



GRAND PORTAGE RESERVATION TRIBAL COUNCIL

Norman W. Deschampe - Chairman • John Morrin - Vice Chairman • Gilbert Caribou - Secretary/Treasurer
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MAY 02 2008

MPCA COMMISSIONERS
OFFICE

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

Dear Commissioner Moore,

Thank you for taking the initiative to develop a vessel discharge permit for Minnesota waters of Lake Superior. As you know, it is critical to take action to prevent the spread of aquatic invasive species within the Great Lakes. The biological damage caused by invasive species is incalculable in economic terms. Past damage to stocks of native species of cultural and present-day value to Indians has been felt for decades. The Grand Portage Band of Lake Superior Chippewa supports your leadership in developing a permit process to regulate untreated ballast water discharge into Lake Superior waters.

We offer a few points for consideration as you move forward in your regulatory process.

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 look forward to continued discussion to develop a mutually acceptable means to accomplish the goal of preventing untreated ballast water discharge into Grand Portage waters. We also request clarification of the language on p.3 of the Working Draft General Permit Language, item 6, related to discharge in "those portions of Lake Superior north of latitude 47 degrees, 57 minutes, 13 seconds, east of Hat Point, south of the Minnesota-Ontario boundary, and west of the



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Minnesota-Michigan boundary". The area described is within the Grand Portage Zone, and thus may not be within state jurisdiction.

Timeliness

A five year timeline to full biological control of ballast water may 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 five-year 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.

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.

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.

In closing, we reiterate our support for the initiative the state has taken to prevent the spread of aquatic invasive species introduced by ballast water discharge. We look forward to the opportunity to work closely with the state in government-to-government communication to develop effective regulations inside and outside the Grand Portage Zone of Lake Superior.

Sincerely,

A handwritten signature in blue ink, appearing to read "Norman Deschampe".

Norman Deschampe, Chairman Grand Portage Band of Lake Superior Chippewa