



Grand Portage Band of Lake Superior Chippewa

83 Stevens Road, PO Box 428
Grand Portage, Minnesota 55605

Sent via email only

Lawrence S. Puchalski
U.S. Army Corps of Engineers
Biologist, Regulatory North Branch
4111 Technology Drive NW, Suite 295
Bemidji, Minnesota 56601

July 13, 2026

RE: U.S. Army Corps of Engineers Project # 47PB5226C0001 Grand Portage LPOE - CWA
404 Permit Application (Cook County, MN) Section 401 Water Quality Certification

Dear Mr. Puchalski:

In accordance with the Clean Water Act, 33 U.S.C. § 1344, the U.S. Army Corps of Engineers ("USACE") on July 2, 2026, publicly noticed an application from the General Services Administration (GSA) for a permit necessary for work in streams, wetlands and other waters of the United States under Section 404 of the Clean Water Act for a project that is located wholly within the exterior boundaries of Grand Portage Nation.

The Grand Portage Band of Lake Superior Chippewa (the "Band") is a federally recognized Indian tribe and has Treatment-in-the-same-manner-As-a-State ("TAS") 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 in 2004, the "Water Resources Ordinance"), the Grand Portage Environmental Resources Board ("Board") has examined the permit application.

The Board has determined that certain conditions are necessary to protect the following: (a) the public health and welfare of the Band, its members, and others living on the Band's Reservation; and (b) the present and future use of Reservation waters for public and private water supplies; propagation of fish, aquatic life, and wildlife; domestic and recreational purposes; and for agricultural, cultural, religious, commercial, industrial, and other legitimate uses. Accordingly, the following conditions apply to the permit authorizing the discharge of dredge or fill material into the waters of the Grand Portage Reservation. Grand Portage is responsible for interpretation of the requirements of these conditions as defined in the Water Resources Ordinance.¹

This 401 Water Quality Certification decision (Certification) is made by the Grand Portage Band of Lake Superior Chippewa under authority of Section 401 of the Clean Water Act (CWA) (33 USC 1251 et seq.), Grand Portage Water Quality Standards and Grand Portage Water Resources Ordinance.

Project Description:

The project is located wholly within the Grand Portage Reservation between Cook County, Minnesota and the border with Ontario, Canada. The Land Port of Entry (LPOE) is operated by the U.S. Department of Homeland Security's Customs and Border Protection. The applicant proposes to permanently discharge dredged or fill material into 2.16 acres of wetland and temporarily discharge dredged or fill material into 1.06 acres of wetlands for the purpose of modernization and expansion of the border crossing. The LPOE is directly adjacent to Grand Portage State Park and approximately 6 miles from the village of Grand Portage. Currently, the site encompasses 5.7 acres. The plans to expand and modernize the facilities will increase the LPOE footprint to approximately 10.6 acres.

Grand Portage has considered the application and other information furnished by the GSA for the permanent discharge of fill into 2.16 acres of wetland adjacent to the Pigeon River and upstream from Lake Superior at the LPOE. Mitigation will be required. The applicant has proposed to purchase wetland credits from an approved wetland bank or banks within the Bank Service Area of the proposed wetland loss. The USACE will determine the type and amount of compensatory mitigation necessary to offset losses of waters of the United States which may result from the proposed activity in accordance with 33 CFR § 332. It is the applicant's responsibility to fully comply with all rules governing waters of the Reservation, including federal jurisdiction under section 404 of the CWA.

¹ Grand Portage Water Resources Ordinance, as amended, 2004, Section 1.02 Authority.

