

# RED LAKE BAND of CHIPPEWA INDIANS

## RED LAKE NATION HEADQUARTERS



**OFFICERS:**  
DARRELL G. SEKI, SR., Chairman  
SAMUEL R. STRONG, Secretary  
ANNETTE JOHNSON, Treasurer

**DISTRICT REPRESENTATIVES:**  
GARY NELSON  
GLENDA J. MARTIN  
JULIUS "TOADY" THUNDER  
ALLEN PEMBERTON  
ROBERT "BOB" SMITH  
DONALD GOOD, SR.  
ADRIAN BEAULIEU  
MICHELLE (BARRETT) COBENAIIS

**ADVISORY COUNCIL:**  
7 HEREDITARY CHIEFS

PO Box 550, Red Lake, MN 56671

Phone 218-679-3341 • Fax 218-679-3378

December 9, 2019

### LEGAL COUNSEL'S CERTIFICATIONS IN SUPPORT OF THE RED LAKE NATION'S APPLICATION TO ADMINISTER A WATER QUALITY STANDARDS PROGRAM AND A WATER QUALITY CERTIFICATION PROGRAM PURSUANT TO THE CLEAN WATER ACT

The Red Lake Band of Chippewa Indians has made application pursuant to section 518 of the Clean Water Act (CWA) to the U.S. Environmental Protection Agency to become eligible to be treated in a similar manner as a state (TAS) to administer a CWA section 303(c) water quality standards program and CWA section 401 water quality certification program. Legal Counsel for the Red Lake Band hereby makes the following certifications in support of the Band's TAS application.

#### 1. BACKGROUND

The Red Lake Indian Reservation, located in north-central Minnesota, is one of two closed reservations in the United States and contains the largest land base in USEPA Region V that is entirely under Tribal ownership. The Red Lake Band of Chippewa Indians owns more than 55% of all Indian land in Region V, and total land holdings are in excess of 837,000 acres consisting of approximately 429,000 acres of forest, 240,000 acres of lakes, 466,000 acres of wetlands, and over 371 miles of rivers and streams.

The waters over which program authority will be exercised include any and all waters that are located on Reservation trust lands indicated on the attached maps (Attachment S). These lands include the large block of contiguous land that is commonly referred to as the "Diminished Reservation" as well as all other trust lands outside the Diminished Reservation boundary. The term "Diminished Reservation" is based on treaty history and indicates that this land has never been ceded to or conquered by the U.S. government. Other trust parcels are found throughout the 1863 Treaty boundary area and are commonly referred to as the "Restored Ceded Lands." This term refers to lands that were ceded to the U.S. government by agreement in 1889 but have been subsequently restored to the Band, most through the Restoration Order of the Secretary of the Interior issued on February 22, 1945. Lands restored under that Order have reservation status as a matter of law. These lands are commonly treated as a separate management area by natural resources staff.

## **2. FEDERAL RECOGNITION (40 CFR 131.8(a)(1) and (b)(1))**

This Tribe is listed as “Red Lake Band of Chippewa Indians, Minnesota” in the Secretary of the Interior’s list of federally recognized tribes at 84 FR 1200, February 1, 2019.

The Red Lake Band of Chippewa Indians is a federally recognized tribe, an independent Indian Nation which possesses all the powers of a sovereign state. The Tribe has continuously been listed as a federally recognized tribe in the Federal Register as long as the United States has published such listings (Attachment D).

Other documentation of federal recognition of the Band includes, but is not limited to, the following evidence of the Tribe’s direct relationship with the federal government:

Negotiation and signing of treaties with the federal government. The Band signed the Old Crossing Treaty of 1863 (Attachment E), ceding more than 11 million acres of the richest agricultural land in Minnesota in exchange for monetary compensation and a stipulation that “the President of the United States direct a certain sum of money to be applied to agricultural, education, and to such other beneficial purposes calculated to promote the prosperity and happiness of the Red Lake Indian...” Tribal sovereignty was recognized by the federal government again with the signing and approval of the Agreement of 1889 (Attachment F) and the Agreement of 1902 (Attachment G).

