; sod farming; placing land in federal programs in return for payments in kind; owning land, at least 35 acres of which is enrolled in the conservation reserve program under 16 USC 3831 to 3836; and vegetable raising.

3. **Other Excluded Discharges:**
Storm water discharges from industrial operations or land disturbing construction activities that require separate coverage under a WPDES permit pursuant to subchs. II or III of ch. NR 216, Wis. Adm. Code. For example, while storm water from industrial or construction activity may discharge from an MS4, this permit does not satisfy the need to obtain any other permits for those discharges. This exclusion does not apply to each permittee's responsibility to regulate construction sites within its jurisdiction in accordance with Part III - Sections C and D of this permit.

4. **Indian Country:**
Storm water discharges within Indian Country. The federal Clean Water Act requires that owners and operators of storm water discharges within Indian Country to obtain permit coverage directly from the United States Environmental Protection Agency.

1 **Part II. GROUP CONDITIONS**
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3 The Menomonee River Watershed Permittees intend to collaborate and satisfy these conditions
4 collectively. This does not prohibit the Menomonee River Watershed Permittees from continuing to
5 develop and implement unique programs within their respective jurisdictional municipal boundaries.
6

7 **A. PUBLIC INVOLVEMENT AND PARTICIPATION:** The Menomonee River Watershed Permittees
8 shall notify the public of activities required by this permit and to encourage input and participation from
9 the public requiring these activities.
10

11 **B. PUBLIC EDUCATION AND OUTREACH:** The Menomonee River Watershed Permittees shall
12 implement a public education and outreach program to increase the awareness of how the combined
13 actions of human behavior influence storm water pollution and its effects on the environment. The public
14 education and outreach program may incorporate cooperative efforts with other entities not regulated by
15 this permit provided a mechanism is developed and implemented to track the results of these cooperative
16 efforts and reported annually.
17

18 1. The Menomonee River Watershed Permittees shall be responsible for prioritizing education
19 topics each year at an annual meeting. All topics shall be addressed at least once during the
20 permit term with a minimum of 3 topics being addressed, either collectively or individually, each
21 year. Topics may be repeated as necessary. The program shall identify target audiences, establish
22 measurable goals, develop and implement a mechanism for evaluating effectiveness and, at a
23 minimum, address the following:
24

25 a. Illicit discharges from municipal separate storm sewer systems and associated water quality
26 impacts.

27 b. Sources of pollutant loadings and habitat degradation—such as sedimentation, thermal
28 alterations, and increased flashiness of flows—in the watershed, including stormwater.

29 c. Storm water runoff from residential properties and potential pollutant sources such as pet
30 waste, hazardous household waste, automobile care, and lawn care.

31 d. Storm water runoff from commercial properties and, where appropriate, educate specific
32 businesses such as lawn care companies, golf courses, carwashes, and restaurants on storm
33 water pollution prevention planning to reduce pollutant sources.

34 e. Beneficial onsite reuse or proper management of leaves and grass clippings.

35 f. Restorative and protective management of streambanks and shorelines by riparian
36 landowners to minimize erosion and restore and enhance the ecological value of waterways.

37 g. Infiltration and beneficial onsite reuse of residential storm water runoff from rooftops,
38 driveways, and sidewalks through implementation of green infrastructure best management
39 practices such as rain barrels, rain gardens, and permeable pavements.

40 h. Proper design, installation, and maintenance of erosion and sediment control best
41 management practices to minimize, with the intent of eliminating, sediment transport from
42 construction sites. The program shall highlight the potential harmful effects on the
43 environment from sediment in construction site runoff and shall target construction
44 companies, individual operators, and developers as key audiences.

- 1 i. Routine inspection and maintenance of storm water best management practices by
2 homeowner associations.
- 3 j. Watershed education and the contributions of point and nonpoint source pollution on
4 waterbody and waterway impairments.
- 5 k. Best management practices for snow and ice removal and informing specific audiences such
6 as snow removal/deicing companies, private residences, industrial and commercial facilities,
7 and residents about resources that provide further information on methods of reducing
8 application of chemical deicers while maintaining public safety.
- 9 2. The Menomonee River Watershed Permittees shall prepare and submit a joint report annually
10 that includes the following:
 - 11 a. Public education and outreach programs executed during the calendar year, including topics
12 addressed, target audiences reached, and the status of meeting measurable goals.
 - 13 b. A proposed work plan for public education and outreach programs to be conducted the
14 following year. The work plan shall identify roles and responsibilities for each municipality.
 - 15
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 - 17
- 18 3. The Menomonee River Watershed Permittees shall evaluate the effects of the outreach program
19 through an updated survey of residents in the watershed or using other appropriate methods, and
20 will document the results of the evaluation in a future annual report within this permit cycle.
21

22 D. ILLICIT DISCHARGE NOTIFICATION: In the case of an illicit discharge which originates from
23 any Menomonee River Watershed Permittee and which discharges directly to a storm sewer or property
24 under the jurisdiction of any other Menomonee River Watershed Permittee, the municipality discovering
25 the discharge shall notify the affected municipality within one working day.
26

27 E. ANALYSIS PROCEDURE FOR IDENTIFYING OUTFALLS LIKELY TO BE DISCHARGING
28 SANITARY WASTEWATER: The Menomonee River Watershed Permittees will develop an analysis
29 procedure to identify those outfalls which, based upon what is known about the age and condition of the
30 associated stormwater conveyance systems and sanitary sewage conveyance systems, water quality
31 conditions within receiving waters, and other available information the permittees consider relevant, are
32 most likely to be conveying water contaminated with sanitary wastewater and should be screened for
33 illicit discharges. This procedure shall address all known outfalls, regardless of size; however, all outfalls
34 may not be identified for sampling. The permittees shall submit the procedure to the Department for its
35 review and approval by March 31, 2014. Outfall screening according to the identified procedure shall be
36 implemented within 6 months after receiving Department approval.
37

38 **Note:** In partnership with the UW-Milwaukee Great Lakes Water Institute, Milwaukee Riverkeeper
39 has monitored bacterial levels in storm sewer discharges to waterways in the Menomonee River
40 watershed. This research has led to identifying sewersheds with a high likelihood of inflow and
41 infiltration from failing sanitary sewer infrastructure and private sanitary laterals to municipal storm
42 sewer systems as represented by the human strains of *Bacteroides* found in the monitored effluent.
43 This kind of information, along with ongoing monitoring and research conducted by the Milwaukee
44 Metropolitan Sewerage District, can assist the municipalities in refining the analysis approach and
45 prioritizing areas for implementation.
46

47 More information can be found at <http://www.milwaukeeiverkeeper.org/content/bacteria-testing>.
48

1 F. ANNUAL MEETING: The Menomonee River Watershed Permittees will meet once within the first
2 twelve months of the permit cycle and annually thereafter to exchange information and set group
3 priorities. Topics to be addressed at these meetings shall include setting annual priorities for the
4 permittee's public education and outreach program; development, implementation, and modification of
5 the permittee's framework for desktop analyses for targeting illicit discharge detection and elimination
6 efforts; review of progress since the last meeting toward implementation of joint projects, and other such
7 topics as the permittees deem appropriate for discussion.