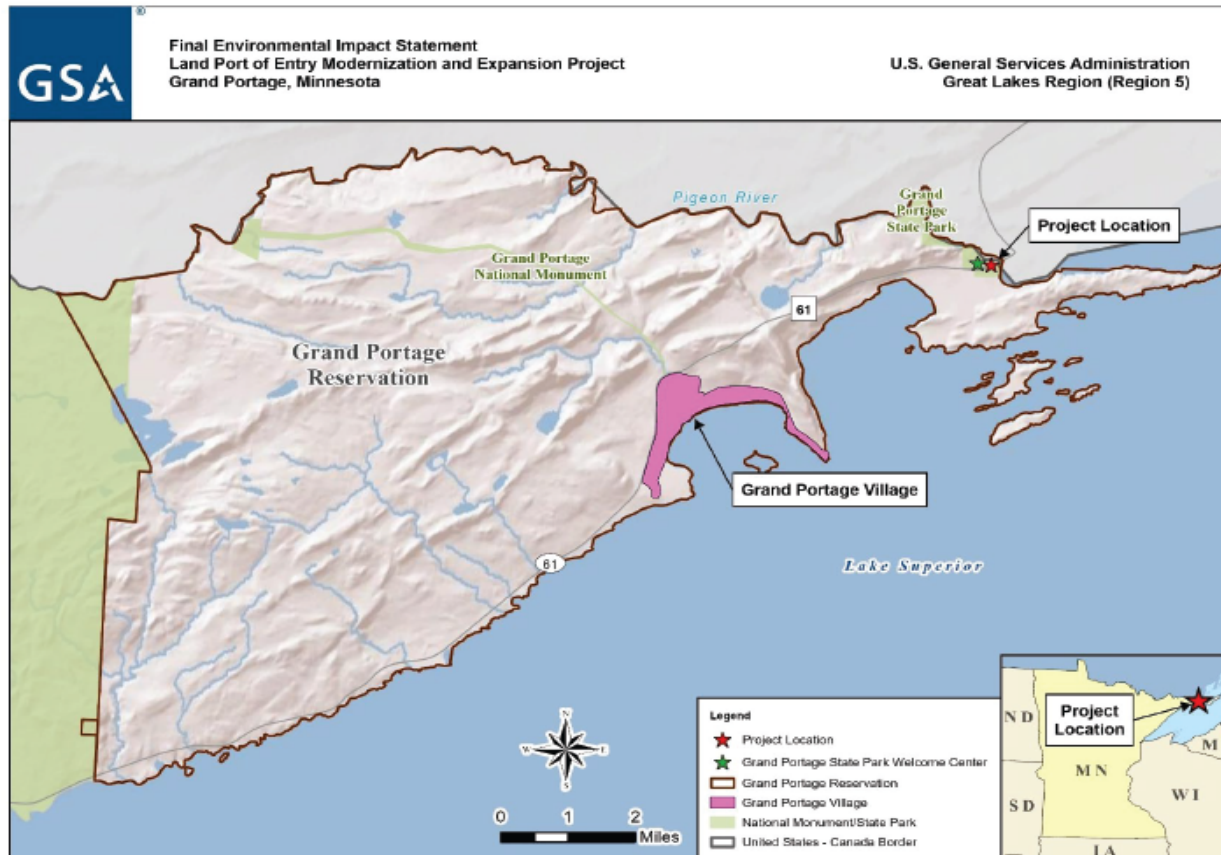


Figure 1.1-1. General Location of the Grand Portage Land Port of Entry

Decision:

After examination of the application and other information and performing an antidegradation assessment, Grand Portage has determined there is reasonable assurance that the activities will be conducted in a manner that will not violate applicable water quality standards provided that the applicant complies with the conditions listed below. Except as otherwise provided by federal law, this certification is valid until the permit expires.

1. This certification applies only to those activities specifically authorized by the permit.

2. All discharges of dredged and/or fill material authorized by the permit must comply with the Water Quality Standards and Water Resources Ordinance, as well as Applicable Federal Standards (as defined in the Water Resources Ordinance).²
3. Grand Portage is responsible for interpretation of the requirements of these conditions.
4. All appropriate steps must be taken to ensure that petroleum products or other chemical pollutants are prevented from entering the waters of the Reservation. 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.³
5. Dewatering activities must not cause nuisance conditions as defined in the Grand Portage Water Quality Standards.⁴ The applicant must use BMPs that minimize turbidity and sedimentation by removing solids in the water before discharging the water. The applicant must document BMPs prior to beginning any dewatering; this documentation may be stand-alone or part of an Erosion Control Plan, Construction Plan, or other relevant construction document. During the dewatering activity, the applicant must visually check and photograph the discharge at the beginning and at least once every 24 hours of operation to ensure adequate treatment has been obtained and nuisance conditions are not observed in accordance with the NPDES Construction Stormwater permit. Any unplanned dewatering that must occur due to site conditions at the time of construction must be noted on the Stormwater Pollution Prevention Plan or other relevant construction documents.
6. The burden is on the applicant to demonstrate compliance with the Water Quality Standards, the Water Resources Ordinance, and Applicable Federal Standards.⁵
7. 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 Historic Places under the National Historic Preservation Act, 54 U.S.C. §§ 300101 *et seq.*

² *Id.*, Section 3.03(A).

³ 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.

⁴ Grand Portage Water Quality Standards, Section XI. General Standards.

⁵ Grand Portage Water Quality Standards, Section XIV. Enforcement, Grand Portage Water Resources Ordinance, Sections 4.01 and 5.01.

