

**U.S. ENVIRONMENTAL PROTECTION AGENCY, REGION 8  
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM  
STATEMENT OF BASIS**

PERMITTEE: Dakota Nation Gaming Enterprise

FACILITY NAME AND ADDRESS: Dakota Magic Casino and Hotel  
Wastewater Treatment Facility  
16849 102<sup>nd</sup> Street SE  
Hankinson, ND 58041

PERMIT NUMBER: ND-0030813

RESPONSIBLE OFFICIAL: Mr. Ron Olson, CEO  
(701) 634-3000

FACILITY CONTACT: Bryan DuMarce  
Water and Wastewater Superintendent

PERMIT TYPE: Indian Country Minor Wastewater  
Treatment Facility (Renewal)

TYPE OF TREATMENT: Package Plant - Secondary Treatment,  
Land Application/Water Reuse

FACILITY LOCATION: Dakota Magic Casino and Hotel  
16849 102<sup>nd</sup> Street SE  
Hankinson, ND 58041  
Richland County  
45.938311° N, 96.836225° W

## **INTRODUCTION**

This statement of basis (SoB) is for the issuance of a National Pollutant Discharge Elimination System (NPDES) permit to the Dakota Nations Gaming Enterprise, for the Dakota Magic Casino and Hotel Wastewater Treatment Facility. The Permit establishes discharge limitations for any discharge of water from the facility. The SoB explains the nature of the discharges, and the EPA's decisions for limiting the pollutants in the wastewater being discharged, as well as the regulatory and technical basis for these decisions.

The casino and golf course are situated on Sisseton-Wahpeton Oyate Tribe trust land on the Lake Traverse Reservation, and are, therefore, considered to be in Indian country. The EPA Region 8 is the permitting authority for facilities located in Indian country, as defined in 18 U.S.C. § 1151, located within Region 8 states and supports implementation of federal environmental laws consistent with the federal trust responsibility, the government-to-government relationship, and the EPA's 1984 Indian Policy.

## **BACKGROUND INFORMATION**

This Permit covers any discharges from the wastewater treatment facility at the Dakota Magic Casino and Hotel, and the Dakota Winds Golf Course, located approximately 3 miles east and 9 miles south of Hankinson, North Dakota.

### *Facility Description*

The Dakota Magic Casino and Hotel, and Dakota Winds Golf Course (Facility) is located north of the North Dakota/South Dakota state line, on 102<sup>nd</sup> St. S.E., in Hankinson, ND. The Facility includes the 250 room hotel<sup>1</sup>, casino, convention center (capacity 1,500), three restaurants, convenience store, RV park, and the 27-hole Dakota Winds Golf Course<sup>2</sup> which opens after April and ceases operations in the fall.

The Facility utilizes a package plant to treat wastewater from the hotel, casino, convention center, restaurants, drinking water treatment plant backwash, store, and the RV park. After treatment, discharges are transferred to the holding pond located northeast of the casino and from there the treated effluent is utilized for watering of the 27-hole golf course. While no discharges are anticipated, this Permit issuance provides limitations for the facility if a discharge is needed. The Facility was previously permitted with a requirement to obtain "Permission to Discharge" prior to any discharge of water from the Facility grounds. With this Permit issuance, the Permit will maintain previous permit limitations, and the "Permission to Discharge" requirement will be removed.

With this issuance, the requirement for the Facility to continue implementation of their land application plan is no longer applicable. The 2006 plan required daily monitoring of precipitation, irrigation meter readings, and visual inspection to prevent treated effluent from running off-site. As a result of the construction of the site perimeter berm in 2009 and the inclusion of a proper Operation and Maintenance

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<sup>1</sup> Information from NPDES permit application.

<sup>2</sup> Information from <http://dakotamagic.com> website

(O & M) plan as a part of this Permit, the 2006 monitoring plan requirements are being removed from this Permit.

*Aerial Image – Dakota Magic Casino and Hotel WWTF*



*Treatment Process*

The Facility wastewater treatment processes consists of; a mechanical plant comprised of a bar screen, lift station, splitter box, oxidation ditches, final clarifiers, UV disinfection, and an aerobic digester with

reed beds for sludge disposal. The average daily flow rate for the system is 40,000 gallons per day (gpd), with a maximum daily flow rate of 60,000 gpd. Effluent from the plant is discharged to a holding pond, which has a 180-day detention time. A control valve allows transfer of water from the holding pond to the primary irrigation pond, then by gravity flow to a series of ponds throughout the golf course. The treated effluent is utilized for irrigation via land application on the 80-acre golf course. The effluent is applied to the golf course via irrigation pumps and sprinklers. The greens have buried drain tiles that collect runoff and convey it back to the interconnected pond system.