8
9 **Note:** The Menomonee River Watershed Permittees are encouraged to solicit comments and
10 participation from nongovernmental organizations and other interested parties during the
11 development and coordination of public education and outreach activities, illicit discharge detection
12 and elimination analysis procedures, and preliminary planning of watershed projects.
13

1 **Part III. INDIVIDUAL CONDITIONS**

2
3 The following permit conditions apply to each municipality in the Menomonee River Watershed
4 Permittees:

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6 **A. ILLICIT DISCHARGE DETECTION AND ELIMINATION:** Each municipality shall continue to
7 implement a program to detect and remove illicit connections and discharges to the municipal separate
8 storm sewer system. Each municipality's implementation of its program to detect and remove illicit
9 connections and discharges may incorporate cooperative efforts with other MS4 regulated permittees or
10 efforts by other groups or organizations if the shared responsibility is approved by the Department. The
11 program shall include measurable goals and include all of the following:

- 12
13 1. An ordinance or other regulatory mechanism to prevent and eliminate illicit discharges and
14 connections to the municipal separate storm sewer system. At a minimum, the ordinance or other
15 regulatory mechanism shall:

16
17 Prohibit the discharge, spilling or dumping of non-storm water substances or material into waters
18 of the state or the storm sewer system.

- 19
20 a. Identify non-storm water discharges or flows that are not considered illicit discharges. Non-
21 storm water discharges that are not considered illicit discharges including water line
22 flushing, landscape irrigation, diverted stream flows, uncontaminated groundwater
23 infiltration, uncontaminated pumped groundwater, discharges from potable water sources,
24 foundation drains, air conditioning condensation, irrigation water, lawn watering, individual
25 residential car washing, flows from riparian habitats and wetlands, firefighting and
26 discharges authorized under a WPDES permit unless identified by the permittee as
27 significant source of pollutants to waters of the state.

- 28
29 b. Establish inspection and enforcement authority.

30
31 Note: Chapter NR 815, Wis. Adm. Code, regulates injection wells including storm water injection
32 wells. Construction or use of a well to dispose of storm water directly into groundwater is
33 prohibited under s. NR 815.11(5), Wis. Adm. Code.

- 34
35 2. Field screening during dry weather periods (typically 72 hours after any measurable rainfall) of
36 the following municipal separate storm sewer system outfalls:

37
38 a. **Effective immediately at the start of permit coverage** – All major outfalls which showed
39 no indication of illicit discharges during the previous permit term. In any single year at least
40 one fifth of such major outfalls shall be screened, on a rolling basis such that at the end of
41 the permit term all major outfalls which showed no indication of illicit discharges during the
42 previous permit term have been screened.

43
44 b. **Effective immediately at the start of permit coverage** – All major outfalls which showed
45 evidence of illicit discharges during the last two samplings under the preceding permit term
46 shall be evaluated annually, at a minimum one time per year.

47
48 c. **Within 6 months of receiving approval by the Department for the analysis procedure**
49 **described in Part II-Section E** – Other outfalls, regardless of size, identified for illicit
50 discharge screening under Part II-Section E, shall be evaluated on an ongoing basis, at a

1 minimum one time per year or at an increased frequency as deemed appropriate by the
2 municipality.

3
4 3. At a minimum, field screening shall be documented and include:

5 a. Visual Observation - A narrative description of visual observations including color, odor,
6 turbidity, oil sheen or surface scum, flow rate and any other relevant observations regarding
7 the potential presence of non-storm water discharges or illegal dumping. (include narrative in
8 annual report)

9 b. Field Analysis - If flow is observed, field analysis shall be conducted to determine the
10 presence of illicit non-storm water discharges or illegal dumping. The field analysis shall
11 include sampling total copper, total phenol, detergent, ammonia, and either fluoride or total
12 chlorine unless written concurrence is obtained from the Department allowing use of
13 alternative indicator parameters to more effectively detect illicit discharges such as with
14 potassium or bacteria.

15 **Note:** The Department has written a guidance document to assist municipalities with
16 development of field screening programs to determine the presence of illicit discharges
17 from MS4 outfalls. The guidance can be found on the Departments website at:
18 http://dnr.wi.gov/topic/stormwater/documents/MS4_IDDE_Guidance_3-2012.pdf

19 i. Field screening points shall, where possible, be located downstream of any source of
20 suspected illegal or illicit activity.

21
22 ii. Field screening points shall be located where practicable at the farthest manhole or other
23 accessible location downstream in the system. Safety of personnel and accessibility of the
24 location shall be considered in making this determination.

25
26 iii. Consideration shall be given to hydrological conditions, total drainage area of the site,
27 population density of the site, traffic density, age of the structures or building in the area,
28 history of the area and land use types.

29
30 4. For those outfalls on an annual cycle, when evidence of illicit discharges is not found in two
31 consecutive years, the outfall can be placed on the list for sampling once every five years. At a
32 minimum, field screening shall be documented and include the visual observations and field
33 analyses described under Part III-Section A-3.

34
35 5. Following approval of the analysis procedure described above in Part II-Section E, each
36 municipality shall adapt the procedure to its local conditions. Each municipality shall screen
37 those outfalls identified by the adapted analysis procedure using the procedures described in Part
38 III-Section A-2-a and b.

39
40 For those outfalls for which bacterial testing indicates human fecal contamination the
41 municipality, in consultation with the Department, shall initiate a systematic examination of the
42 catchment area tributary to the outfall in an effort to determine and eliminate the source of the
43 illicit discharge.

44 **Note:** The purpose of Part II-Section E is to identify sanitary cross connections or inflow
45 and infiltration from aging sanitary sewer systems into the MS4. While fecal contamination
46 from nonhuman sources in storm water runoff does pose a threat to water quality and human

1 health, it is not considered an illicit discharge. However, the municipality may want to screen
2 for fecal coliform to address concerns with contamination from nonhuman sources.

3
4 6. Procedures for responding to known or suspected illicit discharges. At a minimum, procedures
5 shall be established for:

6
7 a. Immediately investigating portions of the municipal separate storm sewer system that, based
8 on the results of field screening or other information, indicate a reasonable potential for
9 containing illicit discharges or other sources of non-storm water discharges.

10 b. Responding to spills that discharge into and/or from the municipal separate storm sewer
11 system including tracking the source of the spill if unknown.

12 c. Preventing and containing spills that may discharge into or are already within the municipal
13 separate storm sewer system.

14 d. Immediately notifying the Department in accordance with ch. NR 706, Wis. Adm. Code, in
15 the event that the permittee identifies a spill or release of a hazardous substance, which
16 results in the discharge of pollutants into waters of the state. The Department shall be
17 notified via the 24-hour toll free spill hotline at 1-800-943-0003. The permittee shall
18 cooperate with Department in efforts to investigate and prevent such discharges from
19 polluting waters of the state.

20
21 e. Identified illicit discharges or connections shall be eliminated to the maximum extent
22 practicable. If neither the source nor the non-stormwater discharge has been identified or
23 observed within 6 months of beginning the investigation, then the municipality must
24 maintain written documentation of the actions undertaken for review by the Department. A
25 minimum of 3 separate investigations to observe and sample flow at the identified outfall
26 must be made within the 6 month period. Outfalls with indeterminate sources and non-
27 stormwater discharges shall continue to be screened annually.

