

PUBLIC NOTICE

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

U.S. Environmental Protection Agency
Region 5, NPDES Programs Branch - WN-15J
77 West Jackson Boulevard
Chicago, Illinois 60604
(312) 886-6106

Public Notice No.: 17-05-01-A

Public Notice Issued On: May 31, 2017 **Comment Period Ends:** June 30, 2017

Permit No.: MN-0025887-6 (Reissuance)

Application No.: MN-0025887-6

Name and Address of Applicant:

Grand Portage Band of
Lake Superior Chippewa
P.O. Box 428
Grand Portage, Minnesota 55605

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

Grand Portage Wastewater Stabilization Lagoon
Grand Portage Reservation
182 Upper Road
Grand Portage, Minnesota
Cook County

Receiving Water: Grand Portage Bay in Lake Superior

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 Grand Portage Indian Reservation. The permit will be issued by the U.S. Environmental Protection Agency.

The application and plans indicate that the treatment system consists of a 4-cell stabilization lagoon that has three primary cells 1.6, 2.0, and 4.5 acres in area and one secondary cell that is 3.7 acres in area. The ponds are designed for an average influent flow of 74,000 gallons per day and allow for 210 days of storage. The discharge is controlled to Grand Portage Bay in Lake Superior. Wastewater is from domestic sources only, including a casino and a hotel.

The draft permit requires the applicant to meet the following effluent limitations:

<u>Effluent Characteristics</u>	<u>Discharge Limitations</u>			
	Concentration (Specified Units)			
Parameter	Daily Minimum	Monthly Average	Weekly Average	Daily Maximum
Flow (mgd)	-	-	-	-
Dissolved Oxygen (mg/L)	Report	-	-	-
pH (SU)	6.0	-	-	9.0
Total Suspended Solids (TSS) (mg/L)	-	30	45	-
Carbonaceous Biochemical Oxygen Demand (CBOD ₅) (mg/L)	-	25	40	-
Phosphorus, Total (mg/L)	-	0.5	-	1.0
Ammonia Nitrogen, Total (as N) (mg/L)	-	Report	-	-
E. coli (#/100ml)	-	126 Geometric mean	-	235
Mercury, Total (ng/L)	-	2.39	-	-
CBOD ₅ percent removal (%)	≥85	-	-	-
TSS percent removal (%)	≥85	-	-	-
Outfall observation (yes/no)	-	-	-	-

The limits were developed to ensure compliance with 40 CFR Part 133 and Grand Portage Reservation and Minnesota water quality standards where they are applicable. The permit also requires compliance with 40 CFR Part 503 when sludge is used or disposed and 40 CFR Part 403 to prevent any pass through of pollutants or any inhibition or disruption of the permittee's facility.

Mercury Variance

On June 17, 2016, in accordance with the Tribe's WQS and 40 CFR part 132, the Grand Portage Band submitted a proposed variance from mercury wildlife and human health criterion for the permittee's discharge. Consistent with section 303(c) of the Clean Water Act and federal regulations at 40 CFR 131.21, EPA reviewed the information submitted by the Tribe and approved the variance on August 26, 2016. The variance establishes a mercury effluent limit of up to 2.39 ng/L of mercury, as a monthly average for the permittee's discharge to Grand Portage Bay in Lake Superior.

Section 401 Water Quality Certification

Where states or tribes have federally approved water quality standards that are applicable at the point of discharge, federal NPDES permits cannot be issued unless water quality certification for the discharge is granted or waived pursuant to Section 401 of the Clean Water Act. The tribal

Section 401 authority within the Grand Portage Reservation is the Tribal Water Resources Board (Board).

The Band is a federally recognized Indian tribe and has Treatment-in-the-same-Manner-As-a-State (“TAS”) for purposes of enforcement of federal water quality standards on the Band’s Reservation in northern Minnesota. Therefore, in accordance with Section 401 of the Clean Water Act, the Grand Portage Water Quality Standards (“Water Quality Standards”) and the Grand Portage Water Resources Ordinance (as amended in 2004, the “Water Resources Ordinance”), the Grand Portage Environmental Resources Board (“Board”) has examined the draft NPDES permit. The Board has determined that there is reasonable assurance that the discharges authorized under the NPDES permit will not violate the Water Quality Standards. The Band’s Water Quality Standards can be obtained at:

<https://www.epa.gov/sites/production/files/2014-12/documents/grandportageband.pdf>

The Water Resources Ordinance and Cooperative Agreement can be found at:

<https://www.epa.gov/wqs-tech/water-quality-standards-regulations-grand-portage-band-minnesota-chippewa-tribe>

Therefore, the Board has determined that no additional conditions are necessary to protect: (a) the public health and welfare of the Band, its members, and others living on the Band’s Reservation; and (b) the present and future use of Reservation Waters for public and private water supplies; propagation of fish, aquatic life, and wildlife; domestic and recreational purposes; and for agricultural, cultural, religious, commercial, industrial, and other legitimate uses. This certification applies only to those activities specifically authorized by NPDES permit MN-0025887-6 once issued.

Written comments for the Band’s consideration must be postmarked or emailed by June 30, 2017. Comments can be sent via email to mwatkins@grandportage.com or via post office to: Margaret Watkins, Water Quality Specialist, Grand Portage Environmental Department, P.O. Box 428, Grand Portage, MN 55605. As provided by the Water Resources Ordinance, any interested party may request that a public hearing be scheduled regarding the Board’s decision to grant certification to the NPDES permit. Such a request must be directed to the following address within 30 days of this notice:

Grand Portage Environmental Resources Board
P.O. Box 428
Grand Portage, MN 55605

By this notice, the Board is public noticing its tentative decision to grant Section 401 water quality certification to the permit. At this time a public hearing regarding the tentative decision to grant certification has not been scheduled but one can be requested during this public notice period. **Submitting comments or a request for a hearing regarding the Section 401 certification is separate from submitting comments and requests for a hearing as specified below for the permit.** It should be noted that this permit may be republic noticed based on the conditions for Section 401 certification provided by the Board after the comment period.

ESA and NHPA Compliance

EPA believes it has satisfied its requirements under the Endangered Species Act and the National Historical Preservation Act. Though construction may occur at the facility, the construction is expected to be within the same footprint of the existing facility. Therefore, it is believed that the reissuance of the permit and the continued operation of the facility and its associated discharge will have no effect on historical, archeological, or cultural resources or threatened or endangered species or their critical habitat.

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 reissue a permit for the discharge subject to certain effluent limitations and special conditions.

Comment Procedures

The determination to issue an NPDES permit is tentative. Interested persons are invited to submit written comments on the draft permit. 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 permit may be submitted extends to June 30, 2017.
2. During the comment period, any interested person may request a public hearing for each permit by filing a written request which must state the issues to be raised. The last day for filing a request for public hearing is June 30, 2017.
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 either of the permits. 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. Comments received after June 30, 2017, 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-15J, 77 West Jackson Blvd, 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 decision.

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 “ <https://www.epa.gov/publicnotices/grand-portage-wwsl-npdes-permit-mn-0025887-6>”. 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.

Unless a public hearing is scheduled, the EPA will issue a final determination as to the reissuance of the permit in a timely manner after the expiration of the public comment period. If you would like to receive a copy of the final determination, please submit a request during the comment period to the above address. Please bring the foregoing to the attention of persons whom you know would be interested in this matter.