## **WATER QUALITY CONSIDERATIONS**

### *Description of Receiving Water*

The Permittee anticipates having no discharge from the Dakota Magic Hotel and Casino treatment plant, holding pond, or applied effluent runoff to offsite drainage ways due to the reapplication of water for irrigation use on the golf course. The Permittee also anticipates no discharges from the Dakota Winds Golf Course due to constructed berms, pond design, and natural topography. While no water is anticipated to be discharged and the facility had no discharges in the past permit cycle, the Facility will maintain an NPDES permit for emergency planning which will allow the Facility to pump treated water or storm/snow waters, meeting limitations, over the berms into the adjacent irrigation ditch.

This discharge of water is subject to the limitations specified in the Permit. These pumped releases of wastewater and stormwater, that may occur from the golf course or facility via a portable pump (considered Outfall 001), would flow into an unnamed drainage ditch and to an unnamed tributary to the Bois de Sioux. The Bois de Sioux is located 18.5 miles from the Facility location.

The Sisseton-Wahpeton Oyate Tribe has not applied to the EPA for treatment as a state (TAS) for authorization to establish its own water quality standards (WQS) that can be approved by the EPA. Furthermore, the Tribe has not developed WQS for the Lake Traverse Reservation. Section 101(a)(2) of the Clean Water Act states “it is the national goal that wherever attainable, an interim goal of water quality which provides for the protection and propagation of fish, shellfish, and wildlife and provides for recreation in and on the water to be achieved by July 1, 1983”. To effectuate this Congressional goal in the absence of Tribal water quality standards on the Lake Traverse Reservation, the EPA considers the beneficial uses of the receiving waters to include aquatic life and recreation. The EPA relied on CWA § 301(b)(1)(C) in establishing Water Quality Based Effluent Limitations (WQBELs) based on the EPA’s Section 304(a) recommended water quality criteria to protect these uses in the receiving waters.

Additionally, under the Standards of Water Quality for the State of North Dakota, Rule 33-16-02, the Bois de Sioux is the nearest receiving water with a designated classification. While state water standards do not apply on the Lake Traverse Reservation, they were considered during permit development to assist in determining downstream uses. The Bois de Sioux is a Class I water that has been designated by the state of North Dakota for the following beneficial uses: domestic water supply; propagation or life, or both, of resident fish species and other aquatic biota; immersion recreation; limited contact recreation waters; wildlife propagation and stock water waters; irrigation waters; and commerce and industry waters.

**PERMIT HISTORY**

During previous Permit issuances, the Facility implemented land application practices for the golf course in 2006 and installed treatment plant and facility upgrades in 2009. The previous Permit included limitations on Biochemical Oxygen Demand 5-Day (BOD<sub>5</sub>), Total Suspended Solids (TSS), *Escherichia coli* (*E. coli*), pH, oil and grease, and floating solids. Due to no discharge occurrences, no monitoring data was submitted to the EPA during this most recent 5-year permitting cycle.

**MAJOR CHANGES FROM PREVIOUS PERMIT**

With this Permit issuance the Facility will be required to utilize the EPA electronic Discharge Monitoring Reporting (eDMR) system. Monitoring requirements will be unscheduled as any discharges are anticipated to be uncommon. Pumped discharges must be reported as occurring at Outfall 001 and will be required anytime the Facility utilizes portable pumps to discharge water over the constructed berms of the golf course or facility grounds.

Monitoring for chlorine and arsenic are being included in this Permit issuance to address concerns from the backwash of the drinking water sand filtration basins during any discharge events.

The previous requirement to provide quarterly reports on the volume of treated water transferred to the holding pond from the package plant, as well as the volume of water utilized for irrigation of the golf course will be removed with this Permit issuance. The requirement for the Facility to maintain records of proper Operation and Maintenance (O&M), including volumes of water transferred, is still applicable; however quarterly submittal of recorded information is no longer required.

