

Response to Comments
2007 NPDES Permit Issuance to the City of Filer Wastewater Treatment Plant –
Filer, Idaho
NPDES Permit No. ID0020061

City of Filer
Public Comment Period: 6/6/2007 – 7/6/2007
Wastewater Treatment Plant
P.O. Box 140
Filer, Idaho 83328

During the public comment period specified above comments were received from the City of Filer (City). This document summarizes those comments and provides EPA's response to them.

1. Comment: The City is in the process of building a new wastewater treatment facility and requests the Quality Assurance Plan and the Operation and Maintenance Plan be updated upon completion of the new facility, otherwise the documents will have to be updated twice.

Response: The City's 1999 permit contains a condition that requires the permittee to properly operate and maintain all facilities and systems of treatment and control which are installed or used by the permittee to achieve compliance with the conditions of the permit (see Section III. E.). The City should already have some standard operating procedures in place to ensure that the facility is properly operated (as required by the federal regulation at 40 CFR 122.41(e)). Since the City's new plant will not become operational for over three years (2010), it is important that the facility properly maintain the current facility to ensure that it complies with the terms of the permit. The Operation and Maintenance Plan must be updated periodically and/or anytime there are changes to the process or procedures within the plant. The final permit retains the requirement to develop and implement an Operation and Maintenance Plan within 90 days of the effective date of the permit.

The Quality Assurance Plan is needed to ensure that the monitoring data submitted by the permittee is complete, accurate, and representative of the monitored activity (as required by the federal regulation at 40 CFR 122.41(j)). The permittee's monitoring data will be used by EPA to ensure the facility is meeting its effluent limitations, therefore, it is important that the procedures for collecting complete, accurate and representative data are in place. The City should already have a QAP in place for effluent monitoring, as this was a requirement of the City's current permit.

The QAP will need to be updated to include procedures for receiving water monitoring, which will begin 180 days after the effective date of the permit. The City does not need to have the QAP procedures for receiving water monitoring in place until the receiving water monitoring starts, therefore, there should be adequate time

for the City to prepare the documents. The QAP must be updated periodically and/or anytime there are changes to the process or procedures within the plant. No change to the permit required as a result of this comment.

2. Comment: The draft NPDES permit allows for effluent discharge to Cedar Draw Creek from November 1 through March 31 each year. From April 1 through October 31, the City has historically discharged the effluent to a slow rate land application site under a wastewater land application permit issued by IDEQ. The City anticipates that discharge to the land application site may be limited in the near future due to new phosphorus loading restrictions and the requirements to provide buffer zones to public access areas. As such, the City may need to discharge to Cedar Draw Creek year round if discharge to the land application site is limited. The City is currently in the process of designing and constructing a new MBR treatment plant to replace the existing lagoon system. The new MBR treatment plant will produce a higher quality effluent that will meet the draft NPDES permit limits and help alleviate some of the constraints on the discharge to the land application site. The City requests that the new NPDES permit allow for year round discharge to Cedar Draw Creek.

Response: Cedar Draw Creek is already impaired for nutrients, sediments, temperature, and bacteria. A TMDL for TSS has been approved and is being implemented in this permit. Adding more pollutants to the creek during the summer months, when threatened and endangered species are the most vulnerable due to low flows, and when the City's effluent does not meet the targets of the TMDL, may result in adverse impacts to the river and the species relying on it. To authorize a discharge during the summer months with consideration to these factors would require much more analysis than has been conducted for the draft permit and may not be feasible given the impairments. If the City is no longer able to use their land application site due to State restrictions in the future, the City must submit a new complete NPDES application and request a permit modification. No change to the permit required as a result of this comment.

3. Comment: The City has decided to build a new MBR treatment plant to replace the lagoon system. The City would like consideration of "Treatment equivalent to secondary treatment (TETST)" according to 40 CFR 133.105, until the new plant is in place in 2010.

Response: When calculating limits for the draft permit, TETST did not apply because it appeared, through the data submitted on the facility's DMRs, that the facility was in compliance with their TSS and BOD requirements and, therefore, not eligible for TETST consideration. However, since the end of the comment period, it has been discovered that the City was misreporting the information on their DMRs. The concentration and the mass loadings were put in the wrong columns. When looking at the corrected effluent concentration values, TETST can be considered.