28
29 Once an illicit discharge is identified, the investigating municipality must contact the
30 Department immediately then submit the completed "Illicit Discharge Reconnaissance"
31 (IDR) form to the Department within 5 calendar days.

32
33 f. To the maximum extent practicable, eliminating or minimizing leakage from sanitary
34 conveyance systems into the municipal separate storm sewer system.

35
36 g. Providing the Department with advance notice of the time and location of dye testing within
37 a MS4. (Because the dye may get reported to the Department as an illicit discharge, the
38 Department requires prior notification of dye testing.)

39
40 h. In the case of an illicit discharge that originates from the municipality's permitted area and
41 that discharges directly to a storm sewer system or property under the jurisdiction of another
42 municipality, the first municipality shall notify the affected municipality within one working
43 day.

44
45 i. The name, title, and phone number of the individual(s) responsible for responding to reports
46 of illicit discharges and spills shall be included in the illicit discharge response procedure
47 and submitted to the Department in accordance with Part V.B.3.
48

- 1 7. Once the source of an illicit discharge is detected and remediated, and confirmed by screening,
2 no further field screening at the affected outfall(s) will be required during the permit term.
3

4 B. CONSTRUCTION SITE POLLUTANT CONTROL: The permittee shall continue to implement and
5 enforce a program that establishes measurable goals and reduces the discharge of sediment and
6 construction materials from construction sites. The permittee through implementation of this program
7 shall:

- 8 1. Conduct plan reviews to ensure site erosion control plans are in accordance with design,
9 installation, and maintenance standards and specifications that meet or exceed the Department's
10 technical standards or permittee's ordinance.
- 11 2. Conduct erosion control inspections at all sites within the permittee's jurisdiction following the
12 frequency and actions outlined in the permittee's construction site pollutant control program. The
13 permittee shall contact the Department if there are significant or repeat violations at a site, or if
14 there are threats or impacts to waters of the state.
- 15 3. Maintain records of site inspections, including any follow up necessary on sites out of
16 compliance with their site-specific erosion control plans, as identified in the permittee's program.
- 17 4. Notify landowners who apply for local construction or land disturbance permits of the possible
18 applicability of Subchapter III of NR 216, Wis. Adm. Code, *Construction Site Storm Water*
19 *Discharge Permits*, or other Department waterway and wetland permits.
- 20 5. Enforce construction site performance standards equivalent to, or more restrictive than, those in
21 ss. NR 151.11, Wis. Adm. Code on all sites including municipal projects applicable under the
22 permittee's ordinance.
- 23 6. Enforce erosion and sediment control plan requirements for landowners of construction sites
24 equivalent to those contained in s. NR 216.46, Wis. Adm. Code including municipal projects
25 applicable under the permittee's ordinance.
- 26 7. Maintain and enforce the municipal ordinance regarding construction site storm water
27 discharges. Within 12 months of the effective date of this permit, the municipal ordinance shall
28 be updated to include all erosion and sediment control planning requirements, sediment control
29 performance standards, and preventative measures promulgated January 1, 2011 under s.
30 NR 151.11(6m), Wis. Adm. Code.
- 31 8. Enforce permit coverage termination requirements for landowners of construction sites
32 equivalent to those contained in s. NR 216.55, Wis. Adm. Code including removal of all
33 temporary erosion and sediment control best management practices and complete site restoration
34 with perennial vegetative cover.

35 C. POST-CONSTRUCTION STORM WATER MANAGEMENT. Each municipality shall continue to
36 implement and enforce a program to control the quantity and quality of discharges from areas of new
37 development and redevelopment, after construction is completed. The program shall include:
38

- 39 1. An ordinance or other regulatory mechanism to regulate post-construction storm water
40 discharges from new development and re-development. Within 12 months of the effective date
41 of this permit, the municipal ordinance shall be updated to include all post-construction

1 performance standard requirements promulgated January 1, 2011 under ss. NR 151.121 through
2 NR 151.125, Wis. Adm. Code.

3 At a minimum, the ordinance or other regulatory mechanism shall establish or include:

4 a. Applicability and jurisdiction that shall apply to construction sites with one acre or more of
5 land disturbance, and sites of less than one acre if they are part of a larger common plan of
6 development or sale within the jurisdiction of the permittee. To the extent possible, the
7 jurisdiction shall include any adjacent developing areas that are planned to have a minimum
8 density of 500 people per square mile, the urbanized area, and developing areas whose runoff
9 will connect to the MS4.

10
11 b. Design criteria, standards and specifications equivalent to the Wisconsin Storm Water
12 Manual or other technical standards approved by the Department. The Technical Standards
13 takes precedence over the Storm Water Manual. The Wisconsin Storm Water Manual and
14 other Department approved technical standards are available at
15 <http://dnr.wi.gov/topic/stormwater/standards/index.html>
16

17 c. Post-construction performance standards equivalent to or more restrictive than those in ss.
18 NR 151.121 through 151.125, Wis. Adm. Code.

19
20 d. Storm water plan requirements for landowners of construction sites equivalent to those
21 contained in s. NR 216.47, Wis. Adm. Code.

22
23 e. Permitting requirements, procedures and fees.

24
25 f. Long-term maintenance requirements for landowners and other persons responsible for long-
26 term maintenance of post-construction storm water control measures.

27
28 g. Inspection and enforcement authority.

29
30 2. Procedures that will be used to for site planning which incorporate consideration of potential water
31 quality impacts.

32
33 3. Procedures that will be used to ensure the long-term maintenance of storm water management
34 facilities.

35
36 D. POLLUTION PREVENTION: Each municipality shall develop and implement a pollution
37 prevention program that establishes measurable goals for pollution prevention. The program shall
38 include:

39
40 1. Routine inspection and maintenance of municipal owned or operated structural storm water
41 management facilities to maintain their pollutant removal operating efficiency.

42
43 2. Street sweeping and catch basin cleaning where appropriate. The program proposal shall identify
44 the frequency of street sweeping and catch basin cleaning activities at specific locations in the
45 municipality.

