



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

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June 12, 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 Kayenta Wastewater Treatment Facility (No. NN0020281)

Dear Mr. Bahe:

Enclosed please find the final National Pollutant Discharge Elimination System (“NPDES”) permit issued for the Kayenta 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 April 16, 2017, for a 30-day comment period on EPA website <https://www.epa.gov/aboutepa/public-notice-meetings-and-events-pacific-southwest>.

EPA received comments from Mr. David Shoultz, Principal Engineer of the NTUA. 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,

/s/

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 May 16, 2018

(NTUA's comments are detailed verbatim)

1. TDS sample type – TDS is listed as composite for sample type; request to have this changed to discrete. TDS for effluent and potable samples have always been listed as discrete for all of NTUA's NPDES permits. If draft recommendations were to stay as composite it is possible to collect TDS effluent as a composite since we are equipped with an automatic compositor for the effluent sample location. However, compositing a TDS potable sample will be difficult. The current sampling location for Kayenta potable TDS is at the WWTP Lab sink. We do not have compositing equipment located there and would have to manually composite this sample. This is the reason we are requesting the change in sample type for TDS from composite to discrete.

Response: NTUA had historically been required by the NPDES permits to perform 24-hour composite sampling at all of its wastewater treatment facilities, consistent with the regulations at 40 CFR 122.21(g)(7)(i). These regulations set forth requirements for composite sampling monitoring for all applicable pollutants except for pH, temperature, cyanide, total phenols, residual chlorine, oil and grease, fecal coliform and fecal streptococcus. However, the EPA Director had occasionally waived composite sampling requirements for TDS, in response to NTUA's requests, due to lack of available automatic compositors at some of its small facilities or due to the remote locations of the facilities. This Kayenta facility is equipped with an automatic compositor and as such, the 2012 Kayenta permit currently requires composite sampling for TDS. Therefore, the draft permit remains unchanged in the final permit issuance.

2. Total Ammonia sample type – Total Ammonia is listed as composite for sample type; request to have it changed to discrete. Ammonia has always been listed as discrete for all of NTUA's NPDES permits. If draft recommendations were to stay as composite it is possible to collect Ammonia as a composite since we are equipped with an automatic compositor for the effluent sample location. The proposed compositing for Total Ammonia would present a problem with the requirement for field pH and temperature. Field temperature and pH are required to be taken concurrently when an Ammonia sample is collected. Do we take individual pH values and temperatures values for each sample and compare those to the Total Ammonia Limit Chronic Standard for Aquatic and Wildlife Habitat table? Or do we have the pH and temperature of the composited sample and compare that value to the table? These concerns are the reason we are requesting the change in sample type for Total Ammonia from composite to discrete.

Response: EPA has reviewed NTUA's request and justification for its request. The permit requires the permittee to calculate the Ammonia Impact Ratio (AIR) by measuring Ammonia concurrently with pH and Temperature, values that are measured by discrete sampling. After due consideration, EPA agrees that Total Ammonia may also be measured by discrete sampling and will modify the permit and fact sheet to reflect NTUA's request for discrete sampling for Total Ammonia.

3. The aerated lagoon technology currently used to treat wastewater at Kayenta cannot be relied on to consistently remove ammonia to the limits proposed in the draft permit. The addition of aeration and other improvements to the lagoons in 2017 dramatically improved treatment; however, we still encounter ammonia limit exceedances.

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 Kayenta 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, one is general and one targets Chinle, but its content is relevant to this issue.

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 Kayenta 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. NTUA has an approved loan to use as matching funds to facilitate our on-going application efforts for outside sources to leverage full funding for long term corrective actions. Currently, a new replacement facility for Kayenta 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.