

**PUBLIC NOTICE**

**PUBLIC NOTICE OF A DRAFT NPDES PERMIT TO  
DISCHARGE INTO WATERS OF THE UNITED STATES**

U.S. Environmental Protection Agency  
Region 5, Permits Branch - WP-16J  
77 West Jackson Boulevard  
Chicago, Illinois 60604  
(312) 886-6106

**Public Notice No.: 24-08-02-A**

**Public Notice Issued On: August 23, 2024**

**Comment period ends: September 23, 2024**

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**Permit No.:** MI-0058670-1 (ISSUANCE)

**Application No.:** MI-0058670-1

**Name and Address of Applicant:**

**Name and Address of Facility  
Where Discharge Occurs:**

Match-E-Be-Nash-She-Wish Band of  
Pottawatomis Indians Tribal Utility Authority  
Match-E-Be-Nash-She-Wish Band of  
Pottawatomis Indians of Michigan  
2872 Mission Drive  
Shelbyville, Michigan 49344

Match-E-Be-Nash-She-Wish Band of  
Pottawatomis Indians Tribal Utility Authority  
Wastewater Treatment Facility  
2872 Mission Drive  
Shelbyville, Michigan 49344  
Allegan County  
NW ½ of Section 19, T3N, R11W

**Receiving Water:** Buskirk Creek

**DESCRIPTION OF APPLICANT'S FACILITY AND DISCHARGE**

The above-named applicant has applied for an NPDES Permit to discharge into the designated receiving water. The permit will be issued by the U.S. Environmental Protection Agency since the discharge is located on land held in trust for the Gun Lake Tribe. The Supreme Court has held in a variety of contexts that tribal trust lands are reservations whether or not they are part of a formally established reservation. Oklahoma Tax Comm'n v. Citizen Band Potawatomi Indian Tribe of Oklahoma, 498 U.S. 505, 511(1991); United States v. John, 437 U.S. 634, 649 (1978) "finding no apparent reason" why lands held in trust should not be considered reservations under §1151(a)). This interpretation has been upheld recently in the environmental context in Arizona Pub. Service Co. v. U.S. Environmental Protection Agency, 211 F.3d 1280 (D.C. Cir. 2000) where the court upheld EPA's regulations governing the authority of Indian tribes to carry out certain provisions of the Clean Air Act.

The MATCH-E-BE-NASH-SHE-WISH Band of Pottawatomi Indians' WWTF located in Wayland Township (Allegan County) is currently authorized by NPDES Permit Number MI0058661-3-1 to discharge up to 0.350 million gallons per day (mgd) of treated wastewater through Outfall 001 to Buskirk Creek at Latitude 42.635684, Longitude -85.652941. Buskirk Creek is not considered an Outstanding State Resource Water. Design of a new WWTF that incorporates treatment units of the existing WWTF (after improvements) are intended to increase the rated capacity of the new combined WWTF to 0.90 mgd. NPDES Permit Number MI-0058670-1 is being issued to authorize the discharge from the new combined WWTF.

The existing WWTP currently includes an influent pump station, two-micron mechanical screens, aerobic tank, two activated sludge aeration tanks, two membrane filtration tanks, ultraviolet disinfection, mechanical sludge thickening, aerobic digestion for biosolids reduction and stabilization, and liquid biosolids storage. The existing WWTF routinely maintains compliance with the existing NPDES permit. The WWTF has not experienced any wet weather discharge events due to the collection system being of recent construction and in good condition.

The proposed WWTF improvements will modify the existing WWTF so that, upon completion, the facility will include conversion of the existing aeration basins to a new influent equalization tank (converted from existing treatment basins), a new two-micron mechanical screen, and an updated raw wastewater lift station. The secondary treatment processes will be completely upgraded to include an upgraded Membrane Bioreactor (MBR) based activated sludge process, ultraviolet disinfection, and biosolids storage.