46
47 3. Management and disposal of street sweeping and catch basin cleaning waste.
48

- 1 4. If road salt or other deicers are applied by the permittee, no more shall be applied than necessary
2 to maintain public safety.
3

4 **Note:** The Wisconsin Department of Transportation (DOT) "Highway Maintenance
5 Manual", chapter 35, contains guidance on application of road salt and other deicers that can
6 be used to determine whether or not application is necessary and what application rate is
7 appropriate for deicing and ice prevention. This information is held on a secured server and
8 users must first register with the state of Wisconsin to obtain an ID and password. You can
9 learn more about getting connected to this secured server at:
10 <http://www.dot.wisconsin.gov/business/extranet/>. The Wisconsin Department of
11 Transportation (DOT) highway salt storage requirements are contained in ch. Trans 277,
12 Wis. Adm. Code.
13

- 14 5. Management of leaves and grass clippings, which may include beneficial reuse and/or
15 collection.
16
17 6. Storm water pollution prevention planning for municipal garages, storage areas and other
18 municipal sources of storm water pollution, including quarterly inspections of these facilities.
19
20 7. Application of lawn and garden fertilizers on municipally controlled properties, with pervious
21 surfaces over 5 acres each, no more frequently than a site-specific nutrient application schedule
22 based on soil tests.
23
24 8. Education of appropriate municipal and other personnel involved in implementing this program.
25
26 9. Measures to reduce municipal sources of storm water contamination within source water
27 protection areas. Wisconsin's source water assessment program information is available at:
28 <http://www.dnr.state.wi.us/org/water/dwg/swap/index.htm>.
29

30 E. STORM WATER QUALITY MANAGEMENT: Each municipality shall develop and implement a
31 municipal storm water management program that controls the discharge of total suspended solids from
32 the MS4 system to waters of the State. Since much of the phosphorus found in urban runoff is adsorbed
33 to soil particles, it is reasonable to expect that implementation of actions under this permit that reduce
34 total suspended solids loads will also reduce phosphorus proportionally with the intent to achieve
35 designated use conditions in impaired waterways. The storm water management program shall achieve
36 compliance with the developed urban area performance standards of s. NR 151.13(2), Wis. Adm. Code,
37 for those areas of the municipality that were not subject to the post-construction performance standards
38 of s. NR 151.12 or 151.24, Wis. Adm. Code. (Note: projects prior to Oct. 1, 2004). The program shall
39 include:
40

- 41 1. If applicable, a storm water management plan that identifies a schedule for implementing best
42 management practices necessary to achieve a 20 percent reduction in the annual average mass of total
43 suspended solids discharging from the MS4 to waters of the state as compared to no controls.
44 The municipality may elect to meet the 20 percent total suspended solids standard on a watershed
45 or regional basis by working with other permittee(s) to provide regional treatment or other
46 measures that collectively meet the standard. Municipalities currently not achieving at least a
47 20 percent reduction must prepare and submit this plan to the Department within 12 months of
48 the permit start date. Existing controls that collectively contribute to a given MS4 achieving
49 greater than a 20 percent reduction in TSS loads from areas of existing development as of July 1,

2011, shall not be applied to increase the level of compliance of an MS4 with a level of reduction below 20 percent. The plan shall include the following:

- a. Assessment of compliance with s. NR 151.13(2), Wis. Adm. Code must include an updated pollutant loading analysis using a model such as SLAMM, P8 or equivalent methodology approved by the Department.
- b. Any agreements with an adjacent municipality, or with municipalities within a 10 digit hydrologic unit code level, to implement the required total suspended solids reduction.
- c. Any long-term maintenance agreements with owners of non-public control measures where credit for the total suspended solids reduction is included in the analysis.
- d. A cost-effectiveness analysis including the systematic comparison of alternatives to meet the 20 percent total suspended solids reduction based on the cost per pound of pollutant removed. This analysis shall take into account anticipated redevelopment or reconstruction projects and the cost to retrofit existing practices versus the cost to install practices during redevelopment or reconstruction. The analysis shall consider the cost to ensure long term maintenance of nonpublicly owned control practices for which the municipality is taking credit as well as publicly owned control practices, the source of funding for installation and maintenance of control measures, and competing interests for that funding source. The municipality may include an analysis of affordability in the cost-effectiveness analysis. The analysis shall consider the feasibility and commensurate increase in cost of installing a control measure where there are competing issues such as human safety and welfare, endangered and threatened resources, historic properties, and geographic features.

Note: Pursuant to s. NR 151.13(2), Wis. Adm. Code, the total suspended solids reduction requirements are applied to runoff from areas of urban land use and are not applicable to agricultural or rural land uses and associated roads. Additional MS4 modeling guidance for modeling the total suspended solids control is given on the Department's Internet site at: <http://dnr.wi.gov/org/water/wm/nps/stormwater/techstds.htm>

2. To the maximum extent practicable, continued operation and maintenance of all best management practices implemented on or before July 1, 2011 to achieve a total suspended solids reduction of more than 20 percent as compared to no controls.

F. IMPAIRED WATERBODIES AND TOTAL MAXIMUM DAILY LOAD REQUIREMENTS: Each municipality shall determine whether any part of its MS4 discharges to an impaired water body listed in accordance with section 303(d)(1) of the federal Clean Water Act, 33 USC 1313(d)(1)(C), and the implementing regulation of the US Environmental Protection Agency, 40 CFR 130.7(c)(1). Impaired waters are those that are not meeting applicable water quality standards.

1. If a permittee's MS4 discharges to an impaired water body, the permittee shall include a written section in its storm water management program that discusses the management practices and control measures it will implement as part of its program to reduce, with the goal of eliminating, the discharge of pollutants of concern that contribute to the impairment of the water body. This section of the permittee's program shall specifically identify control measures and practices that will collectively be used to try to eliminate the MS4's discharge of pollutant(s) of concern that contribute to the impairment of the water body and explain why these control measures and

1 practices were chosen as opposed to other alternatives. Pollutant(s) of concern means a pollutant
2 that is causing impairment of a water body.

3
4 **Note:** Tables showing identified impairments in the Menomonee, Fox, Kinnickinnic,
5 Milwaukee, and Root River watersheds; the Oak Creek watershed; and the estuary area are
6 included in Appendix A. There are 303(d) listings for bacteria and Total Phosphorus, along
7 with certain other pollutants. Work is currently underway on TMDLs which will address the
8 bacteria and phosphorus-related impairments in the Menomonee, Milwaukee, and
9 Kinnickinnic River watersheds and the estuary area. Since much of the phosphorus found in
10 urban runoff is adsorbed to soil particles, it is reasonable to expect that implementation of
11 actions under this permit that reduce total suspended solids loads will also reduce
12 phosphorus proportionally with the intent to achieve designated use conditions in impaired
13 waterways.

14
15 The Department maintains a searchable database of impaired waterways. This publicly
16 accessible database is available at <http://dnr.wi.gov/water/impairedSearch.aspx>

- 17
18
19 2. After a permittee's start date of coverage under this permit, the permittee may not establish a
20 new MS4 discharge of a pollutant of concern to an impaired water body or increase the discharge
21 of a pollutant of concern to an impaired water body unless the new or increased discharge causes
22 the receiving water to meet applicable water quality standards.

23
24 **Note:** Once the Department approves a TMDL for an impaired water body to which the
25 permittee discharges, the Department anticipates that when this permit is reissued in the next
26 permit cycle it will include requirements necessary to achieve the TMDL wasteload allocation
27 for the MS4. Approved TMDLs are listed on the Department Internet site at
28 <http://dnr.wi.gov/org/water/condition/impaired/>

29
30 Table 2 provides an example of the way that wasteload allocations may be presented in the
31 next permit cycle.

