

RED LAKE BAND
of CHIPPEWA INDIANS
RED LAKE NATION HEADQUARTERS



OFFICERS:

DARRELL G. SEKI, SR., Chairman
SAMUEL R. STRONG, Secretary
VERNELLE R. LUSSIER, Treasurer

DISTRICT REPRESENTATIVES:

GLENDA J. MARTIN
EUGENE R. STANDINGCLOUD
ALLEN D. PEMBERTON
HAROLD E. GRAVES, JR.
ROBERT "BOB" SMITH
ROBERT L. MAY
MICHELLE (BARRETT) COBENAIS
HARLOW S. SPEARS

ADVISORY COUNCIL:

7 HEREDITARY CHIEFS

PO Box 550, Red Lake, MN 56671

Phone 218-679-3341 • Fax 218-679-3378

November 23, 2022

Chad Konickson, Chief, Regulatory Division
U.S. Army Corps of Engineers
St. Paul District 332, Minnesota Street, Suite E1500
St. Paul, MN 55101 - 1323

RE: Regionwide General Permit 401 Certification

Dear Mr. Konickson:

The Red Lake Band of Chippewa Indians (Band) has reviewed the proposed regionwide general permits (RGPs) and under the authority of Section 401 of the Clean Water Act (CWA) (33 USC § 1341) certifies all proposed RGPs without conditions. Furthermore, after consultation with Red Lake Department of Natural Resources (RL DNR) staff, the Band agrees that all water quality requirements will be met under the proposed RGPs.

The Band received Treatment as a State (TAS) for sections 303(c) and 401 of the CWA on November 23, 2021 granting the authority to develop US EPA approved Water Quality Standards, and a 401 certification process. However, Water Quality Standards are still under development in cooperation with the Minnesota Pollution Control Agency and the US EPA. Approval of standards has been determined to be a necessary step toward developing a meaningful 401 certification process. While the official certification program is developed, the interim process included review by Red Lake DNR Water Resources Program staff and approval by the Tribal Council via resolution (attached).

The Band recognizes that the Army Corps of Engineers retains the authority to permit discharges on tribal trust land, while the tribe can choose to exercise its sovereignty through a decision to provide 401 certification of those permits. Additionally, it is within the tribe's authority to develop conditions for permits to ensure that permitted discharges meet water quality requirements, or may choose to waive certification altogether.

This letter provides certification of RGPs without conditions but does not in any way allow for permitting of additional discharges. Nor does it grant any other agency authority to permit discharges on tribal trust lands. Specifically, the state of Minnesota or any agency thereof, is not granted authority to permit any discharge, under RGPs or individual permits, on tribal trust land with this action.

Mr. Chad Konickson
Page two

We look forward to working directly with the Army Corps of Engineers on future projects and will plan to coordinate any and all discharge permits on Red Lake lands with the Corps as appropriate.

Sincerely,

A handwritten signature in black ink, appearing to read "Darrell G. Seki, Sr.", written in a cursive style.

Darrell G. Seki, Sr.
Tribal Chairman
Red Lake Band of Chippewa Indians

RED LAKE BAND
of CHIPPEWA INDIANS
RED LAKE NATION HEADQUARTERS



OFFICERS:
DARRELL G. SEKI, SR., Chairman
SAMUEL R. STRONG, Secretary
VERNELLE R. LUSSIER, Treasurer

DISTRICT REPRESENTATIVES:
GLENDA J. MARTIN
EUGENE R. STANDINGCLOUD
ALLEN D. PEMBERTON
HAROLD E. GRAVES, JR.
ROBERT "BOB" SMITH
ROBERT L. MAY
MICHELLE (BARRETT) COBENAIS
HARLOW S. SPEARS

PO Box 550, Red Lake, MN 56671

Phone 218-679-3341 • Fax 218-679-3378

ADVISORY COUNCIL:
7 HEREDITARY CHIEFS

RESOLUTION NO. 307-2022

Upon a motion by Representative Cobenais and second by Representative Pemberton, the following was enacted:

WHEREAS, the Red Lake Tribal Council is the governing body of the Red Lake Band of Chippewa Indians; and the Tribal Council has the constitutional authority and the responsibility to provide for the safety, health and welfare of its members; and

WHEREAS, the Tribal Council was informed of the Tribal DNR's extensive participation in water quality protection efforts on the Reservation through the successful application to the U.S. Environmental Protection Agency for Treatment as a State (TAS), which enables the Band to establish its own water quality standards; and

WHEREAS, the Tribal Council was informed that the specific certification process through Section 401 of the Clean Water Act (Section 401), which allows tribes with TAS to affect federal permits resulting in discharges into waters of the United States, are still being developed by the Red Lake Water Resources Program; and

WHEREAS, the Tribal Council was informed of the purpose of a "Regional General Permit," which protects water quality while streamlining the permitting process for projects that would not result in significant impacts to waters; and the Tribal Council agrees that it is beneficial to the Band to streamline the permitting of projects on the Reservation that would not result in significant negative impacts to waters; and

WHEREAS, the Tribal Council understands that the 401 certification of Regional General Permits for projects on the Reservation is an exercise of the Band's sovereignty through the protection of water quality, while at the same time expediting the construction of projects; and

WHEREAS, in consultation with the Red Lake DNR, the Tribal Council deems the issuance of Regional General Permits as appropriate for the protection of tribal health and welfare, and the protection of tribal waters for safe use by tribal members, and the fish and wildlife that are dependent upon them. Now

THEREFORE BE IT RESOLVED, the Tribal Council hereby approves the CWA 401 certification of Regional General Permits without conditions as adequate assurance that the tribal health and welfare will be protected, and that tribal waters will be safe for tribal members and the fish and wildlife that depend on the waters; and

BE IT FURTHER RESOLVED, the Tribal Council authorizes the Chairman to sign a letter to the Army Corps of Engineers providing 401 certification without conditions for Regional General Permits.

RED LAKE BAND
of CHIPPEWA INDIANS
RED LAKE NATION HEADQUARTERS



OFFICERS:
DARRELL G. SEKI, SR., Chairman
SAMUEL R. STRONG, Secretary
VERNELLE R. LUSSIER, Treasurer

DISTRICT REPRESENTATIVES:
GLENDA J. MARTIN
EUGENE R. STANDINGCLOUD
ALLEN D. PEMBERTON
HAROLD E. GRAVES, JR.
ROBERT "BOB" SMITH
ROBERT L. MAY
MICHELLE (BARRETT) COBENAIS
HARLOW S. SPEARS

PO Box 550, Red Lake, MN 56671

Phone 218-679-3341 • Fax 218-679-3378

ADVISORY COUNCIL:
7 HEREDITARY CHIEFS

RESOLUTION NO. 307-2022 (cont.)

FOR: 10
AGAINST: 0

We do hereby certify that the foregoing resolution was duly presented and acted upon at the Regular Meeting of the Tribal Council held on November 8, 2022, with a quorum present, at the Seven Clans Event Center, Red Lake.

DARRELL G. SEKI, SR., CHAIRMAN

SAMUEL R. STRONG, SECRETARY