Effluent limitations and monitoring frequencies from the previous Permit will be carried forward from the previous Permit. The limitations for *E. coli* will be modified to reflect the CWA 304(b) Recommended Criteria of 126 colony forming units per 100 milliliters (100/mL) as a 30-day average and 410 colony forming units per 100/mL as a daily maximum.

**PROPOSED PERMIT LIMITATIONS**

The Facility is anticipated to have no discharge from the treatment plant, holding pond, primary irrigation pond, or applied effluent runoff to offsite drainage ways. Any pumped discharges of wastewater, stormwater from the Facility grounds will be limited to the parameters listed in the Effluent Limitations Table. Effluent limitations for any discharges of water over the berm into the adjacent irrigation ditch will include:

*Effluent Limitations - Outfall 001.*

	30-Day Average <u>a/</u>	7-Day Average <u>a/</u>	Daily Maximum <u>a/</u>	Basis <u>b/</u>
Flow, mgd	Report	N/A	Report	
Biochemical Oxygen Demand (BOD <sub>5</sub> ), mg/L	30	45	N/A	TBEL
Total Suspended Solids (TSS), mg/L	30	45	N/A	TBEL

<i>E. coli</i> , cfu./100 mL	126		410	WQBEL
Oil and Grease (O&G), mg/L	N/A	N/A	10	PJ
The pH of the discharge shall not be less than 6.0 or greater than 9.0 at any time.				TBEL
The concentration of oil and grease in any single sample shall not exceed 10 mg/L nor shall there be any visible sheen in the receiving water or adjoining shoreline.				PJ
There shall be no discharge of floating solids or visible foam in other than trace amounts.				PJ

a/ See Definitions, Part 1.1., for definition of terms.

b/ TBEL=Technology Based Effluent Limitation; WQBEL=Water Quality Based Effluent Limitation; PJ= professional judgement.

**Sludge**

Any collected screenings, grit, solids, sludge, or other pollutants removed in the course of treatment shall be buried or disposed in a manner consistent with all applicable federal and tribal regulations (i.e., 40 CFR 257, 40 CFR 258, 40 CFR 503) and in a manner so as to prevent any pollutant from entering any waters of the United States or creating a health hazard.

**MONITORING REQUIREMENTS**

Self-Monitoring Requirements - Outfall 001

Monitoring will only be required for the Facility when discharge of waters over the constructed berm surrounding the facility occur. Monitoring must be conducted according to test procedures approved under 40 C.F.R. Part 136, unless other test procedures have been specified in this Permit. Sludge monitoring procedures shall be those specified in 40 C.F.R. Part 503, or as specified in the Permit. The permittee must select a test procedure that is Sufficiently Sensitive for all monitoring conducted in accordance with this Permit.

Effluent Characteristic	Frequency	Sample Type <u>a/</u>
Total Flow, mgd <u>b/</u>	<u>c/</u>	Instantaneous
BOD <sub>5</sub> , mg/L	<u>c/</u>	Grab
Total Suspended Solids	<u>c/</u>	Grab
<i>E. coli</i> , no./100 mL	<u>c/</u>	Grab
pH, standard units	<u>c/</u>	Grab
Chlorine, mg/L	<u>c/</u>	Grab
Arsenic, mg/L	<u>c/</u>	Grab
Oil and grease	<u>c/</u>	Grab

- a/ See Definitions, Part 1.1., for definition of terms.
- b/ Flow measurements of effluent volume shall be made in such a manner that the Permittee can affirmatively demonstrate that representative values are being obtained. The average flow rate (in gallons per day) during the reporting period and the daily maximum flow (maximum volume discharged during a 24-hour period) shall be reported. **The date and time of the start and termination of each discharge shall be reported.**
- c/ A minimum of three (3) samples or measurements shall be taken during any discharge of wastewater unless the discharge lasts two days or less. If the discharge is less than two days in length, one sample must be collected. If only one (1) sample is collected during the period, it must be considered the same as the average for that period. For all other samples, it is required that a sample be taken at the beginning, middle, and end of the discharge if the discharge is less than one week in duration. If a single, continuous discharge is greater than one week in duration, three (3) samples shall be taken during the first week and one (1) during each following week. All of the samples collected during the 7-day or 30-day period are to be used in determining the averages. The Permittee always has the option of collecting additional samples if appropriate.

