

PUBLIC NOTICE

PUBLIC NOTICE OF A DRAFT NPDES PERMIT 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.: 19-08-01-A

Public Notice Issued On: August 2, 2019

Comment period ends: September 4, 2019

Permit No.: MN-0064637-4 (REISSUANCE)

Application No.: MN-0064637-4

Name and Address of Applicant:

ML Wastewater Management, Inc.
Mille Lacs Band of Ojibwe
700 Grand Avenue
Onamia, Minnesota 56359

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

ML Wastewater Management, Inc.
Mille Lacs Indian Reservation
43282 Timber Trail Road
Onamia, Minnesota 56359
Mille Lacs County
(NE ¼ of the SW ¼ of Sec 30, T43N, R27W)

Receiving Water: Wetland to Ogechie 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 permit will be issued by the U.S. Environmental Protection Agency. EPA is the appropriate NPDES permitting authority for the trust parcel upon which the wastewater treatment plant is built and upon which the discharge from this wastewater treatment plant is located. The land which has been placed into trust status land is an L-shaped tract described as follows: The East Half of the Southwest Quarter (E ½ SW ¼) and the Northwest Quarter of the Southwest Quarter (NW ¼ SW ¼), Section 30, Township 43, Range 27 W, in Mille Lacs County.

The Supreme Court has held in a variety of contexts that tribal trust lands are reservations whether or not they are part of a formally established reservation. Oklahoma Tax Comm'n v. Citizen Band Potawatomi Indian Tribe of Oklahoma, 498 U.S. 505, 511(1991); United States v. John, 437 U.S. 634, 649 ((1978) (finding “no apparent reason” why lands held in trust should not be considered reservations under §1151(a)). This interpretation has been upheld recently in the environmental context in Arizona Pub. Service Co. v. U.S. Environmental Protection Agency, 211 F.3d 1280 (D.C. Cir. 2000) where the court upheld EPA’s regulations governing the authority of Indian tribes to carry out certain provisions of the Clean Air Act.

Treatment Facility Description:

The applicant's treatment facility consists of primary treatment with static screen and grit removal, followed by biological treatment using sequencing batch reactors. Phosphorus removal is accomplished by chemical addition and equalization. The wastewater goes through ultraviolet disinfection then is discharged to a wetland followed by an unnamed tributary which flows to Ogechie Lake. Sludge is treated by aerobic digestion and gravity thickening. Ultimate sludge use or disposal is by land application or hauling to another POTW.

The facility is to treat an average wet weather flow of 0.625 million gallons per day of mostly domestic wastewater. This facility is a regional facility that treats wastewater from the Vineland Indian Community area and the Garrison Kathio West Mille Lacs Lake Sanitary District. The Sanitary District includes the City of Garrison and the Townships of Garrison and Kathio.

Proposed Effluent Limitations – Outfall 001:

<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)	4.0	-	-	-
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)	-	0.8	1.6	-
Nitrogen, ammonia (mg/L)	-	Report	-	-
Nitrite Plus Nitrate, Total (as N) (mg/L)	-	Report	-	-
Nitrogen, Kjeldahl, Total (mg/L)	-	Report	-	-
Nitrogen, Total (as N) (mg/L)	-	Report	-	-
Mercury, Total (ng/L)	-	-	-	Report
Sulfates, Total (mg/L)	-	Report	-	-
Chlorides, Total (mg/L)	-	250	500	-
E. coli (#/100ml)	-	126	-	410
CBOD ₅ percent removal (%)	-	≥85	-	-

TSS percent removal (%)	-	≥85	-	-
Outfall observation (yes/no)	-	-	-	-

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. These limits are consistent with federal regulations and are also intended to be protective of Minnesota water quality standards where they are applicable.

Section 401 Water Quality Certification

EPA is the appropriate authority for purposes of certifying the proposed discharge under Section 401 of the Clean Water Act. Section 401 certification is not needed from the state or the Mille Lacs Band of Ojibwe as neither has federally approved water quality standards applicable to the receiving water at the point of discharge.

ESA and NHPA Compliance

EPA has satisfied its requirements under the Endangered Species Act and the National Historical Preservation Act. Prior to the building of the existing facility, a finding of no significant environmental impact was made by EPA and BIA as part of the funding process for the building of the treatment facility. This finding included no impacts to endangered or threatened species or their critical habitat and no impacts to historical, archeological, or cultural resources. EPA reviewed for this permit U.S. Fish and Wildlife's website for additional endangered or threatened species. Since this is an existing facility with no new planned expansion or construction expected within the permit term, it is believed that the issuance 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 Regional Administrator of EPA, Region 5 proposes to reissue a permit for the discharge from ML Wastewater Management, Inc. subject to certain effluent limitations and special conditions.

COMMENT PROCEDURES and PUBLIC HEARING

The determination to issue the NPDES permit 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 permit may be submitted extends to September 4, 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 September 4, 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 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 postmarked after September 4, 2019 will not be considered in the formulation of the final determination.

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 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. 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 3332, 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/ml-wastewater-management-inc-mpdes-permit-mn-0064637-4>”. 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.