Response to Comments
AK-002294-2
Golden Valley Electric Association (GVEA)

EPA public noticed the permit in the Fairbanks Daily News Miner on May 22, 2009, for a 30-day comment period which ended on June 22, 2009.

EPA received comments on the draft permit from GVEA and Trustees for Alaska (Trustees).

The final Clean Water Act § 401 Certification was provided by the Alaska Department of Environmental Conservation in a letter dated June 3, 2011.

1. Comment: GVEA requests that the Outfall numbers on the cover of the permit be switched around so the correct location information matches.

   Response: EPA regrets this error. The intent was that the upriver outfall be 001 and the downriver outfall be 002. This change has been made to the final permit.

2. Comment: GVEA requests that the DMR submittal date in the previous permit be included in this permit and not the date in the schedule of submittals.

   Response: EPA has made the requested change in the Schedule of Submittals and in Permit Part II.B. Reporting of Monitoring Results.

3. Comment: GVEA suggests language for Permit Part I.C.1.c. that better describes the conditions:

   > "If a monitoring station is impacted by ice or conditions are not safe for monitoring from the shore, the permittee may assume . . . and record . . . that the station was impacted by ice."

   Response: EPA clarified the language of Permit Part I.C.1.c. to read "impacted by ice" but added Permit Part I.C.1.d. to address unsafe conditions. Just because the conditions may be unsafe to monitor does not mean that the temperature can be automatically considered to be below 15°C.

4. Comment: Trustees comments that EPA did not provide supporting analysis for its Best Professional Judgment (BPJ) determination that, until new regulations under CWA 316(b) are promulgated, the requirements of the current State of Alaska Fish Habitat permit would apply.

   Response: As noted in the Fact Sheet, EPA suspended the specific requirements for cooling water intake structures at Phase II existing facilities that would have applied to this facility. According to the notice of suspension, "Permit requirements for cooling water intake structures at Phase II facilities should be established on a case-by-case best professional judgment (BPJ) basis." 72 Fed Reg. 37,107 (July 9, 2007). The following information appears in the Fact Sheet:

   a) the State Habitat permit contains requirements for intake structures that are considered by the State of Alaska to be protective of their fisheries resource; and

   b) EPA has withdrawn regulations but intends to promulgate new regulations in the future. The facility will be subject to these regulations when they are

promulgated and will have to comply with any more stringent requirements than the State Habitat permit.

A State Fish Habitat Permit for water withdrawal includes screening stipulations for the pump intake. According to the Division of Fish Habitat, permit conditions address maximum mesh opening sizes for screens to prevent fish from entering the pump and a maximum approach velocity for water at the screen's surface to prevent fish from being entrained or impinged on the screen. These permits may also include provisions to prevent erosion, sedimentation, and contamination, and may require monitoring to ensure proper functioning of the screening mechanism.

In the best professional judgment of the permit writer, it is reasonable to rely on these protective measures, particularly in light of the current uncertainty regarding what requirements that EPA's future intake regulations will contain. This approach provides an appropriate level of protection and maintains the status quo without requiring the facility to make potentially unnecessary changes.

5. Comment: Trustees states that a lead effluent limitation is required in the permit since EPA made a clear finding that there is reasonable potential to cause or contribute to an exceedence of a WQS.

   Response: EPA determined that there "may be reasonable potential for lead to occur . . .", but also made clear that there was sufficient uncertainty regarding any such conclusion based on the limited nature of monitoring results. The commenter's statement that EPA has made a "clear finding" on this issue is incorrect. As described in the Fact Sheet, uncertainty exists because monitoring was only conducted at internal Outfall 001A and not at Outfalls 001 or 002. Because of this uncertainty, WQBELs were not established for lead in the draft permit nor are they included in the final permit. Monitoring for lead at Outfalls 001 and 002, which may be measured at the mixing box, will provide a more accurate and complete representation of the entire effluent. Such monitoring is required by this permit and reasonable potential will be evaluated during the next permit reissuance.

6. Comment: Trustees recommends additional monitoring for chromium, copper, iron and zinc if the Healy Coal Plant #2 begins operating under this permit.

   Response: EPA has included quarterly monitoring for copper, chromium, iron, and zinc to commence when the Healy Coal Plant #2 begins operating.

7. Comment: Trustees maintains that since ADEC has not established implementation procedures for its Antidegradation Policy, as required by EPA, an antidegradation analysis for revised permitting standards cannot be performed. Therefore, there is no support for the 401 Certification.

   Response: ADEC has established implementation procedures for its antidegradation policy. 40 CFR 131.12(a) requires states to adopt an antidegradation policy and to "identify" methods for implementing that policy. ADEC's methods for implementing Alaska's antidegradation policy found in 18 AAC 70.015 are identified in the department's July 14, 2010, "Interim Antidegradation Implementation Methods" guidance. As explained in EPA's July 15, 2010 acknowledgement letter to ADEC (Michael A. Bussell, EPA to Lynn Kent, ADEC, July 15, 2010), and in the preamble to EPA's proposed antidegradation implementation methods for the State of Oregon (68 Federal Register 58775

(October 10, 2003)), EPA has interpreted the word "identify" to mean that states may develop antidegradation implementation methods in regulation or outside of regulation (e.g., in guidance). Because EPA does not interpret its antidegradation regulation to require states to develop antidegradation implementation methods in regulation, and because EPA believes that the interim methods developed by ADEC are consistent with 40 CFR 131.12, EPA believes that Alaska has satisfied the requirement to identify methods to implement its antidegradation policy consistent with 40 CFR 131.12. (also see Michael A. Bussell, EPA to Brook Brisson, Trustees for Alaska, November 2, 2010).

8. Comment: ADEC does not explain why a larger mixing zone for temperature is required or is lawful.

   Response: The previous permit authorized the following mixing zone:

   > The mixing zone boundaries shall be as follows:
   >
   > > The boundaries in the vertical plane shall be from the receiving water surface to the bottom of the receiving water;
   > >
   > > The longitudinal boundaries shall be from Outfall 002 to a point 600 feet downstream from Outfall 001 (the total longitudinal distance shall not exceed 1000 feet),
   > >
   > > The lateral boundaries shall be 100 feet in width measured from the east bank of the Nenana River.

   This mixing zone is the same size as the one authorized in the current 401 Certification:

   > ADEC is authorizing a mixing zone for temperature from the discharges from Outfall 001 and 002. The mixing zone shall be 1000 feet in length, starting at the point of discharge from Outfall 001, the furthest upstream outfall, and ending downstream of Outfall 001. The mixing zone shall be 100 feet in width measured from the east bank of the Nenana River, and shall be from the bottom of the receiving water to the water surface.

   ADEC has not increased the size of the mixing zone beyond that authorized in the previous permit.

9. Comment: GVEA commented on the Fact Sheet as to the location of the facility stating that it is approximately 80 miles from Fairbanks and 186 miles from Anchorage as the crow flies, 110 and 250 road miles, respectively. The plant is 3.5 road miles from the Parks Highway.

   Response: EPA does not issue revised Fact Sheets with Final Permits. However, the information provided by the commenter is accurate with respect to clarifying the language in the Fact Sheet.

10. Comment: GVEA made several comments on the Fact Sheet pertaining to the designation of Outfall numbers addressed in Comment 1.

    Response: EPA does not issue revised Fact Sheets with Final Permits. However, the information provided by the commenter has been utilized in the Final Permit.