



COMMISSION AGENDA REPORT

Meeting of May 25, 2023

Review and Adoption of Final Badger Mill Creek Phosphorus Compliance Solution

Lead Staff: Kathy Lake, Pollution Prevention Manager, and Martin Griffin, Director of Ecosystem Services

Requested Action: The Commission is requested to adopt Resolution #2023-05-25-R8, approving the discontinuation of flow to Badger Mill Creek as the preferred phosphorus compliance option and committing \$1 million to improve the health and resiliency of Badger Mill Creek.

Resolution: #2023-05-25-R8

Attachments:

Attachment 1: Responses to Public Comments, Public Testimony & Received Materials – Badger Mill Creek Phosphorus Compliance

Attachment 2: Questions/Requests from Commissioners

Note: The final alternatives assessment for phosphorus compliance can be found on the [District website](#).

Financial Impact:

The range in cost of compliance options is approximately \$3.2 million to \$24.3 million.

Background:

The Chief Engineer and Director and Pollution Prevention Manager presented the District's final recommendation for Badger Mill Creek phosphorus compliance on April 27, 2023. The District has engaged in a comprehensive community engagement and public outreach process for Badger Mill Creek phosphorus compliance, including two written comment periods and a public hearing on May 11, 2023.

Analysis and Options:

The District's analysis shows discontinuation of flow to Badger Mill Creek to be the best of the three options available to the District for phosphorus compliance.

The District used three principles when assessing the preferred compliance approach. They are:

- Achieve phosphorus compliance standards with the most certainty; and
- Minimize harm to the biology of the stream; and
- Maintain fiscal responsibility to owner communities.

Through a variety of assessments and analyses, we found the following:

- Watershed compliance approaches are not feasible based on limitations established by the Wisconsin Department of Natural Resources (WDNR) in a Dec. 2, 2022 letter.
- Maintaining discharge compliance at Badger Mill Creek would require tertiary treatment, which has high short- and long-term costs that would be borne by ratepayers and owner communities.
- District effluent is not controlling the overall health of Badger Mill Creek.
- The District's analysis shows a reasonable basis to conclude that the impacts of reduced flow will be limited to a small location.

Through our assessment, the District identified various possible projects that will help stream health and flow resiliency; some focus more on in-stream practices, while others are more infrastructure oriented. These include, but are not limited to, habitat improvements, low-flow channel design, and sediment removal. In addition, the current flooding and high water upstream of the current return point are valuable assets that could be leveraged to provide stream resilience for future low-flow-related concerns while helping solve many of the current flooding and high-water challenges.

Both options below will achieve WDNR discharge permit compliance for phosphorus and satisfy the required compliance schedule.

Option 1 (Staff Recommendation):

The Commission is requested to adopt Resolution #2023-05-25-R8, approving the discontinuation of flow to Badger Mill Creek as the preferred phosphorus compliance option and committing \$1 million to improve the health and resiliency of Badger Mill Creek.

By Sept. 30, 2023, the District will convene and facilitate a group of governmental and non-governmental stakeholders and experts that will work through a process to prioritize interests and needs, which could include flow, habitat, and other improvements.

Based on the input from the stakeholder group, a project prioritization and funding plan will be completed and presented to the Commission for approval in September 2024.

Key Considerations:

- Flow will be consolidated with the Badfish Creek discharge. Watershed adaptive management will be used for phosphorus compliance.
- The District incorporated community interests and will facilitate solutions to address them on an established timeline and in a holistic and collaborative way.
- The process for finding solutions for stream enhancement will include appropriate governmental and non-governmental entities.

- Removing the District's effluent from the stream would help the stream meet in-stream phosphorus criteria more quickly and with greater certainty.
- Moves toward the Commission's priority to reduce the District's climate impact.
- Any impact from the reduced flow from discontinuing effluent can be enhanced with other existing, higher-quality water sources.
- As the District report notes, and as heard during public testimony, several surface water and groundwater resources in this area could be utilized to enhance flow.
- Solutions would provide multiple community benefits, such as addressing local flooding impacts, which demonstrates a holistic One Water approach to water management.

Option 2:

Approve tertiary treatment at the Nine Springs Wastewater Treatment Plant as the preferred compliance option.

Key Considerations:

- Maintains District flow to Badger Mill Creek.
- Meeting the compliance schedule for an infrastructure project of this magnitude will be challenging and require "all hands-on deck," therefore delaying other priority projects for the District.
- Moves away from the Commission's policy on keeping service charges affordable for households in our service area with limited ability to pay.
- Future regulatory requirements will force the District to reconsider discontinuance at a later date.
- The District's Capital Improvements Plan has anticipated these costs.
- Increased long-term operational and capital improvement liabilities/costs must be incorporated in future budgets.

Next Steps:

Communicate to the WDNR, as part of the required Final Compliance Alternatives Plan submittal, that the District's phosphorus compliance approach for its Badger Mill Creek discharge is to discontinue effluent discharge to Badger Mill Creek.

By Sept. 30, 2023, the District will convene and facilitate a group of governmental and non-governmental stakeholders and experts that will work through a process to prioritize interests and needs, which could include flow, habitat, and other improvements.

Based on the input from the stakeholder group, a project prioritization and funding plan will be completed and presented to the Commission for approval in September 2024.