



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8**

1595 Wynkoop Street
Denver, CO 80202-1129
Phone 800-227-8917
www.epa.gov/region08

Ref: 8 Montana

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

The Honorable Harlan Baker, Chairman
Chippewa Cree Indians of the Rocky Boy's Reservation
16 Black Prairie Street
Box Elder, Montana 59521

Re: Inspection Report for Lower Dry Fork Wastewater Lagoons, NPDES Permit No. MTG589702

Dear Chairman Baker:

On May 23, 2023, representatives of the U.S. Environmental Protection Agency conducted a compliance evaluation of the Tribal Water Resources Department/Lower Dry Fork wastewater lagoon in Box Elder, Montana, to evaluate compliance with the site's National Pollutant Discharge Elimination System general permit for Wastewater Lagoon Systems in Indian Country. The inspection was conducted under the authority of Section 308 of the Clean Water Act (Act). Enclosed is a report of the inspection.

Inspection findings are summarized within the enclosed inspection report in a table titled "Findings, Corrective Actions and Recommendations." Within thirty (30) days of receipt of this report, please provide the EPA with a summary of corrective actions taken to address each of the findings identified in the report and any information that may change the findings or content of the report. This summary should be sent to:

Lisa-kay Prideaux
U.S. EPA Region 8
Prideaux.Lisakay@epa.gov

Please contact me at 406-457-5022 or Prideaux.Lisakay@epa.gov if you have any questions regarding this letter or the enclosed report.

Sincerely,

Prideaux, LisaKay

Digitally signed by Prideaux,
LisaKay
Date: 2023.06.28 08:25:24 -06'00'

Lisa-kay Prideaux
NPDES and Wetlands Enforcement Section
Enforcement and Compliance Assurance Division

Enclosures:

- 1) NPDES Wastewater Lagoon Inspection Report
- 2) Photo Log
- 3) Inspection Report Template

cc:

Ted Whitford, Director of Tribal Water Resources (email)
Daryl Wright, Director of Tribal Environmental Department (email)
Mike Clark, Wastewater Operator Supervisor (email)

NPDES Wastewater Lagoon Inspection Report

National Database Information	
Inspection Date: May 23, 2023	Inspection Type: CEI
Entry/Exit Time: 08:00/10:00; 12:30/13:05	NPDES ID Number: MTG589702
NAICS Code: 221300 Sewage Treatment Facility	Inspection ID: 202305_MTG589702
Lead inspector and affiliation: Lisa-kay Prideaux / EPA Region 8 Montana Operations Office	

Facility Location Information	
Site/Facility Name & Location: Lower Dry Fork Lagoons 48.302622°N; -110.003599°W	Mail Report to: Harlan Baker, Chairman Chippewa Cree Indians of the Rocky Boy's Reservation 16 Black Prairie Street Box Elder, Montana 59521

Contact Information	
	Name(s)/Title
Facility Contacts:	Ted Whitford – Director of Tribal Water Resources
	Mike Clark – Wastewater Operator Supervisor
	Daryl Wright – Director of Tribal Environmental Department
Person/Company meeting definition of “Operator”	Honorable Harlan Baker – Chairman (not present)
Authorized Official(s)	Ted Whitford, Director of Tribal Water Resources (present)
Tribe Representative(s)	Mike Clark – Wastewater Operator Supervisor (present) Mike Gopher – Wastewater Operator in Training (present in office) Dean Russett – Wastewater Operator in Training (present in office) Daryl Wright – Director of Tribal Environmental Department (present in office)
Indian Health Service Representative(s)	None attended

Permit Information		
Is the permit on site and available? yes	Lagoon Category: Dis - B	Monitoring Frequency: Quarterly
Effective Date: 01.01.2016	Expiration Date: 12.31.2020 Administratively Extended	Is the Facility under a compliance schedule? No
Is correct contact information indicated on ICIS? No	Indicate correct contact information: Authorized Official: Ted Whitford	
Receiving Water(s): Box Elder Creek		
Discharge point location (longitude, latitude): 48.303918°N; -110.002708°W		
Regulatory Inspector's source of information: General permit for Lagoon Dischargers, Statement of basis for the general permit, Authorization letter, Notice of Intent (NOI) application, Integrated Compliance Information System (ICIS), Enforcement & Compliance History Online (ECHO), facility representatives and facility observations.		