Table 2. TEMPLATE FOR MS4 WASTE LOAD ALLOCATIONS BY MUNICIPALITY

Municipality	Reach	Water Body Name	Water Body Extents	Reach Description	Annual TSS Waste Load Allocation (tons)
MCD Name	Reach No.	Local Name	Stream Mile to Mile	Landmark to Landmark	tons
MCD Name	Reach No.	Local Name	Stream Mile to Mile	Landmark to Landmark	tons
MCD Name	Total				tons

F. STORM SEWER SYSTEM MAP: Each municipality shall develop and maintain a municipal separate storm sewer system map. The municipal storm sewer system map shall include:

1. Identification of waters of the state, watershed boundaries, name and classification of receiving waters, identification of whether the receiving water is listed as an impaired water under s. 303 (d) of the Clean Water Act, stormwater drainage basin boundaries for each MS4 outfall and municipal separate storm sewer conveyance systems.
2. Identification of all known municipal storm sewer system outfalls discharging to waters of the state or other municipal separate storm sewer systems. Major outfalls shall be categorized and priority outfalls for illicit discharge detection and elimination shall be identified.
3. Location of any known discharge to the municipal separate storm sewer system that has been issued a WPDES permit by the Department. A list of WPDES permit holders in the permittee's area may be obtained from the Department.
4. Location of municipally owned or operated structural storm water facilities including detention basins, infiltration basins, and manufactured treatment devices. If the permittee will be taking credit for pollutant removal from privately-owned facilities they must be identified.
5. Identification of publicly owned parks, recreational areas and other open lands.
6. Location of municipal garages and other public works facilities.
7. Identification of streets.

G. ANNUAL REPORT. Each municipality shall submit an annual report for each calendar year unless the Department authorizes biannual reporting to be submitted the 2nd and 4th year of the permit term pursuant to s. NR 216.07(8) Wis. Adm. Code. The municipal governing body, interest groups and the general public shall be encouraged to review and comment on the annual report. The annual report shall include:

1. The status of implementing the permit requirements identified under Sections III and IV, including the status of meeting measurable program goals and compliance with permit schedules.
2. Updated storm sewer system maps, where necessary, to identify any new outfalls, structural controls, or other noteworthy changes.
3. A summary describing:

- 1 a. The number and nature of inspections and enforcement actions conducted to ensure
2 compliance with the required ordinances.
- 3
- 4 d. Spill responses.
- 5
- 6 e. Street sweeping frequency and the amount collected.
- 7
- 8 f. Catch basin cleaning frequency and the amount collected.
- 9
- 10 g. DPW Yard inspections.
- 11
- 12 h. Pollutant Loading removal rates and status of meeting performance standards.
- 13
- 14 i. Any other activities that have measurable results.
- 15
- 16 4. A summary of revisions made to the storm water management plan.
- 17
- 18 5. Proposed revisions to the storm water management plan.
- 19
- 20 6. A fiscal analysis which includes the annual expenditures and budget for the reporting year, and
21 the proposed budget for the next year.
- 22
- 23 7. Identification of any known or perceived water quality improvements or degradation in the
24 receiving water to which the permittee's MS4 discharges. Where degradation is identified,
25 identify why and what actions are being taken to improve the water quality of the receiving water.
- 26
- 27 8. A duly authorized representative of each municipality shall sign and certify the annual report and
28 include a statement or resolution that the municipal governing body or delegated representatives
29 have reviewed or been appraised of the content of the annual report. A signed copy of the annual
30 report and other required reports should be submitted to the Water Resources Engineer, DNR
31 Waukesha Satellite Center, 141 NW Barstow Street Room 180, Waukesha, WI 53188.
- 32

33 **Part IV. WATERSHED PROJECTS**

34
35 Each Menomonee River Watershed Permittee must participate in at least one project (joint or individual)
36 designed to target specific stakeholders, pollutants, and/or geographic areas or land uses to meet the
37 needs and characteristics of the Menomonee River watershed. Completion of these projects may satisfy
38 any number of permit conditions identified under Parts II and III of this permit even if the participating
39 municipality is not the owner and operator of the municipal storm sewer discharge directly affected by
40 implementation of the watershed project.

41
42 **A. PROJECT PROPOSALS:** For each watershed project proposed, the participating Menomonee River
43 Watershed Permittee(s) shall submit the following items to the Department for review and approval
44 prior to implementation:

- 45
- 46 1. A project description including the scope, project budget and potential funding source(s), project
47 schedule, anticipated water quality benefits from the project, and a description of how the project
48 will satisfy compliance with other permit conditions.
- 49
- 50 2. A scientifically credible method estimating pollutant reductions that will be achieved.
- 51

1 3. Signed letters of support and/or all inter-municipal agreements identifying participation in the
2 project.
3

4 **Note:** Watershed restoration plans have been developed by Watershed Action Teams (WATs) in
5 cooperation with the Southeastern Wisconsin Watersheds Trust, Inc. (SWWT) that identify priority
6 project lists for implementation in the Menomonee River Watershed. Watershed data and
7 recommendations from SEWRPC's Regional Water Quality Management Plan Update for the Greater
8 Milwaukee Watersheds as well as stakeholder involvement were used to develop the WAT plans.
9 The Menomonee River Watershed Restoration plan can be accessed at
10 <http://www.swwtwater.org/home/publications.cfm>
11

12 B. **PROJECT EVALUATION:** The participating Menomonee River Watershed Permittees shall
13 report on the status of the project through submittal of the annual report, or annually if on a two-
14 year reporting cycle, until project completion.
15

16 **Part V. COMPLIANCE SCHEDULE**

17
18 The Menomonee River Watershed Permittees shall comply with the specific permit conditions contained
19 in Parts II, and III, in accordance with the following schedule:
20

21 **PART II. GROUP CONDITIONS**

22
23 A. **PUBLIC EDUCATION AND OUTREACH:** A joint public education and outreach program
24 report shall be submitted to the Department by **March 31st of each year**. Survey results or other
25 appropriate method for tracking behavioral change due to public education and outreach activities
26 shall be submitted along with the joint report at least once during the permit term.
27

28
29 E. **ANALYSIS PROCEDURE FOR IDENTIFYING OUTFALLS LIKELY TO BE**
30 **DISCHARGING SANITARY WASTEWATER:** An analysis procedure for identifying outfalls that
31 have a stronger likelihood of discharging sanitary wastewater due to screening factors determined by
32 the Menomonee River Watershed Permittees shall be submitted to the Department by **March 31,**
33 **2014**. Outfall screening according to the identified procedure shall be implemented **within 6 months**
34 after receiving Department approval.
35

36 **PART III. INDIVIDUAL CONDITIONS**

37
38 B. **CONSTRUCTION SITE POLLUTANT CONTROL:** Each municipality shall submit a proposed
39 updated construction site pollutant control ordinance to the Department by October 1, 2013 for the
40 Department's review and approval. The Department shall provide the municipality the results of its
41 review within 60 days of submission. Each municipality shall adopt the construction site pollutant
42 control ordinance by March 31, 2014. Existing construction site pollutant control ordinances shall be
43 enforced until Department approved ordinances are adopted.
44

1 C. POST-CONSTRUCTION STORM WATER MANAGEMENT: Each municipality shall submit
2 a proposed updated post-construction storm water management ordinance to the Department by
3 October 1, 2013 for the Department's review and approval. The Department shall provide the
4 municipality the results of its review within 60 days of submission. Each municipality shall adopt the
5 post-construction storm water management ordinance by March 31, 2014. Existing post-construction
6 storm water management ordinances shall be enforced until Department approved ordinances are
7 adopted.