The Tribe has had an ongoing and direct relationship with the United States since the nineteenth century. For example, (1) treaty obligations have been in continuous force; (2) a subagency or agency office of the BIA was located at Red Lake and for Red Lake continuously from the nineteenth century until the Tribe signed a self-governance compact in the late 1990s; and (3) Congress has continually passed acts specifically acknowledging the Red Lake Band of Chippewa Indians, including creating the on-Reservation Red Lake Indian Forest in 1916 by statute which is still in force. In short, the Tribe’s government-to-government relationship with the United States has been continuous for well over 150 years, and no colorable challenge to the trust status of the Tribe’s lands could be raised.

The Red Lake Reservation was the only reservation in Minnesota, and one of only two in the United States, to be specifically excluded from the 1887 Dawes Act. The Red Lake Reservation has never been subject to allotment, and the Reservation is a large, contiguous block of trust land.

Since a new constitution was enacted in 1958 (Attachment H) to replace the earlier 1918 constitution, the Band has been governed by an elected Council of three officers: Chairman, Secretary, and Treasurer; and eight representatives, two from each of four districts that represent the Reservation. Under the leadership of the Tribal Council, the Band has successfully resisted encroachment upon the sovereign right of the Tribe to govern itself. Attempts by both State and Federal authorities to weaken that authority have been successfully halted. The Band has established precedent

setting legal standards that apply to other Tribal Nations. Examples of important legal challenges taken to court by the Band include:

Commissioner of Taxation v. Brun, 174 NW 2d 120, (Minn. 1970). The State lacks the power to tax income from wages earned on the reservation by an enrolled member living on the reservation.

White v. Tribal Council, Red Lake Band, 383 F. Supp. 910 (D. MN, 1974). Established that the Tribal Courts were the proper forum to decide issues of internal interest.

U.S. v. White, 508 F. 2d 453 (8<sup>th</sup> Cir. 1974) Established that the Federal Bald Eagle Protection Act does not apply to the Red Lake Reservation.

Red Lake Band v. State, 248 NW 2d 722 (Minn. 1976) Issuing motor vehicle license plates is an appropriate exercise of the Red Lake Band's unique power of self-government. Red Lake is entitled to exemption from the Minnesota auto registration statutes and to reciprocity in recognition, as with a state or territory of the United States.

The Band has received TAS designation for CWA Sections 319 and 106 programs, and Clean Air Act Section 105.

### **3. AUTHORITY OVER A FEDERAL INDIAN RESERVATION (40 CFR 131.8(a)(1) and 131.3(l))**

This Red Lake Tribal Council exercises governmental authority over the Red Lake Reservation, which includes lands held by the United States in trust for the tribal government that are not located within the boundaries of the diminished reservation. See section 5 of this application for more information about the description of the Tribe's reservation lands.

### **4. TRIBAL GOVERNANCE (40 CFR 131.8(a)(2) and (b)(2))**

The Red Lake Band has in place a comprehensive government that is custom fit to the unique needs of the Red Lake Nation, which includes the following.

#### **A. Form of Government**

**Executive Branch.** As described in Article IV, Sections 1 and 2 of the Revised Constitution and Bylaws of the Red Lake Band of Chippewa Indians, the governing body of the Tribe is the Tribal Council, consisting of an elected Chairman, Secretary, and Treasurer, and eight elected Representatives, two each from four Reservation Districts. In addition, there is an Advisory Council of seven Hereditary Chiefs.

Every tribal department has experience with administrative review of citizen actions. Most relevant here, the Red Lake Department of Natural Resources (RL DNR) has extensive experience with administrative enforcement of Forest Management Policies, Fire Prevention, Public Burning policies, and illegal takings of game and fish. If further action requires civil or criminal enforcement, the Tribal Court is available. There are four tribal prosecutors who handle civil enforcement and criminal prosecution with three support staff. Other tribal departments, such as Human Resources, use administrative processes and hearings for personnel issues.

