



GRAND PORTAGE RESERVATION TRIBAL COUNCIL

Norman W. Deschampe - Chairman • Marie Spry - Vice Chair • Dennis B. Morrison - Secretary/Treasurer
John Morrin - Councilman • Rob Hull - Councilman

RESOLUTION NO. 07-17

GRANTING CONDITIONAL 401 CERTIFICATION FOR THE US ARMY CORPS OF ENGINEERS NATIONWIDE GENERAL PERMITS

The Grand Portage Reservation Tribal Council, on behalf of the Grand Portage Band of Chippewa, enacts the following resolution:

WHEREAS, the governing body of the Grand Portage Band of the Minnesota Chippewa Tribe is the Reservation Business Committee (also known as the Reservation Tribal Council (“RTC”)) pursuant to Article III, Section 2 of the Minnesota Chippewa Tribe Constitution; and

WHEREAS, the Grand Portage Band of the Minnesota Chippewa Tribe (“Band”) is a federally recognized Indian tribe possessing the inherent sovereign authority of an independent government; and

WHEREAS, the RTC has determined that water pollution endangers the health and welfare of Grand Portage members and residents of the Grand Portage Reservation, and adversely impacts tribal treaty fishing rights as well as cultural, religious, domestic, recreational, agricultural and other uses of the Reservation water resources;

WHEREAS, as an exercise of the Band’s inherent authority, the RTC enacted the Grand Portage Band of Chippewa Water Resources Ordinance (“Ordinance”) on July 25, 2001 and amended it on January 15, 2004 to protect the waters of the Grand Portage Reservation; and

WHEREAS, under the Ordinance, the RTC is empowered to act as the Water Resources Board (“Board”) created by the Ordinance; and

WHEREAS, in its capacity as Board, the RTC has taken all steps required under the Ordinance and federal law to grant conditional 401 certification for the Nationwide General Permits (“NWPs”), a copy of which is attached to this Resolution; and

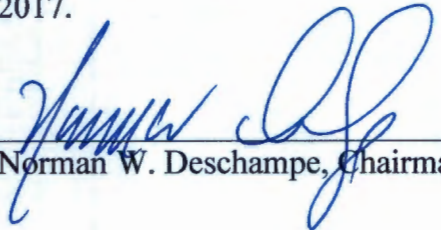


WHEREAS, in its capacity as Board, and after consultation with the Band's Environmental Department, the RTC finds that conditional certification of the NWP's is necessary to protect (a) the public health and welfare of the Band, its members, and others living on its Reservation, and; (b) the present and future use of Reservation waters for public and private water supplies; propagation of fish and aquatic life and wildlife; domestic and recreational purposes and agricultural; cultural, religious, commercial, industrial and other legitimate uses; and

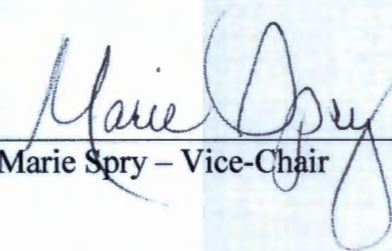
NOW, THEREFORE, BE IT RESOLVED, that the RTC, in its capacity as Board, adopts the attached conditional certification of the NWP's, and directs the Environmental Department to submit the conditional certification to the U.S. Army Corps of Engineers for inclusion in the final permit in accordance with the Federal Clean Water Act.

CERTIFICATION

We do hereby certify that the foregoing resolution was duly adopted by a vote of 3 for, 0 against, 0 silent, at a Special meeting of the Reservation Tribal Council, a quorum present, held on the 25th day of April, 2017.



Norman W. Deschampe, Chairman



Marie Spry - Vice-Chair

GRAND PORTAGE CONDITIONAL CERTIFICATION OF U.S. ARMY CORPS OF ENGINEERS NATIONWIDE PERMITS

In accordance with the Clean Water Act, 33 U.S.C. § 1344, the U.S. Army Corps of Engineers (“US ACE”) on January 6, 2017 publicly noticed its revision and renewal of certain nationwide permits (“NWP”) necessary for work in streams, wetlands and other waters of the United States under Section 404 of the Clean Water Act. The new NWPs will take effect March 19, 2017, and replace the existing permits, which expire on March 18, 2017.

