

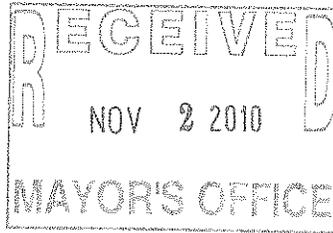
State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Jim Doyle, Governor
Matthew J. Frank, Secretary
Ronald W. Kazmierczak, Regional Director

Northeast Region Headquarters
2984 Shawano Ave., P.O. Box 10448
Green Bay, Wisconsin 54307-0448
Telephone 920-662-5100
FAX 920-662-5413
TTY Access via relay - 711

October 29, 2010

Don Merkes, Mayor
City of Menasha
140 Main Street
Menasha, Wisconsin 54952



Casetrack # 2008-NEEE-059
WPDES Permit: WI-0047341-04
Winnebago County

Subject: **NOTICE OF VIOLATION / NOTICE OF CLAIM**

Dear Mayor Merkes:

The Department of Natural Resources (Department) has reason to believe the City of Menasha (Menasha) is in violation of its General Permit to Discharge under the Wisconsin Pollutant Discharge Elimination System (WPDES) permit, number WI-0047341-04 (the Permit) effective March 1, 2006. The Permit regulates bypasses or sanitary sewer overflows (SSO) from the sewage collection system owned and operated by municipalities and non-municipal entities that do not own or operate a wastewater treatment plant.

The Department alleges Menasha violated the following specific Permit requirements:

- Section 2.1 of the Permit, prohibits any unscheduled SSO from the collection system, with limited exceptions.**

On July 22, 2010, Menasha provided the Department with verbal notification of four unscheduled bypasses of domestic sewage. These included:

- Bypass began July 22, 2010 2008, and ended on July 23, 2010, at Seventh Street / Ida Street manhole. Menasha provided written notification to the Department on July 23, 2010. According to Menasha's written documentation, Menasha bypassed approximately 455,000 gallons of sewage to the Fox River.
- Bypass began July 22, 2010, and ended on July 23, 2010, at the Fifth Street / London Street manhole. Menasha provided written notification to the Department on July 23, 2010. According to Menasha's written documentation, Menasha bypassed approximately 225,000 gallons of sewage to the Fox River.
- Bypass began July 22, 2010, and ended later that same day, at the Ninth Street / Elmwood Drive manhole. Menasha provided written notification to the Department on July 23, 2010. According to Menasha's written documentation, Menasha bypassed approximately 50,000 gallons of sewage to the Fox River.

- Bypass began July 22, 2010, and ended on July 23, 2010, at the Keyes Street / Park Street manhole. Menasha provided written notification to the Department on July 23, 2010. According to Menasha's written documentation, Menasha bypassed approximately 185,000 gallons of sewage to the Fox River.

The Department therefore alleges that on July 22 and July 23, 2010, Menasha was in violation of Section 2.1 of the Permit for bypassing domestic sewage.

The Department met with Menasha on September 16, 2010 to discuss Menasha's progress with addressing their infiltration and inflow (I/I) issues and the bypasses enumerated above. The Department is satisfied with the progress that Menasha has made by following the compliance agreement to address I/I. The Department will not take any further enforcement action at this time. However, please be advised that the Department is authorized to seek injunctive or other appropriate relief for violations of pollution discharge elimination laws, including forfeitures of no more than \$10,000 per day of violation, pursuant to s. 283.91(2), Wis. Stats. Any person who willfully or negligently violates laws relating to pollution discharge elimination may be fined not more than \$25,000 per day of violation or imprisoned for not more than 6 months or both, pursuant to s. 283.91(3), Wis. Stats. Each day of violation is considered a separate offense.

This letter also serves as a Notice of Claim. The Department hereby gives notice of its intent and reserves its right to seek corrections, injunctive relief, and monetary penalties as allowed by ch. 283, Wis. Stats., for the above alleged violations. This Notice of Claim fulfills the requirements of s. 893.80(1), Wis. Stats., which requires a written notice of the circumstances of a claim be served within 120 days after the happening of the event which gave rise to the claim

If you have technical questions regarding your wastewater system, please contact Wastewater Engineer Mr. Jim Savinski at (920) 424-4013. If you have questions regarding this notice, please contact me at (920) 662-5163.

Sincerely,



Anne M. Van Grinsven
Environmental Enforcement Specialist - Leadworker

Cc: J. Savinski / file – Oshkosh
M. Hoefler - LC/8
WT/3
M. Radtke – Director of Public Works, City of Menasha, 140 Main Street, Menasha, WI 54952