8. Before any land disturbance at the site, the applicant must ensure that all aquatic resources (wetlands, ditches, and streams) in the vicinity of the construction area that are not authorized to be impacted by the project are clearly identified. This may be done through demarcation of those resources on plan sheets or through typical methods of marking boundaries in the field, including construction staking or the use of silt fences along boundaries.
9. To the extent practicable, construction and temporary diversions must be staged in the manner that causes the least amount of impact to the Pigeon River including both size and duration of impacts. Approved temporary impacts to aquatic resources must be returned to original conditions.
10. All equipment used must follow Best Management Practices (BMPs) to control Invasive Species.
11. Proper installation of BMPs is required before conducting the authorized activities and BMPs must be maintained until the project is complete. This includes the establishment and maintenance of any erosion prevention, sediment control or site stabilization features included in the project plan or this certification.
12. Trees and excess soils from grading that are stockpiled on site must be stored in upland areas and secured with BMPs that prevent sediment or debris from entering the river or nearby wetlands. Disturbed areas without vegetation will have temporary erosion control blankets to reduce runoff caused by rain events. Storm drain inlet controls and geotextile fabric will be installed where needed and will occur throughout the project duration as stormwater improvements are made. The applicant must stabilize all exposed soil areas whenever any construction activity has permanently or temporarily ceased on any portion of the site and will not resume for a period exceeding 14 calendar days.
13. The applicant or its contractor must perform daily visual inspections to observe turbidity levels, weather, and stream conditions to ensure required BMPs are correctly deployed and functioning as intended. These BMPs must be installed and maintained in a manner that ensures sediment and debris do not leave the work site.
14. If the project's activities cause an observable increase in turbidity or sedimentation outside of the authorized impact area, then the project activities must immediately

cease and any malfunctioning BMPs must be repaired, or alternative BMPs must be implemented. Approved temporary impacts to aquatic resources must be returned to original conditions.

The applicant must document the BMPs to be used during the authorized work prior to disturbing any land at the site; this documentation may be stand-alone or part of an Erosion Control Plan, Construction Plan, or other relevant construction document. This documentation must be kept on-site during active construction by the contractor until the project is complete. While conducting the authorized work, the Applicant must visually monitor the BMPs to ensure that the BMPs are working as intended to reduce sedimentation.

15. All temporary stockpiles and staging materials shall be removed as soon as possible and no later than 6 months of construction activity ceasing.
16. The applicant must provide: a) a copy of the Certification; b) documentation of any required BMPs under the above conditions; and c) any written demarcation of waters to any primary contractor responsible for completing the project's authorized activities. The applicant must also ensure that there is a mechanism in place requiring each primary contractor to provide the same information to all subcontractors, at any level, responsible for fabricating or providing any material for the project or performing work at the project site. In addition, copies of these documents and any other relevant regulatory authorizations related to impacts to waters must be available at or near the project site for use by contractors and staff responsible for completing the project work and must be available within 72 hours when requested by Grand Portage staff.
17. The applicant must allow representatives from Grand Portage to inspect the project site and the authorized activity to ensure that the project is constructed, and BMPs maintained, in accordance with this Certification.
18. The applicant is responsible for ensuring that all requirements of this Certification are met.
19. The applicant must inform Grand Portage of any proposed additional water quality impacts this project may have, before they occur, to determine if further review or authorization is required. This includes any additional dredging, excavation, fill,

additional structures, and temporary impacts not shown in the final plans or expressly authorized by the U.S. Army Corps of Engineers Project Section 404 permit or the Section 401 Certification from Grand Portage.

This Certification does not authorize the violation of applicable water quality standards outside or downstream of the defined work area. A Section 401 Certification does not release or limit the applicant from obtaining all necessary federal, state, and local permits, nor does it limit more restrictive requirements set through any such program. It does not eliminate, waive, or vary the applicant's obligation to comply with all other tribal or federal laws and water statutes and rules through the construction, installation, and operation of the project. This letter does not release the applicant from any liability, penalty, or duty imposed by Grand Portage or federal statutes, regulations, rules, or local ordinances, and it does not convey property rights or an exclusive privilege. Grand Portage reserves the right to revisit or revoke the Certification due to new or additional information, updated information, changes in technology, or any other changes that could render the project as incompatible with water quality standards.

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

Comments will be accepted until COB August 12, 2026. You may submit comments to the Environmental Resources Board at the address provided below or by email to mwatkins@grandportage.com. 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 to the 404 permit. Such a request 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

If you have any questions regarding this certification, please contact the Grand Portage Water Quality Specialist mwatkins@grandportage.com or (218) 475-2026.