



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

**Regional General Permits
Utility and Minor Discharges**

Public Notice

ISSUED: 25 January 2024

EXPIRES: 12 March 2024

**SECTION: 404 - Clean Water Act
401(a)(2) - Clean Water Act**

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the United States Army Corps of Engineers, St Paul District, will conduct a public hearing on February 27, 2024, from 8 a.m. - 5 p.m. CST at the Bad River Lodge and Casino at 73370 U.S. 2, Ashland, WI, 54806. We are conducting this public hearing in response to an objection from the Bad River Band of Lake Superior Chippewa (Band) under Section 401(a)(2) of the Clean Water Act (CWA) to the Corps' proposed re-issuance of two Regional General Permits (RGPs) titled Utility and Minor Discharges under Section 404 of the CWA and in response to a request from the Band that we conduct a public hearing.

The Band is a federally recognized tribe and Sovereign Nation, and their reservation may be downstream of projects that may be authorized under the proposed RGPs. The Band is also recognized as a "state" with neighboring jurisdiction pursuant to Section 401(a)(2) of the CWA. The Band has determined that discharges into waters of the United States that may be associated with projects authorized by the RGPs in watersheds for which the Band is the neighboring jurisdiction will violate the Band's water quality standards. The Band notified the Corps and the United States Environmental Protection Agency (EPA) of its objection to the Corps' re-issuance of the RGPs and requested a public hearing. The Corps has suspended its decision to re-issue the Utility and Minor Discharges RGPs within neighboring upstream watersheds to the Bad River reservation until the 401(a)(2) process is concluded.

We are following procedures for this public hearing as specified in 40 CFR 121.15, 33 CFR 325.2(b)(1), and 33 CFR Part 327. We are conducting this public hearing for the purpose of collecting information or evidence that we will consider related to the proposed RGPs effects on the quality of the Band's waters. The hearing will include representatives of the Band, EPA, Corps, and interested members of the public. Beginning at 8 a.m. CST, the Corps will begin by inviting the EPA to provide an overview of its evaluation and recommendations with respect to the Band's objections. The Corps will also request the Band to provide testimony clarifying their views on the two RGPs. The remaining time will be allotted for other registered speakers to provide verbal comments. The hearing will end not later than 5 p.m. CST. The actual end time may be earlier than scheduled if all registered speakers present complete their testimony. See below for additional information on registering to provide testimony. Consistent with 33 CFR Part 327, cross-examination of any witness will not be permitted. Written comments may be submitted by email to rgp401a2comments@usace.army.mil by March 12, 2024.

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PURPOSE: The purpose of the public hearing is to acquire information on how the proposed use of these two RGPs within watersheds neighboring the Bad River reservation would or would not violate the Band's water quality requirements. Further, we are seeking information on whether there are conditions that could be added to the RGPs to ensure compliance with applicable water quality requirements of the Band. We will consider all information, including views and opinions from the EPA, the Band, and the public.

GROUND RULES: The Corps' Regulatory Division Chief will serve as the presiding officer and will offer opening and closing remarks, to include an overview of the expectation that participants will follow the agenda, with no cross-examination of witnesses (reference 33 CFR 327.8(d)).

We encourage all speakers to focus their comments on how the proposed use of these two RGPs within watersheds neighboring the Bad River reservation would or would not violate the Band's water quality requirements and whether new conditions could be added to the RGPs that would ensure compliance. Comments expressing either support for or opposition to the reissuance of the RGPs will not be informative to our decision on this matter. Rather, we must base our decision on substantive evidence related to applicable water quality impacts from discharges under CWA Section 401(a)(2).

PUBLIC INVOLVEMENT: We invite interested parties including elected tribal, federal and state officials, non-governmental and other organizations, and private citizens to review the RGPs, which are available at <https://www.mvp.usace.army.mil/missions/regulatory/rgp/>, and to provide verbal comment on February 27, 2024. For those who wish to speak at the public hearing, we ask you to pre-register by sending an email to rgp401a2comments@usace.army.mil with your name and affiliation to ensure that time is allotted.

We will afford the opportunity for interested parties to present their views, opinions, and information on the proposed action. Each individual wishing to make verbal comments shall be given three minutes. If you are part of a group with common interests and views related to this action, please consider consolidating your comments for presentation by a representative spokesperson. We encourage consolidation of similar views to afford the greatest opportunity for presentation of substantive facts and to increase the likelihood for reducing the presentation of duplicative views or views that express only statements of support or opposition without presentation of facts related to water quality impacts of the RGPs to the Band's downstream waters. All proceedings from the public hearing will be recorded and transcribed by a third-party court reporter for the official record. Please note that all verbal comments, including names and addresses, will be transcribed and become part of our administrative record, and may be available to the public under provisions of the Freedom of Information Act.

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WRITTEN COMMENTS AND CLOSE OF COMMENT PERIOD:

We will include all written comments we receive in our administrative record on this action. Please note that all written comments, including names and addresses of those who submit comments, in response to this Public Notice become part of our administrative record, and may be available to the public under provisions of the Freedom of Information Act.

Please submit written comments electronically to the following email by March 12, 2024: rgp401a2comments@usace.army.mil. If you are unable to submit comments via email, you may send your written comments by USPS, UPS or FedEx, with a postmarked date no later than March 12, 2024, to the following address:

U.S. Army Corps of Engineers
St Paul District, Regulatory Division
332 Minnesota Street, Suite E1500
St. Paul, MN 55101-1678

If you have any questions concerning this Public Notice, please contact Ryan H. Winn by email at: ryan.h.winn@usace.army.mil, or you may call (907) 450-9798.