

U.S. EPA Region 8 NPDES Inspection Report

National Database Information	
Inspection Date: June 26, 2023	Inspection Type: Compliance Evaluation Inspection
Entry / Exit Time: Opening Conference: 08:30 AM / 10:30 AM Site Review: 10:48 AM / 11:00 AM	NPDES ID: SDG589103 (EPA Region 8 Lagoon General Permit SDG589###)
Major / Non-Major Facility: Non-Major	Program Sector(s): Publicly-Owned Treatment Works (POTW)
NAICS Code: 221320 (Sewage Treatment Facilities)	Inspection ID: 202306_SDG589103
Lead inspector and affiliation: Akash Johnson / U.S. EPA Region 8	
Inspector and affiliation: Stephanie Passarelli / U.S. EPA Region 8	

Facility Location Information	
Site/Facility Name & Location: Habitat for Humanity WWTF Eagle Butte, South Dakota 57625 44.99105, -101.21096	Email Report to: Leo (Earp) Fischer, Manager Mni Waste' Water Company tricity@lakotanetwork.com

Contact Information	
	Name(s)/Title
Facility Contacts	Leo (Earp) Fischer / Manager / Mni Waste' Water Company (present for opening conference only)
	Lacey Maher / Assistant Manager / Mni Waste' Water Company (present for opening conference only)
	Joe Garreau / Operator / Mni Waste' Water Company (present for entire inspection)
Indian Health Service Contacts	Jason Peterson / Acting Tribal Utility Consultant / Indian Health Service (not present)
Tribal Government Contacts	David Nelson / Environmental Director / Cheyenne River Sioux Tribe (not present)
Person/Company meeting definition of "Owner"	Cheyenne River Sioux Tribe
Person/Company meeting definition of "Operator"	Mni Waste' Water Company (aka Tri-County Water Association)
Responsible Official(s)	Leo (Earp) Fischer / Manager / Mni Waste' Water Company

Permit / Facility Information	
Permit on site and available: Yes	Permit Application Date: Did not evaluate
Effective Date: December 1, 2022	Expiration Date: March 31, 2027
Latitude: 44.99105	Longitude: -101.21096
Receiving Water(s): N/A – lagoon inactive; wastewater now directed to Fox Ridge WWTF (NPDES ID SDG589115); see report narrative for additional information	
Weather Conditions: Partly-cloudy, warm, no precipitation	
Inspector's source of information: Facility representatives and records, EPA records and databases, Google Maps aerial imagery, and inspection observations	

Areas Evaluated During Inspection		
<u>Permit</u>	<u>Self-Monitoring Program</u>	Pretreatment
<u>Records</u>	Compliance Schedule	Pollution Prevention
Facility Site Review	Laboratory	Stormwater
Effluent/Receiving Waters	<u>Operations and Maintenance</u>	Combined Sewer Overflow
Flow Measurement	Sludge Handling/Disposal	Sanitary Sewer Overflow

Report Review and Signature		
Lead Inspector Name/Signature/Date	Draft Date	Contact Information
AKASH JOHNSON  Digitally signed by AKASH JOHNSON Date: 2023.09.24 14:13:07 -06'00'	August 29, 2023	U.S. EPA Region 8 Denver, Colorado johnson.akash@epa.gov (303) 312-6067
Reviewer Name	Review Date	Contact Information
Stephanie Passarelli	August 30, 2023	U.S. EPA Region 8 Denver, Colorado passarelli.stephanie@epa.gov (303) 312-6803
Management Reviewer Name/Signature/Date		Contact Information
EMILIO LLAMOZAS  Digitally signed by EMILIO LLAMOZAS Date: 2023.09.07 15:36:02 -06'00'		U.S. EPA Region 8 Denver, Colorado llamozas.emilio@epa.gov (303) 312-6407
Emilio Llamozas, NPDES and Wetlands Enforcement Section Supervisor		

Inspection Narrative and Facility Description

1.0 Introduction

On Monday, June 26, 2023, I, U.S. Environmental Protection Agency (EPA) inspector Akash Johnson, accompanied by EPA inspector Stephanie Passarelli (collectively, “we”), conducted a compliance evaluation inspection of the Habitat for Humanity wastewater treatment facility (WWTF; facility), located near Eagle Butte, South Dakota, on the Cheyenne River Reservation (Reservation). We were accompanied by the individuals identified on pages 1-2 of this report for the respective portions of the inspection.

