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502 East 9th Street
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Re: Triennial Review Comments

The Iowa Environmental Council submits the following comments on the Iowa Department of Natural Resources' (DNR) Triennial Review Process and Work Plan.

Summary

IEC's priority for the Triennial Review Work Plan is to develop numeric water quality criteria for nitrogen and phosphorus pollution for Iowa lakes. Nutrient pollution continues to have significant environmental, health and economic consequences. Reducing nitrogen and phosphorus pollution is necessary to reduce toxic blue-green algae blooms in Iowa's lakes, protect drinking water supplies, maintain property values, and protect aquatic ecosystems. Implementing nitrogen and phosphorus criteria will have immediate and future benefits for Iowa. Water quality standards help keep our swimming beaches open and drinking water safe, protect the environment by keeping nutrient pollution out of water, and help sustain public rights, and the rights of future generations, to enjoy the outdoors by fishing, boating, and hunting in our clean and safe waterways.

Stakeholders have repeatedly raised the issue of nutrient pollution and the need for numeric nutrient water quality criteria in previous triennial reviews. Although the Environmental Protection Commission (EPC) declined to adopt the specific recommendations by the Nutrient Science Advisors committee for numeric lake nutrient criteria, numeric nutrient criteria remain a long-term goal of the Nutrient Reduction Strategy (NRS) as a way to reach the target 45% reduction of annual nitrogen and phosphorus loads.¹ The Strategy has yet to provide details on how to achieve this goal. The state has thus far failed to move forward on developing numeric nutrient criteria, despite multiple formal and informal requests from IEC and other environmental groups to set such rules. The DNR's Triennial Review process should include

¹ Iowa Department of Agriculture and Land Stewardship, Iowa Department of Natural Resources, Iowa State University College of Agriculture and Life Sciences, *Iowa Nutrient Reduction Strategy* (rev. 2017), §1 at 27.

numeric nutrient water quality criteria and commit Iowa to developing such standards for Iowa's waterways in the 2021-2023 plan cycle.

Nutrient Pollution Harms Water Quality and Human Health

The EPA has consistently stated for decades that the nutrient pollution degrading water quality across the United States is a critical national problem. Furthermore, the EPA has long held that numeric nutrient criteria are necessary to address nutrient pollution problems and that it will promulgate such criteria if states, such as Iowa, fail to act.² Reports from the EPA and several other sources continue to demonstrate that nutrient pollution results in the increasing prevalence of harmful algal blooms, reduced spawning grounds and nursery habitats, fish kills, and oxygen-starved hypoxic or dead zones. Beyond posing serious risks to the health of Iowa's lakes, nutrient pollution endangers the public health of Iowans. Impaired surface and groundwater sources threaten our drinking water as well as water for recreational purposes. Nutrient pollution also leads to great economic costs from increased water treatment, reduced property values, and loss of revenue for recreational businesses. The harmful effects of nutrient pollution will continue to remain a particularly acute problem for Iowa lakes without numeric nutrient criteria.

Iowa Has the Duty to Act on Numeric Nutrient Criteria for Lakes

The DNR already has a wealth of scientific information regarding lake nutrient criteria. In 2007, the DNR tasked the Nutrient Science Advisors with recommending nutrient water quality criteria for Iowa Waters. The Advisors recommended criteria, but the state failed to adopt them. Following the stalled rulemaking process, IEC twice petitioned for adoption of these rules after the state's effort to adopt the criteria as rules ended, but the EPC denied both petitions. The NRS does not set water quality standards and cannot substitute for adoption of appropriate water quality standards. As IEC has shown, progress on the voluntary measures in the NRS is not at the appropriate pace and scale to meet nutrient reduction targets, and a different approach is necessary to protect Iowa's waters.³

Furthermore, Iowa was selected as a case study by the EPA to test new nutrient models because of the NRS goal to continue assessing and developing suitable nutrient criteria.⁴ The results of the case study provide a scientific basis for Iowa to adopt numeric criteria. IEC recommends the DNR use these data to develop numeric nutrient criteria in the coming years.

Despite DNR's partnership with the EPA and the explicit NRS long-term goal to develop criteria, the DNR remains lax in committing to any true action. In the DNR's Public Participation Responsiveness Summary for Iowa's 2020 Section 303(d) List of Impaired Waters, the only response the DNR provided regarding lake numeric nutrient criteria was to state: "the DNR will review the recommended criteria to decide on further future action on the subject."⁵ When asked multiple times at the stakeholder meeting why NNC were not included in the draft triennial

² EPA National Strategy for the Development of Regional Nutrient Criteria, 63 Fed. Reg. 34648, at iv-v (1998).

³ See "The Slow Reality of the NRS," Iowa Environmental Council (2019).

⁴ 63 FR 34648 at iv-v

⁵ *Iowa 2020 Section 303(d) list: Responsiveness Summary*, at p. 13 (2021).

review plan, the DNR merely said it supported the NRS. Iowans need a commitment from the DNR on numeric nutrient water quality criteria to protect waterway and ecosystem health, public health, and economic prosperity.

Conclusion

Nitrogen and phosphorus numeric criteria have been and remain a top priority for the Iowa Environmental Council and its members to improve water quality in Iowa's lakes. IEC has engaged with DNR's rulemaking process, in the Nutrient Reduction Strategy, and in past Triennial Reviews to address nutrient pollution. DNR must make a true commitment to developing and implementing water quality standards to address the largest water quality problem in the state. The extent to which Iowa lakes and communities could be harmed if the DNR waits another three years could be immense. Iowa's waters need immediate attention.

Sincerely,

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