



**US Army Corps
of Engineers**
St Paul District

**APPLICANT: Red Lake Band of
Chippewa Indians**

Public Notice

**ISSUED: March 26, 2013
EXPIRES: April 25, 2013**

REFER TO: MVP-2011-01205-LSP

**SECTION:404 - Clean Water Act
10 – Rivers and Harbors Act**

1. APPLICATION FOR PERMIT TO discharge dredged or fill material into 7.94 acres of wetlands abutting Lake of the Woods for the purpose of constructing a casino, hotel and associated infrastructure. Associated infrastructure includes a roadway, parking lot and fresh water supply.

2. SPECIFIC INFORMATION.

APPLICANT'S ADDRESS:

Red Lake Band of Chippewa Indians
P.O. Box 550
Red Lake, Minnesota 56671

AGENT:

Northern Engineering and
Consulting, Inc.

AGENT'S ADDRESS:

Michael McFarlane
Northern Engineering and Consulting, Inc.
207 4th Street Northwest
Bemidji, Minnesota 56601

PROJECT LOCATION: The project site is located in SW ¼, SE ¼, Sec. 28, T. 163N., R. 36W and NW ¼, Sec. 33, T163N, R36W., Roseau County, Minnesota. The approximate UTM coordinates are Latitude 48.902, Longitude -95.297.

DESCRIPTION OF PROJECT: The applicant is proposing to build a new casino and hotel complex, and associated infrastructure on two parcels of land owned by the Red Lake Tribe. One parcel of land consists of tribal trust land that is proposed to be the location of the main casino, hotel facility and parking. The tribe also owns approximately a quarter section of land which is proposed to include an entrance road to the casino facility and a parking lot (see attached drawing labeled 2011-01205-LSP Page 1 of 1). The applicant also proposes to install a fresh water utility line from the city of Warroad to the new casino/hotel facility. This water line is currently planned to be installed under the Warroad River, a Section 10 water at this location.

QUANTITY, TYPE, AND AREA OF FILL: The applicant states that a total of 7.94 acres of wetlands will be impacted as a result of construction of the casino/hotel complex and associated infrastructure. Impacts include: 7.83 acres of Sedge Meadow and 0.11 acres of Hardwood Swamp wetlands.

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VEGETATION IN AFFECTED AREA: Sedge Meadows at this location are directly abutting Lake of the Woods, a Section 10 water. At this location, sedge meadows typically contain a mixture of sedges and grasses with scattered shrubs and herbaceous plants which form a vegetated buffer on the lake shore. Typical plant species associated with this plant community include: Lake Sedge, Canada Bluejoint grass, Cattails, Reed Canary Grass, Red Osier Dogwood and other sedge and grass species.

Hardwood Swamps at this location are typically dominated by Black Ash with an understory of European Buckthorn and various other shrubs such as Gray Dogwood. Canada Bluejoint and sedges such as Bladder Sedge (*Carex intumescens*) are frequently found scattered throughout these plant communities.

SOURCE OF FILL MATERIAL: The applicant states that fill will be clean material either excavated on site or purchased from commercial sources. Due to the presence of several pre-contact archaeological sites, and the potential for burial sites to be found at this location, the applicant has stated that there will be no excavation in areas known to contain archaeological resources.

SURROUNDING LAND USE: This project is located immediately east of the town of Warroad, Minnesota. At this location, land use consists primarily of small agricultural operations, vacant land and government owned land. Developed residential properties are located on the west side of the fee title property.

THE FOLLOWING POTENTIALLY TOXIC MATERIALS COULD BE USED AT THE PROJECT SITE: The applicant has indicated that only clean fill material would be used for construction materials at this site. No use of toxic materials has been identified by the applicant.

THE FOLLOWING PRECAUTIONS TO PROTECT WATER QUALITY HAVE BEEN DESCRIBED BY THE APPLICANT: The applicant has submitted a set of plans for this project showing various types of erosion and sediment control measures that could be used to control sediment in the construction area. Some of the measures described by the applicant are: hay bales, silt fence, special concrete washout locations, biorolls and construction entrance treatments. The agent indicates that a Storm Water Pollution Prevention Plan will be developed for this project.

MITIGATION: The applicant states that wetland bank credits will be purchased to offset unavoidable losses due to this project.

3. REPLIES/COMMENTS.

Interested parties are invited to submit to this office written facts, arguments, or objections within 30 days of the date of this notice. These statements should bear upon the suitability of the location and the adequacy of the project and should, if appropriate, suggest any changes believed to be desirable. Comments received may be forwarded to the applicant.

Replies may be addressed to Regulatory Branch, St. Paul District, Corps of Engineers, 180 Fifth Street East, Suite 700, Saint Paul, MN 55101-1678.

