

PUBLIC NOTICE

PUBLIC NOTICE OF DRAFT NPDES PERMITS TO DISCHARGE INTO WATERS OF THE UNITED STATES

U.S. Environmental Protection Agency
Region 5, NPDES Programs Branch - WN-16J
77 West Jackson Boulevard
Chicago, Illinois 60604
(312) 886-6106

Public Notice No.: 16-08-01-A

Public Notice Issued On: August 3, 2016

Comment period ends: September 2, 2016

Permit No.: WI-0073059-2 (REISSUANCE)

Application No.: WI-0073059-2

Name and Address of Applicant:

Menominee Indian Tribe of Wisconsin
Menominee Tribal Utilities
P.O. Box 910
Keshena, Wisconsin 54135

**Name and Address of Facility
Where Discharge Occurs:**

Neopit Wastewater Treatment Facility
Menominee Indian Reservation
County Road M, Neopit, Wisconsin
Menominee County
(S ½ of Section 17, T29N, R14E)

Receiving Water: Groundwater via seepage cells to Tourtillotte Creek

DESCRIPTION OF APPLICANT'S FACILITY AND DISCHARGE

The above named applicant has applied for an NPDES Permit to discharge into the designated receiving water. The facility is located within the exterior boundaries of the Menominee Indian Reservation. The permit will be issued by the U.S. Environmental Protection Agency.

The renovated treatment system consists of two aerated cells followed by a settling cell. These cells are meant to be operated in series with an operating depth of 12 feet. Following the settling cell, the operator can direct the effluent to any of three seepage cells for final disposal. The maximum daily average design flow rate to the new system is 0.17 million gallons per day (mgd) with a peak sustained flow of 0.34 mgd. This facility replaced an old groundwater discharging system that leaked from the stabilization cells that had not been permitted in the past.

The draft permit requires the applicant to meet the following limitations prior to the seepage cells:

Parameter	Limit Type	Limit and Units
Flow Rate	Monitor only	MGD
BOD ₅	Monthly Avg.	50 mg/L
Total Suspended Solids	Monitor only	mg/L
pH	Monitor only	S.U.
Nitrogen, Total Kjeldahl	Monitor only	mg/L
Nitrogen, Ammonia (NH ₃ -N) Total	Monitor only	mg/L
Nitrogen, Organic Total	Monitor only	mg/L
Nitrogen, Nitrite + Nitrate Total	Monitor only	mg/L
Nitrogen, Total	Monitor only	mg/L
Total Dissolved Solids	Monitor only	mg/L
Chlorides	Monitor only	mg/L

The draft permit requires the applicant to meet the following limitations in the groundwater:

Parameter	Units	Enforcement Standard
Depth To Groundwater	feet	Monitor only
Ground Elevation	feet MSL	Monitor only
Nitrogen, Nitrite + Nitrate (as N) Dissolved	mg/L	10
Chloride, Dissolved	mg/L	250
pH Field	S.U.	Monitor only
Nitrogen, Ammonia Dissolved	mg/L	Monitor only
Nitrogen, Organic Dissolved	mg/L	Monitor only
Solids, Total Dissolved	mg/L	500

The old leaking treatment facility had not been issued a NPDES permit by EPA in the past as this system was designed to discharge to groundwater via seepage cells. NPDES permits are generally not needed for facilities that do not have a direct discharge to surface waters, however, it has been EPA's position, supported by case law, that the regulations of the NPDES program are deemed to be applicable to operations that have a direct hydrologic connection to groundwater that has a direct hydrologic connection to surface water. This was detailed in the Preamble to proposed rules, guidelines and standards for Concentrated Animal Feeding Operations, Federal Register, vol. 66, No. 9, Fri., January 12, 2001, pp. 3015-3020. In the development of this permit, EPA looked at protecting Federal drinking water standards, Menominee's Tribal Groundwater Ordinance (87-28) and the Wisconsin Department of Natural Resources' (WDNR) Groundwater Quality Standards (NR140). Also, since the groundwater has a direct hydrologic connection to surface water (Tourtillotte Creek), we looked at protecting Tribal water quality standards and Wisconsin water quality standards, where they are applicable. In this regard, the Tribe and WDNR were consulted regarding appropriate requirements. The permit language was

modeled after language found in Wisconsin groundwater discharge permits. The permit also requires compliance with 40 CFR Part 403 to prevent any pass through of pollutants or any inhibition or disruption of the permittee's facility and 40 CFR Part 503 when sludge is used or disposed.