Ownership of facility components and the Tribal land status of parcels on which the facility is located were not evaluated during the inspection; however, according to facility representatives, the facility is owned by the Cheyenne River Sioux Tribe. The facility is operated by the Mni Waste’ Water Company (MWWC), a Tribally-chartered utility. The inspection was coordinated with the MWWC and Cheyenne River Sioux Tribe Department of Environmental and Natural Resources several weeks in advance, and an inspection notification letter was sent to the Cheyenne River Sioux Tribe on May 18, 2023. The purpose of the inspection was to evaluate compliance with applicable National Pollutant Discharge Elimination System (NPDES) and Clean Water Act (CWA) requirements. Throughout the inspection, we took notes on our discussions and observations in bound checklists. Photographs taken during the inspection are included in the attached photo log.

2.0 Background

At the time of the inspection, the facility was permitted under the “No Discharge Requirement,” or “NODIS,” conditions of the 2022-2027 EPA Region 8 Lagoon General Permit SDG589### (Permit). The facility was assigned facility-specific NPDES ID SDG589103.

Records pertaining to previous EPA NPDES inspections and other NPDES permitting and compliance records are maintained in EPA files. Records pertaining to facility engineering are primarily maintained by the MWWC and the IHS.

3.0 Inspection Narrative

The inspection began when we arrived at the MWWC offices in Eagle Butte at approximately 08:30 AM. We convened with Leo Fischer, Lacey Maher, and Joe Garreau in a conference room, presented our inspector credentials, and conducted an opening conference. During the opening conference, we asked questions pertaining to the design, operation, and CWA and NPDES compliance of multiple WWTFs operated by the MWWC, including the subject facility.

3.1 MWWC Wastewater Operations

The MWWC operates a regional water treatment plant and distribution system which provides water to multiple communities and users across the region. The MWWC also operates approximately fifteen WWTFs on the Reservation. At the time of the inspection, the MWWC employed ten operators and various managerial and administrative support staff. The majority of MWWC operations are dedicated to the provision of potable water, but all operators perform both water and wastewater duties as-needed.

Joe was the lead MWWC operator for wastewater issues and indicated he held a wastewater collections operator certification from the State of South Dakota. MWWC representatives indicated one additional

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operator was certified in wastewater collections, for a total of two operators certified in collections. No MWWC operators were certified in wastewater treatment.

Joe stated all WWTFs operated by the MWWC were inspected at least monthly and provided an example lagoon inspection form the MWWC had been using. We reviewed completed inspection forms for several WWTFs during the opening conference. The frequency of lagoon inspections and inspection forms used are discussed further in Findings 1 and 2. Joe also stated sewer mains for all MWWC-operated WWTFs were jetted annually and manholes were routinely spot-checked for backups.

MWWC customers and finances were briefly discussed during the opening conference. Leo indicated the MWWC was a 501(c)2 nonprofit organization. The MWWC was overseen by a board comprised of members from each of the six Tribal government districts on the Reservation. MWWC representatives indicated the majority of MWWC revenue was derived from user fees, with flat-rate residential water and wastewater fees of approximately \$11 and \$13, respectively, assessed monthly. We did not discuss non-residential users and fees in detail during the opening conference. MWWC representatives indicated they directly served approximately 1,600 water customers and approximately 1,000 wastewater customers. Some of MWWC's water customers are independent municipalities, such as incorporated towns, which may serve hundreds or thousands of additional individuals.