The Grand Portage Band of Lake Superior Chippewa (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. Therefore, in accordance with Section 401 of the Clean Water Act, the Grand Portage Water Quality Standards (“Water Quality Standards”) and the Grand Portage Water Resources Ordinance (as amended in 2004, the “Water Resources Ordinance”), the Grand Portage Environmental Resources Board (“Board”) has examined the proposed NWPs. The Board has determined that there is reasonable assurance that the discharges authorized under the NWPs will not violate the Water Quality Standards. The Water Quality Standards and Water Resources Ordinance can be obtained at the email listed below or at: www.1854treatyauthority.org/grand-portage.html

The Board has also determined that certain additional conditions are necessary to protect the following: (a) the public health and welfare of the Band, its members, and others living on the Band’s Reservation; and (b) the present and future use of Reservation Waters for public and private water supplies; propagation of fish, aquatic life, and wildlife; domestic and recreational purposes; and for agricultural, cultural, religious, commercial, industrial, and other legitimate uses. Accordingly, the following conditions apply to all NWPs which authorize the discharge of dredge or fill material into the waters of the Grand Portage Reservation (as defined in the Water Resources Ordinance). Except as otherwise provided by federal law, this certification is valid until the NWPs expire on March 18, 2022:

1. This certification applies only to those activities specifically authorized by the NWPs, as limited by Regional Conditions. These include but are not limited to the following:
 - a. In accordance with Regional Condition C, no linear utility or linear transportation projects are eligible for authorization under the NWPs.
 - b. In accordance with Regional Condition I, a pre-construction notification to the US ACE is required for projects that would impact bogs or fens, wild rice waters.
 - c. In accordance with Regional Conditions M and Q, pre-construction notification (“PCN”) is required for temporary impacts to Waters of the Reservation (as defined in the Water Resources Ordinance) that would remain in place for more than 90 days.
2. All discharges of dredged and/or fill material authorized by the NWPs must comply with the Water Quality Standards and Water Resources Ordinance, as well as Applicable Federal Standards (as defined in the Water Resources Ordinance).
3. Grand Portage is responsible for interpretation of the requirements of these conditions.
4. All appropriate steps must be taken to ensure that petroleum products or other chemical pollutants are prevented from entering the Waters of the Reservation. All spills must be reported to the appropriate emergency-management agency, and measures must be taken to prevent the pollution of the Waters of the Reservation, including groundwater.
5. In situations where an applicant is required to submit a pre-construction notification (“PCN”) to the US ACE, the Band requires that a copy of the PCN be submitted to the Board at least 30 days in advance of sending the notification to the US ACE. Once the applicant receives written confirmation from the US ACE that the project is

authorized under this NWP, the applicant must provide a copy of the confirmation to the Board. The PCN and US ACE confirmation should be sent in hard copy and via email to:

Grand Portage Environmental Resources Board
P.O. Box 428
Grand Portage, MN 55605
Email: mwatkins@grandportage.com

6. The burden is on the applicant to demonstrate compliance with the Water Quality Standards, the Water Resources Ordinance, and Applicable Federal Standards whether or not the application is ultimately eligible for an NWP.
7. The Board retains full authority to ensure compliance with and to enforce the provisions of the Water Resource Ordinance and Water Quality Standards, Applicable Federal Standards, and these Certification conditions. Nothing herein affects the scope or applicability of other controlling tribal or federal requirements, including but not limited to impacts to cultural, historical, or archeological features or sites, or properties that may be eligible for listing on the National Register of Historic Places under the National Historic Preservation Act, 54 U.S.C. §§ 300101 *et seq.*
8. Appeals related to Board actions taken in accordance with any of the preceding conditions may be heard by the Grand Portage Tribal Court. As provided by the Water Resources Ordinance, any interested party may request that a public hearing be scheduled regarding the Board's decision to grant conditional certification to the NWPs. Such a request must be directed to the following address within 30 days of this notice:
Grand Portage Environmental Resources Board
P.O. Box 428
Grand Portage, MN 55605

Electronic versions of the proposed NWPs are available at the US ACE's Web site at:

<http://www.mvp.usace.army.mil/Portals/57/docs/regulatory/Special%20Notices/Final%202017%20Nationwide%20Permit%20Issuance.pdf>.

Questions regarding the NWPs can be directed to the US ACE District Office at Department of the Army, St. Paul District, Corps of Engineers, 180 5th St. East, Ste. 700, St. Paul, MN 55101-1678. The US ACE St. Paul District contact for the NWPs is Jill Bathke at telephone number (651) 290-5697 or e-mail at Jill.C.Bathke@usace.army.mil.

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