The City has had a problem complying with their TSS limit. In fact according to their updated DMR data, they have only met the monthly average limit 4 times in this

permit cycle. The City will be given TETST limits from 40 CFR 133.105, until the new treatment plant is completed. The new interim limits for TSS will be a monthly average of 45 mg/l and a weekly average of 65 mg/l.

40 CFR 133.105(f) states: “Any permit adjustment made pursuant to this part may not be any less stringent than the limitations required pursuant to 133.105(a)-(e). Furthermore, permitting authorities shall require more stringent limitations when adjusting permits if: (1) For existing facilities the permitting authority determines that the 30-day average and 7-day average BOD and SS effluent values that could be achievable through proper operation and maintenance of the treatment works, based on an analysis of the past performance of the treatment works, would enable the treatment works to achieve more stringent limits.”

The City is in compliance with their BOD limits about 80% of the time. To calculate the interim limit for BOD the 95th percentile of what they are currently achieving was used. The new BOD limits will be a monthly average of 37 mg/l and a weekly average of 56 mg/l.

The City is consistently meeting their percent removal limits for both BOD and TSS, therefore, no change was made to either percent removal limit.

4. Comment: The current average day and maximum month design flows for the new MBR treatment plant are 0.284 and 0.371 MGD respectively. The City requests that the mass loading be based on the design maximum monthly flow of 0.371 MGD.

Response: Since the design process is not yet complete (according to comment number 7 from the City), the permit will use 0.28 MGD (the current facility design flow) for calculating the mass loading limits. When the new facility is complete the City can request a modification for their actual design flow. No change to the permit required as a result of this comment.

5. Comment: The City requests that monitoring of the influent wastewater temperature be removed from the permit. This data may be collected, but it is not necessary to determine heat loads to the receiving water.

Response: This condition was incorporated into the draft permit because it was a condition of the IDEQ’s draft 401 certification of the draft NPDES permit. IDEQ’s final 401 certification requires influent wastewater temperature sampling be conducted in one hour intervals, 24 hours per day, for five years.

6. Comment: The City requests that temperature monitoring be reduced to hourly data points. From a data management perspective, it will become cumbersome to compile, summarize and manage data points taken at 15 minute intervals for a 5 year period.

Response: This condition was incorporated into the draft permit because it was a condition of the IDEQ’s draft 401 certification of the draft NPDES permit. IDEQ’s

final 401 certification requires influent, effluent, and ambient wastewater temperature sampling be conducted in one hour intervals, 24 hours per day, for five years.

7. Comment: The draft permit currently specifies grab samples for most of the major parameters. The City is asking EPA whether a grab-composite or 24-hour composite sample would be acceptable.

Response: A 24-hour composite sample is preferable and the final permit has been revised to require this type of sample for BOD, TSS, ammonia, and phosphorus.

8. Comment: The current project schedule targets completion and start-up of the new treatment plant by approximately May 2010. The draft NPDES permit requires that the City comply with the new permit limits shown in Table 1 by January 1, 2010. To allow for seeding and commissioning of the new WWTP, process stabilization, and potential delays in the design and construction process, the City would request that the compliance date in the permit be changed to December 31, 2010.

Response: The final permit has been revised to change the compliance date to December 31, 2010. However, EPA would like to clarify that the permit only defers compliance with the final effluent limits for BOD and TSS until December 31, 2010. The limitations for E. coli, total phosphorus, total residual chlorine and pH must be met upon the effective date of the permit.

9. Comment: The City feels 90 days is not adequate time to install surface water monitoring stations. The City requests 180 days. This would be more appropriate to allow for evaluating appropriate monitoring locations, obtaining approval from IDEQ, and installing monitoring stations.

Response: The final permit has been revised to allow 180 days before ambient water monitoring is required.

10. Comment: It may be difficult and pose an economic burden on the City to install the equipment and infrastructure to monitor flows in Cedar Draw Creek. The City requests a compliance schedule of 180 days to research whether existing flow gauging stations exist (USGS, IDWR, etc.) and if they can be used to monitor flows in the stream. If adequate gauging stations are located and can be used, the City would request that these stations be used to monitor flows in accordance with the permit. If gauging stations cannot be located, the City would install the necessary equipment and infrastructure to monitor flows.