3.2 Facility Description

According to information provided by the MWWC during and following the inspection and on the Notice of Intent (NOI) for Permit coverage, the facility's treatment units stopped receiving wastewater approximately 1 year prior to the inspection, the facility has not discharged in at least several years, and there is no outfall from the facility's lagoon. Some EPA records indicate the lagoon may have an outfall, but this was not verified during the inspection. The collection system previously associated with the facility now sends wastewater to the Fox Ridge lagoon (NPDES ID: SDG589115). During the inspection, we did not access and observe the facility close-up, discussed further in Section 3.3 and Finding 3.

Based on information provided by MWWC representatives and available in EPA records, the facility previously served a several dozen single-family residences and received primarily septic tank effluent. Each residence had their own septic tank, effluent from the individual septic tanks flowed to a centralized 7,500 gallon cluster septic tank located near the lagoon, and effluent from the cluster septic tank flowed into the facility's lagoon. Based on a cursory review of aerial imagery, the lagoon appears to comprise a two-cell system, with what appears to be a floor baffle berm (presumably designed to be submerged) dividing each cell approximately in half. Hauled septage has not historically been accepted at the facility.

According to information provided by MWWC representatives, during decommissioning of the facility, septage was pumped out of all individual septic tanks and the cluster septic tank and all tanks were crushed and abandoned in-place. During an August 28, 2023 phone call, Leo stated the MWWC does not plan to use the facility's lagoon again and would like to pursue terminating Permit coverage for the facility, discussed further in Finding 4.

3.3 Inspection Observations

Following the opening conference, we intended to inspect the lagoon, but Joe advised against utilizing the access road to the facility due to muddy and potentially hazardous driving conditions resulting from

Inspection Narrative and Facility Description

recent rain, so we did not access and observe the facility close-up. Instead, we pulled off on the south shoulder of County Road 19A/Foxridge Road at the point of closest approach to the lagoon and attempted to observe the lagoon from the road, but we were not able to clearly view the lagoon cells (Photographs 345-346). The inspection concluded when we left the area at approximately 11:00.

4.0 Post-Inspection Activities and Conclusion

After the inspection, I performed a cursory review of aerial imagery and EPA records. I also spoke with Leo via phone on August 28, 2023 to ask several follow-up questions.

Findings, requested corrective actions, and recommendations identified pursuant to this inspection are included in the section below.

Findings, Corrective Actions, and Recommendations

Finding 1:

The MWWC had not renewed written approval from the EPA to conduct inspections on a monthly basis instead of a weekly basis.

The most recent authorization granted to the MWWC by the EPA for monthly inspections was provided under a previous version of the EPA Region 8 Lagoon General Permit.

Permit Requirements:

Part 6.5.1 of the Permit states:

On at least a weekly basis, unless otherwise modified by written approval from EPA, the Permittee shall inspect its wastewater treatment facility. Permission for less frequent inspections must be requested in writing by the Permittee and may be granted on a case-by-case basis where appropriate (e.g. a lagoon located in a remote area where access is a problem during the winter and compliance issues are not present), at the discretion of EPA.

Corrective Action:

If the MWWC would like to request renewal of EPA approval to conduct monthly inspections instead of weekly inspections at this and other MWWC-operated WWTFs, submit a written request to the address shown below:

U.S. Environmental Protection Agency, Region 8
Wastewater Section (8WD – CWW)
1595 Wynkoop Street
Denver, CO 80202

Please also email a copy of the written request to EPA Region 8 Wastewater Section Supervisor, Michael Boeglin, at boeglin.michael@epa.gov, and cc johnson.akash@epa.gov and passarelli.stephanie@epa.gov.

If monthly inspections are not requested, in a response to this report, please provide a narrative affirming the MWWC intends to start conducting weekly inspections at this facility.

Finding 2:

Lagoon inspection forms did not capture all the inspection elements required by the Permit.

