

Document is Next Step in Tribal Request for Authority

Bad River Band of Lake Superior Chippewa

Odanah, Wisconsin

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For more information

If you want to know more about the Bad River Band's request for authority to set water quality standards on its reservation, contact:

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You may send comments on the "proposed findings of fact" to Todd Ambs at WDNR (see contact information above) before **Wednesday, March 18.**

Additional information, including a Frequently Asked Questions section, is available on Region 5's Web site: www.epa.gov/region5/water/wqs5/wqstribes.htm.

U.S. Environmental Protection Agency Region 5 has issued a document called a "proposed findings of fact" regarding a request from the Bad River Band of Lake Superior Chippewa Indians. The tribe seeks authority to set water quality standards for its northern Wisconsin reservation. The Clean Water Act gives EPA the power to grant such requests.

If EPA approves the request, the Bad River Band could carry out the Clean Water Act's water quality standards program on its reservation, just as EPA has approved Wisconsin to carry out Clean Water Act programs for waters outside reservations. Two other tribes in Wisconsin have been granted this status.

The "proposed findings of fact" details how people who are not tribal members might affect water quality on the tribe's reservation. This may occur through residential septic discharges, farming, filling in wetlands, illegal dumping, construction without a permit, and sand and gravel mining. No federally approved water quality standards currently exist for the reservation. Wisconsin's standards don't apply to waters within the Bad River Band reservation.

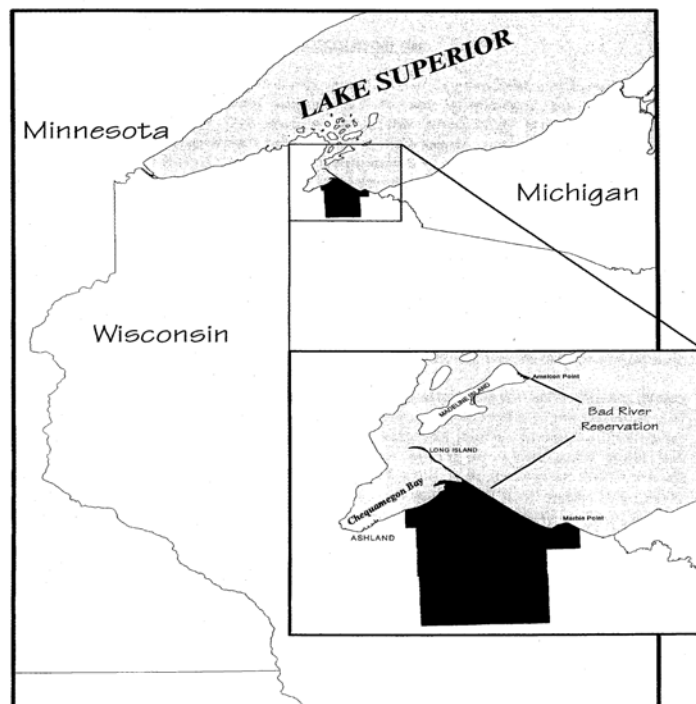


Figure 1. Location of Bad River Reservation

Map shows the Bad River Band's reservation and its location in northern Wisconsin. The reservation includes about 200 acres on Madeline Island.

The document includes facts EPA may use to make its decision on the tribe's request. That decision is expected later this year. If EPA approves the request, the tribe will develop specific water quality standards for bodies of water within the reservation. The public will be able to comment on those standards before they are submitted to EPA for approval. The standards will go into effect when approved by EPA.

You can read the full proposed findings of fact document at:

- Ashland County Clerk's Office, 201 Main St. W., Ashland.
- Bayfield County Clerk's Office, 117 E. Fifth St., Washburn.
- Iron County Clerk's Office, 300 Taconite St., Suite 101, Hurley.
- Vaughn Public Library, 502 Main St. W., Ashland.
- EPA's regional office, 77 W. Jackson Blvd., Chicago. Contact Dan Cozza.
- Wisconsin Department of Natural Resources, 101 S. Webster St., Madison. Contact Todd Ambs.
- The tribe's Natural Resources Department, 1 Maple St., Odanah. Contact Naomi Tillison.
- On the Web at www.epa.gov/region5/water/wqs5/wqstribes.htm. EPA's Web site also includes Frequently Asked Questions and other information about the application process.

To comment on the document, send your statements to WDNR (see box, Page 1) before **Wednesday, March 18**. The state agency may incorporate them into its official response to EPA about the tribe's application.

Background

The "proposed findings of fact" is not EPA's final decision on the Bad River Band's request. EPA has sent the tribe's original request to the state for its comments and notified the public of the application. EPA held a public meeting in February 2006. The Agency received numerous comments and will respond to all of them when it makes a final decision.

Section 518 of the Clean Water Act authorizes EPA to treat tribes in the same way it does states for implementing water quality standards within reservation boundaries if they meet certain requirements. As sovereign governments, tribes already have authority over their own members and land. But tribes seeking to apply their authority over nonmembers under the Clean Water Act must show how activities of those nonmembers may affect the political integrity, economic security, or health and welfare of the tribe.

Details of approval process

To apply for the authority to carry out a water quality standards program, a tribe must meet criteria spelled out in federal law. A tribe must show that it:

- Is federally recognized by the Secretary of Interior.
- Has a governing body carrying out substantial governmental duties and powers over a reservation.
- Proposes carrying out water quality functions that pertain to the management and protection of water resources within a reservation and has authority to regulate water quality.
- Is reasonably expected to be capable of carrying out the functions of an effective water quality program.

Water quality standards

Water quality standards are designed to protect streams, rivers and lakes so they can be used safely for their intended purpose.

If there are differences between state and tribal standards, the state and tribe may work together to resolve the issues on a case-by-case basis just as neighboring states do with each other. If the parties can't resolve the problem, EPA helps settle the dispute.

EPA's approval of a tribe's application does not give the tribe any enforcement authority under the Clean Water Act. EPA retains that enforcement authority until a tribe is approved to implement a federal permitting program.