

## PUBLIC NOTICE

### PUBLIC NOTICE OF A DRAFT NPDES PERMIT TO DISCHARGE INTO WATERS OF THE UNITED STATES

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

**Public Notice No.: 14-12-01-A**

**Public Notice Issued On: December 5, 2014**

**Comment Period Ends: January 5, 2015**

**Permit No.: MI-0058661-2 (REISSUANCE)**

**Application No.: MI-0058661-2**

**Name and Address of Applicant:**

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

Gun Lake Tribal Gaming Authority  
1123 129<sup>th</sup> Avenue  
Wayland, Michigan 49348

Gun Lake Tribal Gaming Authority  
Wastewater Treatment Facility  
1123 129<sup>th</sup> Avenue  
Wayland, Michigan 49348  
Allegan County  
(N.W. ¼ of S19,T3N,R11W)

Receiving Water: Buskirk Creek.

#### **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 since the discharge is located on land held in trust for the Gun Lake Tribe. 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 permittee operates a 0.10 mgd (with plans to ultimately expand to 0.350 mgd) wastewater treatment facility (WWTF) with a continuous discharge to Buskirk Creek (Lat: N42° 38' 8.34"; Long. W85° 39' 10.55"). The treatment consists of an influent equalization basin with three

influent pumps followed by flow metering and fine screening. Following screening, the wastewater enters the activated sludge process at the anoxic basin which provides additional flow equalization as needed. Chemical addition of Alum for phosphorus removal and Sodium Hydroxide for pH adjustment occurs in the anoxic basin. Activated sludge is pumped from the anoxic basin to one or both pre-aeration basins which flow to one or both membrane bioreactor (MBR) for liquid/solids separation. Final effluent is pumped to ultra-violet light disinfection and post aeration prior to discharge to Buskirk Creek.

Waste activated sludge (WAS) is removed from the MBR basins as needed via the WAS pump. WAS is typically thickened using a drum thickener with polymer addition then pumped to the aerobic digester. WAS may be pumped directly to the aerobic digester without thickening. WAS is aerated in the aerobic digester. Additional thickening occurs in the digester when the solids are allowed to settle for supernatant removal. A loading standpipe and wash down station are provided to allow tankers to be loaded for biosolids disposal.

**Outfall - 001 – Final**

Parameter	Maximum Limits for Quantity or Loading				Maximum Limits for Quality or Concentration			
	30-Day	7-Day	Daily	Units	30-Day	7-Day	Daily	Units
<b>Flow</b>	Report	---	Report	MGD	---	---	---	---
<b>Outfall observation</b>					---	Report	---	Yes/No
<b>Carbonaceous Biochemical Oxygen Demand (CBOD<sub>5</sub>)</b>								
May 1 - Sept 30	12	---	29	lbs/day	4	---	10	mg/L
Oct 1 – Nov 30	---	---	44	lbs/day	---	---	15	mg/L
Dec 1 – March 31	73	117	---	lbs/day	25	40	---	mg/L
April 1 – 30	---	---	61	lbs/day	---	---	21	mg/L
<b>Total Suspended Solids (TSS)</b>								
May 1 – Sept 30	58	88	---	lbs/day	20	30	---	mg/L
Oct 1 – April 30	88	131	---	lbs/day	30	45	---	mg/L
<b>Ammonia Nitrogen (as N)</b>								
May 1 - Sept 30	1.4	---	5.8	lbs/day	0.5	---	2.0	mg/L
Oct 1 – Nov 30	---	---	15	lbs/day	---	---	5	mg/L
Dec 1 – March 31	---	---	---	lbs/day	Report	---	---	mg/L
April 1 – 30	20	---	38	lbs/day	7	---	13	mg/L
<b>Total Phosphorus (as P)</b>								
May 1 – Sept 30	0.29	0.58	---	lbs/day	0.1	---	---	mg/L
Oct 1 – April 30	2.9	5.8	---	lb/day	1.0	2.0	---	mg/L
<b>E. coli</b>					126	---	410	E. coli/100 ml
<b>Mercury, Total</b>					---	---	Report	ng/L

<b>CBOD<sub>5</sub> Minimum % Removal</b>					Minimum 30-Day			
Dec 1 – March 31	---	---	---	---	≥85	---	---	%
<b>TSS Minimum % Removal</b>								
Oct 1 – April 30	---	---	---	---	≥85	---	---	%
					Minimum Daily		Maximum Daily	
<b>pH</b>	---	---	---	---	6.5	---	9.0	S.U.
<b>Dissolve Oxygen</b>								
May 1 – Sept 30	---	---	---	---	7	---	---	mg/L
Oct 1 – Nov 30	---	---	---	---	6	---	---	mg/L
Dec 1 – March 31	---	---	---	---	5	---	---	mg/L
April 1 – 30	---	---	---	---	6	---	---	mg/L

The limits were developed to ensure compliance with 40 CFR parts 131 and 133 and protection of Michigan water quality standards where they are applicable. Michigan water quality standards must be met at the boundary of the trust property, which is very close to the discharge point. In this regard, EPA coordinated with the Michigan Department of Environmental Quality (MDEQ) to develop limits for this facility that would be protective of state 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. The permittee submitted the following land application site that may be used during the permit term:

Owner	Site ID#	Latitude	Longitude
Wayne and Sandra Larsen	02N11W13-WL01	N42, 38.895’	W85, 33.693’

The permit only allows this site to be used. If additional sites are needed, the permit requires the permittee to submit additional information and the permit may be modified, with public notice, to include the additional sites.

**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 Gun Lake Tribe 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. 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 the Gun Lake Tribal Gaming Authority Wastewater Treatment Facility 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 January 5, 2015.
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 January 5, 2015.
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 January 5, 2015 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, NPDES Programs Branch - WN-16J, 77 West Jackson Boulevard, Chicago, Illinois 60604, or emailed to [colletti.john@epa.gov](mailto: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. 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 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 “<http://www.epa.gov/region5/water/npdestek/index.htm>”. 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](mailto:colletti.john@epa.gov).

Please bring the foregoing to the attention of anyone you know that would be interested in this matter.