



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8**

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Denver, CO 80202-1129  
Phone 800-227-8917  
[www.epa.gov/region08](http://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 Agency Wastewater Lagoons, NPDES Permit No. MTG589701

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/Agency 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](mailto:Prideaux.Lisakay@epa.gov)

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

Sincerely,  
**Prideaux,**  
**LisaKay**

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

Digitally signed by Prideaux,  
LisaKay  
Date: 2023.06.28 08:14:11  
-06'00'

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; 10:15/10:40                                                  | NPDES ID Number: MTG589701      |  |
| NAICS Code: 221300 Sewage Treatment Facility                                               | Inspection ID: 202305_MTG589701 |  |
| Lead inspector and affiliation: Lisa-kay Prideaux / EPA Region 8 Montana Operations Office |                                 |  |

| Facility Location Information                                                         |                                                                                                                                                          |
|---------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------|
| Site/Facility Name & Location:<br><b>Agency Lagoons</b><br>48.262518°N; -109.784546°W | Mail Report to:<br>Harlan Baker, Chairman<br>Chippewa Cree Indians of the Rocky Boy's Reservation<br>16 Black Prairie Street<br>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)<br>Mike Gopher – Wastewater Operator in Training (present in office)<br>Dean Russett – Wastewater Operator in Training (present in office)<br>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<br>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): Multi-community Lagoon system or to Boxelder Creek                                                                                                                                                                                                                                                                         |                                                                         |                                                 |
| Discharge point location (longitude, latitude): Sundance Creek 48.263552°N; -109.788558°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                                                                                                                    |
|                                                                                                                                                                                       | 06.21.2023 | U.S. EPA Region 8, Montana<br>Operations Office<br>10 West 15 <sup>th</sup> Street, Suite 3200<br>Helena, Montana 59626<br>406-457-5022 |
| Reviewer Name                                                                                                                                                                         | Date       | Address/Phone Number                                                                                                                    |
| Stephanie Passarelli                                                                                                                                                                  | 06.23.2023 | U.S. EPA Region 8<br>1595 Wynkoop Street<br>8ENF-W-NW<br>Denver, Colorado 80202<br>303-312-6803                                         |
| Management Reviewer Signature                                                                                                                                                         | Date       | Address/Phone Number                                                                                                                    |
| <b>EMILIO LLAMOZAS</b><br> Digitally signed by EMILIO LLAMOZAS<br>Date: 2023.06.26 19:04:56 -06'00' |            | U.S. EPA Region 8<br>1595 Wynkoop Street<br>8ENF-W-NW<br>Denver, Colorado 80202<br>303-312-6407                                         |
| Emilio Llamozas, NPDES and Wetlands Enforcement Section Supervisor                                                                                                                    |            |                                                                                                                                         |

## Inspection Narrative and Site Description

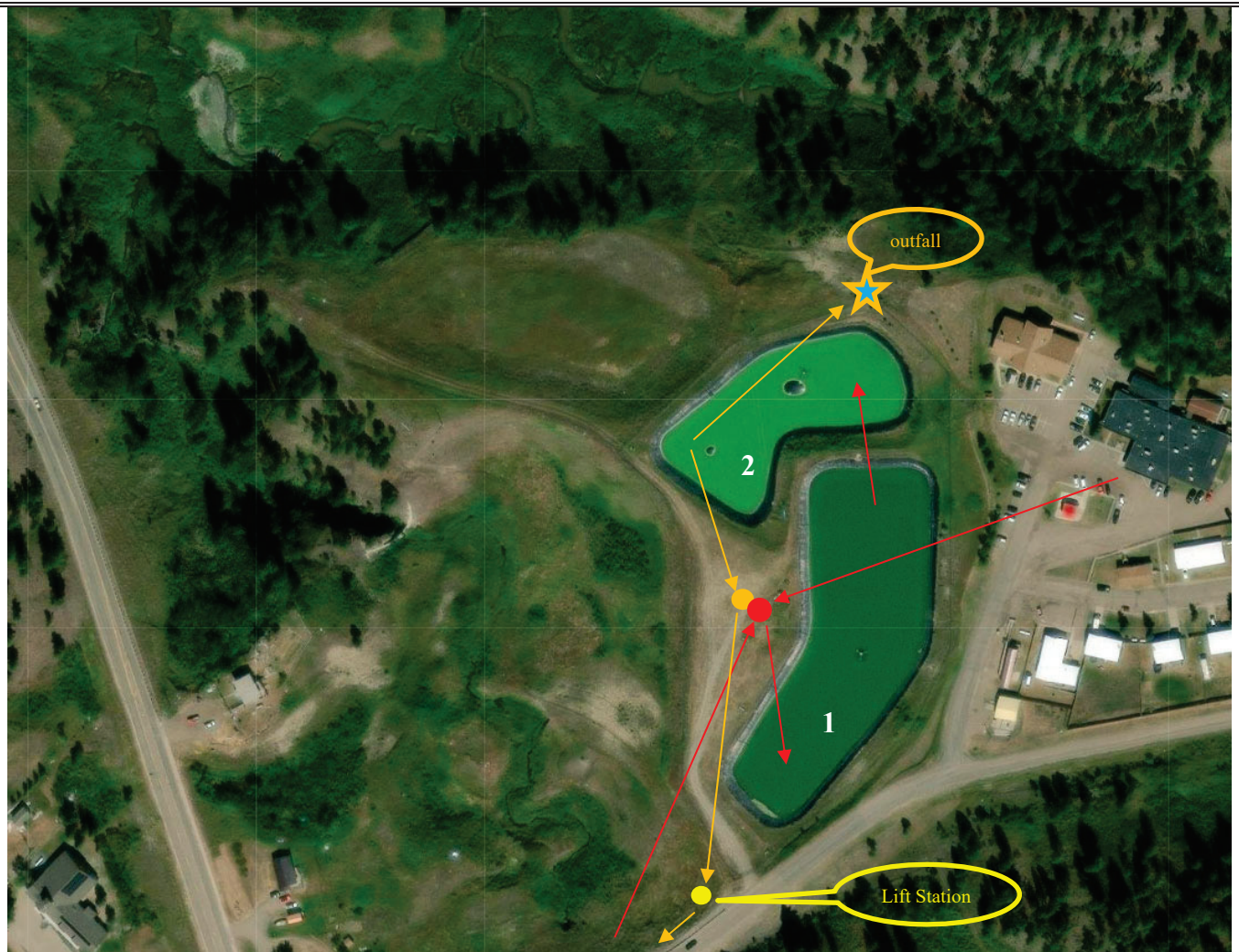
The U.S. Environmental Protection Agency (EPA) conducted an announced inspection at the Agency Wastewater Lagoons (facility) to evaluate the facility's compliance with the Clean Water Act and the National Pollutant Discharge Elimination System (NPDES) permit MTG589701.