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Or, IF YOU HAVE QUESTIONS ABOUT THE PROJECT, call Larry Puchalski at the Bemidji Regulatory Field Office of the Corps, telephone number (651) 290 - 5339.

To receive Public Notices by e-mail, go to: http://www2.mvp.usace.army.mil/list_server/ and add your information in the New Registration Box.

4. FEDERALLY-LISTED THREATENED OR ENDANGERED WILDLIFE OR PLANTS OR THEIR CRITICAL HABITAT.

None were identified by the applicant or are known to exist in the permit area. However, Lake of the Woods County is within the known or historic range of the following Federally-listed threatened (T) and endangered (E) species:

<u>Species</u>	<u>Habitat</u>
Piping Plover (E)	Open sandy beaches and barrier islands of Lake of the Woods.
Canada Lynx (T)	Moist boreal forest, old growth timber.

This application is being coordinated with the U.S. Fish and Wildlife Service. Any comments it may have concerning Federally-listed threatened or endangered wildlife or plants or their critical habitat will be considered in our final assessment of the described work.

5. JURISDICTION.

This application is being reviewed in accordance with the practices for documenting Corps jurisdiction under Sections 9 & 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act identified in Regulatory Guidance Letter 08-02. We have made an initial determination that the aquatic resources that would be impacted by the proposed project are regulated by the Corps of Engineers under Section 404 of the Clean Water Act and/or Section(s) 9 & 10 of the Rivers and Harbors Act. The Corps will prepare an approved or preliminary jurisdictional determination prior to making a permit decision. Approved jurisdictional determinations are posted on the St. Paul District web page at <http://www.mvp.usace.army.mil/Missions/Regulatory.aspx>.

THE APPLICANT HAS STATED THAT THE FOLLOWING STATE, COUNTY, AND/OR LOCAL PERMITS HAVE BEEN APPLIED FOR/ISSUED: NPDES pending.

6. STATE SECTION 401 WATER QUALITY CERTIFICATION.

Valid Section 404 permits cannot be issued for any activity unless state water quality certification for the activity is granted or waived pursuant to Section 401 of the Clean Water Act. The state Section 401 authority in Minnesota is the Minnesota Pollution Control Agency (MPCA). The St. Paul District has provided this public notice and a copy of the applicant's Section 404 permit application form to the MPCA. If MPCA needs any additional information in order for the Section 401 application to be considered complete by MPCA, the MPCA has indicated that it will request such information from the applicant. It is the permit applicant's responsibility to ensure that the MPCA has received a valid,

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complete application for state Section 401 certification and to obtain a final Section 401 action from the MPCA.

The MPCA has indicated that this public notice serves as its public notice of the application for Section 401 water quality certification under Minnesota Rules Part 7001. The MPCA has also indicated that the Section 401 process shall begin to commence upon the issuance date of this public notice unless the MPCA notifies both the St. Paul District and the permit applicant to the contrary, in writing, before the expiration date of this public notice.

Any comments relative to MPCA's Section 401 Certification for the activity proposed in this public notice may be sent to:

Minnesota Pollution Control Agency, Municipal Division,
Attention 401 Certification, 520 Lafayette Road North, St. Paul, Minnesota 55155-4194.

7. HISTORICAL/ARCHAEOLOGICAL.

This public notice is being sent to the National Park Service and the State Archaeologist for their comments. The Corps will review information on known cultural resources and/or historic properties within and adjacent to the project area. The Corps will also consider the potential effects of the project on any properties that have yet to be identified. The results of this review and the Corps' determination of effect will be coordinated with the State Historic Preservation Officer independent of this public notice. Any adverse effects on historic properties will be resolved prior to the Corps authorization, or approval of the work in connection with this project.

Both parcels of land were surveyed by qualified archaeologists in the fall of 2012. As a result of the survey several pre-contact archaeological sites were located. A report detailing findings was submitted to the Corps of Engineers in November of 2012. This project will be coordinated with the State Archaeologist and SHPO to ensure that concerns are addressed prior to permit issuance.

8. PUBLIC HEARING REQUESTS.

Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for public hearings shall state, in detail, the reasons for holding a public hearing. A request may be denied if substantive reasons for holding a hearing are not provided or if there is otherwise no valid interest to be served.

9. PUBLIC INTEREST REVIEW.

The decision whether to issue a permit will be based on an evaluation of the probable impact, including cumulative impacts, of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered, including the cumulative effects. Among those are conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality,

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energy needs, safety, food and fiber production and, in general, the needs and welfare of the people. Environmental and other documents will be available for review in the St. Paul District Office.

The Corps of Engineers is soliciting comments from the public; Federal, State, and local agencies and officials; Indian tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition, or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

Kelly J. Urbanek
Chief Northwest Section

Enclosures

NOTICE TO EDITORS: This public notice is provided as background information and is not a request or contract for publication.

