



## GRAND PORTAGE RESERVATION TRIBAL COUNCIL

Norman W. Deschampe - Chairman • John Morrin - Vice Chairman • Gilbert Caribou - Secretary/Treasurer  
Kenneth Sherer - Councilman • Lorraine Wipson - Councilwoman

July 30, 2008  
Commissioner Brad Moore  
Minnesota Pollution Control Agency  
MPCA, Industrial Division,  
520 Lafayette Road North  
St. Paul, Minnesota 55155-4194

**RECEIVED**

**JUL 30 2008**

**MPCA COMMISSIONERS  
OFFICE**

Dear Commissioner Moore,

We have read the draft permit language dated June 30, 2008 and conclude that our concerns stated in our April 30 letter have not been addressed. In fact, our concerns regarding timeliness have been completely ignored and the timeline for full biological control has been extended to 2016, eight years after completion of the permitting process. The ecosystem of Lake Superior is at stake and extension of the timeline for control only exacerbates the risk.

We reiterate our concerns and recommendations below.

### Timeliness

An eight year timeline to full biological control of ballast water will be too little and too late to effectively prevent the spread of new aquatic invasive species, particularly the lethal fish disease Viral Hemorrhagic Septicemia (VHS). The Grand Portage band understands that the rationale for a lengthy timeline was to enable ships to add treatment technology when in the required five-year dry-dock. We recommend that in addition to best management practices, that the state require immediate short-term ballast water treatment for vessels that must discharge ballast in Minnesota waters. Language to mandate treatment technologies as they are approved should be incorporated into the permit language.

### Jurisdiction

A 1988 Memorandum of Agreement was developed with the state of Minnesota to define jurisdiction of Lake Superior waters for the Grand Portage Band of Chippewa in an attempt to amicably resolve conflict related to rights guaranteed in the Treaty of 1854 with the United States government and the Grand Portage Band. In the agreement the Grand Portage Zone of Lake Superior was defined. In the Grand Portage Zone, the band asserts and assumes jurisdiction for natural resources management. For this reason, it is critical for the band and the state to consult at a government-to-government level to discuss an effective means to manage ballast discharge within this zone. Although the band is not opposed to ballast water regulation within the Grand Portage zone, we question the state's jurisdiction over this area. We recommend to continued discussion to develop a mutually acceptable method to accomplish the goal of preventing untreated ballast water discharge into Grand Portage waters.



GRAND PORTAGE R. T. C.

#### Penalties

The penalties for failure to follow the requirements of the Draft General Permit Language are not described in the document. The Grand Portage band is concerned that such penalties may simply be considered a cost of doing business by the shipping industry and thus make regulation ineffective in preventing the spread of aquatic invasive species. The Grand Portage band recommends that the MPCA conduct a close scrutiny of penalties for noncompliance and ensure that such penalties are sufficient to enable effective regulation. Furthermore, such penalties should be published such that they are readily accessible to the public prior to permit approval.

#### Biological Sampling

The draft permit language requires biological sampling following compliance with the permitting process. The Grand Portage Band considers biological sampling prior to permitting to be essential to assess the effectiveness of the permit process. Without baseline data, it is impossible to determine if the permit process has been effective in reducing aquatic invasive species introductions. We recommend initiation of biological sampling of ship ballast immediately so that baseline data can be collected.

We continue to support for the initiative the state has taken to prevent the spread of aquatic invasive species introduced by ballast water discharge and we hope that these concerns are considered as the permit process moves forward.

Sincerely,

A handwritten signature in black ink, reading "Norman Deschampe".

Norman Deschampe, Chairman Grand Portage Band of Lake Superior Chippewa