



LEECH LAKE BAND OF OJIBWE DIVISION OF RESOURCE MANAGEMENT

Via Web Submission:
Minnesota Pollution Control Agency
c/o Justin Watkins
7381 Airport View Drive SW
Rochester, MN 55902

May 10, 2024

RE: Interagency Fish Kill Response Guidance Document

The Leech Lake Band of Ojibwe (LLBO) is a Sovereign Tribal Nation with Treatment as a State (TAS) authorities under Section 106, Section 401, & 303(c), and Section 319 of the Clean Water Act. LLBO holds usufructuary rights to hunt, gather and fish within the Leech Lake Reservation and 1855 Ceded Territories. Protection of water quality in this region is of utmost importance to protection of the treaty protected resources that Leech Lake Band members rely on for spiritual and physical wellbeing.

Water quality, pollution, and fish kills are issues which are deeply important to LLBO as they influence the ability of Tribal members to exercise their rights and fall within the purview of the LLBO Department of Resource Management's (DRM) legal authorities under the Clean Water Act. The draft Interagency Fish Kill Response Guidance we are commenting on appears to be a good start for coordinating state agency responses to fish kill events, but we are disappointed that there are no references within the document to Tribes or Reservations. The State of Minnesota does not hold Clean Water Act jurisdiction within Indian Country – that authority belongs to Tribes or the Environmental Protection Agency (EPA), depending on the Treatment as a State (TAS) status of each Tribe.

Tribal sovereignty and legal authority must be recognized. To support this fact, we recommend the draft Interagency Fish Kill Response Guidance be modified to include Tribes in the regulatory authorities section. Each Tribe has different Clean Water Act authorities, and this guidance should reflect that either by listing each Tribe separately with the authorities they hold at the time of publication, or a statement that explains Tribal sovereignty and a need to identify each Tribe's authorities separately. State agencies which respond to fish kills should communicate with Tribes to identify how they would like to engage in fish kill responses and who the appropriate point of contact would be for responses.

The section of this guidance on "Triaging fish kill reports and executing notifications and communications" should be edited to include appropriate Tribal contacts for a fish kill in Indian Country. The "Initial investigation activities" requires that the investigators obtain local knowledge – this should explicitly include Tribal authorities, as they hold Traditional Ecological Knowledge (TEK) that will help inform investigations and responses. LLBO recognizes that this document is intended to describe state actions in the event of a fish kill and a state agency will be the lead investigating agency for the state response, but state agencies must defer to Tribal authority and jurisdiction within Reservations. Unless a Tribe has indicated otherwise, Tribes must part of interagency fish kill reports written for fish kill within Reservations. In order to improve coordination

and planning, Tribes should also be invited to participate in training events and drafting future guidance documents.

The Leech Lake Band of Ojibwe appreciates the work that has gone into drafting the Interagency Fish Kill Response Guidance and we look forward to inclusion of our comments in the final document. By recognizing Tribal sovereignty and jurisdiction, the state of Minnesota will be fulfilling its legal and moral obligations, as well as strengthening partnerships which will ultimately benefit the environment and all citizens.

If you have any questions, please contact me at craig.tangren@llojibwe.net or at (218) 335-7429.

A handwritten signature in black ink, appearing to read 'Craig Tangren', with a stylized flourish at the end.

Craig Tangren
Environmental Deputy Director
Leech Lake Band of Ojibwe