**Legislative Branch.** Before any ordinance or tribal code provision goes into effect, the Tribal Council requires a review by the Tribal Code Committee prior to enactment by the Tribal Council. This body is comprised of the Legal Department, Tribal Council Members, Tribal Court practitioners, law enforcement, and various department managers. The purpose of the Code Committee is to review proposed codes, ordinances, and policies for legal review and modification. When the Department of Natural Resources proposes water quality ordinances, including Water Quality Standards, there will be a legal review before consideration and enactment by the Tribal Council.

**Judicial Branch.** The Red Lake Nation Tribal Court has a Chief Judge and two Associate Judges. Support staff includes a Court Administrator, two probation officers, and five clerks of court. The Appellate Judges are drawn from a pool of six judges, from which three will be drawn for an appellate case. Court is in session during regular business hours. All rules and procedures for the operation of Tribal Courts are set out in the Tribal Code. This document contains most laws of the Tribe. To an increasingly limited extent, Ordinances and Resolutions supplement the Code. All sources are regularly updated by legislative action of the Tribal Council.

## **B. Governmental Duties and Functions**

The Tribe currently has approximately 12,178 enrolled members, of whom approximately 6,541 reside on the Reservation. The total service population of the Reservation is approximately 10,800 when non-members living on Reservation are included. As authorized in the Constitution, the tribal government exercises substantial duties and powers, including the provision of governmental services, regulation of public safety and the environment, and oversight of tribal and non-tribal business activities.

The Tribe's governmental activities include the full array of governmental services to its members that are delivered in a culturally sensitive delivery system so as to make the services meaningful to Red Lake tribal members. The Tribe endeavors to customize the services to the unique needs of individual tribal members to the fullest extent possible. The list of governmental services provided by the Red Lake tribal government are more fully covered in the accompanying application for WQS.

These services are financed primarily through transfers from related parties, taxes, investment income, contributions from the Tribe's gaming operations, Federal and State grants and contracts, business income, among other sources.

### **C. Source of Governmental Authority**

The sovereign governmental authority of the Red Lake Band of Chippewa Indians predates the formation of the United States government and the federal Constitution. Sovereignty of the Tribe was not bestowed upon the Tribe; it is a true exercise of the Members of Red Lake to govern themselves and enact laws for their benefit. Self-government and self-determination of and by its people are the core manifestations of the inherent sovereignty of the Tribe. As such, in creation myths and beliefs, Red Lake Ojibwe are given environment-sustaining values and practices by the Creator. Red Lake has continuously held onto and preserved these beliefs from time immemorial through early treaty negotiations and through its current laws.

Several provisions of the Revised Constitution and Bylaws authorize the Tribal Council to exercise powers over tribal lands and water resources. Article II of the Revised Constitution and Bylaws gives the Tribe jurisdiction over all of the Red Lake Reservation and such other lands as may be acquired by or on behalf of the Band. This includes, but is not limited to, all land and water acres held in trust for the Tribe by the United States (the Federal Indian Trust land). Article IV entrusts the Tribal Council with the governing powers of the Tribe. Article VI sets out the governmental authorities of the Tribal Council, including that the Tribal Council, or its authorized officers or delegates, shall have the sole right and authority to represent the Tribe and to negotiate with the Federal, State, and Local governments and with private persons and to make decisions not contrary to the Constitution and Bylaws or with existing Federal laws.

The authority of the Red Lake Band to govern its members' and others' activities on Tribal lands is affirmed by the recognition of the Tribe as a sovereign nation by the United States government and by the Tribe's Constitution and Bylaws.

The Tribe is governed by the Revised Constitution and Bylaws of 1958, which replaced the earlier Constitution adopted April 13, 1918. The Constitution grants and restricts governmental powers to the Tribal Council. The Revised Constitution of 1958 established a constitutional government to exercise its sovereign powers.