8
9 F. STORM WATER QUALITY MANAGEMENT: If applicable, the long-term storm water
10 management plan to achieve a 20 percent reduction of total suspended solids, including any updated
11 pollutant loading analyses, to the Department by **October 1, 2013**.

12
13 G. STORM SEWER SYSTEM MAP: Each municipality shall submit an updated storm sewer
14 system map to the Department with the Annual Report by **March 31st of each year.**

15
16 H. ANNUAL REPORT: Each municipality shall submit an annual report for the preceding calendar
17 year by March 31st of each year. The first annual report (for calendar year 2007) shall be submitted
18 to the Department by **March 31, 2013**.

19
20 **Part VI. STANDARD CONDITIONS**

21
22 The conditions in s. NR 205.07(1) and (3), Wis. Adm. Code, are incorporated by reference in this permit.
23 The Menomonee River Watershed Permittees shall meet these requirements. Some of these requirements
24 are outlined below in paragraph A. through R.. Requirements not specifically outlined below can be
25 found in s. NR 205.07(1) and (3), Wis. Adm. Code.

26
27 A. DUTY TO COMPLY: The municipalities shall comply with all conditions of the permit. Any permit
28 noncompliance is a violation of the permit and is grounds for enforcement action, permit revocation
29 or modification, or denial of a permit reissuance application.

30
31 B. COMPLIANCE SCHEDULES: Reports of compliance or noncompliance with interim and final
32 requirements contained in any compliance schedule of the permit shall be submitted in writing within
33 14 days after the schedule date, except that progress reports shall be submitted in writing on or
34 before each schedule date for each report. Any report of noncompliance shall include the cause of
35 noncompliance, a description of remedial actions taken, and an estimate of the effect of the
36 noncompliance on the municipality's ability to meet the remaining schedule dates.

37
38 C. NONCOMPLIANCE NOTIFICATION:

39 1. Upon becoming aware of any permit noncompliance that may endanger public health or the
40 environment, each municipality shall report this information by a telephone call to the
41 Department within 24 hours. A written report describing the noncompliance shall be submitted to
42 the Department within 5 days after the municipality became aware of the noncompliance. The
43 Department may waive the written report on a case-by-case basis based on the oral report
44 received within 24 hours. The written report shall contain a description of the noncompliance
45 and its cause; the period of noncompliance, including exact dates and times; the steps taken or
46 planned to reduce, eliminate, and prevent reoccurrence of the noncompliance; and if the
47 noncompliance has not been corrected, the length of time it is expected to continue.

48
49 2. Reports of any other noncompliance not covered under General Condition's B, C.1, or E shall be
50 submitted with the annual report. The reports shall contain all the information listed in General
51 Condition C.1..

- 1
2 D. DUTY TO MITIGATE: Each municipality shall take all reasonable steps to minimize or prevent any
3 adverse impact on the waters of the state resulting from noncompliance with the permit.
4
5 E. SPILL REPORTING: Each municipality shall immediately notify the Department, in accordance
6 with ch. NR 706, Wis. Adm. Code, in the event of a spill or accidental release of hazardous
7 substances which results in a discharge of pollutants into waters of the state. The Department shall be
8 notified via the 24-hour spill hotline (1-800-943-0003).
9
10 F. PROPER OPERATION AND MAINTENANCE: Each municipality shall at all times properly
11 operate and maintain all facilities and systems of treatment and control which are installed or used by
12 the municipality to achieve compliance with the conditions of the permit and the storm water
13 management plan. Proper operation and maintenance includes effective performance, adequate
14 funding, adequate operator staffing and training and adequate laboratory and process controls,
15 including appropriate quality assurance procedures. This provision requires the operation of back-up
16 or auxiliary facilities or similar systems only when necessary to achieve compliance with conditions
17 of this permit.
18
19 G. BYPASS: Each municipality may temporarily bypass storm water treatment facilities if necessary for
20 maintenance, or due to runoff from a storm event which exceeds the design capacity of the treatment
21 facility, or during an emergency.
22
23 H. DUTY TO HALT OR REDUCE ACTIVITY: Upon failure or impairment of best management
24 practices identified in the storm water management program, each municipality shall, to the extent
25 practicable and necessary to maintain permit compliance, modify or curtail operations until the best
26 management practices are restored or an alternative method of storm water pollution control is
27 provided.
28
29 I. REMOVED SUBSTANCES: Solids, sludges, filter backwash or other pollutants removed from or
30 resulting from treatment or control of storm water shall be stored and disposed of in a manner to
31 prevent any pollutant from the materials from entering the waters of the state, and to comply with all
32 applicable Federal, State, and Local regulations.
33
34 J. ADDITIONAL MONITORING: If a municipality monitors any pollutant more frequently than
35 required by the permit, the results of that monitoring shall be recorded and reported in accordance
36 with this chapter. Results of this additional monitoring shall be included in the calculation and
37 reporting of the data submitted in the annual report.
38
39 K. INSPECTION AND ENTRY: Each municipality shall allow an authorized representative of the
40 Department, upon the presentation of credentials, to:
41
42 1. Enter upon the municipal premises where a regulated facility or activity is located or conducted,
43 or where records are required under the conditions of the permit.
44 2. Have access to and copy, at reasonable times, any records that are required under the conditions
45 of the permit.
46 3. Inspect at reasonable times any facilities, equipment (including monitoring and control
47 equipment), practices or operations regulated or required under the permit.
48 4. Sample or monitor at reasonable times, for the purposes of assuring permit compliance, any
49 substances or parameters at any location.
50

