



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
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San Francisco, CA 94105

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July 10, 2018

Greg Bahe, Supervisor
HQ Water/Wastewater Operations and Maintenance
Navajo Tribal Utility Authority
P.O. Box 170
Ft. Defiance, AZ 86504

Subject: Issuance of Final NPDES Permit for NTUA Chinle Wastewater Treatment Facility (No. NN0020265)

Dear Mr. Bahe:

Enclosed please find the final National Pollutant Discharge Elimination System (“NPDES”) permit issued for the Chinle Wastewater Treatment Facility. The Environmental Protection Agency (“EPA”) reviewed your permit application and relevant information and prepared a draft proposed permit which was public noticed on May 18, 2018, for a 30-day comment period on EPA website <https://www.epa.gov/aboutepa/public-notices-meetings-and-events-pacific-southwest>.

EPA received comments from Mr. David Shoultz, NTUA Principal Engineer on June 15, 2018. After considering comments from all interested persons and agencies, and pertinent federal statutes and regulations, EPA has issued a final NPDES permit which does not differ significantly from the draft permit.

Within 33 days of this notice, any person who filed comments on the proposed permit conditions may petition the Environmental Appeals Board (EAB) to review the conditions of the permit. The petition shall include a statement of the reasons supporting that review, including a demonstration that any issues being raised were raised during the public comment period and a showing that the condition in question is based on: (1) a finding of fact or conclusion of law which is clearly erroneous, or (2) an exercise of discretion or an important policy consideration which the EAB should, in its discretion, review. See 40 C.F.R. §§124.19 (a) and 124.20 (d).

40 C.F.R. § 124.60 (b)(1) states that, as provided in 40 C.F.R. § 124.16 (a), if an appeal of an initial permit decision is filed under Section 124.19 of this Part, the force and effect of the contested conditions of the final permit shall be stayed until final agency action under 40 C.F.R. § 124.19 (f). In accordance with 40 C.F.R. § 124.16 (a)(1), “[i]f the permit involves a...new source, new discharger or a recommencing discharger, the applicant shall be without a permit for the proposed new...source or discharger pending final agency action.” Please review 40 C.F.R. § 124 and the revisions at 65 Fed. Reg. 30886 for a complete description of the requirements regarding appeal of NPDES permits.

If you have any questions regarding the final permit or permitting process, please contact Linh Tran at (415) 972-3511.

Sincerely,

David W. Smith, Manager
NPDES Permits Office
Water Division
U.S. EPA Region 9

Enclosure

cc: Patrick Antonio, Navajo Nation EPA
David Shoultz, NTUA

EPA RESPONSE TO COMMENTS
From Mr. David Shoultz of NTUA emailed to EPA on June 15, 2018

(NTUA's comments are detailed verbatim)

1. NTUA is reconfiguring the plant to increase hydraulic capacity as identified in the attached proposed compliance plan amendment. We will be working with the Navajo Nation EPA and the US EPA to finalize the plan. This reconfiguration will also address historical permit exceedances of BOD, TSS and ammonia. The design capacity will be 0.783 MGD. We expect the new configuration to mitigate BOD and TSS. We also expect ammonia effluent concentrations to improve; however, meeting the limits as proposed by the permit for ammonia will not be consistent. See comment 2.

Response: EPA has reviewed NTUA's request and accompanying justification. As explicitly stated in the permit fact sheet, this permit establishes effluent limitations that reflect the current plant condition with a reduced flow capacity of 0.45 MGD from a 4-cell system to a single cell operation. The facility is under compliance order to provide plant upgrades or replacement that will take place several years down the line as indicated by NTUA above. When NTUA puts new cells back online and increases its design capacity to 0.783 MGD, it may apply for a permit modification.

2. The aerated lagoon technology currently used to treat wastewater at Chinle cannot be relied on to consistently remove ammonia to the limits proposed in the draft permit.

We have drawn this conclusion as a result of consultation with engineering experts we have engaged while pursuing solutions to address Administrative Orders on Consent (AOCs) placed on the Chinle facility and like designed facilities. Our consultation with outside engineering firms specializing in wastewater treatment have advised that conversion to mechanical plant such as activated sludge process is necessary to consistently produce high quality effluent meeting the proposed permit limits. Attached are two supporting opinions.

At this time, NTUA is adopting a position of a new replacement facility as the best long-term approach to solve this and other issues. Implementing this position includes developing compliance plans for Chinle and the other facilities under AOCs; drafting preliminary engineering reports to address solutions; pursuing funding through the USDA, HIS, EPA-CWA, and other sources; modifying our existing facilities and the operations to enhance treatment to the best of their ability; and exploring a variance through the Navajo Nation's Surface Water Quality Standards. Currently, a new replacement facility for Chinle should take about four years to fund, plan, design, construct, and commission.

Response: The proposed effluent limitations for total ammonia are consistent with those in the previous permit. Section 402(o) of the Clean Water Act prohibits the renewal or reissuance of an NPDES permit that contains effluent limits less stringent than those established in the previous permit, except as provided in the statute. The proposed permit is a renewal and therefore does not allow backsliding. In the meantime, EPA encourages NTUA to continue its efforts to comply with the AOCs and provide operational improvements to achieve compliance with the permit limit.