The draft permit requires the applicant to meet the following effluent limitations:

| Parameter  | Maximum Limits for<br>Quantity or Loading |       |        |         | Maximum Limits for<br>Quality or Concentration |        |       |        |
|--|---|-------|--------|---------|--|--------|-------|--------|
|  | 30-Day                                    | 7-Day | Daily  | Units   | 30-Day   | 7-Day  | Daily | Units  |
| <b>Flow</b>  | Report                                    | ---   | Report | MGD     | ---  | ---    | ---   | ---    |
| <b>Outfall observation</b>                                       |   |       |        |         | ---  | Report | ---   | Yes/No |
| <b>Carbonaceous Biochemical Oxygen Demand (CBOD<sub>5</sub>)</b> |   |       |        |         |  |        |       |        |
| May 1- Sept 30   | 30  | 75    | 75     | lbs/day | 4  | 10     | 10    | mg/L   |
| Oct 1 – Nov 30   | 113                                       | 113   | 113    | lbs/day | 15   | 15     | 15    | mg/L   |
| Dec 1 – March 31   | 188                                       | 300   | ---    | lbs/day | 25   | 40     | ---   | mg/L   |
| April 1 - 30   | 218                                       | 218   | 218    | lbs/day | ---  | ---    | 29    | mg/L   |
| <b>Total Suspended Solids (TSS)</b>                              |   |       |        |         |  |        |       |        |
| May 1 – Sept 30  | 150                                       | 225   | ---    | lbs/day | 20   | 30     | ---   | mg/L   |
| Oct 1 – April 30   | 225                                       | 338   | ---    | lbs/day | 30   | 45     | ---   | mg/L   |
| <b>Ammonia Nitrogen (as N)</b>                                   |   |       |        |         |  |        |       |        |
| May 1- Sept 30   | 3.8                                       | 15    | 15     | lbs/day | 0.5  | 2.0    | 2.0   | mg/L   |
| Oct 1 – Nov 30   | 14  | 26    | 26     | lbs/day | 1.9  | 3.5    | 3.5   | mg/L   |
| Dec 1 – March 31   | 28  | 90    | 90     | lbs/day | 3.7  | 12     | 12    | mg/L   |
| April 1 – 30   | 19  | 38    | 38     | lbs/day | 2.5  | 5      | 5     | mg/L   |
| <b>Total Phosphorus (as P)</b>                                   |   |       |        |         |  |        |       |        |
| May 1 – Sept 30  | 0.75                                      | 1.5   | ---    | lbs/day | 0.1  | ---    | ---   | mg/L   |

|   |                      |     |        |         |                |     |               |                |
|---|----------------------|-----|--------|---------|----------------|-----|---------------|----------------|
| Oct 1 – April 30                          | 7.5                  | 15  | ---    | lbs/day | 1.0            | 2.0 | ---           | mg/L           |
| <b>Chloride, Total</b>                    | Report               | --- | Report | lbs/day | Report         | --- | Report        | ug/L           |
| <b>Sulfate, Total</b>                     | Report               | --- | Report | lbs/day | Report         | --- | Report        | ug/L           |
| <b>Mercury, Total</b>                     | $9.8 \times 10^{-6}$ | --- | ---    | lbs/day | 1.3            | --- | ---           | ng/L           |
| <b>E. coli</b>                            |                      |     |        |         | 126            | --- | 410           | E. coli/100 ml |
| <b>CBOD<sub>5</sub> Minimum % Removal</b> |                      |     |        |         | Minimum 30-Day |     |               |                |
| Dec 1 – March 31                          | ---                  | --- | ---    | ---     | ≥85            | --- | ---           | %              |
| <b>TSS Minimum % Removal</b>              |                      |     |        |         |                |     |               |                |
| Oct 1 – April 30                          | ---                  | --- | ---    | ---     | ≥85            | --- | ---           | %              |
|   |                      |     |        |         | Minimum Daily  |     | Maximum Daily |                |
| <b>pH</b>                                 | ---                  | --- | ---    | ---     | 6.5            | --- | 9.0           | S.U.           |
| <b>Dissolved Oxygen</b>                   |                      |     |        |         | Minimum Daily  |     |               |                |
| May 1 – Sept 30                           | ---                  | --- | ---    | ---     | 6              | --- | ---           | mg/L           |
| Oct 1 – April 30                          | ---                  | --- | ---    | ---     | 5              | --- | ---           | mg/L           |

