

# FACT SHEET

## FACT SHEET FOR THE REISSUANCE OF A NPDES PERMIT

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

**Permit No.:** MN-0025887-7

**Public Notice No.:** 22-07-01-A

**Application No.:** MN-0025887-7

**Public Notice Issued On:** July 25, 2022  
**Comment Period Ends:** August 24, 2022

**Name and Address of Applicant:**

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

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

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 permit is based on a NPDES application dated January 18, 2022 and the additional application information submitted and determined complete on February 4, 2022, and subsequent information found in the administrative record. This permit is proposed to be effective for approximately five years from the date of issuance as allowed by 40 CFR 122.46.

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 (Latitude: 47° 57' 59" N; Longitude: 89° 40' 14" W). Wastewater is from domestic sources only, including a casino and a hotel.

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

Effluent Characteristics	Discharge Limitations			
	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 <sub>5</sub> ) (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)	-	410
Mercury, Total (ng/L)	-	2.26	-	-
CBOD <sub>5</sub> percent removal (%)	≥85	-	-	-
TSS percent removal (%)	≥85	-	-	-
Outfall observation (yes/no)	-	-	-	-

Discharge flow was calculated as follows:

$$3.7 \text{ acres} \times 0.5 \text{ feet/day (6 inches/day)} \times 325,900 \text{ gallons per acre-ft} = 0.6 \text{ mgd}$$

Loading limits in the permit were calculated using the following formula:

$$0.6 \text{ mgd} \times \text{limit (mg/l)} \times 3.78 = \text{Loading (kg/d)}$$

### **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 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. The tribal Section 401 authority within the Grand Portage Reservation is the Grand Portage Environmental Resources Board (Board).

EPA provided a copy of the permittee’s NPDES permit application and a copy of the draft NPDES permit to the Board. EPA believes the discharges authorized under the NPDES permit will not violate the Band’s Water Quality Standards. The Band’s Water Quality Standards can be

obtained at: [Water Quality Standards Regulations: Grand Portage Band of Minnesota Chippewa | US EPA](https://www.epa.gov/wqs-tech/water-quality-standards-regulations-grand-portage-band-minnesota-chippewa-tribe). 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>.

On May 25, 2022, the Grand Portage Reservation Tribal Council, on behalf of the Grand Portage Band of Chippewa, passed Resolution No. 18-22, “Granting 401 Certification for the US Environmental Protection Agency Permit MN-0025887-7.” Resolution No.18-22 adopts the Board’s 401 certification which states:

The Board has determined that there is reasonable assurance that the discharges authorized under the NPDES permit will not violate the Water Quality Standards.

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-0025887-7.

### **Basis for Limits**

The limits were developed to ensure compliance with 40 CFR Part 133 and Grand Portage Reservation water quality standards and Minnesota water quality standards where they are applicable. In accordance with the Grand Portage Reservation water quality standards, Grand Portage Bay of Lake Superior has the following designated uses: B1 (coldwater fisheries), B3 (subsistence fishing), C (wildlife), D1 (primary contact recreational, Lake Superior coastal waters), F (forestry water supply), G industrial water supply), and H (navigation).

The permit also requires monitoring for ammonia and dissolved oxygen to collect data for the next permit issuance.

### **pH**

The limits for pH are based on secondary treatment standards pursuant 40 CFR 133. Monitoring indicates the permittee is in substantial compliance with the limits.

### **5-day Carbonaceous Biochemical Oxygen Demand (CBOD<sub>5</sub>)**

The limits for CBOD<sub>5</sub> are based on secondary treatment requirements pursuant to 40 CFR Part 133. A weekly average limit of 40 mg/L and a monthly average limit of 25 mg/L are carried over from the previous permit. The weekly average and the monthly average are the arithmetic mean of pollutant parameter values for samples collected in a period of 7 and 30 consecutive days, respectively. We believe the limits are protective of the Band’s and Minnesota’s dissolved oxygen standard where they are applicable.

### **Total Suspended Solids (TSS)**

The limits for TSS are based on secondary treatment requirements pursuant to 40 CFR Part 133. A weekly average limit of 45 mg/L and a monthly average limit of 30 mg/L are carried over

from the previous permit. The weekly average and the monthly average are the arithmetic mean of pollutant parameter values for samples collected in a period of 7 and 30 consecutive days, respectively.

