



United States Environmental Protection Agency
Region 2
Clean Water Division
290 Broadway
New York, New York 10007

FACT SHEET

DRAFT NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM
St. Regis Mohawk Tribe
PERMIT No. SR0026417

This Fact Sheet sets forth the principle facts and technical rationale that serve as the legal basis for the requirements of the accompanying draft permit. The draft permit has been prepared in accordance with Clean Water Act (CWA) section 402 and its implementing regulations at Title 40 of the *Code of Federal Regulations* (CFR), Parts 122 through 124.

PART I. BACKGROUND

A. Permittee and Facility Description

The St. Regis Mohawk Tribe has applied for renewal of its National Pollutant Discharge Elimination System (NPDES) permit. The Permittee is discharging pursuant to NPDES Permit No SR0026417. The Permittee submitted Application Form 1 and 2C dated July 21, 2014, and applied for an NPDES permit to discharge filter backwash and overflow from wastewater treatment lagoons from the St. Regis Mohawk Tribe Water Treatment Plant, called the facility. The facility is classified as a minor discharger by EPA in accordance with the EPA rating criteria.

The Permittee owns and operates a drinking water treatment plant. Attachment A of this Fact Sheet provides a map of the area around the facility and a flow schematic of the facility.

The drinking water treatment system consists of the following: a deep bed continuous backwash contact filtration, dual sand filter treatment, disinfection, and coagulation process. The wastewater treatment consists of settling lagoons.

Summary of Permittee and Facility Information

Permittee	St. Regis Mohawk Tribe
Facility contact, title, phone	Shawn Martin, Chief Operator, (518) 358-4205
Permittee (mailing) address	412 State Route 37, Akwesasne, New York 13655
Facility (location) address	147 Garrow Road, Akwesasne, New York 13655
Type of facility	POTW
Pretreatment program	N
Facility monthly average flow	0.02 million gallons per day
Facility design flow	0.05 million gallons per day
Facility classification	Minor

B. Discharge Points and Receiving Water Information

Wastewater is discharged from Outfall 001 to the St. Lawrence River, a water of the United States, in the St. Lawrence River Watershed.

The draft permit authorizes the discharge from the following discharge point:

Outfall	Effluent description	Outfall latitude	Outfall longitude	Receiving water name and classification
001	wastewater	44°, 99', 45.6"	74°, 67', 9"	St. Lawrence River / A

The receiving water, which flows through New York State and St. Regis Mohawk Tribal waters, has been classified as Class A fresh surface waters by both New York State in Title 6 of the New York Code of Rules and Regulations (6 NYCRR) and the St Regis Mohawk Tribe Water Quality Standards. The designated use for Class A receiving waters include: classification given to waters designated for drinking, culinary or food processing purposes; primary and secondary contact recreation; ceremonial use and fishing. Such waters should be suitable for fish, shell fish and wildlife propagation and survival.

CWA section 303(d) requires New York State to develop a list of impaired waters, establish priority rankings for waters on the list, and develop TMDLs for those waters. The receiving water has not been determined to have water quality impairments for one or more of the designated uses as determined by section 303(d) of the CWA.

C. Mixing Zone/Dilution Allowance

A mixing zone or dilution allowance does not apply to this discharger.

D. Compliance Orders/Consent Decrees

The Permittee does not have any compliance order or consent decrees that affect this permit action.

E. Summary of Basis for Effluent Limitations and Permit Conditions - General

The effluent limitations and permit conditions in the permit have been developed to ensure compliance with the following, as applicable: for POTW:

1. Clean Water Act section 401 Certification
2. NPDES Regulations (40 CFR Part 122)
3. St. Regis Mohawk Tribe Water Quality Standards (August 2010)

PART II. RATIONALE FOR EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

CWA section 301(b) and 40 CFR 122.44(d) require that permits include limitations more stringent than applicable technology-based requirements where necessary to achieve applicable water quality standards. In addition, 40 CFR 122.44(d)(1)(i) requires that permits include effluent limitations for all pollutants that are or may be discharged at levels that cause, have the reasonable potential to cause, or contribute to an exceedance of a water quality criterion, including a narrative criterion. The process for determining reasonable potential and calculating water quality-based effluent limits (WQBELs) is intended to protect the designated uses of the receiving water, and achieve applicable water quality criteria. Where reasonable potential has been established for a pollutant, but there is no numeric criterion for the pollutant, WQBELs must be established using (1) EPA criteria guidance under CWA section 304(a), supplemented where necessary by other relevant information; (2) an indicator parameter for the pollutant of concern; or (3) a calculated numeric water quality criterion, such as a proposed state criterion or policy interpreting the state's narrative criterion, supplemented with other relevant information, as provided in 40 CFR 122.44(d)(1)(vi).

