

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.: 22-07-01-A

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

Permit No.: MN-0025887-7 (Reissuance)

Application No.: MN-0025887-7

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 (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:

<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)	-	410
Mercury, Total (ng/L)	-	2.26	-	-
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 May 10, 2022, 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 is reviewing the information submitted by the Tribe. 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.

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).

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.”

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.

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. EPA will notify the applicant and each person who has submitted 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 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 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.