

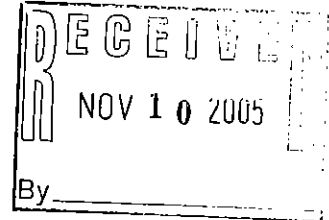
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November 9, 2005

Charles N. Nauen
William A. Gengler
Lockridge Grindal Nauen PLLP
100 Washington Avenue South, Suite 2200
Minneapolis, MN 55401

Re: In Re: City of Annandale and Maple Lake
NPDES/SDS Permit Issuance for
Discharge of Treated Waste Water
A04-2033

Dear Mr. Nauen and Mr. Gengler:

Enclosed herewith and served upon you please find the Motion for Leave to File a Joint *Amicus Curiae* Brief of Trout Unlimited and the Minnesota Lakes Association with regard to the above-referenced matter.

Thank you for your consideration.

Very truly yours,

MADIGAN, DAHL & HARLAN, P.A.

A handwritten signature in black ink, appearing to read "Michael D. Madigan".

Michael D. Madigan

MDM/brc
Enclosure

STATE OF MINNESOTA

IN SUPREME COURT

A04-2033

In Re: City of Annandale and Maple Lake
NPDES/SDS Permit Issuance for
Discharge of Treated Waste Water

**MOTION FOR LEAVE
TO FILE A JOINT
AMICUS CURIAE BRIEF**

TO: THE CITIES OF ANNANDALE AND MAPLE LAKE, THE MINNESOTA POLLUTION CONTROL AGENCY AND THE MINNESOTA CENTER FOR ENVIRONMENTAL ADVOCACY THROUGH THEIR COUNSEL OF RECORD AND THE SUPREME COURT OF THE STATE OF MINNESOTA.

Trout Unlimited, and the Minnesota Lakes Association (collectively, "public interest organizations") through their undersigned counsel, request permission for leave to file a joint brief as *amicus curiae* in support of Respondent Minnesota Center for Environmental Advocacy ("MCEA"). This request is made pursuant to Minn. R. Civ. App. P. 127 and 129, and is based upon all of the files, records and proceedings herein. Participation by the public interest organizations is desirable because this Court's decision will have significant environmental, conservation, and fiscal effects on Minnesota's public lakes, rivers, streams, and the fish and wildlife resources they support.

Minnesota Lakes Association ("MLA") is a nonprofit membership organization comprised of over 3,000 individuals, 300 lake associations, and 15 county coalitions of lake associations that collectively represents over 60,000 lake user interests, which has a public interest in this case. MLA seeks to protect, preserve, and enhance Minnesota's

lakes as irreplaceable natural assets and, in particular, to protect water quality. MLA members' use and enjoyment of Minnesota's lakes is diminished if environmental laws are not enforced and if substantial discharges of phosphorus, such as that contemplated by the proposed wastewater-treatment plant, are not appropriately regulated and controlled.

Trout Unlimited ("TU") is a 2,300 member organization dedicated to the preservation of cold water ecology and, in particular, to the protection of water quality. TU members' use and enjoyment of Minnesota's waters is diminished if the environmental laws are not enforced and if substantial discharges of phosphorus, such as that contemplated by the proposed wastewater-treatment plant, are not appropriately regulated and controlled.

Together, the public interest organizations represent a broad cross-section of Minnesotans who share an interest in clean lakes and streams; abundant hunting, fishing, bird watching and other outdoor recreational activities; and the vitality of the tourism sector of the state's economy. The public interest organizations also share a strong interest in ensuring that Federal and State Environmental Laws are appropriately interpreted and enforced.

In this case, the Minnesota Court of Appeals held that the Minnesota Pollution Control Agency ("MPCA") erred by interpreting 40 C.F.R. § 122.4 (i) as authorizing it to issue the National Pollutant Discharge Elimination System ("NPDES") permit to the Cities of Annandale and Maple Lake for a proposed wastewater-treatment plant when the MPCA had failed to establish a "total daily maximum load" ("TDML") for the applicable water body, as required by federal law, and when the proposed wastewater-treatment

plant would discharge at least 3,600 pounds of phosphorus each year into an already impaired water body. This is an issue of great significance to the water quality of Minnesota's lakes, rivers, and streams.

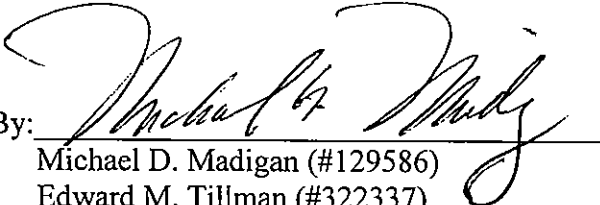
For these reasons, the public interest organizations request leave to file an *amicus curiae* brief in the interest of a full presentation of the public interests at stake in this case. Furthermore, pursuant to Minn. R. Civ. App. P. 129.04, the public interest organizations request leave to participate in oral argument.

Respectfully submitted,

MADIGAN, DAHL & HARLAN, P.A.

Dated: November 9, 2005

By:



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