The effluent limitations and permit conditions in the permit have been developed to ensure compliance with all federal and tribal regulations, including SRMTWQS. The basis for each limitation or condition is discussed below.

A. Effluent Limitations

The permit establishes Technology-based Effluent Limitations (TBELs) and Water Quality Based Effluent Limitations (WQBEL) for several pollutants and the basis for these limitations are discussed below.

1. **Flow:** An effluent limitation for flow has been established in the permit. Monitoring conditions are applied pursuant to 40 CFR 122.21(j)(4)(ii).
2. **Total Suspended Solids (TSS):** The effluent concentration is based on a technology-based limitation which represents the Best Conventional Technology (BCT) as determined by Best Professional Judgment (BPJ). This BPJ limit is derived in accordance with "Guidance Package for SPDES Preparation and Plan Review for the Water Supply Category" prepared by New York State Department of Environmental Conservation (DEC). The St. Regis Mohawk Tribe and New York State have consistent water quality standards for TSS.
3. **pH:** The effluent limitations for pH is based the water quality standards for pH in the SRMTWQS.
4. **Total Residual Chlorine (TRC):** TRC has been identified as a contaminant of concern since the facility uses chlorination to disinfect the effluent to meet water quality criteria for pathogens. SRMTWQS has a numeric water quality criterion of 0.5 mg/L for TRC in class A waters.
5. **Settleable Solids (SS):** SS limitation is based on the Best Available Technology Economically Achievable (BAT) and based on BPJ. This BPJ limit is derived in accordance with "Guidance Package for SPDES Preparation and Plan Review for the Water Supply Category" prepared by New York State Department of Environmental Conservation (DEC).
6. **Total Aluminum:** The effluent limitation is based on BAT.
7. **Dissolved Oxygen (DO) –** DO has been found to be typical in drinking water plants and is included as a narrative condition.
8. **Iron:** Iron has been found to be typical in drinking water plants, however, it is not included since it is not detectable in the source water.

B. Effluent Limitations Summary Table - Outfall Number 001

Parameter	Units	Effluent limitations					
		Averaging period	Highest Reported Value (1),(2)	Existing limits	Interim limits	Final limits	Basis
Flow	MGD	Average Monthly		0.05	--	0.05	N/A
Effluent TSS	mg/L	Average Monthly	83	20	--	20	WQBEL
		Daily Maximum	84	40	--	40	
Aluminum, Total	mg/L	Average Monthly	14.5	2.0		2.0	WQBEL
		Daily Maximum	20	4.0		4.0	
pH	SU	N/A	6.13	6.5	--	6.5	WQBEL
			8.04	8.5	--	8.5	
Settleable Solids	ml/l	Daily maximum	3.0	0.1	--	0.1	WQBEL
Total Residual Chlorine	mg/l	Daily Maximum	0.15	1.3	--	1	WQBEL

Notes, Footnotes and Abbreviations

Note: Dashes (--) indicate there are no effluent data, no limitations, or no monitoring requirements for this parameter.

(1) Wastewater data from DMRs dated January 2011 to July 2014.

(2) pH value of 6.13 is the lowest reported value.

C. Monitoring Requirements

NPDES regulations at 40 CFR 122.48 require that all permits specify requirements for recording and reporting monitoring results. The Part III of the Permit establishes monitoring and reporting requirements to implement federal and state requirements. The following provides the rationale for the monitoring and reporting requirements for this facility.

1. Effluent Monitoring Requirements

Effluent monitoring frequency and sample type have been established in accordance with the requirements of 40 CFR 122.44(i) and recommendations in EPA's TSD.