Section 401 Water Quality Certification

EPA is the appropriate authority for purposes of certifying the discharge under Section 401 of the Clean Water Act. Clean Water Act Section 401 certification is not needed from Wisconsin nor the Menominee Indian Tribe of Wisconsin as neither has federally approved water quality standards applicable to the receiving water at the point of discharge, however, EPA believes the effluent limitations included in the draft permit meet state water quality standards at the reservation boundary. We have discussed our reissuance of the permit with the Wisconsin Department of Natural Resources.

ESA and NHPA Compliance

EPA has satisfied its requirements under the Endangered Species Act and the National Historical Preservation Act. This is an existing facility that has been permitted in the past by EPA. No new construction is planned during the permit term. Therefore, it is believed that the reissuance of the permit and the continued operation of the facility and associated discharge will have no effect on endangered or threatened species or their critical habitat and will have no impact on historical, archeological, or cultural resources.

TENTATIVE DETERMINATION

On the basis of preliminary staff review and application of applicable standards and regulations, the Acting Regional Administrator of EPA, Region 5 proposes to issue a permit for the discharge from the Neopit Wastewater Treatment Facility, subject to certain effluent limitations and special conditions.

COMMENT PROCEDURES and PUBLIC HEARING

The determination to issue the NPDES permits is tentative. EPA's comment and public hearing procedures may be found at 40 CFR 124.10, 124.11, 124.12, and 124.13. The following is a summary of those procedures:

1. The comment period during which written comments on the draft permits may be submitted extends to September 2, 2016.
2. During the comment period, any interested person may request a public hearing by filing a written request which must state the issues to be raised. The last day for filing a request for public hearing is September 2, 2016.
3. In appropriate cases, including those where there is significant public interest, the EPA Regional Administrator may hold a public hearing. A decision has not yet been made as to whether a public hearing will be held for this permit. Public notice of such a hearing

will be circulated in at least one newspaper in the geographical area of the discharge and to those persons on the EPA mailing list at least 30 days prior to the hearing.

4. All comments received after September 2, 2016 will not be considered in the formulation of final determinations.
5. Written comments or requests for a public hearing must be delivered or mailed to: John A. Colletti, U.S. Environmental Protection Agency, Region 5, NPDES Programs Branch - WN-16J, 77 West Jackson Boulevard, Chicago, Illinois 60604 or emailed to colletti.john@epa.gov.

The application and Public Notice numbers should appear next to the EPA address on the envelope and on each page of any submitted comments. It is important that all viewpoints are considered before taking action. Therefore, we greatly appreciate your time and effort in participating in the public participation process. EPA will notify the applicant and each person who has submitted written comments or requested notice of the final permit decisions.

PETITION TO REVIEW

Within 30 days following the service of notice of the Regional Administrator's final permit decisions, any person who filed comments on the draft permits or participated in a public hearing, if held, may petition the Environmental Appeals Board to review any condition of the permit decision. All documents that are sent through the U.S. Postal Service (except by Express Mail) **MUST** be sent to the following address: Clerk of the Board, U.S. Environmental Protection Agency, Environmental Appeals Board, 1200 Pennsylvania Avenue, NW, Mail Code 1103M, Washington, DC 20460-0001.

All mail sent to the Environmental Appeals Board may be delayed by a random sterilization procedure. Parties are encouraged to utilize the Board's e-filing system or hand or courier delivery when filing pleadings with the Board to avoid potential delays.

Documents that are hand-carried in person, delivered via courier, mailed by Express Mail, or delivered by a non-U.S. Postal Service carrier (e.g., Federal Express or UPS) **MUST** be delivered to: Clerk of the Board, U.S. Environmental Protection Agency, Environmental Appeals Board, 1201 Constitution Avenue, NW, U.S. EPA East Building, Room 3334, Washington, DC 20004

Documents that are hand-carried may be delivered to the Clerk of the Board between 8:30 a.m. and 4:30 p.m., Monday through Friday (excluding federal holidays).

AVAILABILITY OF DOCUMENTS

The application, draft permit, including proposed effluent limitations and special conditions, statement of basis, and other documents contained in the administrative record, are available for inspection and may be copied at a cost of 15 cents per page at the Chicago Regional offices of the Environmental Protection Agency anytime between 9:00 a.m. and 4:00 p.m., Monday through

Friday. You may also view, the public notice, statement of basis, and draft permit on Region 5's website at “ <http://www.epa.gov/region5/water/npdestek/index.htm>”. All data submitted by the applicant is available as part of the administrative record. For more information, please contact John Colletti at (312) 886-6106 or by e-mail at colletti.john@epa.gov.

Please bring the foregoing to the attention of anyone you know that would be interested in this matter.