The Tribal Council, under its Constitutional authority, has also established a Tribal Code of Laws. The Tribal Code further identifies that the sovereignty and jurisdiction of the Tribe extends to all places within the boundaries of the Red Lake Reservation (and beyond to the extent allowed by law), including all restored parcels as defined in the treaties creating the Reservation and the documents restoring lands to the Tribe.

Several other historical actions speak to the sovereign authority of the Red Lake Band to govern itself. The Band withdrew in 1918 from the General Council of the Chippewa, intended to bring all Ojibwe into one tribal structure, and continued to maintain its own authority and its own identity separate from the Minnesota Chippewa Tribe (MCT) and other Ojibwe tribes. The Band has never been subject to state law. The Federal government has recognized the Tribe's unique authority to govern itself by declaring Red

Lake specifically as exempt from the application of Public Law 83-280, which means the State has no civil jurisdiction on the Reservation and has only limited criminal jurisdiction. The Red Lake Reservation has been recognized by federal courts as a closed reservation.

Red Lake is a signatory to the 1863 Treaty, known as the Old Crossing Treaty. Later the Tribe signed the Agreement of 1889 and the Agreement of 1902. Red Lake is unique in that the Tribe always held, and never ceded, the approximately 650,000 acres known as the Diminished Reservation to the federal government. In 1889, the Nelson Act was passed which seemingly required allotment of reservation lands to individual Indians. But in negotiating the 1889 Agreement pursuant to that act, the Tribe refused to agree to allotment. For the next decade, Tribal Chiefs skillfully yet doggedly resisted Federal attempts to allot the Red Lake Reservation until finally the federal government gave up. The foresight of Red Lake's leadership resulted in the Tribe's diminished lands remaining intact and held in common by tribal members. Today, of 35 tribes in EPA Region 5, Red Lake owns greater than 55% of the Federal Indian Trust land and water in the Region.

## **5. MANAGEMENT AND PROTECTION OF WATER RESOURCES OF THE RESERVATION (40 CFR 131.8(a)(3) and (b)(3))**

### **Authority to Regulate Water Quality**

The Red Lake Band of Chippewa Indians is fully aware that Water Quality Standards are the foundation of the Clean Water Act and exist to control pollution within a water quality regulatory framework. Goals for water quality will be defined by the Tribe in the form of designated waterbody uses, criteria to protect said uses, and the establishment of protections for those waterbodies. Water resources are best preserved when the Tribe can implement its own management practices and regulations. In doing so, the Tribe is poised to demonstrate that it has adequate jurisdictional authority over the water resources within the Reservation. The Red Lake Band is confident that the EPA is in agreement with the Tribe's jurisdictional authority on this issue and will conclude that the Tribe can meet the statutory requirements of this program as required by Congress.

The Red Lake Band of Chippewa Indians jurisdictional authority to regulate water quality comes from a variety of legal authorities: inherent sovereignty of Tribe, Treaty rights reserved to the Tribe, the Tribal Code and Tribal Ordinances, and Federal and State law. Subject matter jurisdiction for the protection of land and water also includes enforcement powers of the Tribe in areas of administrative regulatory powers and civil and criminal jurisdiction. Any noncompliance or violation of any law or regulation of the Tribe by a non-Indian will be assessed to determine who may exercise subject matter and personal jurisdiction under governing Tribal and federal law. In cases where issues present themselves on fee land within the Reservation, legal analysis will guide the Tribe within generally accepted legal principles. Fee land within the Diminished Reservation boundary is confined to a very small number of acres.

