

## PUBLIC NOTICE

### PUBLIC NOTICE OF A DRAFT NPDES PERMIT TO DISCHARGE INTO WATERS OF THE UNITED STATES

U.S. Environmental Protection Agency  
Region 5, Permits Branch - WP-16J  
77 West Jackson Boulevard  
Chicago, Illinois 60604  
(312) 886-6106

**Public Notice No.:** 23-03-02-A

**Public Notice Issued On:** March 30, 2023

**Comment period ends:** April 28, 2023

---

**Permit No.:** MN-0067938-4 (REISSUANCE)

**Application No.:** MN-0067938-4

**Name and Address of Applicant:**

**Name and Address of Facility:**

Shakopee Mdewakanton Sioux Community  
2330 Sioux Trail NW  
Prior Lake, Minnesota 55372

SMSC Water Reclamation Facility  
Shakopee Mdewakanton Sioux Indian Reservation  
15364 Orion Road  
Prior Lake, Minnesota  
Scott County

**Receiving Water:** An unnamed wetland on 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 facility and discharge are located within lands held in trust for the Shakopee Mdewakanton Sioux Community (SMSC). The permit will be issued by the U.S. Environmental Protection Agency. 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 facility. Preliminary treatment removes grit and other large objects from the waste stream by screening and grit removal, while primary treatment, consisting of parallel plate clarifiers, removes a significant portion of the solids, phosphorus and CBOD from the waste stream. During secondary treatment, the wastewater is treated by a Biologically Aerated Filter (BAF) process. These filters use bacteria to remove

**Public Notice No.: 23-03-02-A**

oxygen-demanding wastes and particulates from the wastewater. The BAF is located in a single completely self-contained structure. The BAF uses a combination of pre-screening, aeration and filter media for a complete biological treatment system. The construction uses multiple cells to allow a small and flexible footprint. Tertiary treatment consists of membrane filtration followed by ultraviolet disinfection. The average dry weather design flow is 0.96 million gallons per day with a design average wet weather design flow of 1.50 million gallons per day. The effluent discharges through Outfall 001 to a wetland complex (Latitude: 44°43'27.356" N, Longitude: 93°28'17.184" W). From late spring to early fall, a portion of the treated effluent (4,800 gallons per day) that would normally be discharged through Outfall 001 can be pumped to a small fountain/waterfall (Outfall 002) located on the treatment plant grounds for aesthetics. Outfall 002 discharges to the same wetland complex but in a different location (Latitude: 44°43'39.625" N, Longitude: 93°27'55.176" W).

Sewage sludge generated throughout the treatment process is dewatered using belt filter presses, then heat dried. The treated product (biosolids) is sent to the SMSC Organics Recycling Facility to be blended with other materials to make compost or taken to a municipal solids waste landfill for disposal. The SMSC Organics Recycling Facility is not operated by the Public Works Department.

The draft permit requires the applicant to meet the following effluent limitations:

Parameter	Maximum Limits for Quantity or Loading				Maximum Limits for Quality or Concentration			
	30-Day	7-Day	Daily	Units	30-Day	7-Day	Daily	Units
Flow	Report	---	Report	MGD	---	---	---	---
Carbonaceous Biochemical Oxygen Demand (CBOD <sub>5</sub> )								
	91	145	---	kgs/day	16	26	---	mg/L
Total Suspended Solids (TSS)								
	109	163	---	kgs/day	19	29	---	mg/L
Total Phosphorus (as P)								
	3.6	---	7.2	kgs/day	0.63	---	1.3	mg/L
E. coli	---	---	---	---	126	---	235	E.coli/100 ml
					Minimum Daily		Maximum Daily	
pH	---	---	---	---	6.5	---	9.0	S.U.
Dissolved Oxygen	---	---	---	---	5.0	---	---	mg/l

The permit also requires monitoring for Total Mercury, Nitrite plus Nitrate Nitrogen, Total Kjeldahl Nitrogen (TKN), Ammonia (as N), Chloride, Ca and Mg Hardness (as CaCO<sub>3</sub>), Specific Conductance, Total Dissolved Salts (a.k.a solids), Sulfates (as SO<sub>4</sub>), Bicarbonates (HCO<sub>3</sub>), Sodium, Calcium, Magnesium and Potassium, compliance with 40 CFR Part 503 and any other applicable regulations when sludge is used or disposed, and 40 CFR Part 403 to prevent any pass through of pollutants or any inhibition or disruption of the permittee's facility. These limits are consistent with federal regulations and are also intended to be protective of Minnesota water quality standards where they are applicable.

**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 within the Shakopee Mdewakanton Sioux Indian Reservation and will be unless and until the Tribe is approved for Treatment as a State (TAS) for CWA 303 and 401. EPA is in the process of certifying pursuant to Section 401. EPA believes the effluent limitations included in the draft permit meet tribal and state water quality requirements where they are applicable. The draft certification is available for review. We have discussed our reissuance of the permit with SMSC and Minnesota Pollution Control Agency (MPCA).

**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 SMSC Water Reclamation Facility subject to certain effluent limitations and special conditions.

**COMMENT PROCEDURES AND PUBLIC HEARING**

The determination to issue the NPDES permit 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 permit may be submitted extends to April 28, 2023.
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 28, 2023. EPA will hold a hearing if there is significant interest based on written requests. 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.
3. All comments received later than April 28, 2023 will not be considered in the formulation of the final determination.
4. Written comments or requests for a public hearing must be emailed to: John A. Colletti, U.S. Environmental Protection Agency, Region 5, Permits Branch at [colletti.john@epa.gov](mailto:colletti.john@epa.gov) and [R5NPDES@epa.gov](mailto:R5NPDES@epa.gov). If you are unable to submit comments or requests by email, please contact Mr. Colletti at 312-886-6106 to make alternate arrangements.

The application and Public Notice numbers should appear 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 decision, any person who filed comments on the draft permit or participated in a public hearing, if held, may petition the Environmental Appeals Board (EAB) to review any condition of the permit

decision. Such a petition must include a statement of the reasons supporting review of the decision, including a demonstration that the issue(s) being raised for review were raised during the public comment period (including any public hearing). The petition should, when appropriate, show that each condition being appealed is based on a finding of fact or conclusion of law which is clearly erroneous.

#### **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. Please contact John Colletti at (312) 886-6106 or by e-mail at [colletti.john@epa.gov](mailto:colletti.john@epa.gov) anytime between 9:00 a.m. and 4:00 p.m., Monday through Friday if you are interested in viewing the administrative record. You may also view the public notice, statement of basis, draft permit, and the draft Section 401 Water Quality Certification on Region 5's website at <https://www.epa.gov/npdes-permits/smsc-water-reclamation-facility-npdes-permit-mn-0067938-4>. All data submitted by the applicant is available as part of the administrative record. For more information, please contact Mr. Colletti as stated above.

Unless a public hearing is scheduled, the EPA will issue a final determination as to the issuance of the permit in a timely manner after the expiration of the public comment period. If you would like to receive a copy of the final determination, please submit a request during the comment period to Mr. Colletti at the above email address. EPA will notify the applicant and each person who has submitted written comments or requested notice of the final permit decision. Please bring the foregoing to the attention of persons whom you know would be interested in this matter.