



MILLE LACS BAND OF OJIBWE

Executive Branch of Tribal Government

September 13, 2021

Ms. Jennifer Brundage
U.S. Environmental Protection Agency
Washington D.C.

Via email: Brundage.jennifer@epa.gov

Dear Ms. Brundage,

On behalf of the Mille Lacs Band of Ojibwe, I am writing to provide our Band's comments regarding Protecting Tribal Reserved Rights in Water Quality Standards. We respectfully request that these comments be included in the official comment record.

The Mille Lacs Band of Ojibwe (Band) is a federally-recognized American Indian tribe located in east-central Minnesota, with adjudicated reserved rights for making a living through hunting and trapping game, fishing, tapping trees for sugar, and gathering manoomin (Wild Rice; *Zizania palustris*) in the 1837 Treaty of St. Peters (7 Stat. 536) and in the 1842 Treaty of La Pointe (7 Stat. 591) ceded territories in Minnesota, Wisconsin, and Michigan. Additionally, as members of a federally-recognized tribe that shares geography with the State of Minnesota, we are able to exercise our *manoomin* gathering anywhere within the State of Minnesota, per Minnesota rules. We are pleased to submit our comments on USEPA's effort in protecting tribal reserved rights in Water Quality Standards.

The Band is fully supportive of the USEPA's effort to bring about water quality standards that are protective of tribal subsistence practices in the jurisdictional areas within Minnesota where Tribes retain reserved rights. The Band believes that this action by the USEPA reflects the manner in which the Clean Water Act was intended to protect the health of people and the health of the environment. The Band looks forward to providing comments and any future opportunities to consult on the proposed rule.

For many years, the Mille Lacs Band and other tribes in Minnesota have asked the State of Minnesota to ensure protection of these waters in the treaty-ceded territories through listing of impaired waters per the Clean Water Act Section 303(d) and to establish the appropriate Total Maximum Daily Loads (TMDLs) protective of those listed waters. We have further repeatedly requested that the State properly designate and enforce state Class 3 and 4 water quality standards and that the state enforce the municipal and industrial wastewater discharge limits set under the National Pollutant Discharge Elimination System (NPDES) permit program.

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Unfortunately, the state has declined our request for approximately ten years. After USEPA conducted consultation sessions with tribal governments as part of its review of the State's Water Quality Standards, USEPA agreed with the tribes' position and has added certain bodies of water to the various waters lists. We commend USEPA for respecting the tribes' unique needs for enhanced water quality for subsistence living and look forward to cooperatively working with the state and USEPA on a government-to-government basis throughout EPA's rulemaking process.

By ensuring that states will have water quality standards that are protective of human health to meet the needs of subsistence hunting, fishing, and gathering of these resources off-reservation and off-Trust parcels, water quality standards can be applied more uniformly at a protective level across those waters. This action will result in greater health and environmental protection in the areas where our Band does not exert direct authority, yet are still greatly dependent upon the protective water quality in those areas.

Thank you for your consideration of the views of the Mille Lacs Band of Ojibwe.

Sincerely,


Melanie Benjamin
Chief Executive

e-copy: Tera Fong, Director, Water Division, US Environmental Protection Agency
C. Darrell Harmon, Tribal Liaison, US Environmental Protection Agency
Kelly Applegate, Commissioner of Natural Resources, Mille Lacs Band of Ojibwe
Perry Bunting, Environmental Programs Director, Mille Lacs Band of Ojibwe
Peter Tester, Temporary Commissioner, Minnesota Pollution Control Agency
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