

## IMPORTANT UPDATE - Metals Monitoring Requirement in NMM General Permit

Please read this important update regarding the General Permit for Nonmetallic Mining and Processing facilities (the “NMM General Permit”) and the metals monitoring requirements for discharges from process wastewater treatment facilities.

### **Metals Monitoring Requirements in NMM General Permit**

On June 7, 2022, Wisconsin Pollutant Discharge Elimination System (“WPDES”) Permit No. WI-0046515-07-1, the General Permit for Nonmetallic Mining and Processing facilities (the “NMM General Permit”) was modified to include certain metals monitoring requirements for discharges from process wastewater treatment facilities, which modification became effective October 1, 2023.

### **APW Challenge to Metals Monitoring Requirements**

The Aggregate Producers of Wisconsin (“APW”) and certain APW members challenged these modifications on November 17, 2023, by filing a Petition for Review with the Wisconsin Department of Natural Resources (“WDNR”) and seeking a contested case hearing. On March 11, 2024, WDNR granted the request for a contested case hearing. Environmental interest group Clean Wisconsin subsequently intervened in the proceeding.

### **Settlement of APW Challenge**

The parties then successfully negotiated a stipulated resolution to the Petition for Review pursuant to which APW agreed to obtain samples from certain wastewater treatment facilities operated by APW members, test those samples according to the parameters in the NMM General Permit, and report the results to WDNR. **In exchange, WDNR agreed to modify the NMM General Permit by omitting the application of metals monitoring requirements to quarry operations.** The Administrative Law Judge (“ALJ”) presiding over the contested case proceeding approved and entered an order consistent with the parties’ stipulation.

### **Reporting Requirements under NMM General Permit before Stipulated Modification**

The metals monitoring provisions in the NMM General Permit required annual sampling of defined parameters (Section 4.2.3.1) beginning in calendar year 2024 (Section 4.6.2) and required that sampling data be reported to WDNR within 21 days following the end of the annual reporting period (Section 4.6.1). Thus, prior to ALJ ordered modification, sampling data would first be due under the NMM General Permit on January 21, 2025.

### **Effect of Stipulated Modification of NMM General Permit**

WDNR has agreed to issue the modified NMM General Permit (which will omit the application of metals monitoring requirements to quarry operations) no later than year-end 2024. Thus, the modified NMM General Permit without the metals monitoring requirements will be effective before any sampling data is due under the prior iteration of the permit.

**Given the impending release of the modified NMM General Permit, we advise quarry operators to not issue any sampling data to WDNR at this time.**