Areas Evaluated During Inspection		
<u>Permit</u>	<u>Effluent/Receiving Waters</u>	<u>Compliance Schedule</u>
<u>Records/Reports</u>	<u>Flow Measurement</u>	<u>Discharge Monitoring Reports</u>
<u>Facility Site Review</u>	<u>Monitoring Program</u>	<u>Lift Station Operation and Maintenance</u>
<u>Collection System Review</u>	<u>Lagoon Self- Inspections</u>	<u>Preventive and Emergency Operation and Maintenance</u>

Report Review and Signature		
Drafter Name	Date	Address/Phone Number
Prideaux, LisaKay Digitally signed by Prideaux, LisaKay Date: 2023.06.28 08:16:59 -06'00'	06.22.2023	U.S. EPA Region 8, Montana Operations Office 10 West 15 th Street, Suite 3200 Helena, Montana 59626 406-457-5022
Reviewer Name	Date	Address/Phone Number
Brit Rustad	06.23.2023	U.S. EPA Region 8 1595 Wynkoop Street 8ENF-W-NW Denver, Colorado 80202 303-312-6885
Management Reviewer Signature	Date	Address/Phone Number
EMILIO LLAMOZAS Digitally signed by EMILIO LLAMOZAS Date: 2023.06.26 19:10:57 -06'00'		U.S. EPA Region 8 1595 Wynkoop Street 8ENF-W-NW Denver, Colorado 80202 303-312-6407
Emilio Llamozas, NPDES and Wetlands Enforcement Section Supervisor		

Inspection Narrative and Site Description

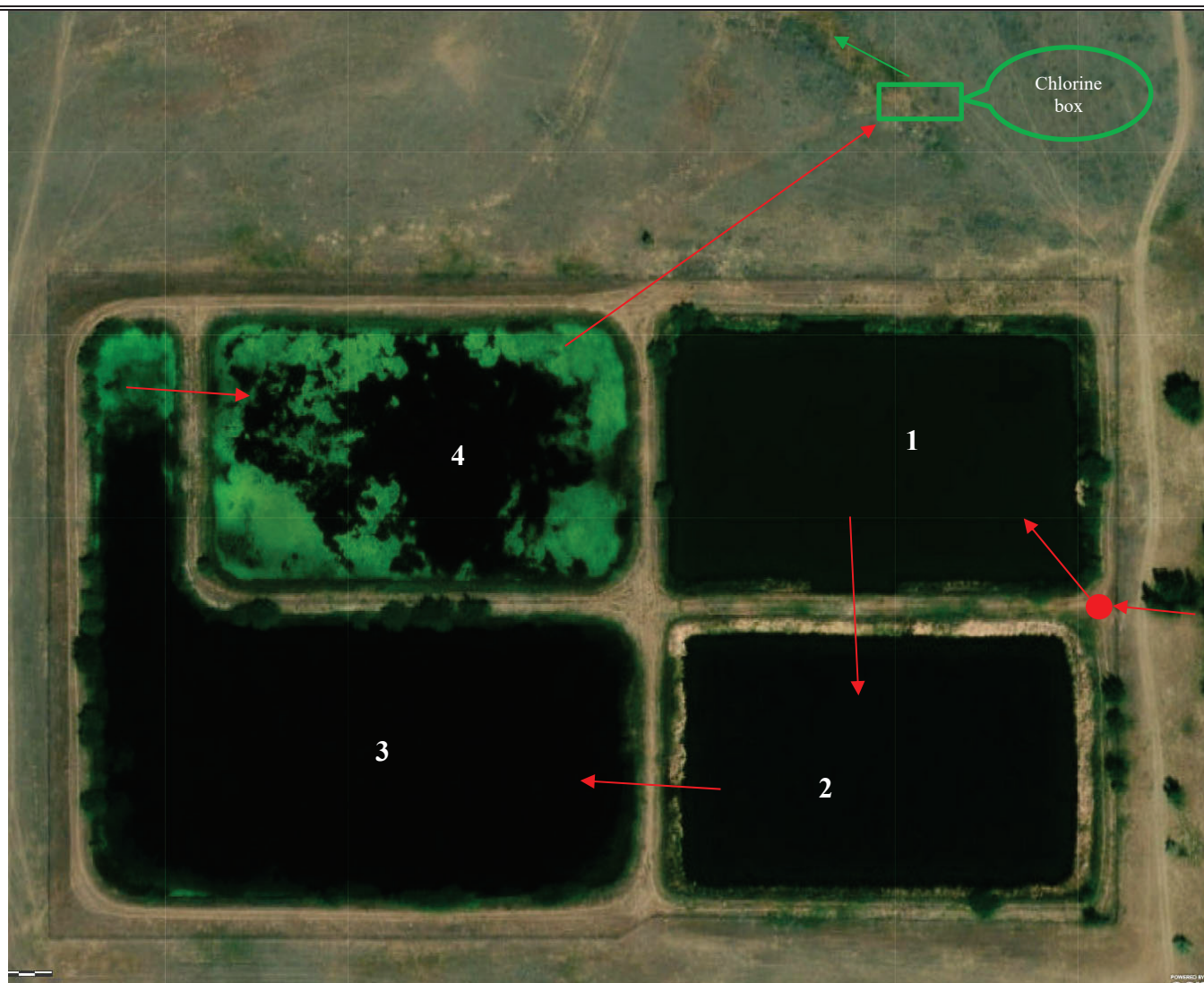
The U.S. Environmental Protection Agency (EPA) conducted an announced inspection at the Lower Dry Fork Wastewater Lagoons (facility) to evaluate the facility's compliance with the Clean Water Act and the National Pollutant Discharge Elimination System (NPDES) permit MTG589702.