D. Compliance with Federal Anti-Backsliding Requirements and St. Regis Mohawk Tribe's Anti-Degradation Policy

Federal regulations at 40 CFR 131.12 require that state water quality standards include an anti-degradation policy consistent with the federal policy. The discharge is consistent with the anti-degradation provision of 40 CFR 131.12, 72 Federal Register 238 (December 12, 2007, pages 70517-70526) and SRMT's *Anti-Degradation Policy* dated August 3, 2010. In addition, CWA sections 402(o)(2) and 303(d)(4) and federal regulations at 40 CFR 122.44(l) prohibit backsliding in NPDES permits. Further, the Region 2 Anti-backsliding Policy provides guidance regarding relaxation of effluent limitations based on water quality for Tribal permits. These anti-backsliding provisions require effluent limitations in a reissued permit to be as stringent as those in the previous permit with some exceptions where limitations may be relaxed. All effluent limitations in the permit are at least as stringent as the effluent limitations in the existing permit.

PART III. RATIONALE FOR STANDARD AND SPECIAL CONDITIONS

A. Standard Conditions

In accordance with 40 CFR 122.41, standard conditions that apply to all NPDES permits have been incorporated by reference in Part IV.A.1 of the permit and expressly in Attachment B of the permit. The Permittee must comply with all standard conditions and with those additional conditions that are applicable to specified categories of permits under 40 CFR 122.42 and specified in Part IV.A.2 of the Permit.

B. Special Conditions

In accordance with 40 CFR 122.42 and other regulations cited below, special conditions have been incorporated into the permit. This section addresses the justification for special studies, additional monitoring requirements, Best Management Practices, Compliance Schedules, and/or special provisions for POTWs as needed. The special conditions for this facility are as follows:

1. Special Conditions

In accordance with 40 CFR 124.55, EPA has established Special Conditions in the permit that were determined necessary to meet SRMTWQS. The Special Conditions established in this section are only those conditions that have not been established in other parts of the permit.

2. Best Management Practices (BMP) Plan

In accordance with 40 CFR 122.2 and 122.44(k), BMPs are schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution to waters of the United States. The Permittee is required to develop a BMP Plan in Part IV.B.3.a of the permit to control or abate the discharge of pollutants.

3. Compliance Schedules

A compliance schedule has not been authorized for any pollutant or parameter in the permit on the basis of 40 CFR 122.47.

PART IV. COMPLIANCE WITH APPLICABLE PROVISIONS OF OTHER FEDERAL LAWS OR EXECUTIVE ORDERS

A. Coastal Zone Management Act

Under 40 CFR 122.49(d), and in accordance with the Coastal Zone Management Act of 1972, as amended, 16 *United States Code* (U.S.C.) 1451 *et seq.* section 307(c) of the act and its implementing regulations (15 CFR Part 930), EPA may not issue an NPDES permit that affects land or water use in the coastal zone until the Permittee certifies that the proposed activity complies with the Coastal Zone Management Program in New York State. The Permittee has indicated the outfall is not in a coastal area and EPA has determined it will not affect the coastal area. Therefore, the requirements of 40 CFR 122.49(d) do not apply to this discharge.

B. Endangered Species Act

Under 40 CFR 122.49(c), EPA is required pursuant to section 7 of the Endangered Species Act (ESA), 16 U.S.C. 1531 *et seq.* and its implementing regulations (50 CFR Part 402) to ensure, in consultation with the National Marine Fisheries Service (NMFS) and U.S. Fish and Wildlife Service (USFWS) that the discharge authorized by the permit is not likely to jeopardize the continued existence of any endangered or threatened species or adversely affect its critical habitat. No federally listed endangered or threatened species, or critical habitat, are in the vicinity of the discharge.

The ESA requires the Regional Administrator to ensure, in consultation with the Secretary of the Interior or Commerce, that any action authorized by the EPA is not likely to jeopardize the continued existence of any endangered or threatened species or adversely affect its critical habitat.

In a May 2000 memo to the Regions, EPA Headquarters provided guidance to the Regions in making a determination as to whether a final permit may be issued while waiting for consultation to be concluded. As part of this permit action, if consultation has not been completed by final permit issuance and the EPA has concluded that permit issuance is consistent with section 7 prior to the conclusion of consultation, the EPA will re-issue the final permit before consultation is concluded and will document this decision in the Administrative Record. At the time consultation is completed, the EPA may decide that changes to the permit are warranted after permit issuance based on the results of the consultation. Therefore, a reopener provision to this effect has been included in the Permit Part IV.A.1.b. C.

