

PUBLIC NOTICE

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

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

Public Notice No.: 19-05-01-A

Public Notice Issued On: May 20, 2019

Comment period ends: June 19, 2019

Permit No.: WI-0036544-5 (REISSUANCE)

Application No.: WI-0036544-5

Name and Address of Applicant:

Bad River Utilities
Bad River Band of the Lake Superior Tribe
of Chippewa Indians
P.O. Box 39
Odanah, Wisconsin 54861

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

Diaperville Stabilization Lagoon
Bad River Indian Reservation
Diaperville, Wisconsin
Ashland County
(S ½ of Sec. 26, T48N, R3W)

Receiving Water: Hanson Swamp

DESCRIPTION OF APPLICANT'S FACILITY AND DISCHARGE

The above facility is located within the exterior boundaries of Bad River Indian Reservation. EPA has retained the authority to issue NPDES permits to facilities with discharges to waters of the United States within the boundaries of Indian Reservations. EPA is issuing this NPDES permit under the authorities of the Clean Water Act.

The application and plans indicate that the treatment system consists of a 2-cell stabilization lagoon, the primary cell being 1.76 acres in area and the secondary cell being 1.66 acres in area measured at the mean operating level. It has an average design flow of 20,025 gallons per day (gpd). The facility has a controlled discharge (Outfall 001), usually occurring during the spring and fall to Hanson Swamp. Wastewater is from domestic sources only. The facility was built around 1975 and expanded in 1999.

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

<u>Effluent Characteristics</u>	<u>Discharge Limitations</u>			
	Concentration (Specified Units)			
Parameter	Minimum	Monthly	Weekly	Maximum
Dissolved Oxygen (mg/L)	5.0	-	-	-
pH (SU)	6.0	-	-	9.0
Total Suspended Solids (TSS) (mg/L)	-	60	90	-
Biochemical Oxygen Demand (BOD ₅) (mg/L)	-	30	45	-
E. coli (#/100ml)	-	126	-	235
Mercury, Total (ng/L)	-	-	-	Report
Mercury, Total (ng/L) effective beginning on the expiration date of the permit	-	0.194	-	-
BOD ₅ percent removal (%)	85	-	-	-

TSS percent removal (%)	65	-	-	-
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The permit also requires monitoring for Ammonia Nitrogen (NH₃-N), Total Phosphorus, sulfates and weekly outfall observations, 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. The permit also includes a compliance schedule to meet the mercury limit. These limits are consistent with federal regulations and are also intended to be protective of the Bad River Band of the Lake Superior Chippewa Indians' (Band) Water Quality Standards (WQS) and Wisconsin's WQS where they are applicable. In this regard, the Band and state were consulted regarding appropriate effluent limits.

Permit No.: WI-0036579-5 (REISSUANCE)

Application No.: WI-0036579-5

Name and Address of Applicant:

Bad River Utilities
Bad River Band of the Lake Superior Tribe
of Chippewa Indians
P.O. Box 39
Odanah, Wisconsin 54861

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

Birch Hill Stabilization Lagoon
Bad River Indian Reservation
Birch Hill, Wisconsin
Ashland County
(NW ¼ of NE ¼ of Sec. 36, T47N, R2W)

Receiving Water: Birch Hill Swamp

DESCRIPTION OF APPLICANT'S FACILITY AND DISCHARGE

The above facility is located within the exterior boundaries of Bad River Indian Reservation. EPA has retained the authority to issue NPDES permits to facilities with discharges to waters of the United States within the boundaries of Indian Reservations. EPA is issuing this NPDES permit under the authorities of the Clean Water Act.

The existing treatment facility consists of 2-cell stabilization lagoon, the primary cell being 2.31 acres in area and the secondary cell being 2.30 acres in area measured at the mean operating level. It has an average design flow of 22,000 gallons per day. The discharge is controlled, usually occurring during the spring and fall to Birch Hill Swamp.

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

<u>Effluent Characteristics</u>	<u>Discharge Limitations</u>			
	Concentration (Specified Units)			
Parameter	Minimum	Monthly	Weekly	Maximum
Dissolved Oxygen (mg/L)	5.0	-	-	-
pH (SU)	6.0	-	-	9.0
Total Suspended Solids (TSS) (mg/L)	-	60	90	-
Biochemical Oxygen Demand (BOD ₅) (mg/L)	-	30	45	-
E. coli (#/100ml)	-	126	-	235
Mercury, Total (ng/L)	-	-	-	Report
Mercury, Total (ng/L) effective beginning on the expiration date of the permit	-	0.194	-	-
BOD ₅ percent removal (%)	85	-	-	-
TSS percent removal (%)	65	-	-	-

The permit also requires monitoring for Ammonia Nitrogen (NH₃-N), Total Phosphorus, sulfates and weekly outfall observations, 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. The permit also includes a

compliance schedule to meet the mercury limit. These limits are consistent with federal regulations and are also intended to be protective of the Band's WQS and Wisconsin's WQS where they are applicable. In this regard, the Band and state were consulted regarding appropriate effluent limits.