The Chippewa Cree Indians of the Rocky Boy's Reservation owns and operates the facility, located in Box Elder, Montana. The EPA directly implements the Clean Water Act and NPDES requirements at the facility. The facility is permitted under the 2016 NPDES Lagoon General Permit (2016 General Permit) as a "discharge" facility. The 2016 General Permit expired on December 31, 2020; EPA Region 8 issued a new General Permit (2022 General Permit) which became effective on April 1, 2022, and will expire on March 31, 2027. The facility has submitted a Notice of Intent to comply with the 2022 General Permit on March 27, 2023.

On May 22, 2023, I, EPA inspector Lisa-kay Prideaux, arrived at the Tribal Water Resources Office at approximately 13:30, at 16 Black Prairie Street in Box Elder, Montana. After arriving at the office, I presented my inspector credentials to Ted Whitford, Director of Tribal Water Resources, Mike Clark, Wastewater Operator Supervisor, Mike Gopher, Wastewater Operator in Training, Dean Russett, Wastewater Operator in Training, and Daryl Wright, Director of Tribal Environmental Department, and had an opening conference to explain the purpose of the inspection trip. During this time, we had a conversation regarding the overall state of the Tribal offices, Tribal utilities, complaints, problem areas within the Reservation, future growth and upgrades, capacity of current systems, equipment needs and funding.

On May 23, 2023, the inspection commenced at approximately 08:00, when I met Ted Whitford and Mike Clark at the Tribal Resources Office. I asked a series of questions of the facility representatives to help evaluate the facility operations and compliance. A review of discharge monitoring reports (DMR) from January 1, 2019, through March 31, 2023, indicated the facility was in significant noncompliance (SNC) for not submitting the September 30, 2020, and December 31, 2021, DMR on time. The facility submitted DMRs, and the violations were resolved on February 11, 2021, and May 24, 2022, respectively. I reminded facility staff DMRs are due by the 28th of the month following the monitoring period end date. At approximately 10:00 we traveled out to the field for visual evaluations. We arrived at the facility site at approximately 12:30. Throughout the inspection, observations and photograph descriptions were documented in a field logbook. All photographs taken during the inspection are included in the attached photo log.

Lower Dry Fork Lagoons are tribally owned by the Chippewa Cree Tribe, and tribally operated through the Tribal Water Resources Department. The facility was originally constructed in 1986 and serves a community of 164 homes. The facility consists of a collection system, four lined facultative lagoon cells and a chlorination box prior to discharge into a dry coulee to Boxelder Creek. The four cells are typically operated in series via gravity. Cell 1 is approximately 569,000 cubic feet in size, cell 2 is approximately 604,000 cubic feet in size, cell 3 is approximately 894,000 cubic feet in size, and cell 4 (polishing pond) is approximately 554,000 cubic feet in size. Cell 1 is the northeastern cell and receives wastewater from the collection system via valved manhole in the southeastern corner of the cell. Wastewater moves to cell 2 (southeastern cell) in the center of the two cells via valved pipe, then moves to cell 3 (southwestern cell) in the center of the cells via valved pipe, and finally to the polishing pond (northwest cell) from the north leg of cell 3 via valved pipe. Wastewater then flows out of the polishing pond in the northeast corner to a wet well. The wet well has a valve to allow water to flow through prior to discharge; these pipes have openings in which chlorine tablets can be added for disinfection. During a discharge, wastewater exits a pipe into a dry coulee for approximately 0.4 miles northwest to Boxelder Creek. Flow is estimated at 0.001 million gallons per day (MGD). The facility has not removed sludge from the lagoon cells. In the future, the Tribes intend to construct 3 new cells that will be larger than the existing 4 cells, and potentially rehabilitate these cells for sludge drying beds for all tribal facilities.