Permit Requirements:

Part 6.5 of the Permit (Inspection Requirements) states:

On at least a weekly basis, unless otherwise modified by written approval from EPA, the Permittee shall inspect its wastewater treatment facility. Permission for less frequent inspections must be requested in writing by the Permittee and may be granted on a case-by-case basis where appropriate (e.g. a lagoon located in a remote area where access is a problem during the winter and compliance issues are not present), at the discretion of EPA. The Permittee shall maintain a notebook/logbook recording all

Findings, Corrective Actions, and Recommendations

information obtained during the inspection using indelible ink pens (or inspection logs may be kept in electronic format in accordance with proper record-keeping procedures) and in sufficient detail so that decision logic may be traced back, once reviewed. At a minimum, the notebook/logbook shall include the following (see Appendix D of this Permit for an Example Lagoon Inspection Form):

- 6.5.1.1. Name of facility and permit number;
- 6.5.1.2. Date and time of the inspection;
- 6.5.1.3. Name of the inspector(s);
- 6.5.1.4. The facility's discharge status;
- 6.5.1.5. The flow rate of the discharge, if occurring;
- 6.5.1.6. Determine if a discharge is occurring, has occurred since the previous inspection, and/or if a discharge is likely to occur before the next inspection. (Note: If a discharge has occurred or is likely to occur before the next inspection, perform the appropriate monitoring and reporting requirements in Sections 3 and 5.4 of this Permit if not already done.);
- 6.5.1.7. If there is any leakage through the dikes;
- 6.5.1.8. If there are any animal burrows in the dike;
- 6.5.1.9. If there is any erosion of the dikes (e.g., rills, cracks or other structural indications of erosion);
- 6.5.1.10. If there are any rooted plants, including weeds or trees growing in the water;
- 6.5.1.11. If the vegetative growth on the dikes need mowing (i.e. no greater than 6" tall or any height that may interfere with monitoring, operation and maintenance of the system);
- 6.5.1.12. Visual observation for visible sheen, floating oil, floating solids and foam;
- 6.5.1.13. Visual observation to check for evidence of illicit septic dumping;
- 6.5.1.14. List the date scheduled for operation and maintenance procedures to be undertaken at the wastewater treatment facility;
- 6.5.1.15. Identification of operational and/or maintenance problems, and a determination of whether proper operation and maintenance procedures are being undertaken at the frequency necessary to maintain working operations and the overall treatment and collection systems of the wastewater treatment lagoon system;
- 6.5.1.16. Recommendations, as appropriate, to remedy identified problems;
- 6.5.1.17. A brief description of any actions taken with regard to problems identified;
- 6.5.1.18. Overall visual observations to identify potential concerns with the "health" of the lagoon system (e.g., water is cloudy, water coloration concerns (e.g. red, black, grey, dark blue-green and cloudy), etc.); and
- 6.5.1.19. Other information, problems identified, or observations, as appropriate.

The Permittee shall maintain the notebook/logbook in accordance with required record-keeping items listed above and shall make the log available for inspection, upon request, by authorized representatives of the U.S. Environmental Protection Agency or the applicable Tribe(s) (see Appendix A for list of Tribes).

Problems identified during the inspection (including, but not limited to, those associated with this section of the Permit) shall be corrected at the time of inspection, if possible. If they cannot be corrected at the time of the inspection, the inspector must identify a corrective action to remedy the problem(s), as well as a timeline for completion of the remedy. Corrective actions to remedy problem(s) shall be in line with (and addressed through) proper operation and maintenance (Section 6.6 of this Permit.). All problems identified during inspections, as well as associated corrective actions and timelines, shall be documented in the inspection log.

Findings, Corrective Actions, and Recommendations

Corrective Action:

During the opening conference, we showed Leo, Lacey, and Joe the Example Lagoon Inspection Form included as Appendix D of the Permit, which includes all inspection elements required by the Permit, and they indicated MWWC operators would immediately begin using those forms to complete lagoon inspections.

In a response to this report, provide a copy of a recent inspection report completed for the facility using the Example Lagoon Inspection Form included as Appendix D of the Permit or other form documenting all elements required by Part 6.5 of the Permit.

Finding 3:

We were not able to access and observe operating conditions of the lagoon.

