

## **Conditions for Granting 401 Certification for the Multi Sector General Permit for Industrial Stormwater Discharges within the Grand Portage Reservation**

The Grand Portage Band of Lake Superior Chippewa (the “Band”) is a federally recognized Indian tribe and has Treatment-As-a-State for purposes of enforcement of federal water quality standards on the Band’s Reservation in northern Minnesota. Therefore, in accordance with Section 401 of the Clean Water Act, the Grand Portage Water Quality Standards (“Water Quality Standards”), and the Grand Portage Water Resources Ordinance (as amended, the “Water Resources Ordinance”), the Grand Portage Environmental Resources Board (“Board”) has examined the proposed Multi Sector General Permit (“MSGP”) and determined that there is reasonable assurance that the 2026 MSGP will not violate applicable water quality standards. The MSGP regulates industrial storm-water discharges associated with sites of one acre or more in size.

The Grand Portage Band of Lake Superior Chippewa requests that the following language be included in the final 2026 MSGP at Part 9, Permit Conditions Applicable to Specific States, Indian Country Lands, or Territories:

The following conditions apply only to industrial stormwater discharges within the boundaries of the Grand Portage Reservation:

1. The only activity that will receive certification under the 2026 MSGP is Sector J: Mineral and Mining Dressing, Subsector 1442 Construction Sand and Gravel. Grand Portage specifically denies 401 certification of all other activities authorized under this permit. Sector J, Subsector 1442 industrial stormwater discharges authorized by this permit must be in compliance with the Grand Portage Water Quality Standards and Water Resources Ordinance, as amended.<sup>1</sup>
2. Only those activities specified in the 2026 MSGP under Sector J, Subsector 1442 are authorized by this certification (the “Certification”).
3. All industrial storm water discharges authorized by the MSGP must comply with the Water Quality Standards and Water Resources Ordinance, as well as Applicable Federal Standards

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<sup>1</sup> Grand Portage Water Resources Ordinance, as amended, 2004, section 1.02 Authority.

(as defined in the Water Resources Ordinance). As such, appropriate steps must be taken to ensure that petroleum products or other chemical pollutants are prevented from entering the Waters of the Reservation (as defined in the Water Resources Ordinance). All spills must be reported to the appropriate emergency-management agency, and measures must be taken to prevent the pollution of the Waters of the Reservation, including groundwater.<sup>2</sup>

4. A copy of the Storm Water Pollution Prevention Plan (the “SWPP”) required by the MSGP must be submitted to the Board at least 30 days in advance of sending the requisite Notice of Intent to EPA.<sup>3</sup> Monitoring plans must be prepared and incorporated into the SWPP before the Notice of Intent is submitted to the EPA. The SWPP should be sent to:

Grand Portage Environmental Resources Board  
P.O. Box 428  
Grand Portage, MN 55605

Copies of the Notice of Intent and Notice of Termination required under the General Permit must be submitted to the Board at the address above at the same time they are submitted to the EPA.<sup>4</sup>

5. If requested by the Grand Portage Environmental Department, the permittee must provide additional information necessary for a case-by-case eligibility determination to assure compliance with the Water Quality Standards and any Applicable Federal Standards. The burden is on the applicant to demonstrate compliance with the Water Quality Standards, the Water Resources Ordinance, and Applicable Federal Standards whether or not the application is ultimately eligible for the MSGP.<sup>5</sup>
6. The Board retains full authority to ensure compliance with and to enforce the provisions of the Water Resource Ordinance and Water Quality Standards, Applicable Federal Standards, and these Certification conditions. Nothing herein affects the scope or applicability of other controlling tribal or federal requirements, including but not limited to impacts to cultural, historical, or archeological features or sites, or properties that may be eligible for listing on the National Register of

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<sup>2</sup> Grand Portage Water Quality Standards, section XI. General Standards. Grand Portage Water Resources Ordinance as amended, Section 3.04 General Orders, and section 3.05 Special/Emergency Orders.

<sup>3</sup> Grand Portage Water Resources Ordinance, as amended, 2004, Section 3.03.

<sup>4</sup> *Id.*

<sup>5</sup> Grand Portage Water Quality Standards, section XIV. Enforcement, Grand Portage Water Resources Ordinance, sections 4.01 and 5.01.

Historic Places under the National Historic Preservation Act, 54 U.S.C. §§ 300101 *et seq.*<sup>6</sup>

7. Appeals related to Board actions taken in accordance with any of the preceding conditions may be heard by the Grand Portage Tribal Court.<sup>7</sup>

A 30-day Public Notice of this MSGP 401 conditional certification begins on January 28<sup>th</sup>, 2025, closing on February 26<sup>th</sup>, 2025. As provided by the Water Resources Ordinance, any interested party may request that a public hearing be scheduled regarding the Board's decision to grant conditional certification for the 2026 MSGP. Comments regarding this conditional certification and requests for a public hearing must be directed to the following address within 30 days of this notice:

Grand Portage Environmental Resources Board  
P.O. Box 428  
Grand Portage, MN 55605

Or emailed to: [mwatkins@grandportage.com](mailto:mwatkins@grandportage.com)

For more information regarding the proposed 2026 MSGP please see:  
<https://www.epa.gov/system/files/documents/2024-12/proposed-2026-msgp-fact-sheet.pdf>

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<sup>6</sup> Grand Portage Water Resources Ordinance as amended, 2004, section 1.02.

<sup>7</sup> *Id.*, section 5.01.