C. Environmental Justice

EPA has performed an Environmental Justice (EJ) Analysis for the discharge in accordance with Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Population and Low-Income Populations, and EPA's Plan EJ 2014. EJ is the right to a safe, healthy, productive and sustainable environment for all, where "environment" is considered in its totality to include the ecological, physical, social, political, aesthetic and economic environments. The NPDES permitting process provides opportunities to address EJ concerns through appropriate avenues for public participation, seeking out and facilitating involvement of those potentially affected, and, when relevant, including public notices in more than one language where appropriate. Based on the EPA Region 2 Environmental Justice Assessment Tool, the facility is not in an area characterized as overburdened and therefore is not subject to the EPA Region 2 Regional Implementation Plan to Promote Meaningful Engagement of Overburdened Communities in Permitting Activities.

D. Coral Reef Protection

Under Executive Order 13089, *Coral Reef Protection*, EPA is required to ensure that discharge authorized under the permit will not degrade any coral reef ecosystem. No corals or coral ecosystems are in the vicinity of the discharge.

E. Climate Change

EPA has considered climate change when developing the conditions of the permit. This is in accordance with the draft *National Water Program 2012 Strategy: Response to Climate Change* that identifies ways to address climate change impacts by NPDES permitting authorities (77 Federal Register 63, April 2, 2012, 19661-19662). Climate change is expected to affect surface waters in several ways, affecting both human health and ecological endpoints. As outlined in the draft National Water Program 2012 Strategy, EPA is committed to protecting surface water, drinking water, and ground water quality, and diminishing the risks of climate change to human health and the environment, through a variety of adaptation and mitigation strategies. These strategies include encouraging

communities and NPDES permitting authorities to incorporate climate change strategies into their water quality planning, encouraging green infrastructure and recommending that water quality authorities consider climate change impacts when developing water load and load allocations for new TMDLs, identifying and protecting designated uses at risk from climate change impacts. The 2010 *NPDES Permit Writers' Manual* also identifies climate change considerations for establishing low-flow conditions that account for possible climatic changes to stream flow. The conditions established in the permit are consistent with the draft National Water Program 2012 Strategy.

F. National Historic Preservation Act

Under 40 CFR 122.49(b), EPA is required to assess the impact of the discharge authorized by the permit on any properties listed or eligible for listing in the National Register of Historic Places (NRHP) and mitigate any adverse effects when necessary in accordance with the National Historic Preservation Act, 16 U.S.C. 470 *et seq.* EPA's analysis indicates that no soil disturbing or construction-related activities are being authorized by approval of this permit; accordingly, adverse effects to resources on or eligible for inclusion in the NHRP are not anticipated as part of this permitted action.

G. Magnuson-Stevens Fishery Conservation and Management Act

Under 40 CFR 122.49, EPA is required to ensure that the discharge authorized by the permit will not adversely affect Essential Fish Habitat (EFH) as specified in section 305(b)(2) of the Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA), 16 U.S.C. 1801 *et seq.* The EPA is coordinating with NMFS for this facility. While the EPA is reissuing the permit at this time, the EPA may decide that changes to the permit are warranted based EFH on discussions with NMFS. A reopener provision to this effect has, therefore, been included in the permit.

PART V. PUBLIC PARTICIPATION

The procedures for reaching a final decision on the draft permit are set forth in 40 CFR Part 124 and are described in the public notice for the draft permit, which is published in *The Indian Times*. Included in the public notice are requirements for the submission of comments by a specified date, procedures for requesting a hearing and the nature of the hearing, and other procedures for participation in the final agency decision. EPA will consider and respond in writing to all significant comments received during the public comment period in reaching a final decision on the draft permit. Requests for information or questions regarding the draft permit should be directed to:

Andrea Coats
EPA Region 2, Clean Water Division
Permit Writer Phone: 212-637-3850
Permit Writer Email: coats.andrea@epa.gov

A copy of the draft permit is also available on EPA's website at www.epa.gov/region02/water/permits.html.

ATTACHMENT A — FACILITY MAP AND FLOW SCHEMATIC

The facility map and flow schematic are attached as provided by the discharger in the application.