## **A. Area Over Which the Band Asserts Authority to Enforce Water Quality Standards**

Maps of the area over which the Band asserts authority for the purpose of Water Quality Standards application and enforcement are attached (Attachment S). The area includes all waters within the Diminished Reservation boundary, all restored ceded lands, and all other lands that are held in trust for the Band. The “Diminished” Reservation refers to 649,082 acres of Tribal land that was never ceded to or conquered by the United States. “Restored ceded lands” refer to lands that were ceded to the Federal Government through the agreements of 1889 and 1902 but have since been formally restored to trust status.<sup>1</sup> Total acreage of all trust land currently is stated to include 649,082 acres in the Diminished Reservation and 188,773 acres in the restored ceded lands, for a total of 837,855 trust acres. The Band maintains fishing and hunting rights on the waters of Lake of the Woods and reserves the right to assert authority to implement Water Quality Standards over those waters in the future but for purposes of this current application will restrict said authority to tributaries flowing into the lake from the Northwest Angle.

## **B. Basis of Authority to Regulate Water Quality**

The Revised Constitution and Bylaws of 1958 is the supreme governing document for the Red Lake Band of Chippewa Indians. Article IV empowers the Tribal Council as the governing body of the Band. Article VI sets out the governmental authorities of the Tribal Council. Section 3 permits the Band to regulate and license all business and professional activities conducted upon the Reservation, specifically including nonmembers trading or residing upon the Reservation. Review of such regulation is subject to review by the Secretary of Interior.

Article VII, Section 2 confers the authority of the Band to manage, lease, or otherwise deal with tribal lands and tribal resources.

Article VI, Section 5 authorizes the Tribal Council to establish the maintenance of law and order and the administration of justice by establishing a police force and a tribal court and defining their powers and duties.

According to Tribal Code (as amended), Section 100.01 establishes the sovereignty and jurisdiction to all places within the boundaries of the Reservation including all restored lands. Section 100.03 states that the Tribal Court shall have civil jurisdiction over any

---

<sup>1</sup> There are unresolved issues regarding the scope of lands that were restored by the February 22, 1945 Secretarial Order and that should have been restored under that Order or otherwise. All lands meeting the definition in that Order were restored as of that date. However, the United States failed to publish a definitive list of those restored lands. A project is underway to identify those lands restored in 1945. The Tribe includes on Attachments A and B only lands which were indisputably restored. As further lands are identified as having been restored, the Tribe will decide whether to assert water quality authority and seek amendment of the lands and waters covered by this application. Resolution of disputed boundary surveys, Section 2415 claims, and other land issues may also increase the waters over which the Band asserts jurisdiction.

civil matter wherein the parties to the action are non-Indians, Indians, or the parties are an Indian and a corporation, partnership, association or other entity in which the same is owned in whole or the controlling interest therein is owned by an Indian or an Indian Tribe, and the cause of action arises under the laws of the Band or the transaction or occurrence giving rise to the cause of action occurred on the Red Lake Indian Reservation, which includes any restored lands.

The Tribal Code states that Red Lake courts maintain jurisdiction over matters within Reservation boundaries including actions when parties are non-Indians. The Band is aware of federal cases limiting tribal court jurisdiction over nonmembers on fee lands within reservation boundaries under some circumstances. *See, e.g., Montana v. United States*, 450 U.S. 544 (1981); *Strate v. A-1 Contractors*, 520 US.438 (1997).

In the case of water quality standards, as to be set by the Band, possible future litigation involving nonmember activities would appear to fall squarely within the second exception set forth in Montana, involving threats to the political integrity, economic security, or the health or welfare of a tribe. Especially in the context of the Clean Water Act, the Band asserts that threats to water quality are within the Tribal Court's jurisdiction. Nonetheless, the Tribe will bring any such water quality actions against nonmembers only after a thorough analysis of relevant precedent.

### **C. Identification of the Surface Waters and Other Water Resources for Which the Band Proposes to Establish Water Quality Standards (WQS)**

At least 240,000 acres of the Red Lake Band's 837,855 total acres are water. In addition to the more than 135 lakes, there are over 371 miles of rivers and streams on Band land. The spiritual and cultural importance of water to the Red Lake Nation is reflected in the Tribe's name, the image of Red Lake and tributaries on the Tribal flag and emblem, and in Tribal members' daily lives.