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 1:30 pm, 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 28<sup>th</sup> 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 10:15. 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.

Agency Lagoons are tribally owned by the Chippewa Cree Tribe, and tribally operated through the Tribal Water Resources Department. The facility was originally constructed in 1975 and upgraded in the early 2000s where the lagoons were lined, and again in 2016 when the lift station was constructed. The facility consists of a collection system with one lift station, two cells (the former third cell decommissioned in 2021). The two cells are typically operated in series by gravity with no pumps for aeration or flow. Cell 1 is approximately 444,000 cubic feet in size and cell 2 is approximately 290,000 cubic feet in size. Cell 2 includes two solar aerators (currently inoperable). Cell 1 is the southern cell and receives wastewater from the collection system in the southeastern corner of the cell. Wastewater moves to cell 2 (northern cell) via manhole with valves located in the northwest corner of cell 1 and into the cell in the northeast portion of the cell. Wastewater then flows into a valved manhole in the southeast portion of cell 2 and primarily flows to a lift station located just outside the entrance to the lagoon cells, which then pumps the treated wastewater east to the multi-community lagoon facility where it is used for irrigation or discharged to into Boxelder Creek. Wastewater from the manhole can also be directed north through a wet well and Parshall flume for flow measurement prior to discharging to Boxelder Creek. Flow out of cell 2 is estimated at 0.001 million gallons per day (MGD). The facility removed sludge from the lagoon cells in 2011, an unknown amount was land applied.



The site visit included walking around lagoon cell 1 (photos 671, 672, and 675) and 2 (photos 673, 674, 676, and 677), observing the disconnected cell 3, and the outfall pipe to Boxelder Creek. I observed one solar aerator in cell 1 (photos 671 & 675), and one solar aerator in cell 2 (photo 674). I also observed 2 ‘lagoon whales’ within cell 2 (photos 673 and 674); facility operators stated the ‘whales’ have been present since shortly after the liners were installed and are slowly increasing in size. Vegetation growth on cell dike walls and between cells was observed to be greater than the recommended 6-inches in height. Facility operators indicated they have not had a chance to get out to the facility to mow between cells this spring. It was also noted thicker vegetation and shrubs were beginning to grow along the east end of cell 2 (photos 676 and 677) to include growth within the liner creating tears on the top of the cell liner.

## 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: Unmaintained Vegetation.**

Specifically, the facility’s lagoon dike walls were covered in unmaintained vegetation as well as vegetation beginning to grow along the water line within the lagoon cells. Heavy thick roots from the wrong type of flora can compromise the integrity and greatly inhibit or degrade the dike walls. It was also noted thicker vegetation and shrubs were beginning to grow along the east end of cell 2 (photos 676 and 677) to include growth within the liner creating tears on the top of the cell liner.

**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:**

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 that documents the correction of each deficiency.

**Finding #3: Liner whales were observed in cell 2.**

Specifically, liner whales are large blisters of liner which have risen above the surface of the water (photos 673 and 674). When a leak in the geomembrane occurs, wastewater seeps through the liner and remains in the subgrade soil. Gases create when the water reacts with organic matter in the soil. If there is no way for gases to escape, they can collect under the liner surface and create a bubble, or a whale. With the formation of a whale, the resulting tensions in the geomembrane liner can cause additional damage, potentially resulting in more leakage and accelerating whale formation(s).

**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. Proper operation and maintenance also include adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit. However, the permittee shall operate, at a minimum, one complete set of each main line unit treatment process whether or not this process is needed to achieve permit effluent compliance".

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:**

Repair the liner in cell 2 to operational status. In the response to this report, provide EPA with a description of the corrective actions taken to address this finding or a schedule with timeframes to complete the required maintenance.