We intended to inspect the lagoon, but Joe advised against utilizing the access road to the facility due to muddy and potentially hazardous driving conditions resulting from recent rain, so we did not access and observe the facility close-up. Instead, we pulled off on the south shoulder of County Road 19A/Foxridge Road at the point of closest approach to the lagoon and attempted to observe the lagoon from the road, but we were not able to clearly view the lagoon cells (Photographs 345-346).

Permit Requirements:

Part 5.12 of the Permit (Inspection and Entry) states:

The Permittee shall allow EPA or the Tribe(s), or authorized representative (including an authorized contractor acting as a representative of EPA) upon presentation of credentials and other documents as may be required by law, to:

- 5.12.1. Enter upon the Permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this Permit;
- 5.12.2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this Permit;
- 5.12.3. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this Permit; and,
- 5.12.4. Sample or monitor at reasonable times, for the purpose of assuring permit compliance or as otherwise authorized by the Act, any substances or parameters at any location.

Corrective Action:

In a response to this report, provide photographs of the lagoon showing current operating conditions and indicate the date the photographs were taken. Photographs should include:

- The interior of the influent manhole or cluster septic tank (if accessible)
- Each lagoon cell
- The outfall, if applicable, or area immediately downgradient of the lagoon cells

Findings, Corrective Actions, and Recommendations

Finding 4:

During an August 28, 2023 phone call, Leo stated the MWWC does not plan to use the facility's lagoon again and would like to pursue terminating Permit coverage for the facility.

Permit Requirements:

Part 7.7 of the Permit (Termination of Permit Coverage) states:

In accordance with 40 CFR § 122.64, the following are causes for terminating Permit coverage during its term, or for denying a permit renewal:

- 1) Noncompliance by the Permittee with any condition of the Permit;
- 2) The Permittee's failure in the application or during the Permit issuance process to disclose fully all relevant facts, or the permittee's misrepresentation of any relevant facts at any time;
- 3) A determination that the permitted activity endangers human health or the environment and can only be regulated to acceptable levels by permit modification or termination; or
- 4) A change in any condition that requires either a temporary or permanent reduction or elimination of any discharge or sludge use or disposal practice controlled by the permit (for example, plant closure or termination of discharge by connection to a POTW).

EPA shall follow the applicable procedures in 40 CFR § 124 or 22, as appropriate, in terminating any NPDES permit coverage under this section, except that if the entire discharge is permanently terminated by elimination of the flow or by connection to a POTW (but not by land application or disposal into a well), EPA may terminate Permit coverage by notice to the Permittee. Termination by notice shall be effective 30 days after notice is sent, unless the Permittee objects within that time. If the Permittee objects during that period, EPA shall proceed in accordance with 40 CFR § 124 of this chapter for termination.

Expedited permit termination procedures are not available to Permittees that are subject to pending State and/or Federal enforcement actions including citizen suits brought under State or Federal law. If requesting expedited permit termination procedures, a Permittee must certify that it is not subject to any pending State or Federal enforcement actions including citizen suits brought under State or Federal law.

Permittees that wish to terminate Permit coverage must submit a Notice of Termination (NOT) to EPA. If requesting expedited permit termination procedures, a Permittee must certify in the NOT that it is not subject to any pending State or Federal enforcement actions including citizen suits brought under State or Federal law. As of December 21, 2025 all NOTs submitted in compliance with this section must be submitted electronically by the Permittee to the EPA or initial recipient, or as otherwise defined in 40 CFR § 127.2(b), in compliance with this section and 40 CFR § 3 (including, in all cases, subpart D), § 122.22, and 40 CFR § 127. Part 127 is not intended to undo existing requirements for electronic reporting.

Recommendation:

If the MWWC wishes to request termination of Permit coverage for the facility, email EPA Region 8 Wastewater Section representative Margaret Kennedy at kennedy.margaret@epa.gov to request termination, and cc johnson.akash@epa.gov and passarelli.stephanie@epa.gov. The EPA Region 8

Findings, Corrective Actions, and Recommendations
Wastewater Section will evaluate the request for termination and may request additional information from the MWWC.