### **Dissolved Oxygen (DO)**

Grand Portage Bay is classified as a coldwater fishery. As such, the Band's the dissolved oxygen standard is a minimum daily mean concentration of 9.0 mg/L when and where early life stages of cold water fish occur and 6.0 mg/L for all other coldwater aquatic life stages. Based on existing effluent quality, there is no reasonable potential to cause or contribute to a violation of the Band's water quality standard. The minimum effluent value reported was 10 mg/L. Monitoring for dissolved oxygen is carried over from the previous permit as we believe it is still appropriate.

### **E. coli**

The 30-day average and daily maximum limits for E. coli are based on the Grand Portage Reservation's water quality standards which are based on the EPA's 2012 Recreational Water Quality Criteria. The geometric mean of samples collected over a 30-day period shall not exceed 126 E. coli per 100 milliliters (ml). The statistical threshold value of 410 E. coli per 100 ml is set as the daily maximum. The limits are applicable year-round.

### **Ammonia**

Ammonia is a pollutant that can negatively impact the quality of water resources, including water used for drinking. Studies have shown that ammonia in lakes and streams has a toxic effect on aquatic life such as fish. To gain a better understanding of the current ammonia concentrations discharged from the facility ammonia monitoring is included in the permit as it was in the previous permit. EPA does not believe water quality standards will be violated as the discharge is to a large waterbody with plenty of dilution and low effluent concentrations. Data provided with the application shows an average ammonia concentration of 0.97 mg/L and a maximum value of 1.7 mg/L.

### **Phosphorus**

Phosphorus is a common constituent in many wastewater discharges and a pollutant that has the potential to negatively impact the quality of the Band's and Minnesota's lakes, wetlands, rivers, and streams. Phosphorus promotes algae and aquatic plant growth often resulting in decreased water clarity and oxygen levels. In addition to creating general aesthetic problems, these conditions can also impact a water body's ability to support healthy fish and other aquatic species. The limits from the previous permit have been carried over to this permit. The Band provided Section 401 of the CWA certification that the previous would be protective of the Band's water quality standards. We believe that the phosphorus limits are still applicable and will ensure compliance with the Band's narrative water quality standards. The Band has once again provided Section 401 certification.

### **Mercury Variance**

During the term of the previous permit, the Grand Portage Environmental Department monitored the low-level concentrations of mercury in water at: 1) the drinking water intake; 2) the wastewater discharge pond; 3) the end of the wastewater discharge pipe in Grand Portage Bay, and; 4) ambient water of Grand Portage Bay. Additionally, the wastewater influent has been

tested to determine the concentration of mercury entering the wastewater treatment plant. The effluent data indicates that the discharge has the reasonable potential to violate the Tribe's human health and wildlife criteria of 0.196 ng/L and 1.3 ng/L, respectively.

As part of the permit application process the Grand Portage Band submitted a draft variance request from the mercury human health and wildlife criterion in accordance with the Tribe's WQS and 40 CFR part 132. On April 20, 2022, the Band passed Resolution No. 11-22 adopting the variance. On May 10, 2022, the Band submitted the adopted variance to EPA for approval. The variance establishes a mercury effluent limit of up to 2.26 ng/L of mercury, as a monthly average for the permittee's discharge to Grand Portage Bay in Lake Superior. On July 7, 2022, EPA granted approval of the Band's mercury variance request. The above mercury effluent limit has been incorporated into this draft permit. Supporting documentation for the variance is contained in the administrative record for this permit.

#### **Asset Management – Operation & Maintenance Plan**

Regulations regarding proper operation and maintenance are found at 40 CFR § 122.41(e). These regulations require, "that the permittee shall at all times operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of the permit." The treatment plant and the collection system are included in the definition of "facilities and systems of treatment and control" and are therefore subject to the proper operation and maintenance requirements of 40 CFR § 122.41(e).

Similarly, a permittee has a "duty to mitigate" pursuant to 40 CFR §122.41(d), which requires the permittee to "take all reasonable steps to minimize or prevent any discharge in violation of the permit which has a reasonable likelihood of adversely affecting human health or the environment."