The site visit included walking around lagoon cell 1 (photos 687 and 688) cell 2 (photos 689, 690 and 691), cell 3 (photos 692 and 693), cell 4 (photos 694 and 695), chlorine box (photos 700 and 701), and the outfall pipe (photo 702) into a dry coulee to Boxelder Creek. In cells 1 and 2, I observed the water level to be well above operational level and almost breaching the banks (ground was soft between the cells) (photos 687-691, and 698). I observed excessive vegetation growth along the edges and growing within the cells, in all 4 cells (photos 687-695 and 698) and thicker vegetation/shrubs/trees were growing in lagoon cells 1, 3, and 4 (photos 688, 692-695, 698, and 699). I also observed rodent damage within lagoon cells 1 and 3 (photos 696, 697, and 699).

Findings, Corrective Actions and Recommendations

Finding #1: Inspections are conducted but not documented as required.

Specifically, the permittee is conducting weekly inspections, but not documenting required elements.

Permit requirement:

Part 4.3.1 of the 2016 General Permit states, "On at least a weekly basis, unless otherwise modified by written approval from the EPA, the permittee shall inspect its wastewater treatment facility. The permittee shall maintain

a notebook recording all information obtained during the inspection. At a minimum, the notebook shall include the following:

- 4.3.1.1. Name of facility and permit number;
- 4.3.1.2. Date and time of the inspection;
- 4.3.1.3. Name of the inspector(s);
- 4.3.1.4. The facility's discharge status;
- 4.3.1.5. The flow rate of the discharge if occurring;
- 4.3.1.6. If a discharge is occurring, has occurred since the previous inspection, and/or if a discharge is likely to occur before the next inspection.
- 4.3.1.7. Is there is any leakage through the dikes;
- 4.3.1.8. Are there are any animal burrows in the dike;
- 4.3.1.9. Is there any erosion of the dikes (e.g., rills, cracks or other structural indications of erosion);
- 4.3.1.10. Are there are any rooted plants, including weeds growing in the water;
- 4.3.1.11. Does the vegetation growth on the dikes needs mowing (e.g. greater than 6" tall);
- 4.3.1.12. List the date scheduled for operation and maintenance procedures to be undertaken at the wastewater treatment facility.
- 4.3.1.13. Identification of operational problems and/or maintenance problems;
- 4.3.1.14. Recommendations, as appropriate, to remedy identified problems;
- 4.3.1.15. A brief description of any actions taken with regard to problems identified; and,
- 4.3.1.16. Other information, as appropriate."

Part 4.3.2 of the 2016 General Permit states, "the permittee shall maintain the notebook in accordance with required record-keeping items and shall make the log available for inspection, upon request, by authorized representatives of the EPA or the applicable Tribe."

Part 4.3.3 of the 2016 General Permit states, "any problems identified during the inspection shall be listed with corrective action and a time frame to correct the issue. Example: repair cracks in North berm, remove animal and repair burrow, within 7 days."

Part 6.1 of the 2016 General Permit states, "the permittee must comply with all conditions of this permit. Any failure to comply with the permit may constitute a violation of the Clean Water Act and may be grounds for enforcement action, including, but not limited to permit termination, revocation and reissuance, modification, or denial of a permit renewal application."

Corrective Action:

Ensure inspections are conducted and reports are written to document observations against all required permit elements. Implement corrective actions identified during inspections within the required timeframe. In the response to this report, provide EPA with a description of the corrective actions taken to address this finding. A template inspection report is included as an attachment for use, if preferred.

Finding #2: Water levels in lagoon cells above operational level.