Permit No.: WI-0036587-5 (REISSUANCE)

Application No.: WI-0036587-5

Name and Address of Applicant:

Bad River Utilities
Bad River Band of the Lake Superior Tribe
of Chippewa Indians
P.O. Box 39
Odanah, Wisconsin 54861

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

Bad River Wastewater Treatment Plant
Bad River Indian Reservation
New Odanah, Wisconsin
Ashland County
(E ½ of the SE ¼ of Sec. 30, T48N, R2W)

Receiving Water: Bad River

DESCRIPTION OF APPLICANT'S FACILITY AND DISCHARGE

The above facility is located within the exterior boundaries of Bad River Indian Reservation. EPA has retained the authority to issue NPDES permits to facilities with discharges to waters of the United States within the boundaries of Indian Reservations. EPA is issuing this NPDES permit under the authorities of the Clean Water Act.

The application and plans indicate that the permittee operates a 0.14 million gallon per day (mgd) Sequencing Batch Reactor (SBR) system. The existing treatment facility consists of mechanical fine screens followed by an influent equalization tank. Wastewater then flows to a two tank sequencing batch reactor (SBR) system. Though some biological removal of phosphorus occurs in the system, a chemical feed system is also used for phosphorus removal. Effluent from the SBR's goes through ultra-violet disinfection and then discharges to the Bad River (Outfall 002).

Waste activated sludge is pumped to an aerobic digester and then to one of two treatment/storage lagoons. The treatment/storage lagoons are the old aerated stabilization lagoons that were taken out of service in 1996. One lagoon is approximately 8 feet deep, 0.3 acres in area. The other lagoon is 6 feet deep and 3.38 acres in area. It is the latter lagoon that is being used at this time.

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

Effluent Characteristics	Discharge Limitations			
	Concentration (Specified Units)			
Parameter	Minimum	Monthly	Weekly	Maximum
Dissolved Oxygen (mg/L)	5.0	-	-	-
pH (SU)	6.0	-	-	8.5
Total Suspended Solids (TSS) (mg/L)	-	30	45	-
Biochemical Oxygen Demand (BOD ₅) (mg/L)	-	30	45	-
Phosphorus, Total (mg/L)	-	1.0	-	2.0
Nitrogen, ammonia (mg/L) May 1 – September 30	-	2.43	-	6.41
Nitrogen, ammonia (mg/L) October 1 – April 30	-	4.09	-	6.41
Mercury, Total (ng/L)	-	-	-	Report
Mercury, Total (ng/L) effective beginning on the expiration date of the permit	-	0.194	-	-
E. coli (#/100ml)	-	126	-	235

BOD percent removal (%)	85	-	-	-
TSS percent removal (%)	85	-	-	-

The permit also requires monitoring for sulfates and weekly outfall observations, 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. The permit also includes a compliance schedule to meet the mercury limit. These limits are consistent with federal regulations and are also intended to be protective of the Band's WQS and Wisconsin's WQS where they are applicable. In this regard, the Tribe and state were consulted regarding appropriate effluent limits.

ESA and NHPA COMPLIANCE

EPA believes it has satisfied its requirements under the Endangered Species Act and the National Historical Preservation Act. As these are existing discharges, with no planned construction during the permit term, EPA believes that the issuance of the permits and the continued operation of the facilities will have no effect on endangered or threatened species or their critical habitat and will have no impact to historical, archeological, or cultural resources.

SECTION 401 WATER QUALITY CERTIFICATION

Where states or tribes have federally approved WQS 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 Band is the Tribal Council. The permittee has provided a copy of its NPDES permit application and requested Section 401 certification from the Band. EPA has provided a copy of the draft NPDES permit to the Tribal Council.

The Band is a federally recognized Indian Tribe and has Treatment-in-the-Same-Manner-As-a-State ("TAS") for purposes of enforcement of federally approved WQS on the Band's Reservation in northern Wisconsin. In accordance with the Band's rules, the Bad River Natural Resources Department (BRNRD) reviewed the applications and draft permits. The BRNRD has determined that there is reasonable assurance that the discharges authorized under the NPDES permits will not violate the Band's WQS and public noticed the application for Section 401 water quality certification under the Band's rules. Comments related to the certification are due to the BRNRD by June 18, 2019. After the comment period closes, the BRNRD will address comments and present a recommendation to the Tribal Council. It should be noted that these permits may be re-public noticed based on the conditions for Section 401 certification provided by the Tribal Council.

TENTATIVE DETERMINATION

Based on preliminary staff review and application of applicable standards and regulations, the Regional Administrator of EPA, Region 5 proposes to issue permits, provided 401 Certification is granted or waived, for the discharges from the Diaperville Stabilization Lagoon, the Birch Hill Stabilization Lagoon and the Bad River Wastewater Treatment Plant 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 **June 19, 2019**.
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 **June 19, 2019**.
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 any of these 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. All comments received later than **June 19, 2019**, 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, Permits Branch - WP-16J, 77 West Jackson Boulevard, Chicago, Illinois 60604 or by e-mail 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. Please bring the foregoing to the attention of persons whom you know would be interested in this matter. 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. 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 applications, draft permits, including proposed effluent limitations and special conditions, statements 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, statements of basis, and draft permits on Region 5's website at <https://www.epa.gov/npdes-permits/diaperville-stabilization-lagoon-npdes-permit-wi-0036544-5>, <https://www.epa.gov/npdes-permits/birch-hill-stabilization-lagoon-npdes-permit-wi-0036579-5>, and <https://www.epa.gov/npdes-permits/bad-river-wastewater-treatment-plant-npdes-permit-wi-0036587-5>. 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.