

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.: 17-07-02-A

Public Notice Issued On: July 31, 2017

Comment period ends: August 30, 2017

Permit No.: WI-0036498-4 (REISSUANCE)

Application No.: WI-0036498-4

Name and Address of Applicant:

Lac du Flambeau Band of Lake Superior
Chippewa Indians
P.O. Box 67
Lac du Flambeau, Wisconsin 54538

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

Lac du Flambeau Lagoon
Lac du Flambeau Indian Reservation
Lac du Flambeau, Wisconsin 54538
Vilas County
(NW ¼ of NW ¼ of S9, T40N, R5E)

Receiving Water: Unnamed Wetland prior to Moss Lake.

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 boundaries of the Lac du Flambeau Band of Lake Superior Chippewa Indian Reservation. The U.S. Environmental Protection Agency has retained the authority to issue NPDES permits to facilities with discharges to waters of the United States within Indian Country. The permit will be issued by the EPA under the authorities of the Clean Water Act.

The application and plans indicate that the existing wastewater treatment system consists of four cells operate in series. The primary cell is 18.4 acres in area and the secondary cell is 10 acres in area. The third and fourth cells are 5 acres in area each and are used as seepage cells. If needed, the fourth cell has an outlet structure that discharges to an unnamed wetland prior to Moss Lake. The average design flow rate to the lagoon is approximately 180,000 gallons per day (gpd).

Since the facility was designed as a subsurface discharge system, the permittee has not been treating to remove phosphorus. The permittee has begun to routinely use the outlet structure on a

controlled basis to discharge directly to the wetland during the wet seasons. The permittee will be using this permit term to look at ways to optimize phosphorus removal at the facility.

The permittee is also looking at alternatives to remove the discharge from the Moss Lake Watershed. They are in the process of designing a plan to move the discharge to a new location that will have a subsurface discharge.

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

Parameter	Date	Monthly average	Weekly Average	Daily Maximum	Daily Minimum
Flow	All year	Report	Report	---	---
Biochemical Oxygen Demand (BOD ₅)	All Year	30 mg/L	45 mg/L	---	---
Total Suspended Solids	All Year	30 mg/L	45 mg/L	---	---
Ammonia Nitrogen, Total (as N) (mg/L)	All Year	Report	---	---	---
Temperature (°F)	All Year	Report	---	Report	---
Dissolved Oxygen	All Year	---	---	---	5.0
Mercury, Total (ng/L)	All Year	Report	---	---	---
Sulfate, Total (mg/L)	All Year-	Report	---	---	---
E. coli	All Year	126 E. coli/100 ml*	---	940 E. coli/100 ml	---
Total Phosphorus (effective 7/31/2020)	All Year	1.0 mg/L	2.0 mg/L	---	---
pH	All Year	---	---	9.0 S.U.	6.0 S.U.

The limits were developed to ensure compliance with 40 CFR Part 133 and Lac du Flambeau Indian Reservation Water Quality Standards and Wisconsin Water Quality Standards where they are applicable. In this regard, the Wisconsin Department of Natural Resources and the Tribe were consulted. The permit also requires monitoring for mercury, ammonia, sulfate and temperature to collect data for the next permit issuance and 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

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 Lac du Flambeau Indian Reservation is the Lac du Flambeau Tribal Natural Resource Department. A copy of the permittee's NPDES permit application and a copy of the draft NPDES permit have been provided to the Tribal Natural Resource Department. If the Tribal Natural Resource Department needs any additional information in order for the Section 401 application to be considered complete, the Tribal Natural Resource Department will

request such information from the permittee. It is the permittee's responsibility to ensure that the Tribal Natural Resource Department has received a valid, complete application for tribal Section 401 certification and to obtain a final Section 401 action from the Tribal Natural Resource Department.

ESA AND NHPA COMPLIANCE

EPA has satisfied its requirements under the Endangered Species Act and the National Historical Preservation Act. Though construction may occur at the facility, most of the construction is expected to be within the same footprint of the existing facility. If new seepage cells are built at a new location, ESA and NHPA compliance will be looked at prior to that construction. 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 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 August 30, 2017.
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 August 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 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 later than August 30, 2017, will not be considered in the formulation of final determinations.
5. Written comments of request 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 Boulevard, Chicago, Illinois 60604

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.

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/npdes-permits/lac-du-flambeau-lagoon-npdes-permit-wi-0036498-4>". 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 issuance 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.