

Leech Lake Band of Ojibwe

Division of Resource Management

ATTN: Water Resources Program
190 Sailstar Drive NW
Cass Lake, MN 56633
Phone (218) 335-7400



Water Resources Program

401 Water Quality Certification

Applicant: U.S. Army Corps of Engineers Issued: December 16, 2022

The Leech Lake Band of Ojibwe (the “Band”) is a federally recognized Indian Tribe with Treatment-As-a-State for purposes of enforcement of federal water quality standards within the exterior boundaries of the Leech Lake Reservation. As such, the Clean Water Act § 401 certification process provides the Band the authority to establish conditions or deny certification of federal permits and licenses subject to § 401 in order to protect Reservation water resources.

Pursuant to § 401 of the Clean Water Act (33 U.S.C. 1341), the Band is required to certify whether the activities described below will violate applicable water quality standards. Accordingly, the Leech Lake Band of Ojibwe Water Resources Program (LLBO WRP) requires reasonable assurance that the activity will not violate provisions of the Band’s Water Quality Standards adopted by Resolution #2023-48 or of § § 301, 302, 303, 306, or 307 of the Clean Water Act.

The United States Army Corps of Engineers (USACE) is requesting water quality certification under § 401 of the Clean Water Act for each of the eight proposed Regional General Permits (RGPs). Each RGP may be used to authorize discharges in waters of the United States within the Leech Lake Band of Ojibwe Reservation. The proposed categories of activities to be authorized by the RGPs for which certification is requested include: Bank Stabilization and Habitat Improvement, Beach Creation and Nourishment, Beach Raking, Minor Discharges, Piers and Docks, Transportation, Utility, and Wildlife Ponds.

Applicant: **St. Paul District Regulatory Division, U.S. Army Corps of Engineers**
322 Minnesota Street, Suite E1500
St Paul, MN, 55101

Authorized Work: The proposed 2023 RGPs would authorize regulated work and structures in, under, or over navigable waters subject to Section 10 Rivers and Harbors Act of 1899 (Section 10), 33 U.S.C. 403, and regulated discharges of dredged or fill material in waters of the U.S., including wetlands, pursuant to Section 404 of the Clean Water Act (Section 404), 33 U.S.C. 1344.

Location(s): External Boundaries of the Leech Lake Indian Reservation

Certification Decision: The LLBO WRP has examined the eight proposed USACE RGPs. Based upon our evaluation of impacts to Reservation Water quality, the Leech Lake Band of Ojibwe deny, without prejudice, certification of the following 2023 Regional General Permits:

2023 Bank Stabilization and Habitat Improvement RGP

2023 Beach Creation and Nourishment RGP

2023 Beach Raking RGP

2023 Minor Discharges RGP

2023 Piers and Docks RGP

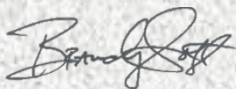
2023 Transportation RGP

2023 Utility RGP

2023 Wildlife Ponds RGP

The Band is unable to provide 401 Certification for the proposed categories of activities under CFR 40 §121.7 (e) (2) (iii): Information required to ensure that Water Quality Standards will be met, must identify the project location and specific waterbody(s) within the exterior boundaries of the Reservation where the proposed activities will occur. Additionally, under CFR 40 §121.7 (e) (2) (i) (ii): The Tribe is unable to certify the proposed categories of activities due to the lack of project scope and location specific information needed to determine if Tribal Water Quality Standards will be met (Resolution #2023-048) and (§ § 303 and 304 of the Leech Lake Band of Ojibwe 401 Water Quality Certification Ordinance adopted by Resolution #2022-048)

Authorization of decision: I, Brandy Toft, authorize the decision to deny Clean Water Act § 401 Water Quality Certification without prejudice for all eight 2023 Regional General Permits within the external boundaries of the Leech Lake Indian Reservation.



Signed: _____

Brandy Toft
Interim Environmental Director
Leech Lake Band of Ojibwe