- 1 L. DUTY TO PROVIDE INFORMATION: Each municipality shall furnish the Department, within a
2 reasonable time, any information which the Department may request to determine whether cause
3 exists for modifying, revoking or reissuing the permit or to determine compliance with the permit.
4 Each municipality shall also furnish the Department, upon request, copies of records required to be
5 kept by the municipality.
6
- 7 M. PROPERTY RIGHTS: The permit does not convey any property rights of any sort, or any exclusive
8 privilege. The permit does not authorize any injury or damage to private property or an invasion of
9 personal rights, or any infringement of federal, state or local laws or regulations.
10
- 11 N. DUTY TO REAPPLY: If any of the Menomonee River Watershed Permittees wish to continue an
12 activity regulated by the permit after the expiration date of the permit, the municipality shall apply
13 for a new permit at least 180 days prior to the expiration date of the permit. If a timely and complete
14 application for a new permit is filed and the permit is not reissued by the time the existing permit
15 expires, the existing permit remains in effect until the application is acted upon.
16
- 17 O. OTHER INFORMATION: Where a municipality becomes aware that it failed to submit any relevant
18 facts in a permit application or submitted incorrect information in a permit application or in any
19 report to the department, it shall promptly submit such facts or correct information to the department.
20
- 21 P. RECORDS RETENTION: Each municipality shall retain records of all monitoring information,
22 copies of all reports required by the permit, and records of all data used to complete the application
23 for the permit for a period of at least 5 years from the date of the sample, measurement, report or
24 application. The Department may request that this period be extended by issuing a public notice to
25 modify the permit to extend this period.
26
- 27 Q. PERMIT ACTIONS: As provided in s. 283.53, Wis. Stats., after notice and opportunity for a hearing
28 the permit may be modified or revoked and reissued for cause. If a municipality files a request for a
29 permit modification, revocation or reissuance, or a notification of planned changes or anticipated
30 noncompliance, this action by itself does not relieve the municipalities of any permit condition.
31
- 32 R. SIGNATORY REQUIREMENT: All applications, reports or information submitted to the
33 Department shall be signed for by a ranking elected official, or other person authorized by them who
34 has responsibility for the overall operation of the municipal separate storm sewer system and storm
35 water management program activities regulated by the permit. The representative shall certify that
36 the information was gathered and prepared under their supervision and based on inquiry of the
37 people directly under their supervision that, to the best of their knowledge, the information is true,
38 accurate, and complete.
39
- 40 S. ENFORCEMENT ACTION: The Department is authorized under s. 283.89 and 283.91, Wis. Stats.,
41 to use citations or referrals to the Department of Justice to enforce the conditions of this permit.
42 Violation of a condition of this permit is subject to a fine of up to \$10,000 per day of violation.
43
- 44 T. ATTAINMENT OF WATER QUALITY STANDARDS AFTER AUTHORIZATION: Except for
45 situations where a TMDL has been approved by US EPA during the term of this permit, at any time
46 after authorization, the Department may determine that the discharge of storm water from a
47 permittee's MS4 may cause, have the reasonable potential to cause, or contribute to an excursion of
48 any applicable water quality standard. If such determination is made, the Department may require the
49 permittee to do one of the following:
50

- 1 1. Develop and implement an action plan to address the identified water quality concern to the
2 satisfaction of the Department.
3
- 4 2. Submit valid and verifiable data and information that are representative of ambient conditions to
5 demonstrate to the Department that the receiving water or groundwater is attaining the water
6 quality standard.
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1 **Part VI. DEFINITIONS**

2
3 Definitions for some of the terms found in this permit are as follows:

4
5 **Controls Condition** means a pollutant-loading analysis that includes pollutant reductions from storm
6 water management practices.

7
8 **Department** means Department of Natural Resources.

9
10 **Erosion** means the process by which the land's surface is worn away by the action of wind, water, ice or
11 gravity.

12
13 **Hazardous substance** means any substance which may pose a substantial present or potential hazard to
14 human health or the environment because of its quantity, concentration or physical, chemical or
15 infectious characteristics.

16
17 **Illicit Connection** means any man-made conveyance connecting an illicit discharge directly to a
18 municipal separate storm sewer system.

19
20 **Illicit Discharge** means any discharge to a municipal separate storm sewer system that is not composed
21 entirely of storm water except discharges authorized by a WPDES permit or other discharge not requiring
22 a WPDES permit such as water line flushing, landscape irrigation, individual residential car washing,
23 firefighting and similar discharges.

24
25 **Infiltration** means the entry and movement of precipitation or runoff into or through soil.

26
27 **Infiltration system** means a device or practice such as a basin, trench, rain garden or swale designed
28 specifically to encourage infiltration, but does not include natural infiltration in pervious surfaces such as
29 lawns, redirecting of rooftop downspouts onto lawns or minimal infiltration from practices, such as
30 swales or road side channels designed for conveyance and pollutant removal only.

31
32 **Jurisdiction** means the area where the permittee, or co-permittee, has authority to enforce its
33 ordinance(s) or otherwise has authority to exercise control over a particular activity of concern.

34
35 **Land Disturbing Construction Activity** means any man-made alteration of the land surface resulting in
36 a change in the topography or existing vegetative or non-vegetative soil cover that may result in storm
37 water runoff and lead to increased soil erosion and movement of sediment into waters of the state. Land
38 disturbing construction activity includes, but is not limited to, clearing and grubbing, demolition,
39 excavating, pit trench dewatering, filling and grading activities.

40
41 **Major Outfall** means a municipal separate storm sewer outfall that meets one of the following criteria:

- 42
43 1. A single pipe with an inside diameter of 36 inches or more or equivalent conveyance (cross sectional
44 area of 1,018 square inches) which is associated with a drainage area of more than 50 acres.
45
46 2. A single pipe with an inside diameter of 12 inches or more or equivalent conveyance (cross sectional
47 area of 113 square inches) which receives runoff from land zoned for industrial activity and is
48 associated with a drainage area of more than 2 acres.
49

1 **Maximum Extent Practicable** means a level of implementing management practices in order to achieve
2 a performance standard or other goal which takes into account the best available technology, cost
3 effectiveness and other competing issues such as human safety and welfare, endangered and threatened
4 resources, historic properties and geographic features.

5
6 **Menomonee River Watershed Permittees** includes: (left blank intentionally until municipalities are
7 determined)

8 **Municipal Separate Storm Sewer System or MS4** means a conveyance or system of conveyances
9 including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches,
10 constructed channels or storm drains, which meets all of the following criteria:

- 11 1. Owned or operated by a municipality.
- 12 2. Designed or used for collecting or conveying storm water.
- 13 3. Which is not a combined sewer conveying both sanitary and storm water.

14
15 **No Controls Condition** means a pollutant-loading analysis that does not include pollutant reductions
16 from storm water management practices.

17
18 **Outstanding and Exceptional Resource Waters** are listed in ss. NR 102.10 and 11, Wis. Adm. Code.

19
20 **Outfall** means the point at which storm water is discharged to waters of the state or leaves one
21 municipality and enters another.

22
23 **Permittee** means the owner or operator, or a group of owners or operators, of a municipal separate storm
24 sewer system authorized to discharge storm water into waters of the state.

25
26 **Permitted Area** refers to the areas of land under the jurisdiction of the Menomonee River Watershed
27 municipalities that drains into their MS4, which is regulated under a permit issued pursuant to subch. I of
28 NR 216, Wis. Adm. Code.

29
30 **Redevelopment** means areas where development is replacing older development.

31
32 **Riparian Landowners** are the owners of lands bordering lakes and rivers.

33
34 **Sediment** means settleable solid material that is transported by runoff, suspended within runoff or
35 deposited by runoff away from its original location.

36
37 **Storm Water Management Practice** means structural or non-structural measures, practices, techniques
38 or devices employed to avoid or minimize soil, sediment or pollutants carried in runoff to waters of the
39 state.

40
41 **Storm Water Pollution Prevention Planning** refers to the development of a site-specific plan that
42 describes the measures and controls that will be used to prevent and/or minimize pollution of storm
43 water.

44
45 **Structural Storm Water Management Facilities** are engineered and constructed systems that are
46 designed to provide storm water quality control such as wet detention ponds, constructed wetlands,
47 infiltration basins and grassed swales.

48
49 **Waters of the State** include surface waters, groundwater and wetlands.