Response: The final permit has been revised to allow 180 days before ambient flow monitoring is required. If a gauging station is found it will be up to the facility to collect the data and to ensure the monitoring frequency is at least once per month for two consecutive years.

11. Comment: The City asks if it should be responsible for collecting flow and quality data for the receiving streams, or does their responsibility terminate at the end of the effluent discharge point? Are the regulatory agencies responsible for the receiving waters? It is the City's understanding that this data is being collected to help establish TMDLs and to verify modeling efforts on the receiving stream. However, public health and safety issues associated with this data appear minimal. Perhaps this data should be collected but not subject to the penalties outlined in the permit.

Response: Section 308 of the CWA provides EPA with broad authority to gather effluent and surface water data to determine if additional effluent limitations are required in the future, and/or to monitor effluent impacts on receiving water quality. The receiving water monitoring requirements for flow, pH, ammonia, and temperature have been incorporated into the permit so that EPA can evaluate whether the discharge is impacting aquatic life, and to determine if ammonia limits are required to ensure that the effluent discharge does not adversely impact aquatic life. This evaluation will be done during the next permitting cycle. Additionally, IDEQ is in the process of developing a temperature TMDL and has requested continuous temperature monitoring be conducted for the TMDL development.

The samples collected from the receiving water are not required to meet any "limitations." The penalties outlined in the permit would be applied if the facility did not collect the required samples or follow its established Quality Assurance Plan, or knowingly provided false information. No change to the permit required as a result of this comment.

12. Comment: The second paragraph in Part III. A. contains the phrase "...the permittee must collect additional samples at the appropriate outfall whenever any discharge occurs that may reasonably be expected to cause or contribute to a violation that is unlikely to be detected by a routine sample" may suggest that continuous monitoring is required to capture any possible discharge event that could result in violation. As discussed above, it is reasonable to expect that the effluent from the current lagoon system could exceed the draft TSS limit. However, the City does not know or have control over when these exceedances will occur. The City requests that this phrase be changed to read "...the permittee should collect additional samples at the appropriate outfall when a known discharge occurs that may reasonably be expected to cause or contribute to a violation that is unlikely to be detected by a routine sample."

Response: The federal regulation at 40 CFR 122.41(j) requires that samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity. The specific language cited in the permit has been included to ensure that any spills, bypasses, treatment plant upsets, or other non-routine events will not result in violation of the effluent limits. No change to the permit required as a result of this comment.

13. Comment: IDEQ has indicated that they are considering revisiting the TSS WLA and potentially holding public hearings on the WLA values contained in the 2005 *Upper Snake Rock TMDL Modification*. If the result of these efforts impacts the City's

permit limits, the City would like to request that the permit be reopened and modified appropriately.

Response: As stated in the fact sheet, federal regulations (40 CFR 122.44(d)(1)(vii)) require effluent limits in NPDES permits to be consistent with a TMDL that has been prepared by IDEQ when it is based on the State's water quality standards and *approved* by EPA. Since the WLAs for WWTPs contained in the *Upper Snake Rock TMDL Modification* (2005) have not been approved by EPA, they cannot be incorporated into the final permit.

In a March 13, 2007 letter to IDEQ, EPA asked IDEQ to advise us as to whether they intend to submit the WLAs contained in the *Upper Snake Rock TMDL Modification* (2005) for review and approval. The letter also stated that if IDEQ intends to adopt the revised WLA's they must provide EPA with additional explanation as to the rationale and justification for the revisions, as well as confirmation that the public notice process occurred. To date the IDEQ has not responded to EPA.

However, the federal regulations at 40 CFR 122.62 allow a permit to be modified for cause, and this is included in the permit in Section V.A (Permit Actions). Cause for modification includes, among other things, new information. Therefore, if the EPA approves the revised TMDL for WWTPs, the permittee may request that their permit be modified to include the conditions in the revised TMDL. No change to the permit required as a result of this comment.