

Winnebago Tribe of Nebraska



Chadwick Smith
In-House Legal Counsel
Winnebago Tribe of Nebraska
P.O. Box 11342
Palm Desert, CA 92255
chad@chadsmith.com
(918) 453 1707

Date: 9/19/2025

Regional Administrator, Jim Macy
U.S. Environmental Protection Agency
Region 7
11201 Renner Boulevard
Lenexa, KS 66219

Re:

Dear Mr. Macy:

I am the In-House Legal Counsel for the Winnebago Tribe of Nebraska ("Winnebago Tribe"). I am providing this letter in support of the Tribe's application for an amendment to its Clean Water Act Section 303(c) Water Quality Standards and Section 401 Water Quality Certification to include additional lands over which the Winnebago Tribe has jurisdiction. The Tribe was granted treatment in a manner similar to a state (TAS) over its reservation on January 19, 2021.

Subsequent to the approval of the Winnebago Tribe's application for TAS, the Tribe's jurisdiction was expanded with the acquisition of new lands under the Winnebago Land Transfer Act of 2023, Public Law 118-68. Signed into law on July 12, 2024, this Act transferred approximately 1600 acres of land located on the Iowa side of the Missouri River into trust for the Winnebago Tribe. These lands were part of the original reservation of land identified in the Treaty of March 8, 1865. As a result of the return of these lands to the Winnebago Tribe, the Reservation now covers approximately 113,000 acres in Nebraska and 3,400 acres in Iowa. With the addition of these lands, the Tribe's jurisdiction and responsibility for water quality and environmental stewardship have increased, necessitating the extension of Clean Water Act (CWA) authority to this area.

The Tribe is a federally recognized tribe as acknowledged in the most recent publication of the Federal Register, Volume 89, No. 5, page 947 (2024) of all tribes currently recognized by the Federal government. Further, the Winnebago Tribe of Nebraska was organized under the Indian Reorganization Act of 1934 (48. Stat. 984), and under the authority of the Act, the Tribe developed a Constitution and By-laws.

The Constitution of the Winnebago Tribe of Nebraska provides in Article I that "the Constitution shall apply to the territory embraced in the Winnebago Reservation in Nebraska, as the same is described by the Treaty of March 8, 1865 (14 Stat. 671) and the twenty (20) sections included in the strip purchased in Nebraska for Wisconsin Winnebagos (18 Stat. 170, June 22, 1874) and such lands as may be added thereto by Congress or by the Tribe or reaffirmation of the title to lands through the courts to the Tribe except as otherwise provided by law."

The Tribe's Constitution in Articles III and IV provides for a governing body, the Tribal Council, with certain powers. The Tribal Council has the following pertinent authority, as stated in Article IV (not all provisions from this section are provided below):

- To negotiate with the federal, state and local governments on behalf of the Tribe, and to advise and consult with the representatives of the Interior Department on all activities of the Department that may affect the Winnebago Reservation. "Reservation", as used herein, shall include the Winnebago Reservation and all other Indian Country subject to the jurisdiction of the Tribe.
- To safeguard and promote the peace, safety, morals and general welfare of the Tribe.
- To manage all economic affairs and enterprises of the Tribe.
- To regulate the conduct of trade and the use and disposition of property upon the Reservation.
- To protect and preserve the property, wildlife and natural resources of the Tribe.
- To promulgate and enforce statutes governing the conduct of persons located within or passing through the Reservation and providing for the maintenance of law and order and the administration of justice.
- To delegate to subordinate boards, or to tribal officials, or to cooperative associations which are open to all members of the Tribe, any of the foregoing powers reserving the right to review any actions taken by virtue of such delegated powers.
- To manage and lease or otherwise deal with tribal land and communal resources in accordance with law. (Article VIII).

The Tribal government conducts substantial governmental duties and effectively exercises governmental powers within the exterior boundaries of the Winnebago Reservation, including land contiguous to the returned lands. In the exercise of these powers, the Tribe has enacted a water management law in order to promote the protection and use of the waters of the reservation in a manner consistent with Tribal goals and policies. Further, the water management law is also designed to assert the inherent powers of self-government and sovereign authority of the Winnebago Tribe of Nebraska over all actions taken within the reservation that may affect the use or quality of reservation waters. In addition, the Winnebago Tribe exercises police powers and employs both Tribal Police officers and certified Tribal Conservation Officers who are authorized to enforce both civil and criminal laws.

Under the Water Management law, Title 8, Article 2 of the Winnebago Tribal Code, last published July 7, 2025, the Tribe seeks to provide effective and coordinated management of regional water supplies with Tribal, state, federal and local governments by initiating an integrated approach by the Tribe to managing the waters, forests, wildlife, land and other natural resources of the reservation.

Based on the Constitution, laws, and structure of the government of the Winnebago Tribe of Nebraska and the authorization of those persons and officials who are may assert jurisdiction, there is no impediment to the Tribe's authority or ability to effectuate a delegation of authority to exercise TAS authority over all lands within its territory, including both their original lands and the returned lands.

Yours,



Chadwick Smith
In-House Legal Counsel
Winnebago Tribe of Nebraska