50

- 1 **WPDES Permit** means a Wisconsin Pollutant Discharge Elimination System permit issued pursuant to
- 2 ch. 283, *Wis. Stats.*

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Appendix A

Table A-1

IMPAIRED WATERS WITHIN THE MEMOMONEE RIVER WATERSHED: 2012

Stream	Impairment	Extent (river mile)	Contributing Pollutants	Listing Date
Butler Ditch	Recreational restrictions-pathogens	0-2.9	Fecal coliform bacteria	Proposed 2010
Goldendale Creek	Recreational restrictions-pathogens	0-3.5	Fecal coliform bacteria	Proposed 2010
Honey Creek	Degraded biological community	0-8.96	Total phosphorus	Proposed 2012
	Recreational restrictions-pathogens	0-10	Fecal coliform bacteria	Proposed 2010
Lilly Creek	Recreational restrictions-pathogens	0-4.7	Fecal coliform bacteria	Proposed 2010
Little Menomonee Creek	Recreational restrictions-pathogens	0-3.9	Fecal coliform bacteria	Proposed 2010
Little Menomonee River	Chronic aquatic toxicity	0-9	Creosote	1998
	Degraded biological community	0-9	Total phosphorus	Proposed 2012
	Recreational restrictions-pathogens	0-3.9	Fecal coliform bacteria	Proposed 2010
Menomonee River	Low dissolved oxygen	0-2.67	Total phosphorus	1998
	Chronic aquatic toxicity	0-2.67	Unspecified metals	1998
	Contaminated fish tissue	0-2.67	PCBs	1998
	Recreational restrictions-pathogens	0-2.67	<i>Escherichia coli</i>	1998
	Recreational restrictions-pathogens	0-2.67	Fecal coliform bacteria	Proposed 2010
	Recreational restrictions-pathogens	2.67-6.27	Fecal coliform bacteria	Proposed 2010
Nor-X-Way Channel	Recreational restrictions-pathogens	0-4.9	Fecal coliform bacteria	Proposed 2010
South Branch Underwood Creek	Degraded biological community	0-1	Total phosphorus	Proposed 2012
Underwood Creek	Degraded biological community	0-2.84	Total phosphorus	Proposed 2012
	Degraded biological community	2.84-8.54	Unknown pollutant	Proposed 2012
	Recreational restrictions-pathogens	0-8.54	Fecal coliform bacteria	Proposed 2010
West Branch Menomonee River	Recreational restrictions-pathogens	0-2.45	Fecal coliform bacteria	Proposed 2010
Willow Creek	Recreational restrictions-pathogens	0-2.8	Fecal coliform bacteria	Proposed 2010

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Source: Wisconsin Department of Natural Resources.

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Table A-2

IMPAIRED WATERS IN MENOMONEE RIVER WATERSHED MUNICIPALITIES
LOCATED IN WATERSHEDS ADJACENT TO THE MENOMONEE RIVER WATERSHED: 2012

Stream	Impairment	Extent (river mile)	Contributing Pollutants	Listing Date
Fox River Watershed				
Deer Creek	Degraded habitat	0-8.09	Elevated water temperature	2008
	Degraded habitat	0-8.09	Sediment/total suspended solids	2008
	Excess algal growth	0-8.09	Total phosphorus	1998
Fox River	Contaminated fish tissue	151.34-196.64	PCBs	1998
	Contaminated fish tissue	151.34-180.1	PCBs	1998
	Contaminated fish tissue	175.32-176.13	Mercury	1998
	Degraded biological community	113.24-151.34	Total phosphorus	Proposed 2012
	Degraded habitat	171.45-175.32	Sediment/total suspended solids	1998
	Low dissolved oxygen	176.13-187.16	Sediment/total suspended solids	1998
	Low dissolved oxygen	176.13-187.16	Total phosphorus	1998
	Low dissolved oxygen	171.45-175.32	Total phosphorus	1998
	Low dissolved oxygen/turbidity	175.32-176.13	Sediment/total suspended solids	1998
	Low dissolved oxygen/turbidity	175.32-176.13	Total phosphorus	1998
Lannon Creek	Degraded habitat	0-5.48	Sediment/total suspended solids	1998
Master Disposal Drainage Channel	Chronic aquatic toxicity	0-.99	Unknown pollutant	1998
Poplar Creek	Low dissolved oxygen	0-8.06	Unknown pollutant	1998
Kinnickinnic River Watershed				
Cherokee Creek	Recreational restrictions-pathogens	0-1.6	Fecal coliform bacteria	Proposed 2010
Holmes Avenue Creek	Recreational restrictions-pathogens	0-1.8	Fecal coliform bacteria	Proposed 2010
Kinnickinnic River	Low dissolved oxygen	0-2.83	Total phosphorus	1998
	Contaminated fish tissue	0-2.83	PCBs	1998
	Chronic aquatic toxicity	0-2.83	Metals	1998
	Degraded biological community	2.84-9.94	Total phosphorus	Proposed 2012
	Recreational restrictions-pathogens	0-2.83	<i>Escherichia coli</i>	1998
	Recreational restrictions-pathogens	0-9.61	Fecal coliform bacteria	Proposed 2010
Lyons Park Creek	Recreational restrictions-pathogens	0-1.5	Fecal coliform bacteria	Proposed 2010
South 43rd Street Ditch	Degraded biological community	0-1.16	Total phosphorus	Proposed 2012
	Recreational restrictions-pathogens	0-1.16	Fecal coliform bacteria	Proposed 2010

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Table A-2 (continued)

Stream	Impairment	Extent (river mile)	Contributing Pollutants	Listing Date
Kinnickinnic River Watershed (continued)				
Villa Mann Creek	Recreational restrictions-pathogens	0-1.2	Fecal coliform bacteria	Proposed 2010
Wilson Park Creek	Recreational restrictions-pathogens	0-5.5	Fecal coliform bacteria	Proposed 2010
Milwaukee River Watershed				
Beaver Creek	Chronic aquatic toxicity	0-2.69	Unknown pollutant	1998
Lincoln Creek	Chronic aquatic toxicity	0-9.0	Unspecified metals	1998
	Chronic aquatic toxicity	0-9.0	PAHs	1998
	Degraded biological community	0-9.7	Total phosphorus	Proposed 2012
	Degraded habitat	8.5-9.0	Sediment/total suspended solids	1998
	Elevated water temperature-degraded habitat	0-8.5	Sediment/total suspended solids	1998
	Low dissolved oxygen	0-9.0	Total phosphorus	1998
Milwaukee River	Contaminated fish tissue/contaminated sediment	0-2.9	PCBs	1998
	Contaminated fish tissue	2.9-19.35	PCBs	1998
	Contaminated sediment	0-2.9	Unspecified metals	1998
	Low dissolved oxygen	0-2.9	Total phosphorus	1998
	Recreational restrictions-pathogens	0-19.35	<i>Escherichia coli</i>	1998
Oak Creek				
Oak Creek	Chronic aquatic toxicity	0-13.32	Unknown pollutant	1998
	Degraded biological community	0-13.32	Total phosphorus	Proposed 2012
Root River Watershed				
Root River	Low dissolved oxygen	20.48-43.95	Sediment/total suspended solids	1998
	Low dissolved oxygen	20.48-43.95	Total phosphorus	1998

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Source: Wisconsin Department of Natural Resources.