## **FACILITY INSPECTION REQUIREMENTS**

### **Inspection Requirements**

The Permittee is required to inspect the Facility on at least a weekly basis per Section 1.3.3 of the Permit. The inspection will include the treated holding pond to determine if a discharge is occurring or has occurred since the previous inspection, and/or if a discharge is likely to occur before the next inspection. All provisions of Section 1.3.3. must be followed and documented with corrective actions being implemented as part of wastewater treatment facility inspections.

## **REPORTING REQUIREMENTS**

Reporting of Monitoring Results: With this Permit issuance, the Permittee must electronically report any Facility flows and any pumped discharges utilizing using NetDMR.

Electronic submissions by the Permittee must be uploaded to the NetDMR system no later than the 28th of the month following any discharge event. The Permittee must electronically sign and certify all submissions in accordance with the signatory requirements of the Permit. NetDMR is accessed from the internet at <https://netdmr.zendesk.com/home>.

In addition, the Permittee must submit a copy of the DMR to the Sisseton-Wahpeton Oyate Tribe. The Permittee may submit a copy to the Tribe by one of three ways: 1. a paper copy may be mailed. 2. The email address for Tribe may be added to the electronic submittal through NetDMR, or 3. The Permittee may provide the Tribe viewing rights through NetDMR.

## **ENDANGERED SPECIES CONSIDERATIONS**

The Endangered Species Act (ESA) of 1973 requires all Federal Agencies to ensure, in consultation with the U.S. Fish and Wildlife Service (FWS), that any Federal action carried out by the Agency is not likely to jeopardize the continued existence of any endangered species or threatened species, or result in the adverse modification or destruction of habitat of such species that is designated by the FWS as critical

habitat. See 16 U.S.C. § 1536(a)(2), 50 C.F.R. Part 402. When a Federal agency’s action may affect a protected species, that agency is required to consult with the FWS, depending upon the endangered species, threatened species, or designated critical habitat that may be affected by the action (50 C.F.R. § 402.14(a)).

The U. S. Fish and Wildlife county list was utilized to determine Federally-Listed Endangered, Threatened, Proposed and Candidate Species for Richland County.

Species	Scientific Name	Status
Whooping Crane	<i>Grus americana</i>	E
Gray Wolf	<i>Canis lupus</i>	E
Poweshiek Skipperling	<i>Oarisma poweshiek</i>	E
Western Prairie Fringed Orchid	<i>Platanthera praeclara</i>	T
Dakota Skipper	<i>Hesperia dacotae</i>	T
Northern Long-Eared Bat	<i>Myotis septentrionalis</i>	T
Critical habitat listed for Poweshiek and Dakota Skipper		

Symbols/Acronyms:

T = Threatened  
 E = Endangered

*Conclusion*

With the establishment of the Permit limitations on any wastewater discharges or other waters (as stated above), the EPA has made the determination that reissuance of this NPDES Permit (ND-0030813) for the Dakota Magic Casino and Hotel will have no effect on any of the species listed as threatened or endangered, nor their critical habitat for Richland County due to the anticipated lack of discharges from the facility.

**NATIONAL HISTORIC PRESERVATION ACT REQUIREMENTS**

Section 106 of the National Historic Preservation Act (NHPA), 16 U.S.C. § 470(f) requires that federal agencies consider the effects of federal undertakings on historic properties. The EPA has evaluated its planned reissuance of the NPDES Permit for the Dakota Magic Casino and Hotel to assess this action’s potential effects on any listed or eligible historic properties or cultural resources. The EPA does not anticipate any impacts on listed/eligible historic properties or cultural resources because this Permit is a renewal and will not be associated with any new ground disturbance or significant changes to the volume or point of discharge. During the public comment period, the EPA will notify the Tribal Historic Preservation Officer (THPO) of the planned issuance of this NPDES Permit and request their input on potential effects on historic properties and EPA’s preliminary determination in this regard.

**MISCELLANEOUS**

The effective date of this Permit and the Permit expiration date will be determined upon final issuance of the Permit. This NPDES Permit shall be effective for a fixed term not to exceed 5 years.



Permit drafted by VelRey Lozano, U.S. EPA Wastewater Unit, August 2017.  
Permit technical review, WW staff, PG, AC, CG, Sept 2017.

**ADDENDUM:**

**PUBLIC NOTICE AND RESPONSE TO COMMENTS**

The Permit and Statement of Basis were public noticed in the Wahpeton Daily News, on May 10, 2018.

No comments were received