The draft permit requirements are the first steps of an asset management program which contains goals of effective performance, adequate funding, adequate operator staffing and training. Asset management is a planning process that ensures that you get the most value from each of your assets and have the financial resources to rehabilitate and replace them when necessary, and typically includes five core elements which identify: 1) the current state of the asset; 2) the desired level of service (e.g., per the permit, or for the customer); 3) the most critical asset(s) to sustain performance; 4) the best life cycle cost; and 5) the long term funding strategy to sustain service and performance.

EPA believes that requiring a certified wastewater operator and adequate staffing is also essential to ensure that the treatment facilities will be properly operated and maintained. Mapping the collection system with the service area will help the operator better identify the assets that he/she is responsible for and consider the resources needed to properly operate and maintain them. This will help in the development of a budget and a user rate structure that is necessary to sustain the operation. The development and implementation of a proactive preventive maintenance program is one reasonable step that the permittee can take to demonstrate that it is at all times, operating and maintaining all the equipment necessary to meet the effluent limitations of the permit.

### **Special Conditions**

- The permit requires the continued implementation of an Operation & Maintenance Plan. The plan covers the use of a certified operator to oversee the facility, having adequate staff to help ensure compliance with the permit, mapping the treatment system, developing a preventive maintenance program and other items.
- The draft permit requires the continued implementation of a Pollutant Minimization Program for mercury to help identify sources of mercury to the system.
- The draft permit contains Industrial Waste Pretreatment Program requirements in accordance with 40 CFR parts 122 and 403.
- The draft permit contains requirements related to sludge disposal in accordance with 40 CFR parts 122 and 503. It is not expected that sewage sludge will be disposed of during the permit term.
- Dikes must be maintained and vegetation cut.

### **Significant Changes from the Previous Permit**

The draft permit contains the following changes from the last issued permit:

1. Changes to EPA Region 5 mailing addresses have been made throughout the permit.
2. The 'Summary of Regular Reporting' has been updated. (Page 2)
3. The mercury limit has been revised based on a proposed variance. (Page 4)
4. Electronic reporting requirements have been updated. (Part I.E.2)
5. Additional requirements related to Asset Management have been added. (Part I.E.5)
6. A reopener clause has been added that may require changes to the mercury limits based on the triennial standard review process. (Part I.E.9)
7. The "Standard Conditions" have been revised. (Part II)
8. Reporting of bypasses and sanitary sewer overflows is required electronically. (Part II.B.3.c) (Part II.D.8)

### **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 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 until August 24, 2022.

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 24, 2022. EPA will hold a hearing if there is significant interest based on written requests. 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.

3. All comments received after August 24, 2022 will not be considered in the formulation of the final determination.

4. Due to precautions being taken to prevent the transmission of COVID-19, written comments or requests for a public hearing must be emailed to: John Colletti, U.S. Environmental Protection Agency, Region 5, Permits Branch at [colletti.john@epa.gov](mailto:colletti.john@epa.gov).

The application and Public Notice numbers should appear in the subject line of the email 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 decision, any person who filed comments on the draft permit or participated in a public hearing, if held, may petition the Environmental Appeals Board (EAB) to review any condition of the permit decision. Such a petition must include a statement of the reasons supporting review of the decision, including a demonstration that the issue(s) being raised for review were raised during the public comment period (including any public hearing). The petition should, when appropriate, show that each condition being appealed is based on a finding of fact or conclusion of law which is clearly erroneous.

#### **AVAILABILITY OF DOCUMENTS**

Due to precautions being taken to prevent the transmission of COVID-19, the application, draft permit, including proposed effluent limitations and special conditions, Fact Sheet, and other documents contained in the administrative record may not be available for inspection at the Chicago Regional offices of the Environmental Protection Agency. Please contact John Colletti at (312) 886-6106 or by e-mail at [colletti.john@epa.gov](mailto:colletti.john@epa.gov) anytime between 9:00 a.m. and 4:00 p.m., Monday through Friday if you are interested in viewing the administrative record. 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/grand-portage-wastewater-stabilization-lagoon-npdes-permit-mn-0025887-7>. All data submitted by the applicant is available as part of the administrative record. For more information, please contact Mr. Colletti as stated above.

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 Mr. Colletti at the above email address. Please bring the foregoing to the

attention of persons whom you know would be interested in this matter.

Written By: John Colletti

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July 2022