The largest lakes on and adjoining Band lands were originally known as a single body, Red Lake. Today, it is often divided into Upper and Lower Red Lakes, which cover 119,334 and 164,928 acres respectively. In this document, it is referred to as Red Lake as a whole, or Upper Red Lake or Lower Red Lake where necessary for clarity.

Of the 284,262 total acres comprising Red Lake, 236,513 (83%) are recognized as being owned and managed by the Band. The Tribal villages of Little Rock, Red Lake, Redby, and Ponemah are all situated on the shores of Lower Red Lake. The lake contains an extremely productive walleye fishery.

Located at the headwaters of the Red River drainage, which is part of the greater Hudson Bay drainage system, many of the Tribal lakes and streams are minimally impacted (low in nutrients, minimal shoreline development, etc.) due to minimal development within the relatively small watersheds. Most of the smaller Tribal lakes are located in a narrow band that parallels the southern shore of Lower Red Lake. Many of these lakes are popular recreation areas used for swimming, fishing, and hunting. Many



are also used for the harvest of bait, wild rice, and furbearers. Some are nearly untouched and serve as refugia for wildlife.

Tribal waters located on trust lands of the Northwest Angle include a number of small streams and wetlands which are highly productive wild rice and wildlife areas. These streams all feed directly into the Lake of the Woods, an international water with a current listing in Minnesota for nutrient impairment.

Various small tracts of trust land, referred to as the “Restored Ceded Lands,” contain waters used infrequently by Tribal members directly but remain a valuable resource as they provide habitat for game species such as deer, furbearers, waterfowl, and other species of importance. They also provide refugia in difficult access areas, just as do many small lakes and streams on the Diminished Reservation.

Red Lake has been used for subsistence purposes by Band members for as long as they have resided here. Fish have been an important component of the diet during the open-water season, and fish have always been dried and smoked for winter use. Many Band members maintain a close tie with Red Lakes and participate in a seasonal cycle of fish harvest. The commercial fishery has been in operation since 1917 and continues to support the Tribal economy. The principal species harvested include walleye, yellow perch, lake whitefish, northern pike, goldeye, black crappie, and freshwater drum. Other commercial species present include white sucker, black bullhead, rock bass, largemouth bass, pumpkinseed, bluegill, northern redhorse, quillback, and burbot. Forage species present in Red Lake include golden shiner, trout-perch, spottail shiner, emerald shiner, common shiner, blacknose shiner, mimic shiner, finescale dace, brook stickleback, Johnny darter, Iowa darter, River shiner and fathead minnow.

Many members still depend on fish for subsistence as well. After the collapse of the walleye fishery in the early 1990’s, the Red Lake Band voluntarily suspended fishing to assist in a joint recovery project. The fishery has since rebounded and is regaining its place as an important economic resource for Tribal members. Average annual walleye harvest, between 2006 and 2018, was 552,204 pound from the reservation waters of the Red Lakes. Current commercial fishery regulations, allows Red Lake members to catch up to 150 walleye per day using hook and line methods which must be sold to the commercial fishery, allowing individuals to take part in the commercial harvest. Approximately 50% of the walleye harvested annually, is harvested using this method and the remaining 50% of the harvest is taken using a limited number of gillnet fishers who are employed by the commercial fishery.

Historically, Red Lake and its tributaries were home to a large lake sturgeon fishery. However, over-fishing and water control structures decimated their population. The Red Lake Band has been involved in a cooperative project to return the lake sturgeon to Red Lake. Since 2007, 42,000 lake sturgeon fingerlings have been stocked in the lake and recovery has begun. The Band strongly supports the protection and restoration of these fish.

A fuller description of the water resources of the Red Lake Nation and the resources that are dependent upon the water, together with a list of identified threats to the water resources is included in the TAS application. Also, a fuller description of the Red Lake Nation's need for its own water quality standards so as to meet the unique nature of the Red Lake environment, as well as to meet the unique culture of the Red Lake people, is included in the accompanying TAS application.