### **SECTION 401 WATER QUALITY CERTIFICATION**

The Environmental Protection Agency received a request for a Clean Water Act (CWA) Section 401 water quality certification (WQC). Section 401(a)(1) of the CWA requires applicants for Federal licenses or permits that may result in any discharge into waters of the United States to obtain certification or waiver from the certifying authority where the discharge would originate. The EPA is the appropriate authority for purposes of certifying the proposed discharge under Section 401(a)(1) of the CWA within the trust land of the Gun Lake Tribe and will be unless and until the Match-E-Be-Nash-She-Wish Band of Pottawatomis Indians is approved for Treatment as a State (TAS) for CWA Sections 303 and 401. EPA is in the process of certifying pursuant to Section 401. The EPA believes the effluent limitations included in the draft permit meet Tribal and state water quality requirements where they are applicable. The draft certification is available for review. The EPA will act on this certification request prior to issuance of the permit. We have discussed our issuance of the permit with the Match-E-Be-Nash-She-Wish Band of Pottawatomis Indians and the Michigan Department of Environment, Great Lakes, and Energy (EGLE) and the permittee.

### **TENTATIVE DETERMINATION**

On the basis of preliminary staff review and application of applicable standards and regulations, the Regional Administrator of EPA, Region 5 proposes to issue a permit for the discharge from the Match-E-Be-Nash-She-Wish Band of Pottawatomis Indians Tribal Utility Authority Wastewater Treatment Facility subject to certain effluent limitations and special conditions.

### **COMMENT PROCEDURES and PUBLIC HEARING**

The determination to issue the NPDES permit is tentative. EPA's comment and public hearing procedures may be found at 40 C.F.R. §§ 124.10, 124.11, 124.12, and 124.13. The following is a summary of those procedures:

1. The comment period during which written comments on the draft permit may be submitted extends to September 23, 2024.
2. During the comment period, any interested person may request a public hearing by filing a written request which must state the issues to be raised. The last day for filing a request for public hearing is September 23, 2024. EPA will hold a hearing if there is significant interest based on written requests. Public notice of such a hearing will be circulated in at least one newspaper in the geographical area of the discharge and to those persons on the EPA mailing list at least 30 days prior to the hearing.
3. All comments received after September 23, 2024, will not be considered in the formulation of the final determination.
4. Written comments or requests for a public hearing must be emailed to: John A. Colletti, U.S. Environmental Protection Agency, Region 5, Permits Branch at [colletti.john@epa.gov](mailto:colletti.john@epa.gov) and [R5NPDES@epa.gov](mailto:R5NPDES@epa.gov). If you are unable to submit comments or requests by email, please contact Mr. Colletti at 312-886-6106 to make alternate arrangements.

The application and Public Notice numbers should appear next to the EPA address on the envelope and on each page of any submitted comments. It is important that all viewpoints are considered before taking action. Therefore, we greatly appreciate your time and effort in participating in the public participation process. Please bring the foregoing to the attention of persons whom you know would be interested in this matter. Unless a public hearing is scheduled, the EPA will issue a final determination as to the issuance of the permit in a timely manner after the expiration of the public comment period. If you would like to receive a copy of the final determination, please submit a request during the comment period to the above address. EPA will notify the applicant and each person who has submitted written comments or requested notice of the final permit decision.

#### **PETITION TO REVIEW**

Within 30 days following the service of notice of the Regional Administrator's final permit decision, any person who filed comments on the draft permit or participated in a public hearing, if held, may petition the Environmental Appeals Board (EAB) to review any condition of the permit decision. Such a petition must include a statement of the reasons supporting review of the decision, including a demonstration that the issue(s) being raised for review were raised during the public comment period (including any public hearing). The petition should, when appropriate, show that each condition being appealed is based on a finding of fact or conclusion of law which is clearly erroneous.

#### **AVAILABILITY OF DOCUMENTS**

The application, draft permit, including proposed effluent limitations and special conditions, statement of basis, and other documents contained in the administrative record, are available

for inspection and may be copied at a cost of 15 cents per page at the Chicago Regional offices of the Environmental Protection Agency anytime between 9:00 a.m. and 4:00 p.m., Monday through Friday. You may also view, the public notice, statement of basis, and draft permit on Region 5's website at [https://www.epa.gov/npdes-permits/mbpi-tribal-utility-authority-wwtf-  
npdes-permit-mi-0058670-1](https://www.epa.gov/npdes-permits/mbpi-tribal-utility-authority-wwtf-npdes-permit-mi-0058670-1). All data submitted by the applicant is available as part of the administrative record. For more information, please contact John Colletti at (312) 886-6106 or by e-mail at [colletti.john@epa.gov](mailto:colletti.john@epa.gov).