UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

MAR 2 6 2019

REPLY TO THE ATTENTION OF
WC-15J

CERTIFIED MAIL 7018 1830 0000 5414 5021
RETURN RECEIPT REQUESTED

Michael Wiggins Jr., Chairman
Bad River Band of Lake Superior Tribe of Chippewa Indians
P.O. Box 39
Odanah, Wisconsin 54861

Re: Notice of Clean Water Act Violations at the Bad River Wastewater Treatment Plant (WI0036587)

Dear Chairman Wiggins:

I am writing to you regarding violations of the Clean Water Act (CWA) at the Bad River Wastewater Treatment Plant ("WWTP") that may threaten human health and the environment. As the WWTPs' owner/operator, the Bad River Band is responsible for ensuring compliance with the CWA. As indicated below, the U.S. Environmental Protection Agency plans to simultaneously monitor whether the WWTP quickly returns to compliance and assess whether formal enforcement is appropriate.

Prior Violations and EPA-Bad River Band Efforts to Return the WWTP to Compliance

As you know, EPA and the Band worked cooperatively in 2013 and 2014 to develop a Compliance Plan to ensure the correction of CWA violations related to infrastructure and operations and maintenance deficiencies at the WWTP and the Band's two wastewater treatment lagoons. The Compliance Plan identified, among other things, actions the Band should take to resolve the violations. EPA understands that the infrastructure deficiencies were addressed and the WWTP's effluent limit violations trended downward until recently. EPA also understands the two wastewater treatment lagoon facilities returned to compliance.

Clean Water Act Requirements and Current Violations

The Band is required to submit quarterly discharge monitoring reports (DMRs) in accordance with its National Pollutant Discharge Elimination System (NPDES) permit for the WWTP. EPA reviewed the WWTP's DMR records for calendar year 2018. The review identified 16 effluent limit violations, including exceedances of permit limits for *E. coli*, biological oxygen demand (BOD) (5-day, 20 deg. C), phosphorus, dissolved oxygen, total suspended solids, and total

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suspended solids percent removal. EPA is particularly concerned about the exceedances of *E.coli* limits during the recreational season in May, June, and July 2018. The list of the Band's 2018 self-reported effluent limit exceedances for the WWTP is provided in the attached table. As indicated above, the Band is also required to ensure the WWTP complies with all other aspects of its NPDES permit.

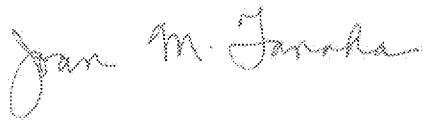
EPA's Plan to Monitor the WWTP's Compliance Status and Consider Enforcement Options

EPA plans to monitor the WWTP's DMRs and overall compliance status. EPA hopes that future DMRs indicate the WWTP is no longer violating its effluent limitations and is otherwise in compliance with the CWA. If the effluent limit exceedances continue or the WWTP otherwise fails to comply with the its NPDES permit, EPA may take formal enforcement against the Band to ensure compliance with the CWA and protect human health and the environment. EPA enforcement could include using an administrative order on consent or a unilateral administrative order. Both types of orders would list the specific actions and timeframes necessary to address the violations.

EPA is conveying this information in recognition of our joint commitment to protect public health and the environment. The approach outlined above is consistent with the CWA, EPA's "Interim Clean Water Act Settlement Penalty Policy," and the "Guidance on the Enforcement Principles of the 1984 Indian Policy."

EPA would like to discuss this Notice of Violation and the Band's plan to ensure the WWTP returns to compliance in a timely manner with you and your staff as soon as possible. To maintain our dialogue, Barbara Wester, of the Office of the Regional Counsel, will contact your Attorney's office to make arrangements for a conference call or meeting.

Sincerely,



Joan M. Tanaka
Acting Director, Water Division

Enclosure

cc: Phillip Livingston, Bad River Band (email)
Dee Gokee-Rindal, Bad River Band (email)
Erick Arnold, Bad River Band (email)
Naomi Tillison, Bad River Band (email)
Shane T. Hoffmann, IHS Rhinelander District Office (email)

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Attachment

Self-reported effluent limit exceedances for the Bad River WWTP in 2018.

Monitoring Period Date	Parameter Description	Limit Type	DMR Value	DMR Value Unit	Limit Value	Limit Value Qualifier	% Exceedance
1/31/2018	Oxygen, dissolved (DO)	MINIMUM	3	mg/L	5	>=	40
2/28/2018	BOD, 5-day, 20 deg. C	WKLY AVG	56	mg/L	45	<=	24
2/28/2018	Solids, total suspended	WKLY AVG	98	mg/L	45	<=	118
5/31/2018	BOD, 5-day, 20 deg. C	WKLY AVG	88	mg/L	45	<=	96
5/31/2018	*E. coli*	DAILY MX	2000	#/100mL	235	<=	751
5/31/2018	*E. coli*	30DA GEO	317	#/100mL	126	<=	152
5/31/2018	Phosphorus, total (as P)	WKLY AVG	3	mg/L	2	<=	50
5/31/2018	Solids, total suspended	WKLY AVG	95	mg/L	45	<=	111
6/30/2018	*E. coli*	30DA GEO	584	#/100mL	126	<=	363
6/30/2018	*E. coli*	DAILY MX	2000	#/100mL	235	<=	751
7/31/2018	*E. coli*	30DA GEO	179	#/100mL	126	<=	42
7/31/2018	*E. coli*	DAILY MX	2000	#/100mL	235	<=	751
7/31/2018	Phosphorus, total (as P)	MO AVG	2	mg/L	1	<=	100
12/31/2018	Solids, suspended % removal	MN % RMV	75	%	85	>=	67
12/31/2018	Solids, total suspended	WKLY AVG	79	mg/L	45	<=	76
12/31/2018	Solids, total suspended	MO AVG	34	mg/L	30	<=	13

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