The water quality standards and water quality certification programs to be administered by the Tribe will assist in managing and protecting water resources within the borders of the Tribe's reservation.

The surface waters over which the Tribe proposes to establish water quality standards are those surface waters that occur on the reservation areas described in the maps of the surface waters, which are included with the accompanying TAS application. Additionally, a description of the surface waters over which the Tribe seeks to establish water quality standards is included in the present Statement of Legal Counsel above.

## **6. TRIBAL LEGAL COUNSEL STATEMENT (40 CFR 131.8(b)(3)(ii))**

The basis for the Red Lake Nation's assertion of authority pursuant to 40 CFR 131.8(b)(3)(ii) is fully described in Section 4 of this Legal Counsel certification above. Also, a full description of the documents that established the Tribe's reservation lands, and a full description of the basis for the Tribe's assertion of authority, is provided in Section 4 above.

The Tribe's reservation areas are more fully described in sections 4 and 5 of this Legal Counsel certification, which describes in detail the treaties, agreements, federal statutes, Executive Orders, trust deeds, and other documents that established the lands held in trust by the United States for the benefit of the Red Lake Band of Chippewa Indians. Additionally, the Tribe's reservation lands are specifically identified in the maps accompanying the present TAS application.

The Revised Constitution and Bylaws of the Red Lake Band of Chippewa Indians demonstrates the Tribe's exercise of authority in general over the lands and waters of the Red Lake Nation. A copy of the Constitution is attached to the TAS application as "Attachment H."

The basis for the Tribe's assertion of authority under this application is the express congressional delegation of authority to eligible Indian tribes to administer regulatory programs over their reservation contained in section 518 of the Clean Water Act. This authority is described in the U.S. Environmental Protection Agency's final interpretive rule, *Revised Interpretation of Clean Water Act Tribal Provision*, 81 FR 30183, May 16, 2016.

There are no limitations or impediments to the Tribe's authority or ability to effectuate the delegation of authority from Congress as described in this application. Because of its

large land base without the impediments associated with non-Indian owned lands, the Red Lake Nation is perhaps the best suited Tribe in the United States to administer regulatory programs over its Reservation lands contained in Section 518 of the Clean Water Act. There are no issues that will impede the Tribe's authority or ability to effectuate the delegation of authority pursuant to the Clean Water Act.

## **7. TRIBAL CAPABILITY**

The Red Lake Nation is fully capable of administering effective water quality standards and water quality certification programs, such capabilities being fully described in the accompanying TAS application.

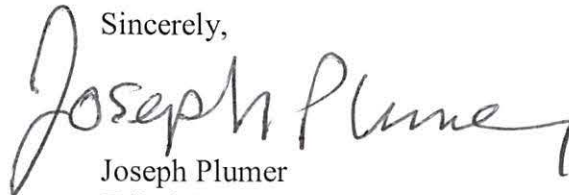
The overall organization of the Tribe's government and experience in managing programs, including environmental and public health programs, is described in the accompanying TAS application.

The responsibilities to establish, review, implement and revise water quality standards will be assigned to the Red Lake Water Resources Program, which is included in the Red Lake Department of Natural Resources. Additionally, the Red Lake Water Resources Program will be responsible for conducting water quality certifications under CWA section 401.

Experienced staff members are already on board in the Red Lake Water Resources Program and trained to administer the water quality standards and certification programs. The specific list of position titles of staff members who will administer the WQS program are included in the accompanying TAS application. Additionally, information about the Red Lake Water Resources Program's accomplishments that would assist the EPA in evaluating the Tribe's capacity for a WQS program are included in the accompanying TAS application.

If you need further information about this certification, you may reach me by telephone at: (218) 679-1404; or by email at: [joe.plumer@redlakenation.org](mailto:joe.plumer@redlakenation.org).

Sincerely,

A handwritten signature in black ink that reads "Joseph Plumer". The signature is written in a cursive, flowing style.

Joseph Plumer  
Tribal Attorney