Specifically, the facility's lagoon water level in cells 1 and 2 are well above operational level and almost breaching the banks (photos 687-691, and 698). The dike walls between cells 1 and 2 were inundated due to the high-water levels and were soft to walk upon. Any wastewater overtopping the lagoon walls would be considered an instance of noncompliance which may endanger human health and/or the environment and reporting requirements in Part 5.8 of the General Permit would be required.

Permit requirements:

Part 6.5 of the 2016 General Permit states, "the permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit."

Part 6.1 of the 2016 General Permit states, “the permittee must comply with all conditions of this permit. Any failure to comply with the permit may constitute a violation of the Clean Water Act and may be grounds for enforcement action, including, but not limited to permit termination, revocation and reissuance, modification, or denial of a permit renewal application.”

Corrective Action:

Transfer wastewater into cells 3 and 4 and/or consider a discharge to drop water levels in all cells, specifically cells 1 and 2. In the response to this report, provide EPA with a description of the corrective actions taken to address this finding. Provide photographic evidence documenting the correction of each deficiency.

Finding #3: Unmaintained vegetation within lagoon cells.

Specifically, the facility’s lagoon dike walls were covered in unmaintained vegetation as well as vegetation growing within the water line of the lagoon cells. Excessive vegetation growth was observed along the edges and growing within the cells, in all 4 cells (photos 687-695 and 698) and thicker vegetation/shrubs/trees were growing in lagoon cells 1, 3, and 4 (photos 688, 692-695, 698, and 699). When vegetation is unmaintained, it is difficult to assess the health of the lagoon dike walls for erosion, leaks, slumps, and burrowing animal damage. Heavy thick roots from the wrong type of flora can compromise the integrity and greatly inhibit or degrade the dike walls as well as puncture liners creating leaking lagoons.

Permit requirements:

Part 6.5 of the 2016 General Permit states, “the permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. In addition to the operation and maintenance items in the manual for the lagoon system, the permittee shall do the following maintenance:

- 6.5.1. Take necessary action to promptly correct the problem of leakage through the dikes;
- 6.5.4. Remove rooted plants, including weeds, from the water on a regular basis or as needed; and
- 6.5.5. Keep the dikes mowed on a regular basis during the growing season or as needed (e.g., keep growth below 6" in height).”

Part 6.1 of the 2016 General Permit states, “the permittee must comply with all conditions of this permit. Any failure to comply with the permit may constitute a violation of the Clean Water Act and may be grounds for enforcement action, including, but not limited to permit termination, revocation and reissuance, modification, or denial of a permit renewal application.”

Corrective Action:

Mow all vegetation on the top and outside lagoon dike walls and remove vegetation growing within the lagoon cells. In the response to this report, provide EPA with a description of the corrective actions taken to address this finding. Provide photographic evidence documenting the correction of each deficiency.

Finding #4: Rodent damage within lagoon cells.

Specifically, damage from rodents was observed in lagoon cells 1 and 3 as holes as well as vegetation cuttings created by rodent grazing (photos 696, 697, and 699). It is important to protect lagoon dike walls from destruction by waves, weather, and burrowing animals. Rodents will dig partially submerged tunnels and can cause damage to dikes which could destabilize and promote erosion, low water levels indicating leaking, or wall breaches. Removing woody materials (finding #3) as a food source will also deter the inhabitant tendency.

Permit requirements:

Part 6.5 of the 2016 General Permit states, “the permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. In addition to the operation and maintenance

items in the manual for the lagoon system, the permittee shall do the following maintenance:

- 6.5.1. Take necessary action to promptly correct the problem of leakage through the dikes;
- 6.5.2. Take necessary action to promptly remove burrowing animals from the dikes;
- 6.5.3. Promptly repair damage to dikes caused by burrowing animals and/or erosion;
- 6.5.4. Remove rooted plants, including weeds, from the water on a regular basis or as needed; and
- 6.5.5. Keep the dikes mowed on a regular basis during the growing season or as needed (e.g., keep growth below 6" in height)."

Part 6.1 of the 2016 General Permit states, "the permittee must comply with all conditions of this permit. Any failure to comply with the permit may constitute a violation of the Clean Water Act and may be grounds for enforcement action, including, but not limited to permit termination, revocation and reissuance, modification, or denial of a permit renewal application."

Corrective Action:

Remove heavy thick woody vegetation growing within the lagoon cells. Remove rodents and repair all damages. In the response to this report, provide EPA with a description of the corrective actions taken to address this finding. Provide photographic evidence documenting the correction of each deficiency.