

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.: 16-03-01-A

Public Notice Issued On: March 2, 2016

Comment Period Ends: April 1, 2016

Permit No.: WI-0062847-3 (REISSUANCE)

Application No.: WI-0062847-3

Name and Address of Applicant:

St. Croix Chippewa Indians of Wisconsin
24663 Angeline Ave.
Webster, Wisconsin 54893

Name and Address of Facility
Where Discharge Occurs:

Big Sand Lake/ West Hertel WWTP
North of Highway 70 near Hertel
St. Croix Reservation
Hertel, Wisconsin
Burnett County
(N.W. ¼ of Sec 2, T38N, R15W)

Receiving Water: Unnamed wetland within the Reservation

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 St. Croix Chippewa Indians of Wisconsin. 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.

The applicant owns and operates a wastewater treatment system consisting of a series of three 25,000-gallon septic tanks. Following the septic tanks, the wastewater flows into a metering manhole, which will split the flow evenly to six constructed wetlands in parallel. Each wetland bed is 11,200 square feet in area for a total of 67,200 square feet for treatment. The constructed wetlands include Forced Bed Aeration™ for enhanced treatment. After each wetland, the water is pumped to one of three single-pass sand filters. The water flows vertically through the single-pass sand filters for polishing. The water is then discharged continuously through Outfall 001 (N.E. quarter of Section 3, Township 38N, Range 15W) to an unnamed wetland within the Reservation. The flow from Outfall 001 is distributed through four outfall pipes to reduce channeling at the head end of the wetland. Solids generated by the facility are hauled and land applied by a private hauler licensed by the State of Wisconsin. The system is designed to treat 0.070 mgd of domestic and commercial wastewater.

The service areas are south and east of Big Sand Lake and south of Highway 70 on the St. Croix Chippewa Indians of Wisconsin Reservation and Tribal Fee Land located in Burnett County in northwestern Wisconsin. The treatment system will serve 113 existing and future residential connections and 14 existing and future commercial/business connections. No non-tribal properties, outside communities, or municipalities are proposed to receive service at this time.

Proposed Effluent Limitations:

Outfall 001- the permittee is authorized to discharge treated municipal wastewater from Outfall 001. Outfall 001 discharges to an unnamed wetland.

Parameter	Date	Monthly average	Weekly Average	Daily Maximum	Daily Minimum
Flow	All year	Report	Report	---	---
Biochemical Oxygen Demand (BOD ₅)	All Year	20 mg/L ≥ 85% removal	30 mg/L	---	---
Total Suspended Solids	All Year	20 mg/L ≥ 85% removal	30 mg/L	---	---
Ammonia Nitrogen, Total (as N) (mg/L)	All Year	Report	---	Report	---
Copper, Total Recoverable (µg/L)	All Year	44	---	44	---
Hardness, Total (mg/L)	All Year	Report	---	---	---
Temperature (°F)	All Year	Report	---	Report	---
Dissolved Oxygen (mg/L)	All Year	---	---	---	4
E.coli	May 1 – September 30	126 E. coli/100 ml (geometric mean)	---	410 E. coli/100 ml	---
Total Phosphorus	All Year	Report	---	---	---
pH	All Year	---	---	9.0 S.U.	6.0 S.U.
Outfall Observation	All Year	Report	---	---	---

The limits were developed to ensure compliance with 40 CFR Part 133, protection of human health and EPA’s water quality criteria, protection of Wisconsin’s water quality standards where they are applicable, and permit writer’s judgment. The limits in this draft permit are the same as the previous as EPA believes they are still applicable. A new limit for copper has also been included.

The permit also requires monitoring for phosphorus and ammonia, the continued implementation of a phosphorus minimization program and a copper minimization program. It also requires compliance with 40 CFR Part 403 to prevent any pass through of pollutants or any inhibition or disruption of the permittee’s facility and compliance with 40 CFR Part 503 (sludge use and disposal regulations) as it applies to septage. The material to be removed from the septic tanks meets the federal definition of domestic septage, and therefore will be treated as such. If the septage is disposed of outside the reservation boundaries, Wisconsin regulations will also have to be complied with.

The following sites have been identified by the permittee as sites that could be used for the land application of domestic septage by the permittee’s hauler.

Legal Description											
WDNR#	QQQ	QQ	Q	SEC	TOWNSHIP	RANGE	TOWN	COUNTY	APPROVED ACRES	SITE #	SITE OWNER
28623		SW	SW	29	36N	11W	Oak Grove	Barron	10	Bowen 05	John Kokesh
28640		NW	NE	22	36N	11W	Oak Grove	Barron	45	Bowen 12	Wayne Solum
28676		SW	SW	15	36N	11W	Oak Grove	Barron	60	Sol 2	Wayne Solum
46389		SE	NE	22	36N	11W	Oak Grove	Barron	45	WS/2	Wayne Solum
49757		E	SE	23	36N	11W	Oak Grove	Barron	58	GT/GT1	John Bowen
73407		NE	SW	2	36N	11W	Oak Grove	Barron	40	Bow/1	John Bowen
73445	W	SE	SW	2	36N	11W	Oak Grove	Barron	20	Bow/2	John Bowen
102052		NW	NW	25	36N	12W	Bear Lake	Barron	25	Bow/4	John Bowen
84527	N	SW	NE	26	36N	13W	Lakeland	Barron	23	MN2	Marvin Ness

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 St. Croix Chippewa Indians of Wisconsin as neither has federally approved water quality standards applicable to the receiving water at the point of discharge, however, EPA believes the effluent limitations included in the draft permit meet state water quality standards at the reservation boundary. We have discussed our reissuance of the permit with the WDNR.

ESA and NHPA Compliance

EPA has satisfied its requirements under the Endangered Species Act and the National Historical Preservation Act. This is an existing facility. Though the facility may have to be expanded during the permit term to meet more stringent copper limits, the construction is expected to be within the same footprint of the existing facility. Therefore, it is believed that the reissuance 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 Big Sand Lake/West Hertel Wastewater Treatment Plant subject to certain effluent limitations and special conditions.

Comment Procedures and Public Hearing

The determination to issue the NPDES permits 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 permits may be submitted extends to April 1, 2016.
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 April 1, 2016.
3. In appropriate cases, including those where there is significant public interest, the EPA Acting 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 received after April 1, 2016 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.

The application and Public Notice number 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.

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